

LAW OF THE REPUBLIC OF INDONESIA  
NUMBER 40 OF 2007  
CONCERNING  
LIMITED LIABILITY COMPANIES

BY THE GRACE OF ALMIGHTY GOD

THE PRESIDENT OF THE REPUBLIC OF INDONESIA

- Consideration : a. whereas the national economy, which is operated on a basis of economic democracy with principles of community, efficiency, justice, sustainability, environmental awareness, independence and safeguards for balanced progress and national economic unity, needs to be supported by firm economic institutions in the context of creating prosperity for society;
- b. whereas in the context of increasing development of the national economy and at the same time giving a firm basis for the business world in facing the developments in the world economy and progress in science and technology in the coming era of globalisation, the support is needed of an act regulating limited liability companies which can secure the operation of a conducive climate for the business world;
- c. whereas limited liability companies as a pillar of national economic development need to be given a legal basis to spur on national development composed mutual enterprises on the basis of the principle of a family spirit;
- d. whereas the Limited Liability Companies Act No. 1 of 1995 is viewed as no longer in accordance with legal developments and the needs of society and so needs to be replaced with a new act;
- e. whereas given the above in paragraphs a, b, c, and d, it is necessary to form a Limited Liability Companies Act.

Bearing in mind: Article 5 paragraph (1), Article 20, and Article 33 of the 1945 Constitution of the Republic of Indonesia.

With the Common Assent of  
THE HOUSE OF PEOPLE'S REPRESENTATIVES OF THE REPUBLIC OF  
INDONESIA  
and  
THE PRESIDENT OF THE REPUBLIC OF INDONESIA

HAS RESOLVED

to promulgate: A LIMITED LIABILITY COMPANIES ACT

## CHAPTER I GENERAL PROVISIONS

### Article 1

In this Act, the following terms have the following meanings:

1. “Limited Liability Company” (hereinafter called a “Company”) means a legal entity which constitutes an alliance of capital established pursuant to a contract in order to carry on business activities with an authorised capital all of which is divided into shares and which fulfils the requirements stipulated in this Act and its implementing regulations.
2. “Company Organs” means the General Meeting of Shareholders, the Board of Directors, and Board of Commissioners.
3. “Environmental and Social Responsibility” means a Company’s commitment to taking part in sustainable economic development in order to improve the quality of life and environment, which will be beneficial for the Company itself, the local community and society in general.
4. “General Meeting of Shareholders” (hereinafter called the “GMS”) means the Company Organ which has authority not given to the Board of Directors or Board of Commissioners within limits specified in this Act and/or the articles of association.
5. “Board of Directors” means the Company Organ with full authority and responsibility for the management of the Company in the interests of the Company in accordance with the Company’s purposes and objectives and to represent the Company in and out of court in accordance with the provisions of the articles of association.
6. “Board of Commissioners” means the Company Organ with the task of general and/or specific supervision in accordance with the articles of association and giving advice to the Board of Directors.
7. “Open Company” means a Public Company or a Company which makes an public offering of shares in accordance with the provisions of legislative regulations in the field of capital markets.
8. “Public Company” means a Company which fulfils the criteria of number of shareholders and amount of paid up capital in accordance with the provisions of legislative regulations in the field of capital markets.
9. “Merger” means a legal action taken by one or more Companies to merge with another existing Company with the result that the assets and liabilities of the merging Companies pass by operation of law to the

surviving Company and thereafter the merging Companies' status as legal entities ceases by operation of law.

10. "Consolidation" means a legal action taken by two or more Companies to consolidate themselves by means of establishing a new Company which by operation law obtains the assets and liabilities of the consolidating Companies and the consolidating Companies' status as legal entities ceases by operation of law.
11. "Acquisition" means a legal action taken by a legal entity or individual person to acquire shares in a Company resulting in the passing of control of the Company.
12. "Demerger" means a legal action taken by a Company to demerge its businesses resulting in all of the assets and liabilities of the Company passing by operation of law to 2 (two) or more Companies or a part of the assets and liabilities of the Company passing by operation of law to 1 (one) or more Companies.
13. "Registered Letter" means a letter addressed to a recipient evidenced by a signed and dated receipt from the recipient.
14. "Newspaper" means a daily newspaper in the Indonesian language with national circulation.
15. "Day" means a calendar day.
16. "Minister" means the minister whose tasks and responsibilities are in the field of law and human rights.

## Article 2

Companies must have a purpose and objective and business activities which do not conflict with the provisions of legislative regulations, public order, and/or morality.

## Article 3

- (1) Companies' shareholders are not personally liable for legal relationships entered into on behalf of the Company and are not liable for the Company's losses in excess of the shares they own.
- (2) The provisions contemplated in paragraph (1) do not apply if:
  - a. the requirements for the Company to be a legal entity have not been or are not fulfilled;
  - b. the shareholder concerned directly or indirectly exploits the Company in bad faith in his/her personal interest;

- c. the shareholder concerned is involved in illegal acts committed by the Company; or
- d. the shareholder concerned directly or indirectly illegally uses the Company's assets with the result that the Company's assets become insufficient to pay off the Company's debts.

#### Article 4

This Act, their articles of association, and the provisions of other legislative regulations apply to Companies.

#### Article 5

- (1) Companies shall have a name and domicile within the territory of the Republic of Indonesia as specified in their Articles of Association.
- (2) Companies shall have a full address in accordance with their domicile.
- (3) In correspondence and announcements issued by Companies, printed materials, and deeds to which the Company is a party, the Company's full name and address must be mentioned.

#### Article 6

Companies may be established for a limited or unlimited period as specified in the articles of association.

### CHAPTER II ESTABLISHMENT, ARTICLES OF ASSOCIATION AND AMENDMENTS OF THE ARTICLES OF ASSOCIATION, REGISTER OF COMPANIES AND ANNOUNCEMENTS

#### First Part Establishment

#### Article 7

- (1) Companies must be established by 2 (two) or more persons by a notarial deed made in the Indonesian language.
- (2) Each founder of a Company must subscribe shares at the time the Company is established.
- (3) The provision contemplated in paragraph (2) does not apply in the context of a Consolidation.
- (4) The Company obtains the status of a legal entity on date the Decree of the Minister concerning the Company's ratification as a legal entity is issued.

- (5) If after the Company obtains the status of a legal entity the number of shareholders becomes less than 2 (two) persons, then within 6 (six) months as from when that situation arises the shareholder concerned must assign part of the shares to some other person or the Company must issue new shares to some other person.
- (6) In the event that the period contemplated in paragraph (5) has expired and there is still less than 2 (two) shareholders, the shareholder shall be personally liable for all legal relationships and losses of the Company, and at the request of a party concerned, a district court may wind up the Company.
- (7) The provision which obliges Companies to be established by 2 (two) or more persons as contemplated in paragraph (1) and the provisions in paragraphs (5) and (6) do not apply to:
  - a. State Limited Liability Companies all of whose shares are owned by the State; or
  - b. Companies managing stock exchanges, clearing and guarantee houses, central securities depositories, and other institutions regulated in the Capital Markets Act.

## Article 8

- (1) A deed of establishment must contain the articles of association and other information related to the establishment of the Company.
- (2) The other information contemplated in paragraph (1) must contain at least:
  - a. the full name, date and place of birth, occupation, residence, and nationality of individual founders or the name, domicile and full address and number and date of the Minister's Decree regarding the ratification of legal entity founders of the Company;
  - b. the full name, date and place of birth, occupation, residence, and nationality of members of the first Board of Directors and Board of Commissioners to be appointed;
  - c. the names of shareholders who have subscribed shares, details of the number of shares and the nominal value of the shares subscribed and paid up.
- (3) In making the deed of establishment, the founders may be represented by other persons by virtue of a power of attorney.

## Article 9

- (1) To obtain the Minister's Decree with regard to the ratification of the Company as a legal entity as contemplated in Article 7 paragraph (4), the founders shall jointly submit an application to the Minister electronically via legal entity administration system information technology services, filling in a form containing at least:
  - a. the Company's name and domicile;
  - b. the Company's period of incorporation;
  - c. the purpose and objective and business activities of the Company;
  - d. the amount of authorised capital, subscribed capital, and paid up capital;
  - e. the Company's full address.
- (2) Filling in the form contemplated in paragraph (1) must be preceded by submission of the Company's name.
- (3) In the event that the founders do not submit the application themselves as contemplated in paragraphs (1) and (2), the founders may only give a power of attorney to a notary.
- (4) Further provisions regarding the procedures for submission and the use of Company names will be stipulated by Government Regulation.

#### Article 10

- (1) The application to obtain the Minister's Decree contemplated in Article 9 paragraph (1) must be submitted to the Minister no later than 60 (sixty) days as from the date on which the deed of establishment is signed, complete with information regarding the supporting documents.
- (2) Provisions regarding the supporting documents contemplated in paragraph (1) shall be stipulated by a Regulation of the Minister.
- (3) If the form contemplated in Article 9 paragraph (1) and the information regarding supporting documents contemplated in paragraph (1) is in accordance with the provisions of legislative regulations, the Minister shall directly declare electronically that there is no objection to the application concerned.
- (4) If the form contemplated in Article 9 paragraph (1) and the information regarding supporting documents contemplated in paragraph (1) is not in accordance with the provisions of legislative regulations, the Minister shall directly notify the applicant electronically of the rejection and the reasons therefor.
- (5) Within a period of not more than 30 (thirty) days as from the date of the declaration of no objection contemplated in paragraph (3), the applicant concerned shall physically deliver the application with the supporting documents attached.

- (6) If all requirements contemplated in paragraph (5) have been fully met, then no later than 14 (fourteen) days thereafter the Minister shall issue a decree concerning the ratification of the Company as a legal entity which will be signed electronically.
- (7) If the requirements concerning the period and complete supporting documents contemplated in paragraph (5) are not fulfilled, the Minister shall directly inform the applicant of the same electronically and the statement of no objection contemplated in paragraph 3 shall lapse.
- (8) In the event that the statement of no objection lapses, the applicant contemplated in paragraph (5) may re-submit the application to obtain the Minister's Decree as contemplated in Article 9 paragraph (1).
- (9) In the event that the application to obtain the Minister's Decree is not submitted within the period contemplated in paragraph (1), the deed of establishment will become void by the lapse of time and the Company which does not yet have legal entity status shall be wound up by operation of law and the founders shall settle its affairs.
- (10) The provision on the period contemplated in paragraph (1) also applies to re-submitted applications.

#### Article 11

Further provisions regarding the submission of applications to obtain the Minister's Decree as contemplated in Article 7 paragraph (4) for certain areas which do not yet have or cannot use electronic networks shall be stipulated by Regulation of the Minister.

#### Article 12

- (1) Legal acts performed by the prospective founders in relation to the ownership of shares and paying in before the Company is established must be recorded in the deed of establishment.
- (2) In the event that the legal acts contemplated by paragraph (1) are stated in a deed which is not an authentic deed, the deed shall be attached to the deed of establishment.
- (3) In the event that the legal acts contemplated by paragraph (1) are stated in an authentic deed, the number, date and name and domicile of the notary making the authentic deed shall be stated in the deed of establishment of the Company.
- (4) In the event that the provisions contemplated in paragraphs (1), (2), and (3) are not fulfilled, the legal acts shall not give rise to rights and obligations and shall not be binding on the Company.

### Article 13

- (1) Legal acts performed by the prospective founders in the interest of a Company which has not yet been established shall be binding on the Company after the Company becomes a legal entity if the first GMS of the Company explicitly states that it accepts or takes over all rights and obligations arising out of the legal acts performed by the prospective founders or their proxies.
- (2) The first GMS contemplated in paragraph (1) must be held within a period of not more than 60 (sixty) days after the Company obtains the status of a legal entity.
- (3) The resolutions of the GMS contemplated in paragraph (2) shall be lawful if the GMS is attended by shareholders representing all of the shares with voting rights and the resolution is approved unanimously.
- (4) In the event that the GMS is not held within the period contemplated in paragraph (2) or the GMS does not succeed in adopting the resolution as contemplated in paragraph (3), each of the prospective founders who performed such legal acts shall be personally liable for the consequences arising.
- (5) The GMS approval contemplated in paragraph (2) will not be necessary if the legal act is performed or approved in writing by all of the prospective founders before the establishment of the Company.

### Article 14

- (1) Legal acts on behalf of a Company which has not yet obtained the status of a legal entity may only be performed by all of the members of the Board of Directors together with all of the founders and all of the members of the Board of Commissioners of the Company and they will all be jointly and severally liable for the legal acts.
- (2) In the event that the legal acts contemplated in paragraph (1) are performed by the founders on behalf of a Company which has not yet obtained the status of a legal entity, the founders concerned shall be liable for such legal acts and the legal acts shall not be binding on the Company.
- (3) The Company shall by operation of law become liable for the legal acts contemplated in paragraph (1) after the Company becomes a legal entity.
- (4) The Company shall only be bound by and liable for the legal acts contemplated in paragraph (2) after the legal acts have been approved by all of the shareholders in a GMS attended by all of the Company's shareholders.



- (5) The GMS contemplated in paragraph (4) is the first GMS, which must be held no later than 60 (sixty) days after the Company obtains the status of a legal entity.

## Second Part

### Articles of Association and Amendments to the Articles of Association

#### Paragraph 1

#### The Articles of Association

#### Article 15

- (1) The articles of association contemplated in Article 8 paragraph (1) shall contain at least:
- a. the Company's name and domicile;
  - b. the purposes and objectives and field of business of the Company;
  - c. the Company's period of incorporation;
  - d. the amount of the authorised capital, subscribed capital, and paid up capital;
  - e. the number of shares, classifications of shares if any including the number of shares for each classification, the rights attaching to each share and the nominal value of each share;
  - f. the name, position and number of members of the Board of Directors and Board of Commissioners;
  - g. the determination of the place and procedure for holding a GMS;
  - h. the procedures for the appointment, replacement, and dismissal of members of the Board of Directors and Board of Commissioners;
  - i. the procedure for the use of profits and allocation of dividends.
- (2) Apart from the provisions contemplated in paragraph (1), the articles of association may also contain other provisions which do not conflict with this Act.
- (3) The articles of association may not contain:
- a. provisions concerning receipt of fixed interest on shares; or
  - b. provisions concerning the grant of personal benefits to the founders or other parties.

#### Article 16

- (1) Companies may not use names which:
- a. have been lawfully used by another Company or are in principle the same as the name of another Company;
  - b. conflict with public order and/or morality;

- c. are the same as or similar to names of state institutions, government institutions, or international institutions, except with the permission of those concerned;
  - d. are not in accordance with the purpose and objective and business activities or merely show the purpose and objective of the Company without its own name;
  - e. have the meaning Company, legal entity, or civil association.
- (2) The name of the Company must be preceded by the phrase “Perseroan Terbatas” (Limited Liability Company) or the abbreviation “PT”.
- (3) In the case of a Public Company, apart from the provisions contemplated in paragraph (2) being applicable, the abbreviation “Tbk” must be added at the end of the Company’s name.
- (4) Further provisions regarding the procedures for the use of Company names shall be stipulated by Government Regulation.

#### Article 17

- (1) Companies shall have be domiciled in the city or regency within the territory of the Republic of Indonesia specified in the articles of association.
- (2) The domicile contemplated in paragraph (1) shall at the same time constitute the Company’s head office.

#### Article 18

Companies must have a purpose and objective and a field of business which are and stated in the Company’s articles of association and in accordance with the provisions of legislative regulations.

#### Paragraph 2

#### Amendments to the Articles of Association

#### Article 19

- (1) Amendments to the articles of association must be determined by a GMS.
- (2) Agenda items regarding amendments of the articles of association must be clearly stated in invitations to a GMS.

#### Article 20

- (1) The articles of association of a Company which has been declared bankrupt cannot be amended except with the consent of the curator.
- (2) The curator’s consent contemplated in paragraph (1) must be attached to the application to the Minister for approval of notification of the amendment of the articles of association.

## Article 21

- (1) Certain amendments to the articles of association must have the approval of the Minister.
- (2) The certain amendments to the articles of association contemplated in paragraph (1) involve:
  - a. the Company's name and/or domicile;
  - b. the Company's purpose and objective and business activities;
  - c. the Company's period of incorporation;
  - d. the amount of the authorised capital;
  - e. a reduction in the subscribed and paid up capital; and/or
  - f. a change in the Company's status from private company to Public Company or vice versa.
- (3) It is sufficient to inform the Minister of amendments to the articles of association other than those contemplated in paragraph (2).
- (4) The amendments to the articles of association contemplated in paragraphs (2) and (3) must be contained or stated in a notarial deed in the Indonesian language.
- (5) Amendments to the articles of association which are not contained in a deed of minutes of meeting made by a notary must be stated in a notarial deed no later than 30 (thirty) days as from the date of the GMS resolution.
- (6) Amendments to the articles of association may not be stated in a notarial deed after the lapse of the 30 (thirty)-day period contemplated in paragraph (5).
- (7) Application for approval of an amendment to the articles of association as contemplated in paragraph (2) must be submitted to the Minister, no later than 30 (thirty) days as from the date of the notarial deed containing the amendment to the articles of association.
- (8) The provisions contemplated in paragraph (7) apply *mutatis mutandis* to notifications to the Minister of amendments to the articles of association.
- (9) After the lapse of the 30 (thirty)-day period contemplated in paragraph (7), the application for approval or notification of amendments to the articles of association may not be submitted or delivered to the Minister.

## Article 22

- (1) An application for approval of the amendment to the articles of association with regard to extension of the period of incorporation of

the Company as determined in the articles of association must be submitted to the Minister no later than 60 (sixty) days before the Company's period of incorporation expires.

- (2) The Minister shall give his/her approval to applications for extension of the period of incorporation as contemplated in paragraph (1) no later than on the last date of the Company's incorporation.

#### Article 23

- (1) Amendments to the articles of association as contemplated in Article 21 paragraph (2) come into effect on the date on which the Minister's Decree with regard to the approval of the amendment to the articles of association is issued.
- (2) Amendments to the articles of association as contemplated in Article 21 paragraph (3) come into effect on the date on which the receipt for the notification of the amendment to the articles of association is issued by the Minister.
- (3) The provisions contemplated in paragraphs (1) and (2) do not apply where this Act determines otherwise.

#### Article 24

- (1) Companies whose capital and number of shareholders fulfil the criteria for a Public Company in accordance with the provisions of legislative regulations in the field of capital markets shall amend their articles of association as contemplated in Article 21 paragraph (2) subparagraph f within 30 (thirty) days from when they first fulfil those criteria.
- (2) The Boards of Directors of the Companies contemplated in paragraph (1) must submit a declaration of registration in accordance with the provisions of legislative regulations in the field of capital markets.

#### Article 25

- (1) Amendments to the articles of association regarding a change in a Company's status from a private company to a Public Company come into effect on:
  - a. the date on which the statement of registration submitted to the supervisory institution in the field of capital markets comes into effect for a Public Company; or
  - b. the public offering is made by a Company which submits a declaration of registration to the supervisory institution in the field of capital markets to make a public offering of shares in accordance with the provisions of legislative regulations in the field of capital markets.

- (2) In the event that a declaration of registration of a Company as contemplated in paragraph (1) subparagraph a does not come into effect or a Company which has submitted a declaration of registration as contemplated in paragraph (1) subparagraph b does not make the public offering of shares, the Company must amend its articles of association again within 6 (six) months after the date of the Minister's approval.

#### Article 26

Amendments to the articles of association made in the context of a Merger or Acquisition come into effect on:

- a. the date of the Minister's approval;
- b. a later date determined in the Minister's approval; or
- c. the date the notification of the amendment of the articles of association is received by the Minister, or a later date determined in the deed of Merger or the deed of Acquisition.

#### Article 27

The application for approval of the amendments to the articles of association as contemplated in Article 21 paragraph (2) shall be refused if:

- a. it is contrary to the provisions regarding procedures for amendment of the articles of association;
- b. the contents of the amendment are contrary to the provisions of legislative regulations, public order, and/or morality; or
- c. there is any objection from a creditor to the GMS resolution regarding the reduction in capital.

#### Article 28

Provisions concerning the procedure for submitting applications to obtain a Decree of the Minister with regard to the ratification of a Company as a legal entity, and his/her objections thereto as contemplated in Articles 9, 10, and 11 shall apply mutatis mutandis to the submission of applications for the approval of amendments to the articles of association and objections thereto.

### Third Part

#### The Register of Companies and Announcements

##### Paragraph 1

##### The Register of Companies

#### Article 29

- (1) The Register of Companies shall be managed by the Minister.

(2) The Register of Companies contemplated in paragraph (1) shall contain data concerning Companies, covering:

- a. name and domicile, purpose and objective and business activities, period of incorporation, and capitalisation;
- b. the Company's full address as contemplated in Article 5;
- c. the number and date of the deed of establishment and the Minister's Decree concerning ratification of the Company as a legal entity as contemplated in Article 7 paragraph (3);
- d. the number and date of deeds of amendment to the articles of association and the Minister's approval as contemplated in Article 23 paragraph (1);
- e. the number and date of deeds of amendment to the articles of association and the date of the Minister's receipt of notification as contemplated in Article 23 paragraph (2);
- f. the name and domicile of the notaries who made the deed of establishment and deeds of amendment of the articles of association;
- g. the full name and address of the Company's shareholders, members of the Board of Directors and members of the Board of Commissioners;
- h. the number and date of the deed of winding up or number and date of the order of the court concerning the winding up of the Company which the Minister has been notified of;
- i. the expiry of the Company's status as a legal entity;
- j. the balance sheet and profit and loss statement for the financial year concerned for Companies for which auditing is mandatory.

(3) The Company's data contemplated in paragraph (2) shall be entered in the register of Companies on the same date as the date of:

- a. the Decree of the Minister regarding the ratification of the Company as a legal entity, or the approval of the amendments to the articles of association for which approval is necessary;
- b. the receipt of notification of amendments to the articles of association which do not need approval; or
- c. the receipt of notification of changes in the Company's data which do not constitute amendments of the articles of association.

(4) The provisions contemplated in paragraph (2) subparagraph g with regard to the name and address of Public Companies' shareholders shall be in accordance with the provisions of legislative regulations in the field of capital markets.

(5) The register of Companies contemplated in paragraph (1) shall be open to the public.

(6) Further provisions regarding the register of Companies shall be stipulated in a Regulation of the Minister.

## Paragraph 2 Announcements

### Article 30

- (1) The Minister shall announce in the Supplement to the State Gazette of the Republic of Indonesia:
  - a. deeds of establishment of Companies together with the Minister's Decrees contemplated in Article 7 paragraph (3);
  - b. deeds of amendment to Companies' articles of association together with the Minister's Decrees contemplated in Article 21 paragraph (1);
  - c. deeds of amendment to articles of association notification of which has been received by the Minister.
- (2) The announcements contemplated in paragraph (1) shall be made by the Minister no later than 14 (fourteen) days as from the date of the issuance of the Minister's Decrees contemplated in paragraph (1) subparagraphs a and b or as from the receipt of the notification contemplated in paragraph (1) subparagraph c.
- (3) Further provisions regarding the procedure for announcements shall be implemented in accordance with the provisions of legislative regulations.

## CHAPTER III CAPITAL AND SHARES

### First Part Capital

#### Article 31

- (1) Companies' authorised capital shall consist of the total nominal value of their shares.
- (2) The provision contemplated in paragraph (1) does not close off the possibility of legislative provisions in the field of capital markets providing for Companies' capital to consist of shares without nominal value.

#### Article 32

- (1) Companies' authorised capital shall be at least Rp. 50,000,000 (fifty million Rupiah).
- (2) Statutes regulating certain business activities may determine a minimum amount for Companies' authorised capital which is greater than the provision for authorised capital contemplated in paragraph (1).

- (3) Changes in the amount of authorised capital contemplated in paragraph (1) must be stipulated by Government Regulation.

#### Article 33

- (1) At least 25% (twenty five per cent) of the authorised capital contemplated in Article 32 must be subscribed and paid up in full.
- (2) The capital subscribed and paid up in full contemplated in paragraph (1) shall be proven by lawful evidence of deposit.
- (3) Any further issuance of shares at any time to increase the subscribed capital must be paid up in full.

#### Article 34

- (1) Share capital may be paid up in the form of money and/or in other forms.
- (2) In the event that the share capital is paid up in some other form as contemplated in paragraph (1) , the valuation of the share capital paid up shall be specified based on a reasonable value determined in accordance with market prices or by an expert not affiliated with the Company.
- (3) Shares paid up in the form of immoveable property must be announced in 1 (one) or more Newspapers within a period of 14 (fourteen) days after the deed of establishment is signed or after the GMS resolves on such paying up of shares.

#### Article 35

- (1) Shareholders and other creditors who have claims against a Company may not set off their receivable against the obligation to pay up the price of shares they have subscribed, except with the consent of a GMS.
- (2) The receivables against the Company contemplated in paragraph (1) which may be set off against paying up shares are receivables on claims against the Company which arise out of:
  - a. the Company having received money or the surrender of tangible or intangible goods which have a monetary value;
  - b. a party who underwrites or guarantees the Company's debts having satisfied the Company's debts in the amount underwritten or guaranteed; or
  - c. the Company having underwritten or guaranteed the debts of a third party and the Company having received some benefit in the



form of money or goods which have a monetary value which the Company has in fact directly or indirectly received.

- (3) The GMS resolution contemplated in paragraph (1) shall be valid if adopted in accordance with the provisions regarding invitations to meetings, quorum, and number of votes to amend the articles of association as provided in this Act and/or the articles of association.

#### Article 36

- (1) Companies are prohibited from issuing shares to be owned by the Company itself or by some other Company whose shares are directly or indirectly owned by the Company.
- (2) The prohibition on share ownership contemplated in paragraph (1) does not apply to share ownership obtained by transfer by operation of law, by grant, or by bequest.
- (3) Shares obtained under the provisions contemplated by paragraph (2) must within 1 (one) year after the date of acquisition be assigned to some other person not prohibited from owning the shares in the Company.
- (4) In the event that the other Company contemplated in paragraph (1) is a securities company, the provisions in legislative regulations in the field of capital markets shall apply.

#### Second Part

#### Protection of Companies' Capital and Assets

#### Article 37

- (1) Companies may re-purchase issued shares provided that:
  - a. the re-purchase of shares does not cause the net assets of the Company to become less than the subscribed capital plus the mandatory reserves set aside; and
  - b. the total nominal value of all the shares re-purchase by the Company and any pledge of shares or fiduciary security over shares held by the Company itself or by some other Company whose shares are directly or indirectly owned by the Company does not exceed 10% (ten percent) of the total amount of capital subscribed in the Company unless otherwise provided in legislative regulations in the field of capital markets.
- (2) Direct or indirect re-purchases of shares which are contrary to paragraph (1) shall be void by operation of law.
- (3) The Board of Directors shall be jointly and severally liable for losses suffered by shareholders in good faith incurred as a result of re-

purchases which are void by operation of law as contemplated in paragraph (2).

- (4) Shares re-purchased by Companies as contemplated in paragraph (1) may only be possessed by Companies for not more than 3 (three) years.

#### Article 38

- (1) The re-purchase of shares contemplated in Article 37 paragraph (1) or their further transfer may only be done with the consent of a GMS, unless provided otherwise in legislative regulations in the field of capital markets.
- (2) The GMS resolution containing the consent contemplated in paragraph (1) shall be valid if adopted in accordance with the provisions regarding invitations to meetings, quorum, and number of votes to amend the articles of association as provided in this Act and/or the articles of association.

#### Article 39

- (1) The GMS may deliver to the Board of Commissioners the authority to consent to the implementation of a resolution of the GMS contemplated in Article 38 for a period of 1 (one) year.
- (2) The delivery of authority contemplated in paragraph (1) may be extended each time for the same period.
- (3) The delivery of authority contemplated in paragraph (1) may be withdrawn at any time by the GMS.

#### Article 40

- (1) Shares possessed by a Company because of re-purchase, transfer by operation of law, by grant, or by bequest may not be used to cast votes in the GMS and shall not be counted in determining the quorum which must be achieved in accordance with the provisions of this Act and/or the articles of association.
- (2) The shares contemplated in paragraph (1) are not entitled to any allocation of dividends.

### Third Part Increases in Capital

#### Article 41

- (1) Companies' capital may be increased with the consent of the GMS.
- (2) The GMS may deliver to the Board of Commissioners the authority to consent to the implementation of the resolution of the GMS

contemplated in paragraph (1) for a period of not more than 1 (one) year.

- (3) The delivery of authority contemplated in paragraph (2) may be withdrawn by the GMS at any time.

#### Article 42

- (1) A resolution of the GMS to increase the authorised capital shall be valid if adopted with due attention to the requirements for a quorum and number of votes in favour for amendments to the articles of association in accordance with the provisions of this Act and/or the articles of association.
- (2) A resolution of the GMS to increase the subscribed and paid up capital within the limits of the authorised capital shall be valid if adopted with a quorum attending of more than  $\frac{1}{2}$  (one half) of all the shares with voting rights and votes in favour from more than  $\frac{1}{2}$  (one half) of all the votes cast, unless larger numbers are determined in the articles of association.
- (3) The Minister must be informed of increases in capital as contemplated in paragraph (2) so that they can be recorded in the register of Companies.

#### Article 43

- (1) All shares issued for an increase in capital must first be offered to each of the shareholders in proportion to their ownership of shares for the same classification of shares.
- (2) In the event that the shares to be issue for the increase in capital constitute a classification of shares which has never been issued before, those a pre-emptive right to buy are all the shareholders in accordance with the proportion of shares they each own.
- (3) The offer contemplated in paragraph (1) does not apply to issuances of shares:
  - a. directed to the Company's employees;
  - b. directed to holders of bonds or other securities which are convertible into shares and which were issued with the consent of the GMS; or
  - c. made in the context or reorganisation and/or restructuring with the consent of the GMS.
- (4) In the event that the shareholders contemplated in paragraph (1) do not exercise their right to buy and pay in full for the shares bought within a period of 14 (fourteen) days as from the date of the offer, the Company may offer the remaining unsubscribed shares to third parties.

## Fourth Part Reductions in Capital

### Article 44

- (1) Resolutions of the GMS to reduce the Company's capital shall be valid if adopted with due attention to the requirements for a quorum and number of votes in favour for amendments to the articles of association in accordance with the provisions of this Act and/or the articles of association.
- (2) The Board of Directors must inform all creditors of the resolution contemplated in paragraph (1) by announcing it in 1 (one) or more Newspapers within a period of not more than 7 (seven) days from the date of the GMS resolution.

### Article 45

- (1) Within a period of 60 (sixty) days as from the date of the announcement contemplated in Article 44 paragraph (2), the creditors may submit written objections to the resolution to reduce capital together with the reasons therefor to the Company, with a copy to the Minister.
- (2) Within a period of 30 (thirty) days as from when the objections contemplated in paragraph (1) are received, the Company must give a written answer to the objections received.
- (3) In the event that the Company:
  - a. rejects the objection or does not provide a settlement which the creditors agree to within a period of 30 (thirty) days as from the date when the Company's answer is received; or
  - b. does not give a response within the period of 60 (sixty) days as from the date when the objection is submitted to the Company;

then the creditors may file suit with the district court whose jurisdiction covers the Company's domicile.

### Article 46

- (1) The reduction in the Company's capital constitutes an amendment of the articles of association which must have the Minister's approval.
- (2) The Minister's approval contemplated in paragraph (1) shall be given if:
  - a. there is no written objection from creditors within the period contemplated in Article 45 paragraph (1);

- b. a settlement of the objections submitted by creditors is achieved;  
or
- c. the creditors' suit is rejected by the court by virtue of a judgement which has obtained absolute legal effect.

#### Article 47

- (1) Resolutions of the GMS concerning reductions in subscribed and paid up capital shall be carried out by means of a withdrawal of shares or a reduction in the nominal value of shares.
- (2) The withdrawal of shares contemplated in paragraph (1) may be carried out against shares which have been re-purchased by the Company or against shares with a classification which may be withdrawn.
- (3) Reductions in the nominal value of shares without repayment must be carried out in proportion against all shares of every classification of shares.
- (4) Exemptions from the proportionality contemplated in paragraph (3) must have the consent of all shareholders the nominal value of whose shares will be reduced.
- (5) In the event of there being more than 1 (one) classification of shares, the resolution of the GMS concerning the reduction in capital may only be adopted after obtaining the prior consent of all shareholders of each classification of shares whose rights will be diminished by the resolution of the GMS concerning the reduction in capital.

#### Fifth Part Shares

#### Article 48

- (1) Companies' shares shall be issued under the name of their owner.
- (2) The requirements for ownership of shares may be determined in the articles of association with due attention to the requirements determined by the authorised agency in accordance with the provisions of legislative regulations.
- (3) In the event that requirements for ownership of shares as contemplated in paragraph (2) have been determined and are not fulfilled, then the party who obtained ownership of the shares may not exercise rights as shareholder and the shares shall not be counted in any quorum which must be achieved in accordance with the provisions of this Act and/or the articles of association.

#### Article 49

- (1) The value of shares must be stated in rupiah.
- (2) Shares without a nominal value may not be issued.
- (3) The provision contemplated in paragraph (2) does not close off the possibility of the issuance of shares without a nominal value being provided for in legislative regulations in the field of capital markets.

#### Article 50

- (1) Companies' Board of Directors shall make and keep a register of shareholders, containing at least:
  - a. shareholders' names and addresses;
  - b. the number, serial number, and date of acquisition of shares held by shareholders and their classification in the event that more than one classification of shares has been issued;
  - c. the amount paid up on every share;
  - d. the name and address of an individual or legal entity who has a pledge over the shares or is the recipient of fiduciary security over shares and the date of acquisition of the pledge or registration of the fiduciary security;
  - e. information on the shares having been paid up in other forms as contemplated in Article 34 paragraph (2).
- (2) Apart from the register of shareholders contemplated in paragraph (1), Companies' Board of Directors must make and keep a special register which contains information regarding shares in the Company or in other Companies of members of the Board of Directors and Board of Commissioners together with their families and the date such shares were obtained.
- (3) Changes of share ownership must also be recorded in the register of shareholders and special register contemplated in paragraphs (1) and (2).
- (4) The register of shareholders and special register contemplated in paragraphs (1) and (2) must be made available in the Company's domicile so that they can be seen by the shareholders.
- (5) In the event of legislative regulations in the field of capital markets not providing otherwise, the provisions contemplated in paragraphs (1), (3) and (4) shall also apply to Public Companies.

#### Article 51

Shareholders shall be given proof of ownership of shares for the shares they own.

#### Article 52

- (1) Shares bestow on their owners the right to:
  - a. attend and cast votes in GMS;
  - b. receive payment of dividends and the remainder of assets from liquidation;
  - c. exercise other rights under this Act.
- (2) The provisions contemplated in paragraph (1) apply after the shares are recorded in the register of shareholders under the name of the shareholder.
- (3) The provisions contemplated in paragraph (1) subparagraphs a and c do not apply to certain classifications of shares as determined in this Act.
- (4) Each share bestows on its owner indivisible rights.
- (5) In the event that 1 (one) share is owned by more than 1 (one) person, the rights arising out of the shares shall be exercised by means of appointing 1 (one) person as their joint representative.

#### Article 53

- (1) The articles of association shall determine 1 (one) or more classifications of shares.
- (2) Each share in the same classification bestows on its holders the same rights.
- (3) In the event of there being more than 1 (one) classification of shares, the articles of association shall determine one amongst them as ordinary shares.
- (4) The classifications of shares contemplated in paragraph (3) are, amongst others:
  - a. shares with or without voting rights;
  - b. shares with special rights to nominate members of the Board of Directors and/or members of the Board of Commissioners;
  - c. shares which after a certain period of time will be withdrawn or exchanged for some other classification of shares;
  - d. shares which bestow on their holder the right to priority over holders of shares with other classifications in receiving dividends in the allocation of dividends cumulatively or non-cumulatively;
  - e. shares which bestow on their holders the right to priority over holders of shares with other classifications in receiving allocations of the remainder of the Company's assets in liquidation.

#### Article 54

- (1) The articles of association may determine fractions of the nominal value of a share.
- (2) Holders of a fraction of the nominal value of a share shall not be granted individual voting rights unless the holder of a fraction of the nominal value of a share individually or together with another holder of a fraction of the nominal value of a share with the same classification of share has a nominal value equal to 1 (one) nominal share of that classification.
- (3) The provisions contemplated in Article 52 paragraphs (4) and (5) shall apply mutatis mutandis to the holders of fractions of the nominal value of shares.

#### Article 55

Companies' articles of association shall specify the method of transferring rights over shares in accordance with the provisions of legislative regulations.

#### Article 56

- (1) Rights over shares shall be transferred with a deed of transfer of rights.
- (2) The deeds of transfer of rights contemplated in paragraph (1) or a copy thereof shall be delivered to the Company in writing.
- (3) The Board of Directors shall record the transfer of rights over shares, and the date and day of the transfer of rights in the register of shareholders or the special register as contemplated in Article 50 paragraphs (1) and (2) and no later than 30 (thirty) days as from the date of recordal of the transfer of rights inform the Minister of the change in the composition of the shareholders for recordal in the Register of Companies.
- (4) In the event that the notification contemplated in paragraph (3) is not made, the Minister shall reject applications for approval or notifications made based on compositions and names of shareholders of which the Minister has not been notified.
- (5) Procedures concerning the procedure for transfers of rights over shares traded on capital markets shall be stipulated in legislative regulations in the field of capital markets.

#### Article 57

- (1) The articles of association may provide requirements concerning transfers of rights over shares, viz.:



- a. mandatory prior offer to shareholders with a particular classification or other shareholders;
  - b. mandatory prior approval from the Company's Organs; and/or
  - c. mandatory prior approval from the authorised agency in accordance with the provisions of legislative regulations.
- (2) The requirements contemplated in paragraph (1) shall not apply in the event that transfers of shares are caused by assignment of rights by operation of law, unless the mandatory approval contemplated in paragraph (1) subparagraph c is related to inheritance.

#### Article 58

- (1) In the event that the articles of association mandate that selling shareholders first offer their shares to shareholders with a particular classification or other shareholders, and within the period of 30 (thirty) days as from when the date the offer is made it transpires that such shareholders have not made the purchase, the selling shareholder may offer and sell the shares to third parties.
- (2) Any selling shareholders compelled to offer shares as contemplated in paragraph (1) is entitled to withdraw the offer after the lapse of the 30 (thirty)-day period contemplated in paragraph (1).
- (3) The obligation to offer to shareholders with a particular classification or to other shareholders as contemplated in paragraph (1) shall only apply once.

#### Article 59

- (1) The grant or refusal of approval for transfers of rights over shares which need the approval of a Company Organ must be given in writing with a period of not more than 90 (ninety) days as from the date the Company Organ receives the request for approval for the transfer of rights.
- (2) In the event that the period contemplated in paragraph (1) has lapsed and the Company Organ has not give a written statement, the Company Organ shall be deemed to have approved the transfer of rights over the shares.
- (3) In the event that the transfer of rights over shares is approved by the Company Organ, the transfer of rights must be carried out in accordance with the provisions contemplated in Article 56 and must be carried out no later than 90 (ninety) days as from the date on which the approval is given.

#### Article 60

- (1) Shares constitute moveable property and bestow the rights contemplated in Article 52 on their owner.

- (2) Shares may be encumbered with a pledge or fiduciary security provided the articles of association do not specify otherwise.
- (3) Pledges of shares or fiduciary security over shares registered in accordance with the provisions of legislative regulations must be recorded in the register of shareholders and the special register as contemplated in Article 50.
- (4) Voting rights on shares encumbered with a pledge or fiduciary security shall remain with the shareholder.

#### Article 61

- (1) Each shareholder is entitled to file suit against the Company in the district court if the shareholder has been harmed by any action of the Company considered unfair and unreasonable as a result of a resolution of the GMS, Board of Directors and/or Board of Commissioners.
- (2) The suits contemplated in paragraph (1) must be filed with the district court whose jurisdiction covers the Company's domicile.

#### Article 62

- (1) Each shareholder is entitled to request the Company that the shareholder's shares be bought at a fair price if the shareholder concerned does not approve of actions by the Company which harm that shareholder or the Company, in the form of:
  - a. amendments of the articles of association;
  - b. assignment or securing of assets of the Company which have a value of more than 50% (fifty per cent) of the Company's net assets; or
  - c. Mergers, Consolidations, Acquisitions, or Demergers.
- (2) In the event that the shares requested to be bought as contemplated in paragraph (1) exceeds the limit on re-purchase of shares by the Company as contemplated in Article 37 paragraph (1) subparagraph b, the Company must endeavour that the remaining shares be bought by a third party.

### CHAPTER IV WORK PLANS, ANNUAL REPORTS, AND USE OF PROFITS

#### First Part Work Plans

#### Article 63

- (1) Boards of Directors shall compile annual work plans before the start of the coming financial year.
- (2) The work plans contemplated in paragraph (1) shall also contain annual budgets for Companies for the coming financial year.

#### Article 64

- (1) The work plans contemplated in Article 63 shall be delivered to the Board of Commissioners or GMS as specified in the articles of association.
- (2) The articles of association may specify whether the work plan delivered by the Board of Directors as contemplated in paragraph (1) must obtain the approval of the Board of Commissioners or the GMS, unless specified otherwise in legislative regulations.
- (3) In the event that the articles of association specify that the work plan must obtain GMS approval, the work plan must first be studied by the Board of Commissioners.

#### Article 65

- (1) In the event that the Board of Directors does not deliver a work plan as contemplated in Article 64, the work plan for the previous year will be put into effect.
- (2) Work plans for the previous year will also apply to Companies whose work plan has not yet obtained approval as contemplated in the articles of association or legislative regulations.

### Second Part Annual Reports

#### Article 66

- (1) Boards of Directors shall deliver annual reports to GMS after they have been studied by the Board of Commissioners within a period of not more than 6 (six) months after the Company's financial year ends.
- (2) The annual reports contemplated in paragraph (1) must contain at least:
  - a. a financial report consisting of at least the last balance sheet for the financial year just ended in comparison with the previous financial year, a profit and loss statement for the financial year concerned, a cash flow report, and a report on changes in equity, and notes on the financial report;
  - b. a report on the Company's activities;
  - c. a report on the implementation of Environmental and Social Responsibility;

- d. details of problems which arose during the financial year which influenced the Company's business activities;
  - e. a report on the duty of supervision performed by the Board of Commissioners during the financial year just ended;
  - f. the names of the members of the Board of Directors and members of the Board of Commissioners;
  - g. salaries and allowances for members of the Board of Directors and salaries or honoraria and allowances for members of the Board of Commissioners of the Company for the year just ended.
- (3) The financial report contemplated in paragraph (2) subparagraph a shall be compiled in accordance with the financial accounting standards.
- (4) For Companies which must be audited, the balance sheet and profit and loss statement for the financial year concerned as contemplated in paragraph (2) subparagraph a must be delivered to the Minister in accordance with the provisions of legislative regulations.

#### Article 67

- (1) The annual report contemplated in Article 66 paragraph (1) shall be signed by all of the members of the Board of Directors and all of the members of the Board of Commissioners serving in the financial year concerned and shall be made available at the Company's office from the date of the invitation to the GMS for examination by the shareholders.
- (2) In the event that members of the Board of Directors or members of the Board of Commissioners do not sign the annual report as contemplated in paragraph (1), those concerned must give their reasons therefor in writing or the reasons must be stated by the Board of Directors in a separate letter affixed to the annual report.
- (3) In the event the members of the Board of Directors or members of the Board of Commissioners who do not sign the annual report as contemplated in paragraph (1) do not give any reasons therefor, those concerned will be deemed to have approved the contents of the annual report.

#### Article 68

- (1) The Board of Directors must deliver the Company's financial report to a public accounting for auditing if:
- a. the Company's business is to collect and/or manage the public's funds;
  - b. the Company issues acknowledgements of indebtedness to the public;
  - c. the Company is a Public Company;
  - d. the Company is a state-owned liability company;

- e. the Company has assets and/or a business turnover worth at least Rp. 50,000,000,000 (fifty billion Rupiah); or
  - f. it is obligatory under legislative regulations.
- (2) In the event that the obligation contemplated in paragraph (1) is not fulfilled, the financial report shall not be ratified by the GMS.
- (3) The report on the public accountant's audit as contemplated in paragraph (1) shall be delivered to the GMS in writing by the Board of Directors.
- (4) The balance sheet and profit and loss statement from the financial report contemplated paragraph (1) subparagraphs a, b, and c shall be published in 1 (one) Newspaper after obtaining the ratification of the GMS.
- (5) Publication of the balance sheet and profit and loss statement as contemplated in paragraph (4) shall be done no later than 7 (seven) days after they are ratified by the GMS.
- (6) Reduction of the value contemplated in paragraph (1) subparagraph e must be stipulated by Government Regulation.

#### Article 69

- (1) Approval of annual reports includes ratification by the GMS of financial reports and reports of the supervisory tasks of the Board of Commissioners.
- (2) Resolutions for ratification of the financial reports and approval of the annual reports as contemplated in paragraph (1) shall be determined pursuant to the provisions in this Act and/or the articles of association.
- (3) In the event that the financial report provided turns out to be inaccurate and/or misleading, the members of the Board of Directors and members of the Board of Commissioners shall be jointly and severally liable to the parties harmed.
- (4) Members of the Board of Directors and members of the Board of Commissioners shall be released from the liability contemplated in paragraph (3) if it is proven that the situation was not due to their fault.

#### Third Part Use of Profits

#### Article 70

- (1) Companies shall set aside a certain amount of the net profits each financial year as a reserve.

- (2) The mandatory setting aside as a reserve as contemplated in paragraph (1) applies if the Company has a positive balance of profits.
- (3) Net profits shall be set aside as contemplated in paragraph (1) until the reserve reaches at least 20% (twenty per cent) of the total subscribed and paid up capital.
- (4) The reserves contemplated in paragraph (3) [sic] which have not yet reached the amount contemplated in paragraph (2) [sic] may only be used to cover losses which cannot be met by other reserves.

#### Article 71

- (1) The use of net profits including the determination of the amount to be set aside for reserves as contemplated in Article 70 paragraph (1) shall be decided by the GMS.
- (2) All net profits after the deduction to be set aside as reserves as contemplated in Article 70 paragraph (1) shall be allocated to the shareholders as dividends unless determined otherwise in the GMS.
- (3) The dividends contemplated in paragraph (2) may only be allocated if the Company has a positive balance of profits.

#### Article 72

- (1) Companies may allocate interim dividends before the Company's financial year ends provided the Company's articles of association so provide.
- (2) Interim dividends may be allocated as contemplated in paragraph (1) if the Company's total net assets do not become less than the total subscribed and paid up capital plus the mandatory reserve.
- (3) The allocation of interim dividends as contemplated in paragraph (2) may not disrupt or cause the Company to be unable to fulfil its obligations to creditors or disrupt the Company's activities.
- (4) The allocation of interim dividends shall be determined by a resolution of the Board of Directors after obtaining the consent of the Board of Commissioners with due attention to the provisions of paragraphs (2) and (3).
- (5) In the event that after the financial year ends it transpires that the Company has suffered losses, the interim dividends allocated must be returned to the Company by the shareholders.
- (6) The Board of Directors and Board of Commissioners shall be jointly and severally responsible for the Company's losses in the event that

the shareholders do not return the interim dividends as contemplated in paragraph (5).

#### Article 73

- (1) Dividends not taken after 5 (five) years has passed as from the date determined for the payment of dividends shall be placed in a special reserve.
- (2) The GMS shall provide a procedure for the collection of dividends which have been placed in the special reserve contemplated in paragraph (1).
- (3) Dividends which have been placed in the special reserve contemplated in paragraph (1) and not taken within 10 (ten) years shall become the right of the Company.

### CHAPTER V ENVIRONMENTAL AND SOCIAL RESPONSIBILITY

#### Article 74

- (1) Companies doing business in the field of and/or in relation to natural resources must put into practice Environmental and Social Responsibility.
- (2) The Environmental and Social Responsibility contemplated in paragraph (1) constitutes an obligation of the Company which shall be budgeted for and calculated as a cost of the Company performance of which shall be with due attention to decency and fairness.
- (3) Companies who do not put their obligation into practice as contemplated in paragraph (1) shall be liable to sanctions in accordance with the provisions of legislative regulations.
- (4) Further provisions regarding Environmental and Social Responsibility shall be stipulated by Government Regulation.

### CHAPTER VI THE GENERAL MEETING OF SHAREHOLDERS

#### Article 75

- (1) GMS have any authority not given to the Board of Directors or Board of Commissioners within the limits specified in this Act and/or the articles of association.
- (2) In the forum of a GMS, shareholders are entitled to obtain information related to the Company from the Board of Directors and/or Board of

Commissioners in so far as it is connected to the agenda items and does not conflict with the Company's interests.

- (3) In the agenda item AOB, GMS are not entitled to adopt resolutions unless all shareholders are present and/or represented in the GMS and consent to the addition of the agenda item.
- (4) Resolutions on items added to the agenda must be unanimously approved.

#### Article 76

- (1) GMS shall be held in the Company's domicile or in the place where the Company does its main business as specified in the articles of association.
- (2) The GMS of Public Companies shall be held in the domicile of the stock exchange where the Company's shares are listed.
- (3) The location of the GMS as contemplated in paragraphs (1) and (2) must be located in the territory of the Republic of Indonesia.
- (4) If all the shareholders are present and/or represented in the GMS and all the shareholders agree to the holding of a GMS with a particular agenda, the GMS may be held at any place with due attention to the condition contemplated in paragraph (3).
- (5) The GMS contemplated in paragraph (4) may adopt resolutions if the resolutions are unanimously agreed.

#### Article 77

- (1) Apart from being held as contemplated in Article 76, GMS may also be held via teleconference, video conference, or other vehicles for electronic media which make it possible for all of the participants in the GMS to directly see and hear each other and to participate in the meeting.
- (2) The requirements for quorums and the requirements for adopting resolutions are the requirements provided in this Act and/or as provided in the Company's articles of association.
- (3) The requirements contemplated in paragraph (2) shall counted based on the participation of the participants in the GMS as contemplated in paragraph (1)
- (4) Any GMS held as contemplated in paragraph (1) must have minutes of meeting made which are approved and signed by all of the GMS participants.

#### Article 78



- (1) GMS consist of Annual GMS and other GMS.
- (2) Annual GMS shall be held within a period of not more than 6 (six) months after the financial year ends.
- (3) All the of the Company's documents and annual reports contemplated in Article 66 paragraph (2) must be submitted in the annual GMS.
- (4) Other GMS may be hold at any time based on need for the Company's interests.

#### Article 79

- (1) Boards of Directors shall convene the annual GMS contemplated in Article 78 paragraph (2) and the other GMS contemplated in Article 78 paragraph (4) with GMS invitations first.
- (2) GMS may be convened as contemplated in paragraph (1) at the request of:
  - a. 1 (one) or more shareholders who jointly represent 1/10 (one tenth) or more of the total number of shares with voting rights, unless the articles of association determine a smaller number; or
  - b. the Board of Commissioners.
- (3) The request contemplated in paragraph (2) shall be submitted to the Board of Directors by Registered Letter accompanied by the reasons therefor.
- (4) The Registered Letter contemplated in paragraph (3) shall be sent by shareholder and a copy sent to the Board of Commissioners.
- (5) The Board of Directors shall issue invitations to the GMS within no more than 15 (fifteen) days as from the date on which the request for the GMS to be convened is received.
- (6) In the event that the Board of Directors does not issue invitations to the GMS as contemplated in paragraph (5),:
  - a. the request for the GMS to be convened as contemplated in paragraph (2) subparagraph a shall be re-submitted to the Board of Commissioners; or
  - b. the Board of Commissioners shall issue invitations to the GMS itself, as contemplated in paragraph (2) subparagraph b.
- (7) The Board of Commissioners shall issue invitations to the GMS as contemplated in paragraph 6 subparagraph a within no more than 15 (fifteen) days as from the date on which the request for the GMS to be convened is received.

- (8) A GMS convened by the Board of Directors on the basis of invitations to the GMS as contemplated in paragraph (5) shall discuss matters related to the reasons contemplated in paragraph (3) and other agenda items considered necessary by the GMS.
- (9) A GMS convened by the Board of Commissioners on the basis of invitations to the GMS as contemplated in paragraph (6) subparagraph b and paragraph (7) shall only discuss matters related to the reasons contemplated in paragraph (3).
- (10) The convening of GMS of Public Companies shall be subject to the provisions of this Act in so far as the provisions of legislative regulations in the field of capital markets do not determine otherwise.

#### Article 80

- (1) In the event that the Board of Directors or Board of Commissioners do not issue invitations to the GMS within the period contemplated in Article 79 paragraphs (5) and (7), the shareholder requesting that a GMS be convened may submit an application to the Chief Judge of the District Court whose jurisdiction covers the Company's domicile to issue a court order granting the applicant permission to issue invitations to the GMS himself/herself.
- (2) After summoning and hearing the applicant, the Board of Directors and/or the Board of Commissioners, the Chief Judge of the District Court may issue a court order granting permission to convene the GMS if the applicant can summarily prove that the requirements have been fulfilled and the applicant has a reasonable interest in the GMS being convened.
- (3) The court order of the Chief Judge of the District Court contemplated in paragraph (2) shall also contain provisions regarding:
  - a. the form of the GMS, the agenda items for the GMS in accordance with the shareholder's application, the period for the invitations to the GMS, the quorum to be present, and/or provisions concerning requirements for the adoption of GMS resolutions, and the designation of a chair of the meeting, in accordance with or without being bound by the provisions of this Act and/or the articles of association; and/or
  - b. an order obliging the Board of Directors and/or Board of Commissioners to attend the GMS.
- (4) The Chief Judge of the District Court shall refuse the application in the event that the applicant is unable to prove summarily that the requirements have been fulfilled and the applicant has a reasonable interest in the GMS being convened.

- (5) The GMS contemplated in paragraph (1) may only discuss the agenda items determined by the Chief Judge of the District Court.
- (6) The court order from the Chief Judge of the District Court with regard to the granting of permission as contemplated in paragraph (3) shall be final in nature and have absolute legal effect.
- (7) In the event that the court order from the Chief Judge of the District Court refuses the application as contemplated in paragraph (4), the only legal avenue open is cassation.
- (8) The provisions contemplated in paragraph (1) also apply to Public Companies with due attention to the requirements for announcement that a GMS is to be held and other requirements for a GMS to be convened as provided for in legislative regulations in the field of capital markets.

#### Article 81

- (1) Boards of Directors shall issue invitations to shareholders before convening the GMS.
- (2) In certain cases, the invitations to the GMS contemplated in paragraph (1) may be issued by the Board of Commissioners or the shareholders pursuant to a court order of the Chief Judge of the District Court.

#### Article 82

- (1) Invitations to the GMS shall be issued within a period no later than 14 (fourteen) days before the date on which the GMS is held, exclusive of the date of the invitation and the date of the GMS.
- (2) Invitations to the GMS may be issued by Registered Letter and/or by an advertisement in Newspapers.
- (3) Invitations to the GMS must state the date, time, place, and agenda items, accompanied by a notice that the materials to be discussed in the GMS will be available in the Company's offices from the date on which the invitation to the GMS is issued to the date on which the GMS is held.
- (4) The Company must give shareholders free copies of the materials to be discussed contemplated in paragraph (3) if asked.
- (5) In the event that the invitation is not in accordance with the provisions contemplated in paragraphs (1) and (2), and the invitation is not in accordance with paragraph (3), the GMS resolutions will still be valid if all of the shareholders with voting rights are present or represented in the GMS and the resolution is approved unanimously.

#### Article 83

- (1) For Public Companies, invitations to a GMS must be preceded by an announcement that invitations to a GMS will be issued with due attention to the provisions of legislative regulations in the field of capital markets.
- (2) The announcements contemplated in paragraph (1) shall be issued within a period no later than 14 (fourteen) days before the invitation to the GMS.

#### Article 84

- (1) Each share issued shall carry one vote, unless the articles of association determine otherwise.
- (2) The vote contemplated in paragraph (1) shall not apply to:
  - a. shares in the Company controlled by the Company itself;
  - b. shares in a parent Company directly or indirectly controlled by its subsidiary; or
  - c. shares in the Company controlled by another Company whose shares are directly or indirectly owned by the Company.

#### Article 85

- (1) Shareholders, either in person or through a representative by virtue of a power of attorney, are entitled to attend GMS and use their votes in accordance with the number of shares they own.
- (2) The provision contemplated in paragraph (1) does not apply to holders of shares without voting rights.
- (3) In voting, the votes cast by shareholders apply for all the shares they own and shareholders are not permitted to give a power of attorney to more than one proxy for part of the shares they own with different votes.
- (4) In voting, members of the Board of Directors, members of the Board of Commissioners, and employees of the Company concerned are prohibited from acting as proxies for shareholders as contemplated in paragraph (1).
- (5) In the event that shareholders are present at the GMS in person, any power of attorney they have given shall not be valid for that meeting.
- (6) The chair of the meeting is entitled to determine who is entitled to be present in the GMS with due attention to the provisions of this Act and the Company's articles of association.

- (7) Apart from the provisions contemplated in paragraphs (3) and (6), the provisions of legislative regulations in the field of capital markets also apply to Public Companies.

#### Article 86

- (1) GMS may be held if more than  $\frac{1}{2}$  (one half) of the total number of shares with voting rights are present or represented in the GMS, unless a larger quorum is specified by Statute or by the articles of association.
- (2) In the event that the quorum contemplated in paragraph (1) is not achieved, invitations to a second GMS may be issued.
- (3) Invitations to a second GMS must state that the first GMS was held but did not achieve its quorum.
- (4) The second GMS contemplated in paragraph (2) shall be lawful and entitled to adopt resolutions if at least  $\frac{1}{3}$  (one third) of the total number of shares with voting rights are present or represented in the GMS, unless a larger quorum is specified by the articles of association.
- (5) In the event that the quorum for the second GMS as contemplated in paragraph (4) is not achieved, the Company may apply to the Chief Judge of the District Court whose jurisdiction covers the Company's domicile to determine the quorum for a third GMS at the request of the Company.
- (6) Invitations to a third GMS must state that the second GMS was held but did not achieve its quorum and that a third GMS will be held with a quorum determined by the Chief Judge of the District Court.
- (7) The court order of the Chief Judge of the District Court with regard to the GMS quorum contemplated in paragraph (5) shall be final and have absolute legal effect.
- (8) Invitations to second and third GMS shall be issued within a period no later than 7 (seven) days before the second and third GMS is held.
- (9) The second and third GMS shall be held no sooner than 10 (ten) days and no later than 21 (twenty-one) days after the preceding GMS is held.

#### Article 87

- (1) GMS resolutions shall be adopted on the basis of deliberation to reach a consensus.
- (2) In the event that resolutions on the basis of deliberation to reach a consensus as contemplated in paragraph (1) cannot be achieved, resolutions shall be lawful if approved by more than  $\frac{1}{2}$  (one half) of the number of votes cast unless Statute and/or the articles of

association specify that resolutions shall be lawful if approved by a greater number of affirmative votes.

#### Article 88

- (1) GMS to amend the articles of association may be held if in the meeting at least  $\frac{2}{3}$  (two thirds) of the total number of shares with voting rights are present or represented in the GMS and the resolution will be lawful if approved by at least  $\frac{2}{3}$  (two thirds) of the number of votes cast unless the articles of association specify a quorum to be present and/or provisions about the adoption of resolutions of GMS which are higher.
- (2) In the event that the quorum to be present contemplated in paragraph (1) is not achieved, a second GMS may be convened.
- (3) The second GMS contemplated in paragraph (2) shall be lawful and entitled to adopt resolutions if in the meeting at least  $\frac{3}{5}$  (three fifths) of the total number of shares with voting rights are present or represented in the GMS and the resolution shall be lawful if approved by at least  $\frac{2}{3}$  (two thirds) of the number of votes cast unless the articles of association specify a quorum to be present and/or provisions about the adoption of resolutions of GMS which are higher.
- (4) The provisions contemplated in Article 86 paragraphs (5), (6), (7), (8), and (9) shall apply mutatis mutandis to GMS contemplated in paragraph (1).
- (5) The provisions contemplated in paragraphs (1), (2), and (3) with regard to the quorum to be present and the provisions concerning requirements for adoption of GMS resolutions also apply to Public Companies in so far as it is not provided otherwise in legislative regulations in the field of capital markets.

#### Article 89

- (1) GMS to approve Mergers, Consolidations, Acquisitions, or Demergers, to file applications for the Company to be declared bankrupt or extensions of its period of incorporation, and to wind up the Company may only be held if in the meeting at least  $\frac{3}{4}$  (three quarters) of the total number of shares with voting rights are present or represented in the GMS and the resolution shall be lawful if approved by at least  $\frac{3}{4}$  (three quarters) of the number of votes cast, unless the articles of association specify a quorum to be present and/or provisions concerning the requirements for adoption of GMS resolutions which are higher.
- (2) In the event that the quorum contemplated in paragraph (1) cannot be achieved, a second GMS may be held.
- (3) The second GMS contemplated in paragraph (2) shall be lawful and entitled to adopt resolutions if in the meeting at least  $\frac{2}{3}$  (two thirds)

of the total number of votes with voting rights are present or represented in the GMS and the resolution shall be lawful if approved by at least  $\frac{3}{4}$  (three quarters) of the number of votes cast, unless the articles of association specify a quorum to be present and/or provisions concerning requirements for the adoption of GMS resolutions which are higher.

- (4) The provisions contemplated in Article 86 paragraphs (5), (6), (7), (8), and (9) shall apply mutatis mutandis to the GMS contemplated in paragraph (1).
- (5) The provisions contemplated in paragraphs (1), (2), and (3) with regard to the quorum to be present and/or provisions concerning requirements for the adoption of GMS resolutions also apply to Public Companies in so far as it is not provided otherwise in legislative regulations in the field of capital markets.

#### Article 90

- (1) In each GMS convened, GMS minutes must be made and signed by the chair of the meeting and at least 1 (one) shareholder appointed by and from the participants in the GMS.
- (2) The signature contemplated in paragraph (1) shall not be required if the GMS minutes are made by notarial deed.

#### Article 91

Shareholders may also adopt binding resolutions outside GMS provided that all shareholders with voting rights approve them in writing by signing the proposal concerned.

### CHAPTER VII BOARDS OF DIRECTORS AND BOARDS OF COMMISSIONERS

#### First Part Boards of Directors

#### Article 92

- (1) Boards of Directors shall undertake the management of Companies in the interest of the Companies and in accordance with the Companies' purpose and objectives.
- (2) Boards of Directors are authorised to undertake the management contemplated in paragraph (1) in accordance with any policy that seems appropriate within the limits specified in this Act and/or the articles of association.

- (3) Companies' Boards of Directors shall consist of 1 (one) or more members of the Board of Directors.
- (4) Companies whose business is related to the collection of and/or management of the public's funds, Companies which issue acknowledgements of indebtedness to the public, or Public Companies must have at least 2 (two) members of the Board of Directors.
- (5) In the event that the Board of Directors consists of 2 (two) or more members of the Board of Directors, the division of management tasks and authority between the members of the Board of Directors shall be determined by a GMS resolution.
- (6) In the event that the GMS contemplated in paragraph (5) does not make any determination, the division of the tasks and authority of the members of the Board of Directors shall be determined by a resolution of the Board of Directors.

### Article 93

- (1) Those who may be appointed as members of the Board of Directors are individuals capable of performing legal actions, except those who in the 5 (five) years previous to their appointment have:
  - a. been declared bankrupt;
  - b. been members of a Board of Directors or a Board of Commissioners declared to be at fault in causing a Company to be declared bankrupt;
  - c. been sentenced for crimes which caused losses to the state and/or were related to the finance sector.
- (2) The provisions on the requirements contemplated in paragraph (1) are without prejudice to the possibility of the authorised technical agencies determining additional requirements pursuant to legislative regulations.
- (3) Fulfilment of the requirements contemplated in paragraphs (1) and (2) shall be proven by a letter to be kept by the Company.

### Article 94

- (1) Members of Boards of Directors shall be appointed by the GMS.
- (2) Initially, members of Boards of Directors shall be appointed by the founders in the deeds of establishment contemplated in Article 8 paragraph (2) subparagraph b.
- (3) Members of Boards of Directors shall be appointed for a certain period and may be re-appointed.



- (4) Articles of Association shall provide procedures for the appointment, replacement and dismissal of members of the Board of Directors and may also provide procedures for nominating members of the Board of Directors.
- (5) Resolutions of GMS with regard to the appointment, replacement, and dismissal of members of the Board of Directors shall also determine when the appointment, replacement or dismissal comes into effect.
- (6) In the event that the GMS does not determine when the appointment, replacement or dismissal of members of the Board of Directors comes into effect, the appointment, replacement or dismissal shall come into effect as from the close of the GMS.
- (7) In the event of appointment, replacement or dismissal of members of the Board of Directors, the Board of Directors must notify the Minister within a period of not more than 30 (thirty) days as from the date of the GMS resolution of the change in the members of the Board of Directors for recordal in the register of Companies.
- (8) In the event that the notification contemplated in paragraph (7) has not been made, the Minister shall refuse any application submitted or notification delivered to the Minister by a Board of Directors which has not yet been recorded in the register of Companies.
- (9) The notification contemplated in paragraph (8) does not include the notification delivered by a new Board of Directors of its own appointment.

#### Article 95

- (1) Appointments of members of Boards of Directors who do not fulfil the requirements contemplated in Article 92 shall be void by operation of law as from when the other members of the Board of Directors or the Board of Commissioners know the requirements were not fulfilled.
- (2) Within a period of not more than 7 (seven) days from when it becomes known, another member of the Board of Directors or the Board of Commissioners must publish the annulment of the appointment of the member of the Board of Directors concerned in a Newspaper and inform the Minister thereof for recordal in the register of Companies.
- (3) Legal actions performed for and on behalf of the Company by the member of the Board of Directors contemplated in paragraph (1) before his/her appointment is annulled shall remain binding on and the liability of the Company.
- (4) Legal actions performed for and on behalf of the Company by the member of the Board of Directors contemplated in paragraph (1) after his/her appointment is annulled shall be void and the personal liability of the member of the Board of Directors concerned.

- (5) The provisions contemplated in paragraph (3) shall not reduce the liability of the member of the Board of Directors concerned for losses to the Company as contemplated in Articles 97 and 104.

#### Article 96

- (1) Provisions concerning the amount of the salary and allowances for members of Boards of Directors shall be stipulated by GMS resolutions.
- (2) The authority of the GMS contemplated in paragraph (1) may be delegated to the Board of Commissioners.
- (3) In the event that the authority of the GMS contemplated in paragraph (2) is delegated to the Board of Commissioners, the amount of the salary and allowances contemplated in paragraph (1) shall be stipulated by resolution of a meeting of the Board of Commissioners.

#### Article 97

- (1) Boards of Directors shall be responsible for the management of Companies as contemplated in Article 92 paragraph (1).
- (2) The management contemplated in paragraph (1) shall be performed by each member of the Board of Directors in good faith and full liability.
- (3) Each member of the Board of Directors shall fully personally liable for the Company's losses if the Director concerned is at fault or negligent in carrying out his/her duties in accordance with the provisions contemplated in paragraph (2).
- (4) In the event that a Board of Directors consists of 2 (two) or more members of the Board of Directors, the liability contemplated in paragraph (3) shall be joint and several for each member of the Board of Directors.
- (5) Members of the Board of Directors cannot be held liable for the losses contemplated in paragraph (3) if they can prove that:
  - a. the losses were not due to their fault or negligence;
  - b. they carried out the management in good faith and with prudence in the interests of and in accordance with the purpose and objectives of the Company;
  - c. they do not have a direct or indirect conflict of interest in the action of management that caused the losses; and
  - d. they took action to prevent the losses from arising or continuing.
- (6) On behalf of the Company, shareholders representing at least 1/10 (one tenth) of the total number of shares with voting rights may file suit through the district court against the members of the Board of

Directors who by their fault or negligence gave rise to the losses for the Company.

- (7) The provision contemplated in paragraph (5) do not reduce the right of other members of the Board of Directors and/or members of the Board of Commissioners to file suit on behalf of the Company.

#### Article 98

- (1) Boards of Directors shall represent Companies in and out of the courts.
- (2) In the event that a Board of Directors consists of more than 1 (one) person, any member of the Board of Directors has the authority to represent the Company unless the articles of association specify otherwise.
- (3) The authority of the Board of Directors to represent the Company as contemplated in paragraph (1) is unlimited and unconditional unless this Act, the articles of association or a GMS resolution specifies otherwise.
- (4) The GMS resolution contemplated in paragraph (3) may not be contrary to the provisions of this Act and/or the Company's articles of association.

#### Article 99

- (1) Members of Boards of Directors do not have the authority to represent Companies if:
  - a. there is a case before the courts between the Company and the member of the Board of Directors concerned; or
  - b. the member of the Board of Directors concerned has a conflict of interests with the Company.
- (2) In such events as are contemplated in paragraph (1), the persons entitled to represent the Company are:
  - a. other members of the Board of Directors who do not have a conflict of interests with the Company;
  - b. the Board of Commissioners, in the event that all of the members of the Board of Directors have a conflict of interests with the Company; or
  - c. other parties appointed by the GMS in the event that all of the members of the Board of Directors or all of the members of the Board of Commissioners have a conflict of interests with the Company.

#### Article 100

(1) Boards of Directors shall:

- a. make a register of shareholders, special register, GMS minutes, and minutes of meetings of the Board of Directors;
- b. make annual reports as contemplated in Article 66 and the Company's financial documents as contemplated in the Company Documents Act; and
- c. maintain all registers, minutes and the Company's financial documents contemplated in subparagraphs a and b and others of the Company's documents.

(2) All registers and minutes, and the Company's financial documents and others of the Company's documents as contemplated in paragraph (1) shall be kept in the Company's domicile.

(3) At a shareholder's written request, the Board of Directors shall give the shareholder permission to examine the register of shareholders, special register, and GMS minutes contemplated in paragraph (1) and the annual report and to obtain copies of GMS minutes and copies of the annual report.

(4) The provision contemplated in paragraph (3) does not preclude the possibility of legislative regulations in the field of capital markets determining otherwise.

#### Article 101

(1) Members of Boards of Directors shall make reports to Companies with regard to shares owned by the member concerned of the Board of Directors and/or his/her family in the Company and other Companies for recordal in the special register.

(2) Members of Boards of Directors who do not fulfil the obligation contemplated in paragraph (1) and cause losses to the Company shall be personally liable for such losses to the Company.

#### Article 102

(1) Boards of Directors shall seek GMS approval for:

- a. assignment of Company assets; or
- b. making security for debt Company assets;

which constitute more than 50% (fifty per cent) of Companies' net assets in 1 (one) or more separate or inter-related transactions.

(2) The transactions contemplated in paragraph (1) subparagraph a are transactions assigning Company net assets which occur in a period of 1 (one) financial year or a longer period provided for in the Company's articles of association.

- (3) The provisions of paragraph (1) shall not apply to actions assigning or using as security Company assets as operation of the Company's business in accordance with its articles of association.
- (4) The legal actions contemplated in paragraph (1) which do not have GMS approval shall still bind the Company in so far as the other party in the legal action are acting in good faith.
- (5) The provisions on quorum and/or provisions concerning adoption of GMS resolutions contemplated in Article 89 shall apply mutatis mutandis to GMS resolutions for approving the actions of the Board of Directors contemplated in paragraph (1).

#### Article 103

A Board of Directors may give a written power of attorney to 1 (one) or more employees of the Company or to some other person(s) for and on behalf of the Company to perform specific legal actions as described in the power of attorney.

#### Article 104

- (1) No Board of Directors has the authority to submit a petition for the bankruptcy of its own Company to the Commercial Court before obtaining GMS approval, without prejudice to the provisions stipulated in the Bankruptcy and Suspension of Payments Act.
- (2) In the event of the bankruptcy contemplated in paragraph (1) occurring because of the fault or negligence of the Board of Directors and the bankrupt estate is insufficient to pay the whole of the Company's liabilities in the bankruptcy, each member of the Board of Directors shall be jointly and severally liable for the whole of the obligations not paid from the bankrupt estate.
- (3) The liability contemplated in paragraph (2) shall also apply to members of the Board of Directors who are at fault or negligent and who served as members of the Board of Directors in the 5 (five)-year period before declaration of bankruptcy is uttered.
- (4) Members of the Board of Directors shall not be liable for the bankruptcy of the Company as contemplated in paragraph (2) if they can prove that:
  - a. the bankruptcy was not due to their fault or negligence;
  - b. they performed their actions of management in good faith, with prudence and full liability for the interests of the Company and in accordance with the Company's purpose and objectives;
  - c. they did not have any direct or indirect conflict of interest over the actions of management performed; and
  - d. they took action to avoid the occurrence of the bankruptcy.

- (5) The provisions contemplated in paragraphs (2), (3), and (4) shall also apply to the Board of Directors of a Company declared bankrupt at the petition of some other party.

#### Article 105

- (1) Members of Boards of Directors may be dismissed at any time by virtue of GMS resolutions stating the reason therefor.
- (2) The resolutions to dismiss members of Boards of Directors contemplated in paragraph (1) shall be adopted after the directors concerned have been given the opportunity to defend themselves in the GMS.
- (3) In the event that a resolution to dismiss a member of a Board of Directors as contemplated in paragraph (2) is adopted by a resolution outside a GMS in accordance with the provisions contemplated in Article 91, the member of the Board of Directors concerned shall first be notified of the planned dismissal and be given the opportunity to defend himself/herself before the resolution for dismissal is adopted.
- (4) No opportunity for defence as contemplated in paragraph (2) shall be necessary in the event that the director concerned does not object to the dismissal.
- (5) Dismissals of members of the Board of Directors shall come into effect as from:
  - a. the close of the GMS contemplated in paragraph (1);
  - b. the date of the resolution contemplated in paragraph (3);
  - c. some other date determined in the GMS resolution contemplated in paragraph (1);
  - d. some other date determined in the GMS resolution contemplated in paragraph (3).

#### Article 106

- (1) A member of a Board of Directors may be suspended by a Board of Commissioners, giving the reasons therefor.
- (2) The member of the Board of Directors concerned shall be informed of the suspension contemplated in paragraph (1) in writing.
- (3) A member of a Board of Directors who has been suspended as contemplated in paragraph (1) does not have the authority to carry out the tasks contemplated in Article 92 paragraph (1) and Article 98 paragraph (1).
- (4) Within a period of no more than 30 (thirty) days after the date of the suspension a GMS must be convened.

- (5) The member of the Board of Directors concerned shall be given the opportunity to defend himself/herself in the GMS contemplated in paragraph (4).
- (6) The GMS shall confirm or revoke the resolution for suspension.
- (7) In the event that the GMS confirms the resolution for suspension, the member of the Board of Directors shall be dismissed.
- (8) In the event that when the period of 30 (thirty) days has passed the GMS contemplated in paragraph (4) has not been convened or the GMS has not been able to adopt a resolution, the suspension shall be void.
- (9) For Public Companies, the provisions of legislative regulations in the field of capital markets shall apply to the convening of GMS as contemplated in paragraphs (6) and (7).

#### Article 107

Provisions shall be stipulated in the Articles of Association with regard to:

- a. procedures for the resignation of members of the Board of Directors;
- b. procedures for filling vacant positions on the Board of Directors; and
- c. the parties who have the authority to undertake the management of and represent the Company in the event that all of the members of the Board of Directors are prevented from doing so or have been suspended.

#### Second Part Boards of Commissioners

#### Article 108

- (1) Boards of Commissioners shall supervise management policies, the running of management in general, with regard to both the Company and the Company's business, and give advice to the Board of Directors.
- (2) The supervision and giving of advice contemplated in paragraph (1) shall be done in the Company's interests and in accordance with the Company's purpose and objectives.
- (3) Boards of Commissioners shall consist of 1 (one) or more members.
- (4) Boards of Commissioners consisting of more than 1 (one) member shall constitute a council and no member of the Board of Commissioners may act alone but rather on the basis of a resolution of the Board of Commissioners.

- (5) Companies whose business activities are related to the collection and/or management of the public's funds, Companies who issue acknowledgements of indebtedness to the public, and Public Companies must have at least 2 (two) members of their Boards of Commissioners.

#### Article 109

- (1) Apart from a Board of Commissioners, companies doing business based on sharia principles must have a Sharia Supervisory Board.
- (2) The Sharia Supervisory Boards contemplated in paragraph (1) shall consist of one or more sharia experts appointed by the GMS on the recommendation of the Indonesian Council of Ulema.
- (3) The Sharia Supervisory Boards contemplated in paragraph (1) shall have the task of giving advice and suggestions to the Board of Directors and supervise Companies' activities so that they are in accordance with sharia principles.

#### Article 110

- (1) Those capable of becoming members of Boards of Commissioners are individuals capable of performing legal actions except for those who in the 5 (five) years before their appointment:
  - a. were declared bankrupt;
  - b. were members of a Board of Directors or Board of Commissioners who were declared to be at fault causing a Company to be declared bankrupt; or
  - c. sentenced for crimes which caused financial losses to the state and/or which were related to the financial sector.
- (2) The requirements contemplated in paragraph (1) are without prejudice to the possibility of the authorised technical agencies determining additional requirements under legislative regulations.
- (3) Fulfilment of the requirements contemplated in paragraphs (1) and (2) shall be proven by a letter kept by the Company.

#### Article 111

- (1) Members of Boards of Commissioners shall be appointed by GMS.
- (2) Initially, members of Boards of Commissioners shall be appointed by founders in the deeds of establishment contemplated in Article 8 paragraph (2) subparagraph b.
- (3) Members of Boards of Commissioners shall be appointed for a definite period and may be reappointed.



- (4) Articles of Association shall stipulate procedures for the appointment, replacement, and dismissal of members of the Board of Commissioners and may also provide for the nomination of members of the Board of Commissioners.
- (5) GMS resolutions regarding the appointment, replacement, and dismissal of members of the Board of Commissioners shall also determine when the appointment, replacement and dismissal come into effect.
- (6) In the event that the GMS does not determine when the appointment, replacement or dismissal of members of the Board of Directors comes into effect, the appointment, replacement or dismissal shall come into effect as from the close of the GMS.
- (7) In the event of an appointment, replacement or dismissal of members of the Board of Directors occurring, the Board of Directors shall notify the Minister of the change for recordal in the register of Companies within a period of not more than 30 (thirty) days as from the date of the GMS resolution.
- (8) In the event that the notification contemplated in paragraph (7) has not been made, the Minister shall reject any further notification concerning changes in the composition of the Board of Commissioners delivered to the Minister by the Board of Directors.

#### Article 112

- (1) Appointments of members of Boards of Commissioners which do not fulfil the requirements contemplated in Article 110 paragraphs (1) and (2) shall be void by operation of law as from when the other members of the Board of Commissioners or the Board of Directors come to know of the non-fulfilment of the requirements.
- (2) Within a period of not more than 7 (seven) days after it becomes known, the Board of Directors shall announce the annulment of the appointment of the member of the Board of Commissioners concerned in the Newspaper and notify the Minister for recordal in the register of Companies.
- (3) Legal actions performed by the member of the Board of Commissioners contemplated in paragraph (1) for and on behalf of the Board of Commissioners before his/her appointment is nullified shall remain binding on and the liability of the Company.
- (4) The provision contemplated in paragraph (2) is without prejudice to the liability of the member of the Board of Commissioners concerned for losses to the Company as contemplated in Articles 114 and 115.

#### Article 113

Provisions concerning the amount of salaries or honoraria and allowances for members of Boards of Commissioners shall be stipulated by GMS.

#### Article 114

- (1) Boards of Commissioners shall be responsible for the supervision of the Company as contemplated in Article 108 paragraph (1).
- (2) Each member of the Board of Commissioners shall perform in good faith, prudence, and responsibility the tasks of supervising and giving advice to the Board of Directors as contemplated in Article 108 paragraph (1) in the interests of the Company and in accordance with the Company's purpose and objectives.
- (3) Each member of the Board of Commissioners shall share in personal liability for the Company's losses if the Commissioner concerned is at fault or negligent in performing the tasks contemplated in paragraph (2).
- (4) In the event that a Board of Commissioners consists of 2 (two) or more members of the Board of Commissioners, the liability contemplated in paragraph (3) shall be apply jointly and severally to each member of the Board of Commissioners.
- (5) Members of Boards of Commissioners may not be held liable for the losses contemplated in paragraph (3) if they can prove that:
  - a. they have carried out their supervision in good faith and prudence in the interests of the Company and in accordance with the Company's purpose and objectives;
  - b. they do not have any direct or indirect personal interest in the actions of management of the Board of Directors which caused the losses; and
  - c. they have given the Board of Directors advice to prevent the losses arising or continuing.
- (6) On behalf of the Company, shareholders representing at least 1/10 (one tenth) of the total number of shares with voting rights may sue in the district court members of the Board of Commissioners who because of their fault or negligence gave rise to losses to the Company.

#### Article 115

- (1) In the event of bankruptcy occurring because of the fault or negligence of the Board of Commissioners in performing its supervision of the management carried out by the Board of Directors and the assets of the Company being insufficient to pay the whole of the Company's obligations as a result of the bankruptcy, then each member of the Board of Commissioners shall be jointly and severally liable together with the members of the Board of Directors for obligations which have not been paid off.

- (2) The liability contemplated in paragraph (1) shall also apply to members of the Board of Commissioners who ceased to serve in the 5 (five) years before the judgement declaring the Company bankrupt was uttered.
- (3) Members of the Board of Commissioners cannot be held liable for the bankruptcy of the Company as contemplated in paragraph (1) if they can prove that:
  - a. the bankruptcy was not because of their fault or negligence;
  - b. they had carried out their task of supervision in good faith and prudence in the interests of the Company and in accordance with the Company's purpose and objectives;
  - c. they do not have any direct or indirect personal interest in the actions of management by the Board of Directors which caused the bankruptcy.
  - d. they gave the Board of Directors advice to prevent the occurrence of the bankruptcy.

#### Article 116

Boards of Commissioners shall:

- a. make minutes of meetings of the Board of Commissioners and keep copies thereof;
- b. report to the Company regarding share ownership by them and/or their families in the Company and other Companies; and
- c. give GMS reports concerning their task of supervision performed during the financial year just past.

#### Article 117

- (1) Articles of association may determine the grant of authority to Boards of Commissioners to give approval or assistance to Boards of Directors in the performance of certain legal actions.
- (2) In the event that the articles of association determine requirements for the grant of approval or assistance as contemplated in paragraph (1), then without the approval or assistance of the Board of Commissioners the legal action shall still be binding on the Company provided that the other party in the legal action is acting in good faith.

#### Article 118

- (1) Pursuant to the articles of association or a GMS resolution, a Board of Commissioners may perform actions of management of a Company in specified situations for a specified period.
- (2) A Board of Commissioners performing actions of management in a specified situation for a specified period as contemplated in paragraph (1) shall apply all provisions with regard to the rights, authority and

obligations of the Board of Directors against the Company and third parties.

#### Article 119

The provisions with regard to the dismissal of members of Boards of Directors contemplated in Article 105 shall apply *mutatis mutandis* to the dismissal of members of Boards of Commissioners.

#### Article 120

- (1) Companies' articles of association may provide for 1 (one) or more Independent Commissioners and 1 (one) Delegated Commissioner.
- (2) The independent Commissioners contemplated in paragraph (1) shall be appointed on the basis of a GMS resolution from parties not affiliated with the main shareholders, the members of the Board of Directors and/or the other members of the Board of Commissioners.
- (3) The delegated Commissioner contemplated in paragraph (1) shall be a member of the Board of Commissioners appointed on the basis of a resolution of a meeting of the Board of Commissioners.
- (4) The tasks and authority of the delegated Commissioner shall be determined in the Company's articles of association provided that they do not conflict with the tasks and authority of the Board of Commissioners and do not prejudice the task of management performed by the Board of Directors.

#### Article 121

- (1) In carrying out their tasks of supervision as contemplated in Article 108, Boards of Commissioners may form committees the members of which are one or more members of the Board of Commissioners.
- (2) The committees contemplated in paragraph (1) shall be responsible to the Board of Commissioners.

### CHAPTER VIII MERGERS, CONSOLIDATIONS, ACQUISITIONS, AND DEMERGERS

#### Article 122

- (1) Mergers and Consolidations shall cause the merging or consolidating Company to expire by operation of law.
- (2) The expiry of the Company contemplated in paragraph (1) shall occur without any prior liquidation.
- (3) In the event of the expiry of the Company contemplated in paragraph (2),

- a. the assets and liabilities of the merging or consolidating Company shall pass in law to the surviving Company or the consolidated Company;
- b. shareholders of the merging or consolidating Company shall by operation of law become shareholders of the surviving or consolidated Company;
- c. the merging or consolidated Company shall expire by operation of law as from when the Merger or Consolidation comes into effect.

#### Article 123

(1) The Board of Directors of the merging Company and surviving Company shall compile a draft Merger.

(2) The draft Merger contemplated in paragraph (1) must contain at least:

- a. the name and domicile of each Company in the Merger;
- b. the reasons and explanations of the Board of Directors of the Companies in the Merger and the Merger requirements;
- c. procedures for the valuation and conversion of shares in the merging Company into shares of the surviving Company;
- d. the draft for any amendment of the articles of association of the surviving Company;
- e. the financial reports contemplated in Article 66 paragraph (2) subparagraph a covering the last 3 (three) financial years from each of the Companies in the Merger;
- f. the plans for continuing or terminating the business activities of the Companies in the Merger;
- g. a pro forma balance sheet of the surviving Company in accordance with accounting principles generally applied in Indonesia;
- h. method of settlement of the status, rights and obligations of the members of the Board of Directors, Board of Commissioners and employees of the merging Company;
- i. method of settlement of the rights and obligations of the merging Company against third parties;
- j. method of settlement of the rights of shareholders who do not agree to the Merger of the Companies;
- k. names of the members of the Board of Directors and Board of Commissioners and the wages, honoraria, and allowances for members of the Board of Directors and Board of Commissioners of the surviving Company;
- l. estimated period for implementation of the Merger;
- m. report on the circumstances, development and results achieved of each of the Companies in the Merger;
- n. main activities of each Company in the Merger and changes which occurred in the current financial year; and
- o. details of problems arising during the current financial year which affected the activities of the Companies in the Merger.

- (3) The draft for the Merger contemplated in paragraph (2) shall, after obtaining the approval of the Board of Commissioners of each Company, be submitted to the GMS of each Company to obtain its approval.
- (4) Apart from the provisions in this Act, certain Companies in Mergers will also need prior approval from the relevant government agencies in accordance with the provisions of legislative regulations.
- (5) The provisions contemplated in paragraphs (1) to (4) shall also apply to Public Companies in so far as legislative regulations in the field of capital markets do not provide otherwise.

#### Article 124

The provisions contemplated in Article 123 shall *mutatis mutandis* also apply to consolidating Companies.

#### Article 125

- (1) Acquisitions shall be done by means of acquisition of shares already issued and/or to be issued by the Company via the Company's Board of Directors or directly through the shareholders.
- (2) Acquisitions may be done by legal entities or by individuals.
- (3) The acquisitions contemplated in paragraph (1) are acquisitions of shares which cause the passing of control over the Company.
- (4) Acquisitions by legal entities in the form of a Company [sic], the Board of Directors before performing the legal action of acquisition must be based on [sic] a GMS resolution which fulfils the quorum and provisions on conditions for adoption of a GMS resolution as contemplated in Article 89.
- (5) In the event that the Acquisition is performed through the Board of Directors, the acquiring party must present its intention of performing an Acquisition to the Board of Directors of the Company to be acquired.
- (6) The Board of Directors of the Company to be acquired and the acquiring Company with the approval of their respective Boards of Commissioners shall compile a draft Acquisition containing at least:
  - a. name and domicile of the acquiring Company and the Company to be acquired;
  - b. the reasons and explanations of the Board of Directors of the acquiring Company and the Board of Directors to be acquired;
  - c. the financial reports contemplated in Article 66 paragraph (2) subparagraph a for the most recent financial year of the acquiring Company and the Company to be acquired;

- d. procedures for valuation and conversion of shares of the Company to be acquired into exchange shares if payment for the acquisition is to be made by shares;
- e. the number of shares to be acquired;
- f. preparation of funding;
- g. pro forma consolidated balance sheet of the acquiring Company after the Acquisition compiled in accordance with accounting principles generally applied in Indonesia;
- h. method of settlement of rights of shareholders who do not agree to the Acquisition;
- i. method of settlement of the status, rights and obligations of members of the Board of Directors, Board of Commissioners, and employees of the Company to be acquired;
- j. estimate of the period of implementation of the Acquisition, including the period for granting a power of attorney from the shareholders to the Company's Board of Directors to assign shares;
- k. draft of any amendment of the articles of association of the Company resulting from the Acquisition.

(7) In the event of shares being acquired directly from shareholders, the provisions contemplated in paragraphs (5) and (6) shall not apply.

(8) The acquisition of shares contemplated in paragraph (7) must be subject to the provisions of the articles of association of the Company to be acquired concerning the transfer of rights over shares and contracts made by the Company with other parties.

#### Article 126

(1) The legal actions of Merger, Consolidation, Acquisition and Demerger must be subject to the interests of:

- a. the Company, minority shareholders, the Company's employees;
- b. creditors and other business partners of the Company; and
- c. the public and sound business competition.

(2) Shareholders who do not agree with a GMS resolution with regard to Merger, Consolidation, Acquisition, or Demerger as contemplated in paragraph (1) may only exercise their rights as contemplated in Article 62.

(3) No exercise of rights as contemplated in paragraph (2) will halt the process of implementing the Merger, Consolidation, Acquisition, or Demerger.

#### Article 127

(1) GMS resolutions regarding Mergers, Consolidations, Acquisitions, or Demergers shall be valid if adopted in accordance with the provisions of Article 87 paragraph (1) and Article 89.

- (2) The Boards of Directors of Companies in Mergers, Consolidations, Acquisitions, or Demergers must publish an abstract of the draft in at least 1 (one) Newspaper and publish it in writing to the employees of the Company in the Merger, Consolidation, Acquisition, or Demerger no later than 30 (thirty) days before the invitations to the GMS.
- (3) The publication contemplated in paragraph (2) must also contain notice that interested parties may obtain the draft Merger, Consolidation, Acquisition, or Demerger at the Company's office as from the date of its publication to the date on which the GMS is convened.
- (4) Creditors may submit objections to the Company within a period of not more than 14 (fourteen) days after the publication contemplated in paragraph (2) with regard to the Merger, Consolidation, Acquisition, or Demerger in accordance with the draft.
- (5) If within the period contemplated in paragraph (4) no creditors have submitted any objection, the creditors will be deemed to have approved the Merger, Consolidation, Acquisition, or Demerger.
- (6) In the event that a creditor's objection as contemplated in paragraph (4) cannot be resolved by the Board of Directors as of the date on which the GMS is convened, the objection must be presented in the GMS in order to find a resolution.
- (7) Until the resolution contemplated in paragraph (6) is achieved, the Merger, Consolidation, Acquisition, or Demerger cannot be performed.
- (8) The provisions contemplated in paragraphs (2), (4), (5), (6), and (7) shall apply mutatis mutandis to publication in the context of Acquisition of shares directly from shareholders in the Company as contemplated in Article 125.

#### Article 128

- (1) Draft Mergers, Consolidations, Acquisitions, or Demergers approved by the GMS shall be set forth in a deed of Merger, Consolidation, Acquisition, or Demerger made before a notary in the Indonesian language.
- (2) Deeds of acquisition of shares directly from shareholders must be stated in a notarial deed in the Indonesian language.
- (3) The deeds of consolidation contemplated in paragraph (1) shall serve as the basis for making the deed of establishment of the Company resulting from the Consolidation.

#### Article 129



- (1) A copy of the deed of Merger of Companies shall be attached to:
  - a. the application submitted to obtain the approval of the Minister as contemplated in Article 21 paragraph (1); or
  - b. the delivery of notification to the Minister of the amendment of the articles of association as contemplated in Article 21 paragraph (3).
- (2) In the event that the Merger of Companies is not accompanied by an amendment of the articles of association, a copy of the deed of Merger must be delivered to the Minister for recordal in the register of Companies.

#### Article 130

A copy of the deed of Consolidation shall be attached to the application submitted to obtain a Decree of the Minister with regard to ratification of the Company resulting from the Consolidation as a legal entity as contemplated in Article 7 paragraph (3).

#### Article 131

- (1) A copy of the deed of Acquisition of Company must be attached to the delivery of notification to the Minister concerning the amendment to the articles of association contemplated in Article 21 paragraph (3).
- (2) In the event of an Acquisition of shares directly from shareholders, a copy of the deed of transfer of rights over shares must be attached to the delivery of notification to the Minister concerning the change of composition of shareholders.

#### Article 132

The provisions contemplated in Articles 29 and 30 also apply to Mergers, Consolidations, or Acquisitions of Companies.

#### Article 133

- (1) The Board of Directors of a Company surviving a Merger or the Board of Directors of a Company resulting from a Consolidation must publish the result of the Merger or Consolidation in 1 (one) or more Newspapers within no more than 30 (thirty) days as from the date the Merger or Acquisition comes into effect.
- (2) The provisions contemplated in paragraph (1) also apply to the Boards of Directors of Companies whose shares are acquired.

#### Article 134

Further provisions with regard to Mergers, Consolidations, and Acquisitions of Companies shall be stipulated by Government Regulation.

#### Article 135

- (1) Demergers may be carried out by means of:
  - a. a pure Demerger; or
  - b. a partial Demerger.
- (2) A pure merger as contemplated in paragraph (1) subparagraph a causes all of the assets and liabilities of the Company to pass by operation of law to 2 (two) or more other transferee Companies and the Company demerging its business expires by operation of law.
- (3) A partial Demerger as contemplated in paragraph (1) subparagraph b causes part of the assets and liabilities of the Company to pass by operation of law to one or more other transferee Companies but the demerging Company remains in existence.

#### Article 136

Further provisions with regard to Demergers shall be stipulated by Government Regulation.

#### Article 137

In the event that legislative regulations in the field of capital markets do not provide otherwise, the provisions contemplated in Chapter VIII also apply to Public Companies.

### CHAPTER IX INSPECTIONS OF COMPANIES

#### Article 138

- (1) Companies may be inspected with the purpose of obtaining data or information in the event of suspicion that:
  - a. the Company has committed acts which break the law and are detrimental to shareholders or third parties; or
  - b. members of the Board of Directors or Board of Commissioners commit acts which break the law and are detrimental to the Company or shareholders or third parties.
- (2) The inspection contemplated in paragraph (1) shall be carried out by submitting a petition in writing together with the reasons therefor to the district court whose jurisdiction covers the Company's domicile.
- (3) The petition contemplated in paragraph (2) may be submitted by:

- a. 1 (one) or more shareholders who represent at least 1/10 (one tenth) of the total number of shares with voting rights;
  - b. other parties who are authorised to submit a petition for inspection by virtue of legislative regulations, the Company's articles of association, or contracts with the Company;
  - c. the public prosecutors' office in the public interest.
- (4) The petition contemplated in paragraph (3) subparagraph a must be submitted after the petitioner first asks the Company for the data or information in a GMS and the Company does not give the data or information.
- (5) Petitions to obtain data or information concerning a Company or petitions for inspection to obtain data or information must be based on reasonable grounds in good faith.
- (6) The provisions contemplated in paragraph (2), paragraph (3) subparagraph a, and paragraph (4) do not close off the possibility of legislative regulations in the field of capital markets determining otherwise.

#### Article 139

- (1) The Chief Judge of the district court may refuse or grant the petition contemplated in Article 138.
- (2) The Chief Judge of the district court contemplated in paragraph (1) shall refuse the petition if the petition is not based on reasonable grounds and/or is not in good faith.
- (3) In the event that the petition is granted, the Chief Judge of the district court shall issue an order for inspection and appoint at least 3 (three) experts to carry out the inspection with the purpose of obtaining the data or information required.
- (4) No member of the Board of Directors, member of the Board of Commissioners, employee of the Company, consultant, or public accountant appointed by the Company may be appointed as an expert contemplated in paragraph (3).
- (5) The experts contemplated in paragraph (3) are entitled to inspect all documents and assets of the Company they deem it necessary to know.
- (6) Each member of the Board of Directors, member of the Board of Commissioners, and all employees of the Company must give all information necessary for the inspection to be carried out.
- (7) The experts contemplated in paragraph (3) must keep the results of the inspection they carried out confidential.

#### Article 140

- (1) Reports on the outcome of the inspection shall be delivered to the Chief Judge of the district court by the experts contemplated in Article 139 within the period specified in the court order for the inspection no later than 90 (ninety) days as from the date of the appointment of the experts.
- (2) The Chief Judge of the district court shall give copies of the report on the outcome of the inspection to the petitioner and the Company concerned within a period of no more than 14 (fourteen) days as from the date when the report on the outcome of the inspection is received.

#### Article 141

- (1) In the event that the petition for an inspection is granted, the Chief Judge of the district court shall determine the maximum cost of the inspection.
- (2) The cost of inspection contemplated in paragraph (1) shall be paid by the Company.
- (3) The Chief Judge of the district court may on the petition of the Company charge reimbursement of all or part of the cost of the inspection contemplated in paragraph (2) to the petitioner, the members of the Board of Directors, and/or the members of the Board of Commissioners.

### CHAPTER X WINDING UP, LIQUIDATION AND EXPIRY OF STATUS OF COMPANIES AS LEGAL ENTITIES

#### Article 142

- (1) Winding up of Companies shall occur:
  - a. pursuant to a GMS resolution;
  - b. because the period of incorporation determined in the articles of association has expired;
  - c. pursuant to a court order;
  - d. on revocation of bankruptcy pursuant to a decision of the commercial court which has absolute legal effect, the Company's estate being insufficient to pay the cost of bankruptcy;
  - e. because the bankrupt estate of a Company which has been declared bankrupt is in a state of insolvency as provided for in the Bankruptcy and Suspension of Payments Act; or
  - f. because of the revocation of the Company's business permits such that the Company must enter into liquidation in accordance with the provisions of legislative regulations.
- (2) In the event that a Company is wound up as contemplated in paragraph (1),:

- a. it must be followed by liquidation by a liquidator or a curator; and
  - b. the Company may not perform any legal action except where necessary to settle all of the Company's affairs in the context of liquidation.
- (3) In the event of a Company being wound up pursuant to a GMS resolution, the period of incorporation determined in the articles of association having expired or on the revocation of bankruptcy pursuant to a decree of the commercial court and the GMS resolution does not appoint a liquidator, the Board of Directors shall act as liquidator.
- (4) In the event of a Company being wound up on the revocation of bankruptcy as contemplated in paragraph (1) subparagraph d, the commercial court shall at the same time decide on the dismissal of the curator with due attention to the provisions in the Bankruptcy and Suspension of Payments Act.
- (5) In the event of the provision contemplated in paragraph (2) subparagraph b being breached, the members of the Board of Directors, the members of the Board of Commissioners, and the Company shall be jointly and severally liable.
- (6) The provisions concerning the appointment, suspension, dismissal, authority, obligations, liability, and supervision of the Board of Directors shall apply mutatis mutandis to the liquidator.

#### Article 143

- (1) The winding up of a Company will not cause the Company to lose its status as a legal entity until the liquidation is completed and the liquidator's accountability has been accepted by the GMS or the court.
- (2) As from when the winding up begins, each letter issued by the Company must bear the words "dalam likuidasi" (in liquidation) behind the name of the Company.

#### Article 144

- (1) The Board of Directors, Board of Commissioners, or 1 (one) or more shareholders representing at least 1/10 (one tenth) of the total number of shares with voting rights may submit a proposal to the GMS for the Company to be wound up.
- (2) The GMS resolution concerning the winding up of the Company shall be valid if adopted in accordance with the provisions contemplated in Article 87 paragraph (1) and Article 89.
- (3) The winding up of the Company shall begin at the time determined in the GMS resolution.

#### Article 145

- (1) The Company shall be wound up by operation of law if the period of its incorporation determined in its articles of association expires.
- (2) Within a period of not more than 30 (thirty) days after the Company's period of incorporation expires the GMS shall determine the appointment of a liquidator.
- (3) The Board of Directors may not perform any new legal actions on behalf of the Company after the Company's period of incorporation determined in the articles of association has expired.

#### Article 146

- (1) District Courts may wind up Companies on:
  - a. a petition from the public prosecutors' office on the grounds that the Company has breached the public interest or the Company has committed actions which breach legislative regulations;
  - b. a petition from interested parties on the grounds that there is a legal defect in the deed of establishment;
  - c. a petition from shareholders, the Board of Directors, or the Board of Commissioners on the grounds that it is not possible for the Company to continue.
- (2) The court order shall stipulate the appointment of a liquidator.

#### Article 147

- (1) Within a period of not more than 30 (thirty) days as from the date the Company is wound up, the liquidator shall notify:
  - a. all creditors of the winding up of the Company by means of an announcement of the Company's winding up in a Newspaper and the State Gazette of the Republic of Indonesia; and
  - b. the Minister of the winding up of the Company for it to be recorded in the register of Companies that the Company is in liquidation.
- (2) The notification of the creditors in the Newspaper and the State Gazette of the Republic of Indonesia contemplated in paragraph (1) subparagraph a shall contain:
  - a. the winding up of the Company and its legal basis;
  - b. the liquidator's name and address;
  - c. the procedure for the submission of claims; and
  - d. the period for submission of claims.

- (3) The period for submission of claims contemplated in paragraph (2) subparagraph d is 60 (sixty) days as from the date of the announcement contemplated in paragraph (1).
- (4) The notification to the Minister contemplated in paragraph (1) subparagraph b shall be accompanied by evidence of:
  - a. the legal basis for the winding up of the Company; and
  - b. notification to the creditors in a Newspaper as contemplated in paragraph (1) subparagraph a.

#### Article 148

- (1) In the event that the notification to creditors and the Minister as contemplated in Article 147 has not yet been given, the winding up of the Company will not apply to third parties.
- (2) In the event that the liquidator fails to make the notification contemplated in paragraph (1), the liquidator shall be jointly and severally liable with the Company for any losses suffered by third parties.

#### Article 149

- (1) A liquidator's obligations in settling a Company's assets in the liquidation process shall cover implementation of:
  - a. recordal and announcement of the Company's assets and debts;
  - b. announcement in a Newspaper and the State Gazette of the Republic of Indonesia with regard to the plan for division of the assets resulting from the liquidation;
  - c. payment to the creditors;
  - d. payment of the remainder of the assets resulting from the liquidation to shareholders; and
  - e. other action necessary in implementing the settlement of assets.
- (2) In the event that a liquidator estimates that a Company's debts will be greater than the Company's assets, the liquidator shall submit a petition for the bankruptcy of the Company, unless legislative regulations determine otherwise, and all creditors whose identity and address are known must approve any settlement outside bankruptcy.
- (3) Creditors may submit an objection to the plan for division of the assets resulting from the liquidation within a period of not more than 60 (sixty) days as from the date of the announcement contemplated in paragraph (1) subparagraph b.
- (4) In the event that an objection submitted as contemplated in paragraph (3) is rejected by the liquidator, the creditor may file suit with the District Court within a period of not more than 60 (sixty) days as from the date of the rejection.

## Article 150

- (1) Creditors who submit bills within the period contemplated in Article 147 paragraph (3) which are then rejected by the liquidator may then file suit with the District Court within a period of not more than 60 (sixty) days as from the date of rejection.
- (2) Creditors who have not yet submitted their bills may submit them via the District Court within a period of 2 (two) years as from when the winding up of the Company is announced as contemplated in Article 147 paragraph (1).
- (3) Bills may be submitted by creditors as contemplated in paragraph (2) in the event that there are any remaining assets resulting from the liquidation allocated to shareholders.
- (4) In the event that remaining assets have been divided among shareholders and there are creditors' bills as contemplated in paragraph (2), the District Court shall order the liquidator to retrieve the remaining assets resulting from the liquidation already divided among shareholders.
- (5) Shareholders must return the remaining assets resulting from the liquidation as contemplated in paragraph (4) in the ratio of the amount received to the amount of the bill.

## Article 151

- (1) In the event that the liquidator does not perform its obligations as contemplated in Article 149, then at the petition of interested parties or at the petition of the public prosecutors' office, the Chief Judge of the District Court may appoint a new liquidator and dismiss the old liquidator.
- (2) The dismissal of the liquidator as contemplated in paragraph (1) shall be done after the person concerned has been summoned for his information to be heard.

## Article 152

- (1) Liquidators shall be accountable to the GMS or the court appointing them for the liquidation of the Company they carried out.
- (2) Curators shall be accountable to the supervisory judge for the liquidation of the Company they carried out.
- (3) Liquidators shall inform the Minister and announce the final outcome of the liquidation process in the Newspaper after the GMS gives the liquidator an acquittal and discharge or after the court accepts the accountability of the liquidator it appointed.



- (4) The provision contemplated in paragraph (3) shall also apply to curators whose accountability has been accepted by the supervisory judge.
- (5) The Minister shall record the expiry of a Company's status as a legal entity and delete the Company's name from the register of Companies after the provisions contemplated in paragraphs (3) and (4) have been fulfilled.
- (6) The provision contemplated in paragraph (5) shall also apply to the expiry of a Company's status as a legal entity due to a Merger, Consolidation, or Demerger.
- (7) The notification and announcement contemplated in paragraphs (3) and (4) shall be made within no more than (30) thirty days as from the date when the liquidator's or curator's accountability is accepted by the GMS, court, or supervisory judge.
- (8) The Minister shall announce the expiry of the Company's status as a legal entity in the State Gazette of the Republic of Indonesia.

## CHAPTER XI FEES

### Article 153

Provisions regarding fees for:

- a. obtaining approval for the use of a Company name;
- b. obtaining a decree ratifying a Company as a legal entity;
- c. obtaining a decree approving amendments of articles of association;
- d. obtaining information concerning Company data in the register of Companies;
- e. the announcements in the State Gazette of the Republic of Indonesia and the Supplement to the State Gazette of the Republic of Indonesia mandated in this Act; and
- f. obtaining copies of Decrees of the Minister regarding ratification of the Company as a legal entity or approving amendments of a Company's articles of association;

shall be stipulated by Government Regulation.

## CHAPTER XII OTHER PROVISIONS

### Article 154

- (1) The provisions of this Act apply to Public Companies if legislative regulations in the field of capital markets do not provide otherwise.

- (2) Legislative regulations in the field of capital markets exempting from the provisions of this Act may not conflict with the basic principles of Company law in this Act.

#### Article 155

Provisions regarding the liability of Boards of Directors and/or Boards of Commissioners for their faults or negligence stipulated in this Act shall not prejudice provisions stipulated in Criminal Law Statutes.

#### Article 156

- (1) In the context of implementation and development of this Act, a team of experts shall be formed to monitor Company law.
- (2) The membership of the team contemplated in paragraph (1) shall consist of elements from:
  - a. government;
  - b. experts/academics;
  - c. professionals; and
  - d. the business world.
- (3) The team of experts shall have the authority to review deeds of establishment and amendments to articles of association obtained on its own initiative from the team or at the request of interested parties, and to give an opinion on the outcome of such review to the Minister.
- (4) Further provisions regarding the authority, organisational composition and working methods of the team of experts shall be stipulated by Regulation of the Minister.

### CHAPTER XIII TRANSITIONAL PROVISIONS

#### Article 157

- (1) Articles of association of Companies which have already obtained the status of legal entities and amendments of articles of association which have been approved by and reported to the Minister and registered in the register of companies before this Act comes into effect shall remain in effect if they are not contrary to this Act.
- (2) Articles of association of Companies which have not yet obtained the status of legal entities and amendments thereof which have not yet been approved by or reported to the Minister at the time this Act comes into force must be adapted to this Act.
- (3) Companies which have already obtained the status of legal entities under legislative regulations shall within 1 (one) year after this Act

comes into effect adapt their articles of association to the provisions of this Act.

- (4) Companies which do not adjust their articles of association within the period contemplated in paragraph (3) may be wound up based on a decision of the district court at the petition of the public prosecutors' office or interested parties.

#### Article 158

When this Act comes into effect, Companies which do not fulfil the provisions contemplated in Article 36 must adapt to the provisions of this Act within a period of 1 (one) year.

### CHAPTER XIV CLOSING PROVISIONS

#### Article 159

Implementing regulations of the Limited Liability Companies Act No. 1 of 1995 are declared still in effect in so far as they do not contradict or have not been replaced by new regulations under this Act.

#### Article 160

When this Act comes into effect, the Limited Liability Companies Act No. 1 of 1995 (Statute Book of the Republic of Indonesia 1995 No. 13, Supplement to the Statute Book of the Republic of Indonesia No. 3587) is revoked and declared no longer in effect.

#### Article 161

This Act shall come into effect on the date on which it is enacted.

So that all persons may know of it, it is ordered that the enactment of this act be placed in the Statute Book of the Republic of Indonesia.

Ratified in Jakarta  
on August 16, 2007

THE PRESIDENT OF THE REPUBLIC OF INDONESIA

Signed

DR. H. SUSILO BAMBANG YUDHOYONO

Enacted in Jakarta  
on August 16, 2007

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

Signed

ANDI MATTALATTA

Duplicate copies  
DEPUTY MINISTER OF STATE  
SECRETARIAT ON  
LEGISLATION,  
MUHAMMAD SAPTA MURTI