

RULE NUMBER V.D.7 : Principal Provisions Regarding Sub-ordinated Loan Agreement by a Securities Company

Attachment

Decision of the Chairman of Bapepam

Number : Kep-28/PM/1999

Date : December 31, 1999

1. In Net Adjusted Working Capital (NAWC) calculation, a Securities Company may use sub-ordinated loan as a reducing factor of total obligation using the provisions of the sub-ordinated loan agreement according to this rule.
2. The sub-ordinated loan agreement mentioned in item 1 above should comply with the requirements as follows:
 - a. The Sub-ordinated loan should be given in the form of cash or by converting the existing loan into sub-ordinated loan in which the intention and goal of the loan utilization is equivalent to the intention and goal of the fund utilization obtained from capital through the stock issuance
 - b. The sub-ordinated loan agreement must be produced in writing
 - c. The maturity of the loan principal, interest, or other compensation of sub-ordinated loan either in part or in whole is not less than 1 year, except the Persons with consent of a written agreement fasten the sub-ordinated loan payment with requirement that Securities Company still comply with the NAWC requirement mentioned in rule V.D.5
 - d. If the payment of sub-ordinated loan in due date causes Securities Company could not meet the NAWC requirement mentioned in Rule V.D.5 regarding Maintenance and Reporting of Net Adjusted Working Capital, the maturity of the loan principal, interest, or other compensation of the sub-ordinated loan will automatically be extended to the time when Securities Company is able to make the payment without violating the NAWC requirement
 - e. The sub-ordinated loan agreement may have settlement alternatives as follow:
 - 1) Cash settlement;
 - 2) Settlement through sub-ordinated loan conversion in part or in whole into securities company shares which have not been placed to the sub-ordinated loan creditors, at any time, with the requirement as follow:
 - a) Conversion settlement plan must be submitted to Bapepam to obtain approval in compliance to Article 35 (1) of Government Regulation No 45 Year 1995 concerning Capital Market Organization; and
 - b) Conversion settlement plan must obtain Securities Company's Shareholders General Meeting approval
 - 3) Settlement through shares granting by certain shareholders to the Securities Company. Then the subject shares will be utilized by the Securities Company to settle sub-ordinated loan in part or in whole based on the sub-ordinated loan creditors' preference, with the requirement as follow:

- a) Conversion settlement plan must be submitted to Bapepam to obtain approval in compliance to Article 35 (1) Government Regulation No 45 Year 1995 concerning Capital Market Organization; and
 - b) Conversion settlement plan must obtain Shareholders General Meeting approval
- f. The level of sub-ordinated loan creditors' claim is lower than that of other creditors' claim. Sub-ordinated loan agreement should state that the rights of the sub-ordinated loan creditors to receive the settlement of principal, interest, or other compensation must be executed after all the rights of other creditors to receive the settlement of principal, interest, or other compensation that has earlier or the same maturity with the sub-ordinated loan including the ownership beneficiary rights of the Securities Company's securities account have been settled.
- g. Securities Company is prohibited from guaranteeing the company's asset which is included in the NAWC calculation, shares or other asset owned by client that is kept in company custody, or company's assets that is used in securities account administration.
3. In order to execute its function, Clearing and Guarantee Institution is obliged to make sub-ordinated loan agreement standardized form in which its content is in accordance with the requirements according to this rule that can be used by Securities Company which is a member of Clearing and Guarantee Institution.
4. Securities Company which is not a member of Clearing and Guarantee Institution may use the form mentioned in item 3 of this rule.
5. Securities Company which is not using the sub-ordinated loan agreement standardized form mentioned in item 3 may produce a sub-ordinated loan agreement in which its content is in accordance to the requirements according to this rule; and if the Securities Company is a Clearing and Guarantee Institution member, the subject agreement must first obtain approval from Clearing and Guarantee Institution.
6. The sub-ordinated loan agreement standardized form mentioned in item 3 and the sub-ordinated loan agreement mentioned in item 5 in this rule should be accompanied by legal opinions from 2 (two) legal consultants that are registered with Bapepam and must be submitted to Bapepam to obtain approval before put into effect.