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Safari Kasiyanto

*Tilburg University*, [s.kasiyanto@tilburguniversity.edu](mailto:s.kasiyanto@tilburguniversity.edu)

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## CENTRAL BANK TRANSPARENCY IN INDONESIA: A LAW AND ECONOMIC PERSPECTIVE

Safari Kasiyanto \*

\* Tilburg Law and Economic Center and European Banking Center, Tilburg University, Netherlands

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**Corresponding author's e-mail :** s.kasiyanto@tilburguniversity.edu

### Abstract

*This paper studies the manner in which central bank transparency has been implemented in Indonesia, and the impact of transparency on the central bank's performance in achieving its goals. First, a normative analysis is conducted to seek the regulatory framework for central bank transparency. Secondly, a performance analysis is carried out to observe the extent to which central bank transparency has been implemented in Indonesia, and the impact it brings on the central bank's performance in conducting monetary policy. Finally, an international practice analysis is performed to set a benchmark based on the manner in which transparency has been implemented by other central banks.*

**Keywords:** central bank, transparency, law and regulations of Indonesia, inflation, financial stabilization

### Abstrak

*Tulisan ini mengkaji cara penerapan transparansi bank yang telah diterapkan di Indonesia, dan dampak transparansi performa bank sentral dalam mencapai tujuannya. Pertama, analisis normatif dilakukan untuk menemukan kerangka peraturan terkait transparansi bank sentral. Kedua, analisis performa dilakukan untuk mengamati sejauh mana transparansi bank sentral telah diimplementasikan di Indonesia, dan dampaknya terhadap performa bank sentral dalam melaksanakan kebijakan moneter. Terakhir, analisis atas praktik internasional dilakukan untuk menetapkan tolok ukur transparansi yang telah diterapkan oleh bank sentral lainnya.*

**Kata kunci:** bank sentral, transparansi, hukum dan regulasi Indonesia, inflasi, stabilitas finansial

## I. INTRODUCTION

Transparency is a universal notion. The existing literature on central bank transparency is, in general, numerous.<sup>1</sup> There is a growing literature on the impact of transparency on the ability of the central bank to achieve its goals.<sup>2</sup> Such studies often deal with the independence and accountability of the central bank, with a crosscut analysis between economic, politic, and public policy. The questions are always whether airing the *secrets of the temple*<sup>3</sup> has a positive impact on the central bank and, if yes, what amount of transparency will be optimal. Can transparency go too far for a central bank? Svensson (2003), for instance, is among the prominent proponents to argue that transparency has a positive effect on the central bank in achieving its objectives.<sup>4</sup> Increased transparency may also lead to greater support for the central bank as experienced by the Bank of England and the Bank of Canada.<sup>5</sup>

Transparency promotes democracy of a country, in the sense that it compels to clarity in the operations of the executive and legislative bodies. Also, it fosters the accountability of these agencies to their stakeholders, including ultimately the citizens they represent.<sup>6</sup> This is in line with the arguments of Hancher and Larouche that regulatory decisions by the executive and legislative bodies must be made in a manner that there is no explicit controversy among the market participants.<sup>7</sup> In other words, where transparency and its integral elements including openness, a duty to state reasons and the possibility of review, and the independence of the decision-maker are preserved.

In a broader scope, Hanretty, Larouche, and Reindl (2012) argue that if transparency by public authorities and disclosure mechanisms functions well, it may reduce the formal sanctions imposed by such authorities so that, in the end, it can increase their accountability.<sup>8</sup> However, Mishkin (2004) argues that central bank transparency can be excessive.<sup>9</sup> So does Goodhart (2001), for instance pointing out that the announcement of central bank policy projections can complicate the decision-making process.<sup>10</sup> This reason was also the justification for the ECB to refuse to publish the minutes and voting records of the board.<sup>11</sup> Hence, it is crucial for a

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<sup>1</sup> See for instance Ben S. Bernanke, *et. al. Inflation targeting: Lessons from the international experience* (Princeton: Princeton University Press, 1999); C. A. Goodhart, *Monetary transmission lags and the formulation of the policy decision on interest rates* (Boston: Springer, 2001), pp. 205-228; S. Eijffinger & P. Geraats, "How transparent are Central Banks?" *Centre for Economic Policy Research, London, Discussion Paper, No. 3188*, 2002; and F. S. Mishkin, "Can central bank transparency go too far?" *National Bureau of Economic Research, No. w10829*, 2004.

<sup>2</sup> N. Dincer and B. Eichengreen, "Central bank transparency: causes, consequences and updates," *Theoretical Inquiries in Law* 11, no. 1 (2010), pp. 75-123.

<sup>3</sup> W. Greider, *Secrets of the Temple* (New York: Simon & Shuster, 1987). In this book, Greider discusses an earlier notion held by central banks that keeping the decision, and the reason to take such decision, in secret is a better option to the central banks to perform their tasks in conducting monetary policy.

<sup>4</sup> See L. E. Svensson, "Monetary policy and real stabilization," *National Bureau of Economic Research, No. w9486*, 2003.

<sup>5</sup> See F. S. Mishkin & A. S. Posen, "Inflation targeting: lessons from four countries," *National Bureau of Economic Research, No. w6126*, 1998.

<sup>6</sup> See Commission of the European Commission, "Public access to documents held by institutions of the EC: A review," *Green paper, 2007, COM (2007), 185 final*.

<sup>7</sup> Hancher and Larouche in P. Craig and G. De Burca. *The Evolution of EU Law* (Oxford: Oxford University Press, 2011).

<sup>8</sup> See C. J. Hanretty, C. J. *et al.* "Independence, accountability and perceived quality of regulators," *CERRE Study, Centre of Regulation in Europe*, Brussels, 6 March 2012.

<sup>9</sup> Mishkin, "Can central bank transparency go too far?"

<sup>10</sup> Goodhart. *Monetary transmission*

<sup>11</sup> S. Hamalainen, "The ECB's monetary policy – accountability, transparency and communication," *A speech delivered to the Conference on Old Age, New Economy and Central Banking*, organised by CEPR/ESI

central bank to be selective in communicating its policy.

This paper aims at investigating the implementation of the notion of transparency by the Indonesian central bank: how such transparency has been implemented and what impact it brings to the central bank's performance in conducting monetary policy. In so doing, this paper mostly employs legal analysis with economic reviews in particular cases. First of all, *an initial analysis* is carried out to scrutinize the laws and regulations regarding transparency in Indonesia. It is a normative analysis of the Indonesian regulatory frameworks for transparency, central bank transparency, and central bank's objectives and tasks in the economy. Secondly, *a literature analysis* of the central bank transparency and *an international practice analysis* with a focus on the Federal Reserve System (the Fed), the European Central Bank (ECB), the Bank of England (BoE), and the Bank of Japan (BoJ) are performed to set a benchmark. Finally, *a performance analysis* is conducted to seek the implementation of the notion of transparency by the central Bank of Indonesia, and the extent to which transparency has an effect on the central bank's performance.

## II. THE NOTION OF TRANSPARENCY UNDER INDONESIAN LAW

### A. The Regulatory Framework for Transparency in Indonesia

As in many other jurisdictions such as the European Union (EU) where transparency is anchored in the constitutions of the Union,<sup>12</sup> transparency in Indonesia also has an origin in the constitution, namely the second amendment to the *Undang-Undang Dasar Negara Republik Indonesia 1945 (UUD 45)*.<sup>13</sup> However, unlike in the EU where transparency has, at least, four elements encompassing openness, legal clarity, right to access to documents, and duty to give a reason,<sup>14</sup> transparency stated under the Constitution of Indonesia is limited to the right to obtain information.<sup>15</sup> Under Article 28F of the UUD 45, the Indonesian constitution guarantees the right of any individual to obtain information in order for him or her to develop him/herself and his/her surroundings.<sup>16</sup> Such right includes to seek, process, possess and convey any information using any available mediums.

Details of the regulatory framework regarding the right to obtain information have been further regulated in Indonesian Law Number 14 of 2008 on Public Information Transparency. The said law adopts the principles that public information shall be, by nature, open and accessible to the public, and exemptions shall be made only in

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and Suomen Pankki, 14 September 2001, Helsinki.

<sup>12</sup> Treaty on European Union and the Treaty on the Functioning of the European Union, Lisbon, 13 December 2007.

<sup>13</sup> The second amendment was adopted in 2000 where six articles were amended and 19 new articles were introduced. Ten out of 19 new articles are on human rights including the rights to obtain information. For a brief discussion on the amendment of Indonesian constitution see for instance: Totok Sarsito, "The Indonesian Constitution 1945: Why was it amended?," <https://core.ac.uk/download/files/478/12345691.pdf>, last accessed on 3 March 2016.

<sup>14</sup> Some elements such as openness and rights to access to documents are even growing to become a self-standing principle. See S. Prechal and M. E. De Leeuw, "Transparency: A General Principle of EU Law," in *General Principles of EC Law in a Process of Development*, eds. Ulf Bernitz, et. al. (The Netherlands: Kluwer Law International, 2007).

<sup>15</sup> See article 28F of the 1945 Constitution of the Republic of Indonesia. An unofficial translation of UUD 45 is, for example, available at [http://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---ilo\\_aids/documents/legaldocument/wcms\\_174556.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_174556.pdf), last accessed on 3 March 2016.

<sup>16</sup> The article 28F *ibid* states that "Every person shall have the right to communicate and to obtain information for the purpose of the development of him/her self and social environment, and shall have the right to seek, obtain, possess, store, process and convey information by employing all available types of channels".

a strict and restricted manner.<sup>17</sup> Furthermore, the law lays down the rules regarding the coverage of information and public information, the types of information which must be provided by public bodies,<sup>18</sup> the manner in which such information is to be obtained, and the type of information exempted. Under such rule, information means “any description, statement, idea, and signs that contain a value, meaning and message either as data, facts or their elucidation that may be seen, heard and read... electronically or non-electronically”,<sup>19</sup> while public information includes “any information produced, stored, managed, sent and/or received by a government agency about rules and governance of the state, and other information concerning public interest.”<sup>20</sup>

Each government agency in Indonesia is obligated to provide public information that can be accessed by individuals. Such information must, the law further explains, be published and made available periodically, promptly, and at any time.<sup>21</sup> An exemption is set forth in Article 17 of the Law, which includes information whose disclosure could potentially obstruct or cause harm in crucial matters. It includes hindering or damaging the due process of law, protection of intellectual property rights and fair competition, state defense and security, Indonesia’s natural resource assets, national economic resilience, international relations, and any authentic personal certificate or personal secrecy. Furthermore, information that is not to be disclosed pursuant to legislation is also exempted.<sup>22</sup> Exemption provisions that relate to the work of the central bank deal with information regarding economic conditions whose disclosure could be harmful to national economic resilience. This includes the original plan to purchase or sell national as well as foreign currencies or vital assets of the country, the original plan to adjust the exchange or interest rates or the operation of the Indonesian financial models, or issues regarding the printing process of banknotes or minting of coins.<sup>23</sup>

## B. Transparency and Democracy

According to freedomhouse.org, Indonesia was one of the electoral democracy countries with a status of partly free for *total freedom* and partly free for both *freedom of the press* and *freedom on the net* in 2015.<sup>24</sup> Indonesia scored for *total freedom* at 65 out of 100, with political rights, civil liberties, and freedom scored at 2, 4, and 3 respectively (where 1 represents the freest while 7 means the least free). These scores make Indonesia the biggest electoral democracy country in the world with only a status of partly free, where other democracy ‘giants’ such as the USA, India, and Brazil gain each the status of free (see **Figure 1** for details).

Indonesia used to have a status of free from 2006 to 2013, the highest status of freedom awarded. However, since 2014 the status has degraded from entirely free to partly free, mainly because of the reduction of civil liberties which rate from 3 to 4 (remember that 1 represents the most unfettered while 7 means the least free). The decline of civil liberties, the freedomhouse.org assessment further explains, was mainly caused by the adoption of regulations dealing with nongovernmental

<sup>17</sup> See Indonesia, Undang-undang tentang Keterbukaan Informasi Publik (*Law on the Public Information Openness*). Undang-undang Nomor 14 tahun 2008, LN No. 61 tahun 2008, TLN No. 4846 (Law No. 14 of 2008, SG No. 61 of 2008). Hereinafter referred as Public Information Openness Law

<sup>18</sup> Including state-owned enterprises.

<sup>19</sup> See Public Information Openness Law, Art. 1 para. 1

<sup>20</sup> See *Ibid.*, Art. 1 para. 2

<sup>21</sup> See *Ibid.*, Articles 9, 10, and 11 respectively.

<sup>22</sup> See *Ibid.* Article 7

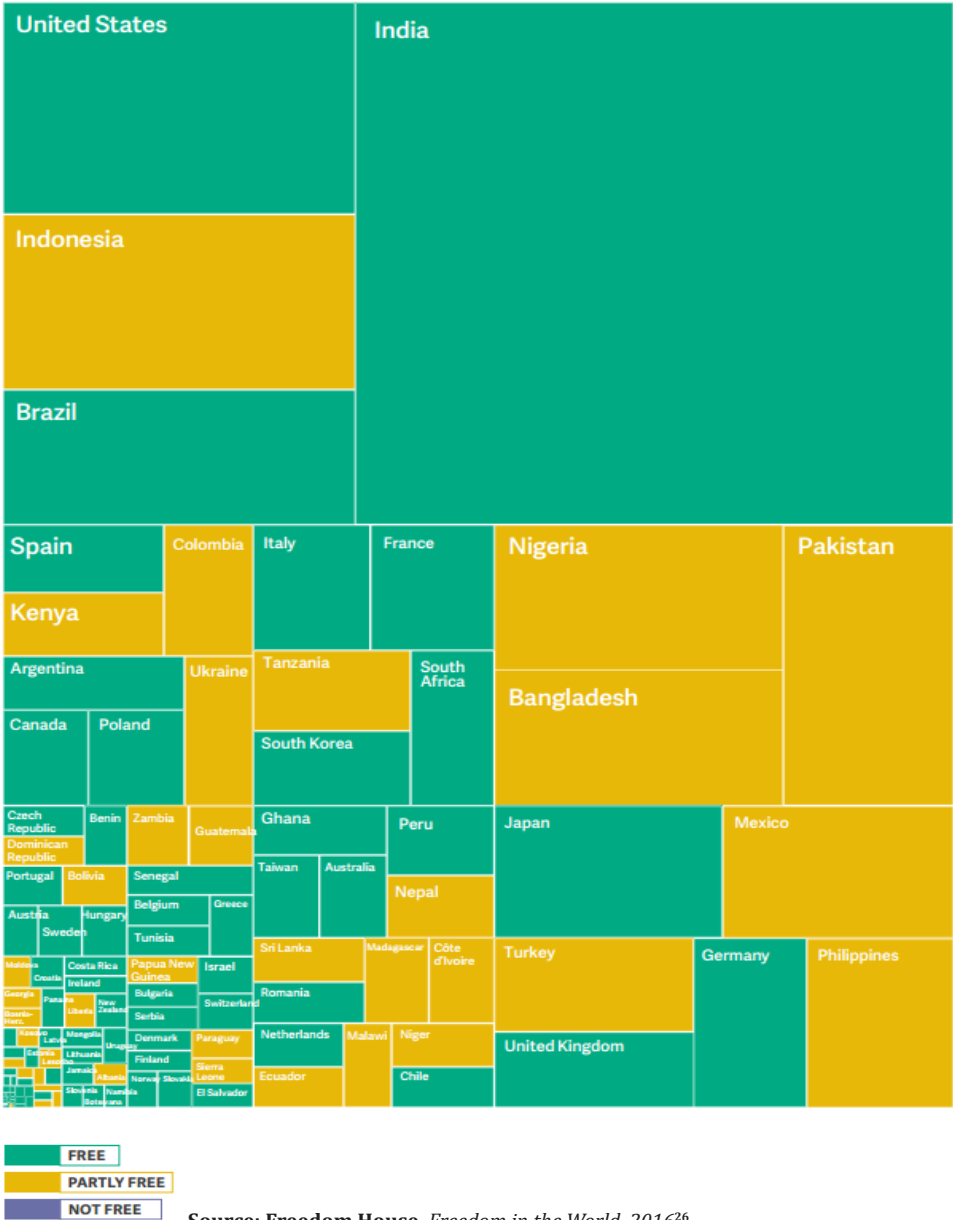
<sup>23</sup> See *Ibid.* paragraph e of Article 17

<sup>24</sup> See Freedom House, “Freedom in the World 2016,” <https://freedomhouse.org/report/freedom-world/freedom-world-2016>, accessed on March 2, 2016; See in particular a figure 1 below.

organizations (NGOs), as such laws restricting the activities of NGOs, increasing the supervision of NGOs, and requiring NGOs to support the state ideology.<sup>25</sup>

Figure 1.

The freedom status among the electoral democracy countries in the world



<sup>25</sup> See Freedom House, "Indonesia," <https://freedomhouse.org/report/freedom-world/2014/indonesia>, last accessed on March 2, 2016.

<sup>26</sup> Available at [https://freedomhouse.org/sites/default/files/FH\\_FITW\\_Report\\_2016.pdf](https://freedomhouse.org/sites/default/files/FH_FITW_Report_2016.pdf), last accessed

Press democracy in Indonesia is also worth discussing. After the collapse of the authoritarian regime in 1998, the press has been liberalized from the state-domination regime. However, only a few realize that the media has fallen into an economic power system ever since.<sup>27</sup> The evidence of this could be found in three different facts: the structure of the market, paradox in market growth, and the election coverage bias. Firstly, the market structure of the Indonesian media shows that the ownership of companies is rather centralized. Hence, the market is oligarchic. This condition somewhat influences the freedom of the journalists as demonstrated by, for instance, the fact that there were only 31 worker unions out of thousands of media outlets in 2012.<sup>28</sup> The second proof is shown by the media market growth which can be seen as a sort of paradox. For instance, despite the fact that the market significantly grows as demonstrated by the tenth time increase in advertisement purchases, the quality of media contents is rather low, as it has been steered by rating. Advertisement purchases grew from US\$6 million to US\$60 million from 1999 to 2010, and it became US\$90 million by 2012, but the media do not care about the quality as they only focus on the profits. Finally, some media such as TV stations were strongly biased in reporting the news during the presidential election. They were segregated under political interests just because they are owned by a person supporting a particular candidate. Hence, the media was no longer independent.<sup>29</sup> For these reasons, it is not surprising that the world press freedom index scored Indonesia subtle in 2015, which was at 40.75 and ranked Indonesia at 138 out of 180 countries assessed.<sup>30</sup>

One of the other crucial democratic elements, economic democracy, has also made little improvement. *Heritage.org* indicates that the 2016 economic freedom index of Indonesia scores at 59.4, increasing by 1.3 points compared to that in 2015. This score is below the world's average which is at 60.7 and only slightly above the regional average (Asia-Pacific) which is at 59. It means that economic freedom in Indonesia is mostly unfree. The assessment uses ten economic freedom indicators from open markets (trade, financial, and investment freedoms), regulator efficiencies (business, labor, and monetary freedoms), government size (government spending and fiscal freedom), to the rule of law (from property rights to protection against corruption). The government spending scores the highest (at 89), whereas property rights and protection against corruption are the lowest (at 30 and 34 respectively).<sup>31</sup>

### C. Transparency and Human Rights

Since February 23, 2006, Indonesia has become party to the International Covenant on Economic, Social, and Cultural Rights, and since the Indonesian Constitution was amended for the second time in 2003, several positive rights have been adopted. Among other rights adopted are: the right to live, to establish a family, to prosper and improve, and to communicate and obtain information.<sup>32</sup> Furthermore, since 1999, Indonesia has enacted the Human Rights Law, a law exclusively dealing with human

on February 22, 2016.

<sup>27</sup> See for instance Kristiawan. "The dilemma of liberal media." *The Jakarta Post*, 5 June 2014, available at: <http://www.thejakartapost.com/news/2014/06/05/the-dilemma-liberal-media.html#sthash.Hk0zXtZ0.dpuf>, last accessed on March 2, 2016. In this news article, the author mentioned that, theoretically, the press freedom often falls to an economic-power regime after liberalized itself from a dictatorial regime.

<sup>28</sup> *Ibid.*

<sup>29</sup> In the sense that they tend to air the news in favor of their owner who is in support of a particular presidential candidate. This phenomenon was widespread across the nation during the election.

<sup>30</sup> See <https://index.rsf.org/#!/>, last accessed on March 2, 2016.

<sup>31</sup> See *Indonesia, Economic Freedom Score*, available at <http://www.heritage.org/index/pdf/2016/countries/indonesia.pdf>, last accessed on March 2, 2016.

<sup>32</sup> Juwana, H. "Human Rights in Indonesia." *Indonesian J. Int'l L.*, 2006: 4, 27.

rights in Indonesia.<sup>33</sup> This law contains 106 articles concerning various fundamental rights, including some positive rights mentioned above. The detailed provisions regarding some fundamental human rights regulated under such law include the right to live and not to be abducted or killed, the right to establish a family and bear children, and the right to self-development. The right to obtain information is ruled under the right to self-development.<sup>34</sup> Article 14 of such law<sup>35</sup> regulates that every single person has the right to communicate and obtain information to develop him/herself and his/her environment.<sup>36</sup> In order to exercise such right, he or she could search for, acquire, possess, process or transfer information using any available mediums.<sup>37</sup> The wording of this particular provision is somewhat similar to that in the Constitution.<sup>38</sup>

Under the law, it is the obligation of the government to respect, protect, enforce, and develop human rights in Indonesia.<sup>39</sup> Such obligation also includes defining measures for the implementation of human rights in the area of law, politics, economy, social affairs, culture, and defense.<sup>40</sup> Human rights in Indonesia, at least in theory, can only be restricted by a law that provides for rules concerning rights and freedom of others, morality, public order, and the nation's interests.<sup>41</sup> The government, politicians or other parties are not justified to reduce, restrict, obstruct, or eliminate human rights regulated by Law Number 39 of 1999.<sup>42</sup>

Although Law Number 14 of 2008 on Public Information Transparency sets forth adequate rules for the right to freedom of information, the implementation is rather flawed.<sup>43</sup> The right to obtain information is often restricted by other laws in the course of application. For example, under the Indonesian Criminal Code, the release of military and related sensitive information is threatened by criminal sanctions.<sup>44</sup> Under Article 112 of such code, it is ruled that any person deliberately "*releasing any documents or information which, in the interest of the state, should be kept secret or informing or rendering to foreign countries can be jailed for a maximum of seven years*".<sup>45</sup> Also, anyone who leaks secret state documents (this term has a broad scope including maps, drawings, plans, or anything relating to security and state defense policies) can be penalized with a maximum of four-year jail term.<sup>46</sup> As there are no clear-cut definitions and coverage of state secrets, these rules are wide open to misinterpretation or even abuse by law enforcers. Furthermore, the Law concerning State Intelligence that was enacted in 2011 can also substantially limit the application of the transparency law.<sup>47</sup> For instance, similar to that of the Criminal Code, Articles 26 and 44 of the State Intelligence Law restrict any legal persons or bodies from

<sup>33</sup> See Indonesia. *Undang-Undang tentang Hak Asasi Manusia (Law regarding Human Rights)*. UU No. 39 Tahun 1999, LN No. 165 Tahun 1999 (Law Number 39 of 1999, SG No. 165 of 1999).

<sup>34</sup> See article 11-16 of Law Number 39 of 1999.

<sup>35</sup> Law Number 39 of 1999, available in Bahasa Indonesia at <http://sulut.kemenag.go.id/file/dokumen/UURIno39tahun199.pdf>, last accessed on February 20, 2016.

<sup>36</sup> Article 14 paragraph 1

<sup>37</sup> See Article 14 paragraph 2.

<sup>38</sup> See Article 28F of UUD 45, the second amendment.

<sup>39</sup> See Article 71 of Law Number 39 of 1999.

<sup>40</sup> See Article 72 of Law Number 39 of 1999.

<sup>41</sup> See Article 73 of Law Number 39 of 1999.

<sup>42</sup> See Article 74 of Law Number 39 of 1999.

<sup>43</sup> See for instance the 2015 assessment of Indonesia by freedomhouse.org, available at <https://freedomhouse.org/report/freedom-press/2015/indonesia>, last accessed on February 22, 2016

<sup>44</sup> See Article 112 to 116 of the Indonesian Criminal Code.

<sup>45</sup> Article 112 of the Criminal Code.

<sup>46</sup> Article 113(1) of the Criminal Code.

<sup>47</sup> Law Number 17 of 2011.

Indonesia, *Undang-undang tentang Intelijen Negara (Law on the State Intelligence)*, Undang-undang nomor 17 tahun 2011, LN No. 105 tahun 2011, TLN No. 5249 (Law No 17 of 2011, SG No. 105 of 2011).



communicating or revealing state secrets. Such person can be punished up to 10 years in prison and fines of approximately 40,000 USD. The broad coverage of state secrets that could potentially restrict the freedom of expression in Indonesia was also one of the reasons for a judicial review of the State Intelligence Law brought by some NGOs and individuals,<sup>48</sup> but the application was rejected by the Constitutional Court of Indonesia.<sup>49</sup> The court believes that such regulation is needed to keep the society in order, and that such rule does not contradict the Constitution. In addition, the use of the 2008 Electronic Transaction and Information (ITE) Law and Law on Archives also raises concerns about freedom of expression.<sup>50</sup> The former raises concerns regarding liberty on the Internet while the latter rules set forth that anyone who illegally possesses state archives is to be penalized with a maximum of five-year jail term.<sup>51</sup>

#### D. Transparency and Good Governance

Transparency is a crucial element of good governance, besides other factors such as accountability, responsibility, independence, and fairness.<sup>52</sup> The Governance Index introduced by the World Bank<sup>53</sup> demonstrates that Indonesia has, in general, a weak to medium governance index, although the trend has shown a steady improvement since 2004 (see **Figure 2** for details). The index employs measures that are somewhat closely related to transparency, such as voice and accountability, political stability, government effectiveness, the rule of law, regulatory quality, and control of corruption. Among the highest scores are voice and accountability and government effectiveness. This indicator is in line with the effort from the governments, both central and local, to improve the implementation of good governance continuously, as evident from the achievement of some local governments by placing the licensing processes under one roof and by enabling the completion of the process in a single working day. With regard to the corruption perception index, Indonesia was scored at 36 out of 100 by the Transparency International in January this year. This score is subtle, and it ranks at 88 out of 167 countries measured.<sup>54</sup> Among the public agencies with the lower scores in corruption perception are public enforcement offices such as the police department and judicial agency.

<sup>48</sup> For a brief description of the case, see for instance Public Amicus Brief by “Article 19: Global Campaign for Free Expression” (<http://www.article19.org>), Judicial Review of Law Number 17 of 2011 on State Intelligence, Case Number 07/PUU-X/2012, available at <http://www.refworld.org/docid/4fa778732.html>, last accessed on March 6, 2016.

<sup>49</sup> For the decision of Case Number 07/PUU-X/2012 adopted by the Indonesian Constitutional Court, see <https://www.kontras.org/data/Putusan%20sidang%20JR%20UU%20intelijen.pdf>, last accessed on March 6, 2016.

<sup>50</sup> See freedomhouse.org assessment on Indonesia, available at <https://freedomhouse.org/report/freedom-press/2015/indonesia>, last accessed on February 22, 2016.

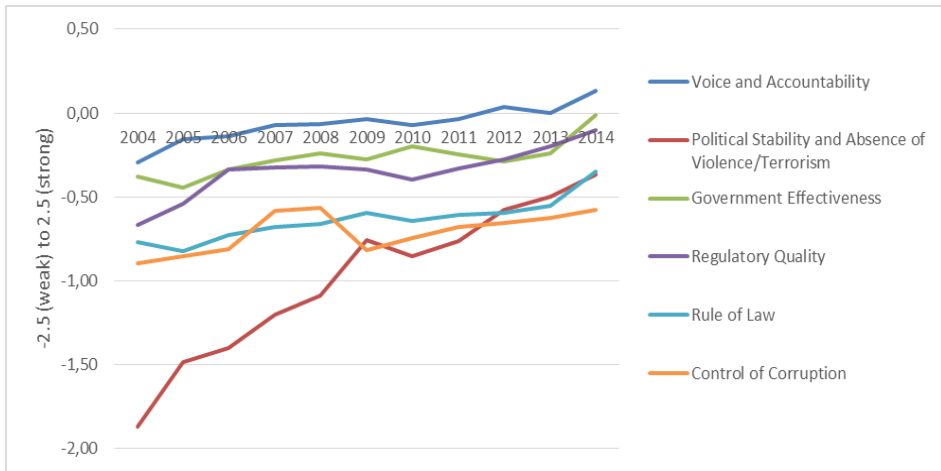
<sup>51</sup> Article 81 of Law Number 43 of 2009. For a brief discussion on this issue, see Himahanto Juwana, “Human Rights in Indonesia,” *Indonesian Journal of International Law* 4 (2006), p. 27. However, this article discusses such issue based on the previous law on archive, Law Number 7 of 1971, which has already been revoked by the 2009 Law.

<sup>52</sup> See for Graham, Amos, & Plumptre. “Principles for good governance in the 21st century.” *Policy brief*, 15, 2003, pp. 1-6.

<sup>53</sup> World Bank, “Worldwide Governance Indicators,” available at <http://info.worldbank.org/governance/wgi/index.aspx#reports>, last accessed on February 22, 2016.

<sup>54</sup> See Transparency International, “Corruption Perceptions Index 2015,” Available at <http://www.transparency.org/cpi2015>, last accessed on February 22, 2016. See also <https://www.transparency.org/country/#IDN>, last accessed on March 3, 2016.

**Figure 2. Governance index of Indonesia, 2004-2014.**



Source: The World Bank<sup>55</sup>

### III. THE REGULATORY FRAMEWORK FOR CENTRAL BANK TRANSPARENCY IN INDONESIA

In general, Indonesian laws applicable to transparency employed by the central bank consist of two primary legislations. Firstly, Law Number 23 of 1999 concerning Bank Indonesia as amended twice, in 2004 and 2009 respectively, and secondly, Law Number 14 of 2008 regarding Public Information Transparency which has been described previously.

#### A. Law Number 23 of 1999 concerning Bank Indonesia

Since the enactment of Law Number 23 of 1999 concerning Bank Indonesia, the central bank of Indonesia has gained independence from the government, in particular in conducting monetary policy. Such independence has been deemed necessary for the central bank to assure the accomplishment of the single objective of maintaining the stability of Rupiah.<sup>56</sup> Specifically, the independence of the central bank is ruled under Article 4 of the Law which states that Bank Indonesia is an independent public body, free from the government's or any other party's intervention, except for undertakings expressly described in such law.<sup>57</sup>

In theory, the independence of the central bank is manifested in at least two forms. Firstly, being independent to define the objective (*goal independence*) and the strategy to achieve such objective (*instrument independence*),<sup>58</sup> and secondly, being

<sup>55</sup> Available at <http://info.worldbank.org/governance/wgi/index.aspx#reports>, last accessed on 22 February 2016.

<sup>56</sup> See consideration of Law Number 23 of 1999.

<sup>57</sup> The wording of Article 4 of Law Number 23 of 1999 was amended in 2004 for more clarity without changing the substance of the provision. See Law of the Republic of Indonesia Number 3 of 2004 concerning Amendment to Law of the Republic of Indonesia Number 23 of 1999 concerning Bank Indonesia, available at [http://www.bi.go.id/en/tentang-bi/uu-bi/Documents/UU32004\\_Engl.pdf](http://www.bi.go.id/en/tentang-bi/uu-bi/Documents/UU32004_Engl.pdf), last accessed on February 19, 2016.

<sup>58</sup> See Debelle & Fischer. *How Independence Should a Central Bank Be. Facing Monetary Policymakers*,

independent in terms of budgetary and financing (*budget independence*).<sup>59</sup> In this case, Bank Indonesia has the *goal* and *budget independences*, but not *goal independence*. In measuring the objective of maintaining the stability of Rupiah, Bank Indonesia is obligated to cooperate with the government. Such cooperation appears in the form of the announcement of the inflation target by the government at the beginning of each year, after such target has been consulted with Bank Indonesia. The central bank then focuses its efforts and work to achieve such. Coming along with the independence, the obligation for transparency and accountability has also been strengthened. After gaining independence in 1999, Bank Indonesia is expected to be more transparent and has been implementing the principles of good governance ever since.<sup>60</sup> As defined by such law, the transparency obligations consist of the central bank's responsibility to submit annual and quarterly reports to the parliament and government.<sup>61</sup> Such reports mainly contain the evaluation of the central bank's achievement during the preceding year and the plan or strategy for the coming year. Also, the central bank must publish the summary of such reports in the State Gazette and inform the public about the substance of such reports through the mass media at the beginning of each year. The original area covered by the reports used to be economic growth and indicators, monetary policy, banking supervision, and payment systems development. However, since the task of banking supervisions has been shifted out to the financial service authority (*Otoritas Jasa Keuangan/OJK*) since the end of 2013,<sup>62</sup> the 2014 and 2015 reports contain only economic, monetary, payment systems and financial stability performance.

For details of information that must be provided by Bank Indonesia in compliance with the transparency obligation under Law Number 23 of 1999, see **Table 1** paragraph 1.

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1994, p. 195.

<sup>59</sup> See for instance Fischer, S. "Central-bank independence revisited," *The American Economic Review* 85, no. 2 (1995), pp. 201-206.

<sup>60</sup> This general rule applies to all central banks. See for instance a discussion by C. Crowe & E. E. Meade, "Central bank independence and transparency: Evolution and effectiveness," *European Journal of Political Economy* 24, no. 4 (2008), pp. 763-777.

<sup>61</sup> Elucidation on Law No. 23 of 1999, available in Bahasa Indonesia at <http://www.bi.go.id/en/ten-tang-bi/uu-bi/Documents/penjelasan.pdf>, last accessed on February 19, 2016.

<sup>62</sup> The mandate to shift the banking supervision task to OJK was originally regulated under Article 34 of Law Number 23 of 1999 concerning Bank Indonesia which was then regulated further by Law Number 21 of 2011 concerning OJK.

**Table 1. Types of information provided by Bank Indonesia in concordance with laws**

Laws	Types of Information	Reference
Under Law concerning Bank Indonesia	1. Annual reports to the House of Representatives and the Government at the beginning of the fiscal year, containing: <ul style="list-style-type: none"> <li>- performance during the preceding year;</li> <li>- policy planning, target, and measures for performance for the coming year.</li> </ul>	Art. 58 (1)
	2. Quarterly reports on the performance of duties to the House of Representatives and the Government.	Art. 58 (2)
	3. Both annual and quarterly reports are to be disclosed in the mass media.	Art. 58 (5)
	4. A summary of both reports is to be published in the State Gazette,	Art. 58 (5)
	5. Verbal and/or written explanation to the House of Representatives, if required.	Art. 58 (4)
	6. Information to the public at the beginning of the year, which contains the following: <ul style="list-style-type: none"> <li>- evaluation of monetary policy in the preceding year;</li> <li>- plan and inflation target for the coming year.</li> </ul>	Art. 58 (6)
Under Law concerning Public Information Transparency	1. Periodic information.	Art. 9
	2. Prompt information.	Art. 10
	3. Information that is available at all time.	Art. 11

## B. Law Number 14 of 2008 concerning Public Information Transparency

By definition, the Indonesian central bank falls outside the scope of public institutions defined in the Public Information Transparency Law. Such law adopts a principle that it only applicable to the state organs which are partially or fully funded by the government's budget, whereas the central bank has an independent budgetary system.<sup>63</sup> De jure, de facto, and historically since gaining independence in 1999, the central bank of Indonesia is no longer financed by the government's budget. De jure, the central bank law<sup>64</sup> has mandated that the central bank is a legal entity that has the power to possess, fund, and manage its own financial system.<sup>65</sup> De facto, the central bank of Indonesia is currently managing the state foreign exchange reserve that accounted for nearly 106 billion USD by the end of December 2015.<sup>66</sup> The central bank finances its operations from the turn-over of these funds. Historically since attaining independence in 1999, Bank Indonesia has managed its own budget. It needs, however, approval of the House of Representatives regarding operational funds at the beginning of each year.<sup>67</sup>

Although falling outside the definition of public institutions defined in Law Number 14 of 2008, Bank Indonesia has designated itself to comply with such law. As a part

<sup>63</sup> See Article 1 paragraph 3 of Law Number 14 of 2008.

<sup>64</sup> This central bank law has been amended twice, namely in 2004 and 2009 respectively.

<sup>65</sup> See Article 4 paragraph 3 of Law Number 23 of 1999 which states that the central bank is a legal entity. Hence, it has the ability to manage its own budgetary system.

<sup>66</sup> See the International Monetary Fund data, available at <https://www.imf.org/external/np/sta/ir/IRProcessWeb/data/idn/eng/curidn.htm>, last accessed of February 14, 2016. However, the recent update of this data shows that the amount decreased to approximately 102 billion USD by the end of January 2016. See for instance <http://www.bloomberg.com/quote/IDGFA:IND>, last accessed on February 14, 2016.

<sup>67</sup> See Article 58 of Law Number 23 of 1999.

of legal counsels within the Bank, the author himself often experienced that Bank Indonesia has often chosen to comply with the positive laws, although such laws have expressed, directly or indirectly, not to cater for an institution similar to the central bank that is not funded by the government. Another example of this circumstance is Presidential Regulation Number 54 of 2010 concerning Public Procurement which explicitly states to cover only procurement conducted by government funded bodies. The central bank's designation to comply with Law Number 14 of 2008 could be justified under the doctrine of *vrijwillige onderwerping*<sup>68</sup> applicable in private law.<sup>69</sup> It adopts the principle that a legal entity in Indonesia may designate itself to comply with private and business laws even though such laws do not actually put it under regulation.<sup>70</sup> Upon such designation, the central bank is expected to obey the rules defined in the law concerned, including taking precautionary steps to avoid sanctions. As mentioned previously, the transparency obligation imposed by such law is mainly to provide public information periodically, promptly, and at any time (See **Table 1** paragraph 2 for the details of such obligation).

#### IV. THE IMPLEMENTATION OF THE CENTRAL BANK TRANSPARENCY IN INDONESIA

##### A. Public Information Provided by Bank Indonesia (Active)

By complying with the Laws concerning Bank Indonesia and Public Information Transparency, the central bank of Indonesia implements the transparency principles by providing static as well as dynamic information. The former appears in the form of various information on the objectives and functions of the central bank<sup>71</sup> as well as public documents accessible to individuals by request, whereas the latter includes annual and quarterly reports, projection and announcement of interest rate, working papers, and various interviews.

In applying the transparency obligation under the central bank law, Bank Indonesia is continuously providing information on a regular basis to three different stakeholders: the public, the government, and the parliament (House of Representatives). Such information predominantly appears in the form of annual and quarterly reports, whereas other types such as working or evaluation papers are a minority. Annual reports consist of economic reports,<sup>72</sup> annually financial statements, and annual reports<sup>73</sup> from 2003-2014.<sup>74</sup> As for information to the public in general, the official website of the central bank provides various updates including the latest information on monetary policy, financial stability, and payment systems,<sup>75</sup> press

<sup>68</sup> *Regeling nopens de Vrijwillige Onderwerping aan het Europeesch Privaatrecht*, S. 1917-12, 528, October 1, 1917; Self designation principles that are applicable to private law.

<sup>69</sup> Using this doctrine applicable to private law to justify the central bank's act in designating itself under the public law actually needs further assessment. However, as there is a lack of doctrines or principles under Indonesian Public Law that can justify such designation, the application of the *vrijwillige onderwerping* doctrine is arguably legitimate.

<sup>70</sup> See Article 30 of *Regeling nopens de Vrijwillige Onderwerping aan het Europeesch Privaatrecht*, S. 1917-12, 528, October 1, 1917.

<sup>71</sup> Available on the official homepage of Bank Indonesia: <http://www.bi.go.id/en/Default.aspx>, last accessed on February 24, 2016.

<sup>72</sup> *Laporan Perekonomian Indonesia* (LPI), [Report on Indonesia's Economy] available at <http://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Default.aspx>, last accessed on February 24, 2016.

<sup>73</sup> *Laporan Keuangan Tahunan Bank Indonesia* (LKTBI) [Bank Indonesia Annual Financial Report] and *Laporan Tahunan Bank Indonesia* [Bank Indonesia Annual Report] respectively, available at <http://www.bi.go.id/en/publikasi/laporan-tahunan/bi/Default.aspx>, last accessed on February 24, 2016.

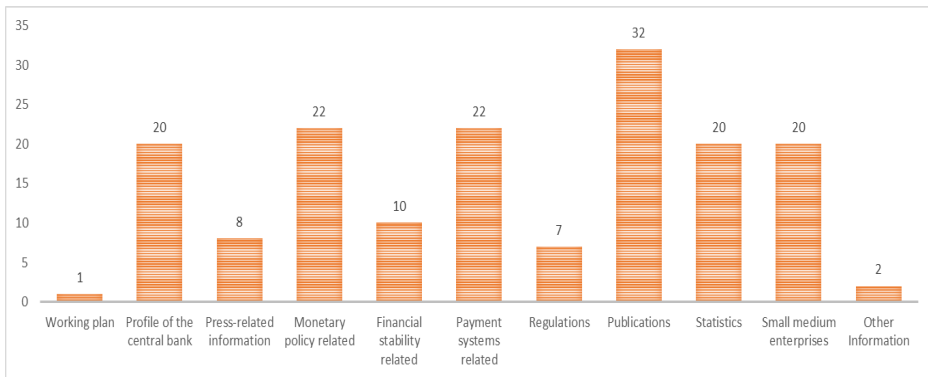
<sup>74</sup> This is based on the assessment of the reports available on the official homepage of Bank Indonesia up to February 24, 2016.

<sup>75</sup> Available at <http://www.bi.go.id/en/ruang-media/info-terbaru/Default.aspx>, last accessed on Feb-

releases,<sup>76</sup> and governor speeches.<sup>77</sup>

As for the information provided pursuant to the Law concerning Public Information Transparency, the central bank of Indonesia has made available a total of approximately 190 types of information on its official homepage. As mentioned previously, such information in compliance with the Public Information Transparency Law encompasses periodic, prompt, and at any time information, whereby the 190 kinds of information comprise of 157 types of periodic information, none of it is prompt information, and 33 types of information that are available at provided at any time. However, after carefully scrutinized, all information contained in the group of ‘available at any time’ information has actually been included in the periodic information. So has prompt information such as the announcement of the central bank rate that is available right after the Board adopts a decision in the monthly meeting. Hence, the actual public information provided by the central bank of Indonesia consists of 157 types. It encompasses profile of the central bank, monetary policy related, financial stability related, regulations, payment systems related, publications, and statistics (see **Figure 3** for the contents of information available on the central bank’s website and **Appendix 1** for the details thereof).

**Figure 3 Information provided by Bank Indonesia pursuant to Law concerning Public Information Transparency**



Source: Bank Indonesia<sup>78</sup>

**B. Access to Documents/The Right to Obtain Information (Passive)**

In implementing the Public Information Transparency Law, Bank Indonesia does not only make periodic, prompt, and at any time information available, but also provides services which enable the public to enquire about any public information held by Bank Indonesia. Such requests can be made through various channels:

ruary 25, 2016.

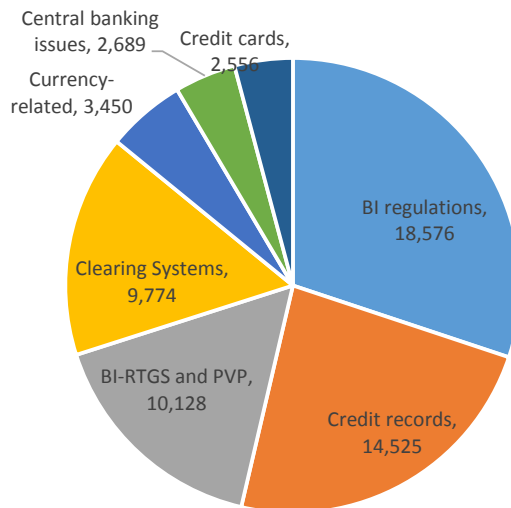
<sup>76</sup> Available at <http://www.bi.go.id/en/ruang-media/siaran-pers/Default.aspx>, last accessed on February 25, 2016.

<sup>77</sup> Including the deputy governor speeches, available at <http://www.bi.go.id/en/ruang-media/pidato-dewan-gubernur/Default.aspx>, last accessed on February 25, 2016.

<sup>78</sup> Summarized from data available at <http://www.bi.go.id/en/Default.aspx>, last accessed on February 24, 2016. See **Appendix 1** for details of the report.

sending a letter or email or facsimile, visiting the counters provided by Bank Indonesia to address the requests,<sup>79</sup> or contacting the call center.<sup>80</sup> The Head Group of Communication Department is acting as the official (*Pejabat Pengelola Informasi dan Dokumentasi/PPID*) responsible for addressing all requests to the central bank. According to Bank Indonesia self-assessment report on public information services,<sup>81</sup> Bank Indonesia received 94,885 inquiries in 2015. It increased by 170% from 2014, which was at 35,134 requests. The average time to settle the inquiries, as the self-assessment report further described, was only one working day, with 96 per cent of stakeholders submitting the requests satisfied with the responses. The most asked areas include Bank Indonesia regulations, credit scoring and records, Bank Indonesia real time gross settlement (BI-RTGS) and payment versus payment (PvP), Bank Indonesia clearing systems (*Sistem Kliring Nasional Bank Indonesia/SKNBI*), and credit card issues (see **Figure 4** for details).

**Figure 4 Top issues inquired by the public to Bank Indonesia**



Source: Bank Indonesia<sup>82</sup>

### C. Audit by the Supreme Audit Board and the Establishment of Bank Indonesia Supervisory Body

To strengthen the implementation of transparency principle, Bank Indonesia is also annually audited by the Supreme Audit Board. Such supreme audit mostly conducts the assessment based on the annual financial report submitted by Bank

<sup>79</sup> So-called "Gerai Info". This specific counters even have bi-monthly newsletter. See <http://www.bi.go.id/id/publikasi/gerai-info/Default.aspx>, last accessed on February 25, 2016.

<sup>80</sup> Contact Center Bank Indonesia, *BICARA*, provides specific lines to be contacted by phone at 131 (local fare) and 1500131 (outside Indonesia), or by fax at (+62)21 386 - 4884, or email at [bicara@bi.go.id](mailto:bicara@bi.go.id). See <http://www.bi.go.id/en/Kontak-BI.aspx>, last accessed on February 25, 2016.

<sup>81</sup> Available at <http://www.bi.go.id/id/lip/laporan/Default.aspx>, last accessed on February 10, 2016.

<sup>82</sup> *Laporan Layanan Informasi Publik*, [Public Information Service Report] available at <http://www.bi.go.id/id/lip/laporan/Default.aspx>, last accessed on February 10, 2016

Indonesia by the end of the year.<sup>83</sup> However, such supreme audit may also carry out an audit investigation upon<sup>84</sup> the request of the parliament where it deems necessary.<sup>85</sup> Recently, when the Rupiah rate was volatile at the beginning of 2016, there was a public debate as to whether the Supreme Audit Board ought to audit the central bank performance in conducting monetary policy.<sup>86</sup> However, as mandated by the central bank law, the Supreme Audit Board has no power to review the central bank performance in conducting monetary policy, except when requested by the House of Representatives to conduct an audit investigation.<sup>87</sup>

A supervisory body<sup>88</sup> was also established in 2004 to strengthen the transparency, accountability, and credibility of the central bank.<sup>89</sup> This organ has the task to assist the parliament in performing the function of supervising the central bank.<sup>90</sup> In order to reflect the principle of transparency, the supervisory body must submit the performance report to the parliament quarterly or at any time as required by the House of Representatives. However, the Supervisory Body is not allowed, by law, to participate in the decision-making processes of the central bank nor to conduct an assessment regarding the performance of the Board of Governors in particular in conducting monetary policy.<sup>91</sup>

#### D. Transparency Index

Eijffinger & Geraats (E&G, 2002) have developed a transparency index for central banks. It primarily consists of five areas of transparency: political, economic, procedural, policy, and operational transparencies.<sup>92</sup> Dincer & Eichengreen (D&E, 2007, 2010) use the index to determine the transparency of central banks around the world, including the central bank of Indonesia.<sup>93</sup> In defining the transparency employed by each central bank, they break down each of the five components of transparencies into three questions and score each answer with 0, 0.5, or 1. Hence, in total, there are 15 questions of assessments with total points of 15 if all items are satisfied. The 15 questions are well-defined and cover all possible elements of transparency, ranging from the clarity of the formal objectives to the transparency of policy models and central bank forecasts, to the publication of minutes of the board meetings (see **Table 2** for details).

<sup>83</sup> By no later than 30 days after the fiscal year ends. See Article 61 of Law Number 23 of 1999 concerning Bank Indonesia.

<sup>84</sup> A special examination on a certain issue(s).

<sup>85</sup> See Article 59 of Law Number 23 of 1999 concerning Bank Indonesia, available at <http://www.bi.go.id/en/tentang-bi/uu-bi/Documents/act2399.pdf>, last accessed on February 19, 2016.

<sup>86</sup> See for instance <http://katadata.co.id/berita/2016/01/12/redam-gejolak-bi-harap-bpk-tak-gelar-audit-investigasi#sthash.sWEBMkhN.dpbs>, last accessed on March 10, 2016.

<sup>87</sup> "BPK Awaiting House Permission to Audit BI over Rupiah Depreciation Allegations", available at <http://jakartaglobe.beritasatu.com/economy/bpk-awaiting-house-permission-audit-bi-rupiah-depreciation-allegations/>, last accessed on March 10, 2016.

<sup>88</sup> *Badan Supervisi Bank Indonesia* (BSBI); its official homepage is available at <http://www.bsbi.go.id/>, last accessed on February 22, 2016.

<sup>89</sup> Together with accountability, independence, transparency, and credibility.

<sup>90</sup> See article 58A Law Number 3 of 2004.

<sup>91</sup> Elucidation on Law of the Republic of Indonesia Number 3 of 2004 concerning Amendment to Law of the Republic of Indonesia Number 23 of 1999 concerning Bank Indonesia, available at [http://www.bi.go.id/en/tentang-bi/uu-bi/Documents/UU32004\\_penj\\_Engl.pdf](http://www.bi.go.id/en/tentang-bi/uu-bi/Documents/UU32004_penj_Engl.pdf), last accessed on February 19, 2016.

<sup>92</sup> See Eijffinger & Geraats, "How transparent are Central Banks?" *Centre for Economic Policy Research, London, Discussion Paper, No. 3188*, 2002.

<sup>93</sup> See N. N. Dincer & B. Eichengreen, *Central bank transparency: where, why, and with what effects?* (No. w13003). National Bureau of Economic Research, 2007 and N. Dincer & B. Eichengreen "Central bank transparency: causes, consequences and updates," *Theoretical Inquiries in Law* 11, no. 1 (2010), 75-123.



**Table 2 Transparency components, E&G index, D&E explan**

Components	Score		
	0	0.5	1
<b>1. Political Transparency</b>			
(a) Formal objectives	No formal objective	Multiple without priority	One or multiple with explicit priority
(b) Quantitative targets	No	-	Yes
(c) Institutional arrangements	No	Without explicit independence or contract	With explicit independence or contract
<b>2. Economic Transparency</b>			
(a) Economic data	Quarterly time series for up to two of five variables	Quarterly time series for three of five variables	Quarterly time series for all five variables
(b) Policy models	No	-	Yes
(c) Central Bank forecasts	No	Less than quarterly	Quarterly for the medium term (one or two years ahead).
<b>3. Procedural Transparency</b>			
(a) Explicit strategy	No.	--	Yes
(b) Minutes	No, or yes but after more than eight weeks	--	Yes
(c) Voting records	No, or yes but after more than eight weeks	Non-attributed	Yes
<b>4. Policy Transparency</b>			
(a) Prompt announcement	No or yes but only after the day of implementation	--	Yes, on the day of implementation
(b) Policy explanation	No	Yes but only superficially or when a change is made	Yes, always
(c) Policy inclination	No	--	Yes
<b>5. Operational Transparency</b>			
(a) Control errors	No or not very often	Yes but without explanation	Yes
(b) Transmission disturbances	No or not very often	Yes but only short-term forecasts	Yes including past forecast errors
(c) Evaluation policy outcomes	No or not very often	Yes but only superficially	Yes including the contribution to the objective

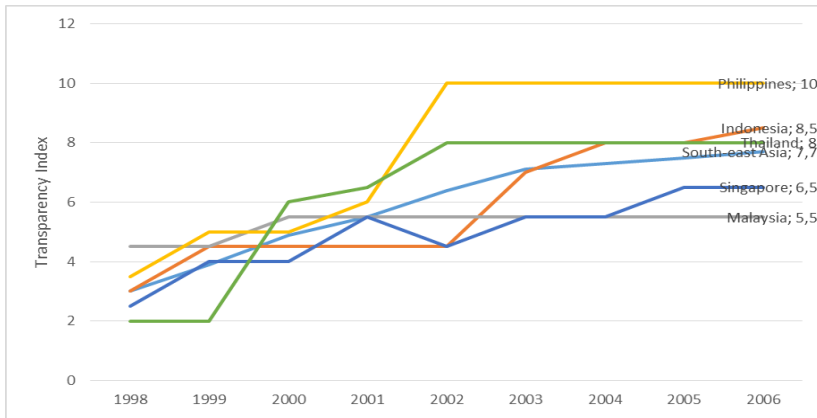
Source: Eijffinger & Geraats (2002)<sup>94</sup> and Dincer & Eichengreen<sup>95</sup>

<sup>94</sup> See Eijffinger & Geraats, above n. 85.

<sup>95</sup> See Dincer & Eichengreen, above n. 86.

The results are provided in **Figure 5** which consists of transparency indices of the central banks in the Southeast Asia region. As shown in the said figure, the transparency employed by the Indonesian central bank indicates many improvements. In 1998, Bank Indonesia transparency only scored at 3, which was one of the lowest in the region, but it increased to 8 in 2004 and 8.5 in 2006, ranking among the best in the region. It passed over Malaysia (at 5.5), Singapore (at 6.5), and Thailand (at 8), and above the average of central bank transparency in Southeast Asia (at 7.7). However, it is still below the *Banko Sentral ng Pilipinas* that reached 10.

**Figure 5 Transparency Indices of Bank Indonesia Compared to Other Central Banks in the Region**



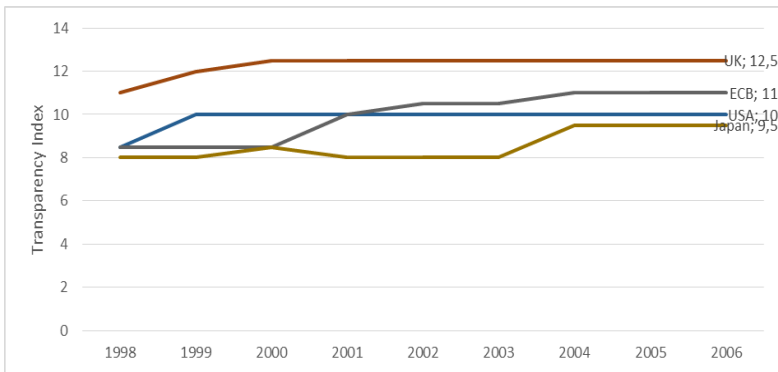
Source: Dincer & Eichengreen (2010)<sup>96</sup>

## V. CENTRAL BANK TRANSPARENCY IN OTHER JURISDICTIONS

Among hundreds of central banks across the world,<sup>97</sup> there are some which are considered as the most transparent central banks. These include the Central Bank of New Zealand, the Bank of Canada, the Bank of England (BoE), the European Central Bank (ECB), the Federal Reserve System of USA (the Fed), and the Bank of Japan (BoJ). Following is an outline of the transparency policies of the four top central banks, namely: the Fed, ECB, BoE, and BoJ, with the transparency index of each of these central banks being provided in **Figure 6**.

<sup>96</sup> See Dincer & Eichengreen, above n. 86.

<sup>97</sup> List provided by the Bank for International Settlement (BIS) shows that, to date, there are 191 countries that have a central bank or a monetary authority. See <https://www.bis.org/cbanks.htm>, last accessed on March 5, 2016.

**Figure 6** Transparency Indices of the Fed, ECB, BoE, and BoJ

Source: Dincer & Eichengreen (2010)<sup>98</sup>

### A. The Fed

In 2006, E&G index scored the Fed at 10 for transparency. The strongest points earned by the Fed are policy transparency (100%) and economic transparency (85%) while the lowest are political and operational transparencies. Hence, the Fed is excellent with regards to soliciting its policy to public including making explanations and inclinations about its policy, and providing economic data, models, and forecasts. However, it is still lacking in defining its formal objectives, quantifying its targets to achieve such goals and cooperation with the U.S. government and parliament to achieve its objectives and strategy. Observing that the Fed's transparency score was quite steady for an extended period (at least from 1999 to 2006, see **Figure 6**), it could be assumed that the problem might be structural. For instance concerning political transparency, it is not an easy job to define or change the central bank's formal objective, quantify the targets or change the institutional arrangements as they would involve external parties such as the government and parliament.

### B. The ECB

Under EU law, transparency has not yet become a general principle, as it fails to incorporate a minimum ascertainable legally binding context.<sup>99</sup> However, some of its elements, such as openness or the right to access to documents, are growing to become self-standing principles.<sup>100</sup> Transparency is anchored in the EU treaties (primary law), and further regulated by secondary law. While secondary legislation concerning transparency in the EU is still limited, case-law is growing, and it supports the application of a general principle of transparency in the various types of cases, even if and when secondary legislation is not technically applicable.<sup>101</sup>

The ECB transparency was scored at 11 by E&G central bank transparency index (2006). In contrast to the Fed, the ECB earns full credits for political transparency

<sup>98</sup> See J. de Haan, et. al. *The European Central Bank: Credibility Transparency and Centralization* (Boston: MIT Press Books, 2005), p. 94.

<sup>99</sup> See for instance Tridimas, *The general principles of EU law*

<sup>100</sup> Prechal & De Leeuw, above n. 12.

<sup>101</sup> Diamandouras, N. P. *Contribution of the European Ombudsman to the public hearing on the Revision of Regulation 1049/2001 on public access to documents*, 2008.

(100%). Hence, the formal objectives, quantitative targets, and institutional arrangements of the ECB are very clear. It is easily understood as ECB is a union central bank that was just formed in 1999 to accommodate the Single Euro Payment Area (SEPA) in the EU. However, similar to the Fed, ECB is excellent in economic transparency such as providing economic data and policy models and announcing its forecasts. The weakest points earned by ECB are procedural and policy transparencies that only gain up to 50%. They cover issues on defining the explicit strategy of the central bank and publishing minutes and voting records. As mentioned in the introduction of this paper, ECB refused to publish the minutes and voting records of the board as it could complicate the decision-making process.<sup>102</sup>

### C. BoE

BoE is one of the most transparent central banks in the world, scoring at 12.5 by E&G index in 2006. It is high in almost every single aspect of transparencies but policy. BoE scored at 100% for political and procedural transparencies and 85% for economic and operational transparencies. The only weakest link was policy transparency which scored at 50%. It covers prompt announcement, policy explanation and policy inclination. Similar to the Fed, BoE has maintained this transparent condition for an extended period of time, at least from the year of 2000 (see **Figure 6**). However, if the Fed's transparency issues deal with more political challenges (such as formal targets and institutional arrangements), BoE has more 'light' issues as they deal with public announcement and explanations.

### D. BoJ

BoJ has been scored at 9.5 for transparency index since 2004 (see **Figure 6**). Prior to that, it was composed at around 8 for quite a while (at least from 1998). This score was even lower than that of Bank Indonesia as previously explained (at 8.5). Although the lowest compared to the other three central banks discussed in this section, BoJ is one of the most transparent central banks in Asia. It has substantial transparencies on procedural issues (approximately at 70%) while the remaining components (political, economic, policy, and operational transparencies) are at 50%. This fact is significantly distinctive to other central banks, as procedural transparency deals with the publication of strategy, minutes, and voting records. In general, most of the central banks are reluctant to publish minutes and voting records as such publication can complicate the decision-making process. However, this seems not to be a problem to BoJ.

## VI. THE IMPACT OF CENTRAL BANK TRANSPARENCY ON THE CENTRAL BANK'S PERFORMANCE

### A. The Objectives of the Indonesian Central Bank

The central bank of Indonesia is one of many central banks that have a single objective. Defined by law on the central bank, the single purpose is to achieve and maintain the stability of Rupiah.<sup>103</sup> To achieve such goal, Bank Indonesia defines, plans, and implements the monetary policy that, as required by law, must be conducted on a consistent, sustained, and transparent basis and by taking into consideration the

<sup>102</sup> Hämäläinen, above n. 8.

<sup>103</sup> See article 7 (1) of Law Number 3 of 2004 concerning Amendment to Law of the Republic of Indonesia Number 23 of 1999 concerning Bank Indonesia, available at [http://www.bi.go.id/en/tentang-bi/uu-bi/Documents/UU32004\\_Engl.pdf](http://www.bi.go.id/en/tentang-bi/uu-bi/Documents/UU32004_Engl.pdf), last accessed on February 19, 2016.

general policies in the economic area adopted by the government.<sup>104</sup> Furthermore, Bank Indonesia has initially three areas of functions to support the single objective of achieving and maintaining the Rupiah stability, namely: monetary policy, banking supervision, and payment systems. However, since the shifting of the banking supervision tasks out from Bank Indonesia to OJK by the end of 2013,<sup>105</sup> the duties now mainly cover monetary policy, payment systems, and macro-prudential supervision.

The single objective of achieving and maintaining the Rupiah stability has two core meanings: price and currency stability. The former has the meaning of the stability of the price of goods and services while the latter is the stability of the local currency against foreign currencies such as the USD or EUR. The former is also reflected in the inflation while the latter is rather difficult to be measured, as it is represented by the currency exchange of Rupiah against other currencies.<sup>106</sup> Like other central banks, monetary policy conducted by Bank Indonesia aims at managing the pressure on price from the demand side and not responding to inflation caused by temporary shocks such as the increase in oil price. Hence, the central bank's ability to manage the inflation during the temporary shocks has been rather limited.<sup>107</sup>

## B. The Central Bank's Performance in Conducting Monetary Policy

Observing consumer price inflation in Indonesia during the last decade, one could conclude that Indonesian inflation has sometimes been above the target upper-ceiling determined by Bank Indonesia and the government at the beginning of every year. Consumer price inflation is measured by the Harmonized Index of Consumer Prices (HICP). As indicated in **Figure 7**, year-on-year HICP inflation in Indonesia area exceeded the targets for 50% of the months from February 2006 to January 2016. However, these results are still better compared to, for instance, the ECB achievement for the first decade after it was established, as discussed by Geraats (2008). In the said paper, he reviews the ECB performance in achieving inflation targets and explains that the ECB often exceeded the targets for 56% of the months in that ten year period.<sup>108</sup> However, he is still of the opinion that, since inflation had been at an average level of 2.0% (whereas the average of real GDP growth had been at 2.2%), the economy of the Euro area had performed remarkably well during its first decade.<sup>109</sup> Geraats uses the annual data of the Euro area provided by Eurostat from 1999 to 2007, covering 11 member states in 1999 and 13 in 2007.

<sup>104</sup> See article 7 (2) of Law Number 3 of 2004 concerning Amendment to Law of the Republic of Indonesia Number 23 of 1999 concerning Bank Indonesia, available at [http://www.bi.go.id/en/tentang-bi/uu-bi/Documents/UU32004\\_Engl.pdf](http://www.bi.go.id/en/tentang-bi/uu-bi/Documents/UU32004_Engl.pdf), last accessed on February 19, 2016.

<sup>105</sup> According to article 55 paragraph 2 of Law Number 21 of 2011 on Financial Services Authority (*Otoritas Jasa Keuangan/OJK*).

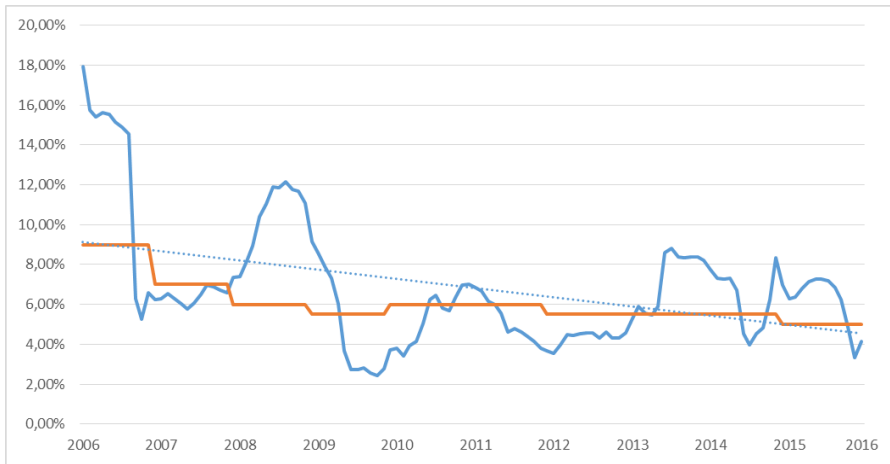
<sup>106</sup> Elucidation to Act of the Republic of Indonesia Number 3 of 2004 concerning Amendment to Act of the Republic of Indonesia Number 23 of 1999 concerning Bank Indonesia, available at [http://www.bi.go.id/en/tentang-bi/uu-bi/Documents/UU32004\\_penj\\_Engl.pdf](http://www.bi.go.id/en/tentang-bi/uu-bi/Documents/UU32004_penj_Engl.pdf), last accessed on February 19, 2016.

<sup>107</sup> *Ibid.*

<sup>108</sup> See Geraats, P. M. *ECB credibility and transparency (No. 330)*. European Commission, Directorate-General for Economic and Financial Affairs, 2008.

<sup>109</sup> *Ibid.*, p. 2.

**Figure 7 YoY HICP inflation in Indonesia and targets set by the government in the last decade**



Source: Bank Indonesia<sup>110</sup>

### C. The Central Bank’s Transparency and Accountability

Roll et. al. (1993) define accountability as “the act of listening to criticism and responding to questions about the past and future behavior that may be put forward by a democratically elected body”.<sup>111</sup> There are several accountability indices for the central bank developed and validated by researchers. Briault et al. (1996), for instance, developed an accountability index for the central bank based on the following criteria: 1) as to whether the parliament has the power to control the central bank; 2) as to whether the minutes of the board meetings regarding monetary policy are published; 3) as to whether an addition report on monetary report or specifically inflation is published; and 4) as to whether the government has the power to override the central bank’s decision regarding monetary policy.<sup>112</sup> Furthermore, De Haan and Eijfnger (1999 and 2000) have also provided a quantitative index of the central bank’s accountability, with a highlight on the interaction between the central bank and political organs, in particular, the government and parliament.<sup>113</sup>

Following Briault et. al. (1996) and De Haan and Eijfnger (1999 and 2000), we defined the accountability of the Indonesian central bank using the four components previously mentioned. Such components are further broken down into 15 indicators. Bank Indonesia is scored 14 for accountability index, and the comparison of this index and those of other central banks (the Fed, ECB, BoE, and BoJ) is provided in **Table 3**.

<sup>110</sup> Available at <http://www.bi.go.id/id/moneter/inflasi/data/Default.aspx>, last accessed on February 10, 2016.

<sup>111</sup> See Roll et al. *Independent and Accountable: A New Mandate for the Bank of England*, CEPR, London, 1993 as in Bini-Smaghi, L., & Gros, D. *Is the ECB sufficiently accountable and transparent?* Centre for European Policy Studies, 2001: 2.

<sup>112</sup> Briault, Haldane, & King. “Independence and Accountability.” *Working Paper No. 49, Bank of England*, 1996.

<sup>113</sup> De Haan and Eijfnger (1999 and 2000).

**Table 3 Accountability Index of Centra**

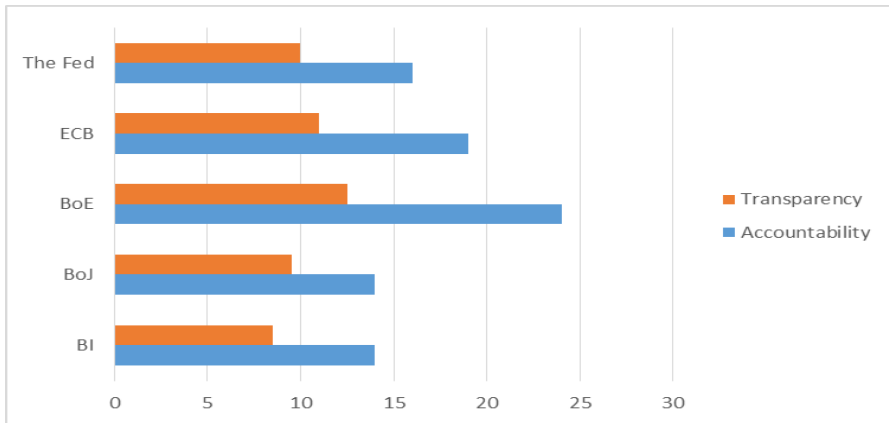
Items	The Fed	ECB	BoE	BoJ	BI
Objective					
1 Ultimate goal	1	2	2	2	2
2 Quantification	0	1	2	0	1
Strategy					
3 Announcement of strategy	0	1	2	0	2
4 Announcement of immediate target	0	0	2	0	0
5 Announcement of indicators	1	2	0	0	0
Publications of data					
6 Macro model	2	1	2	0	0
7 Data on targets	1	2	2	0	0
8 Inflation forecast	2	1	2	0	1
Communication strategy					
9 Parliament hearings	2	2	2	2	2
10 Frequency of reports	2	2	1	2	2
11 Press conferences	0	2	2	2	2
12 Publication of press release	2	2	1	2	2
13 Statement of future moves	1	1	0	0	0
14 Publication of minutes	1	0	2	2	0
15 publication of votes	1	0	2	2	0
Total	16	19	24	14	14

Source: Bini-Smaghi & Gros (2001)<sup>114</sup>

When the transparency and accountability indices of those five central banks are compared, the data indicates that the more transparent the central bank, the more accountable it becomes. As shown in **Figure 8**, BoE is the most transparent and accountable, with scores at 12.5 and 24 for transparency and accountability respectively. It is followed by the ECB, the Fed, BoJ, and BI.

<sup>114</sup> See Bini-Smaghi, L., & Gros, D. *Is the ECB sufficiently accountable and transparent?* Centre for European Policy Studies, 2001: 20.

**Figure 8 Transparency and Accountability Indices among Five Central Banks**



Source: Dincer & Eichengreen (2010) and Bini-Smaghi & Gros (2001)

## VII. CONCLUSION

It seems that the central bank of Indonesia has done a lot to meet the transparency requirements which come along with the independence it has gained since the enactment of the central bank law in 1999, and it seems that such efforts have been paying off. Such circumstance is contrary to the fact that transparency in Indonesia, in general, has been showing a decreasing trend as measured by, among other indicators, the freedom index, corruption perception index, and economic freedom index. In implementing the transparency notion, the central bank of Indonesia complies with the regulatory framework that anchors in the Indonesian Constitution, namely the second amendment of *UUD 45*, in particular Article 28F which deals with the right to obtain information. The regulatory framework for central bank transparency consists of Law Number 23 of 1999 concerning Bank Indonesia and Law Number 14 of 2008 regarding Public Information Transparency. In complying with the latter, the central bank of Indonesia applies the designation principle derived from *vrijwillige onderwerping* applicable to Indonesian private law.

The central bank of Indonesia was also scored very well on transparency index initially developed by Eijffinger & Geraats. It was at 8.5 (scales from 0 to 15) and ranked one of the best in the region, passing beyond Malaysia (at 5.5), Singapore (at 6.5), and Thailand (at 8). It is not so far from the most transparent central banks such as the Bank of Japan (at 9.5) and the Federal Reserve System of USA (at 10), although it is still at a distance from the Bank of England (at 12.5) and the European Central Bank (at 11). The central bank performance in conducting monetary policy also shows a rather good result, although, from the monthly data, the inflation is often above the target, accounting for 50% of the total months in the last decade. However, this has been mostly due to temporary shocks such as those caused by the increase in oil price (for instance at the end of 2008 and early 2009, mid-2013, late 2014, and early 2015). Furthermore, such result is even better compared to, for example, the achievement of the European Central Bank during its first decade, which was 56% above the target. All these results could indicate that, in general, the central bank supports the government efforts to improve transparency and good governance in Indonesia, which in turn can potentially benefit the country as a whole. However, to claim that such results have a direct impact on the investment grade, for instance,



would be too early. Further steps must be taken and detailed research must be conducted to observe such effect.

Furthermore, the road ahead will be filled with more challenges. Firstly, learning from the global crisis that hit Indonesian economy badly in 1998 and the US subprime mortgage crisis in 2008 that caused the hot issues on the bailout of Century Bank, it is most likely that crisis would lead to more challenges to the Indonesian central bank in implementing its tasks. The central bank would be expected to increase its transparency during the crisis. Secondly, Indonesian state organs are famous for having a problem in cooperating with each other. With the establishment of some new bodies with significant roles such as the Indonesian Deposit Insurance Institution (*Lembaga Penjaminan Simpanan/LPS*) in 2004/2005 and OJK in 2014, transparency will be even more challenging. Finally, as a crisis requires prompt actions from the government and state organs including the central bank, cooperation and transparency between the central bank and government in adopting a concrete policy during the crisis also need to be strengthened.

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## Appendices

### 1. Types of information provided by the central bank of Indonesia (Source: Bank Indonesia<sup>115</sup>)

Timing	Type of Information	Numbers	Remarks
Periodic		157	Total
	Working plan	1	Brief (infographic)
	Profile of the central bank	20	Sub total
	- Objectives & functions	4	Brief
	- Board of governors	1	Detail
	- Organizational structure	1	Detail
	- Law on Bank Indonesia	1	Detail
	- Institutional relations	1	Overview

<sup>115</sup> Available at <http://www.bi.go.id/id/lip/default.aspx> (only in Bahasa Indonesia), last accessed on February 10, 2016.

Timing	Type of Information	Numbers	Remarks
	- BI and the public	6	Detail *except for information entitled Public Information Services, which is not available
	- Infographic of the report of access to public information	0	
	- Contact details	1	Brief
	- Library access	1	Brief
	- Museum access	1	Brief
	- Code of ethics and professional conduct for BI officials	1	Brief
	- Governance	1	Detail
	- Personal property statements of BI officials	1	Brief (via KPK)
	Press-related information	8	
	- News	1	Detail
	- Press release	1	Detail
	- Speeches	1	Detail
	- Agenda of the board	1	Detail
	- Archives	1	Detail
	- BI updates online	1	Brief (via social media)
	- Gallery of the board's activities	1	Detail
	- Ads and Video	1	Detail (via YouTube)
	Monetary policy related	22	Sub total
	- Objectives	1	Brief
	- Framework (inflation targeting)	1	Brief
	- Inflation	1	Brief
	- Coordination to control the inflation	1	Brief
	- JIBOR	4	Detail* *(JIBOR in USD is not available)
	- BI rate	1	Brief
	- Decision-making process	1	Brief
	- Monetary operation	1	Detail
	- Monetary transmission	1	Brief
	- Transparency & accountability	1	Detail
	- Fiscal and monetary policy coordination	1	Brief
	- Exchange rate	1	Brief
	- Exchange rate calculator	1	Detail
	- Monetary indicators	1	Brief
	- Education	1	Detail
	- Government bond	1	Overview
	- Tender of SBI	1	Detail
	- Interest rate of the deposit guarantees	1	Brief
	- BI certificate of deposit tender	1	Detail
	Financial stability related	10	Sub total
	- Banking	1	Brief
	- Financial system	4	Detail
	- Sharia banking	1	Detail
	- Credit bureau	3	Detail
	Payment systems related	22	Sub total
	- Indonesian payment systems	1	Brief
	- Payment systems indicators	1	Brief
	- Cash payment instruments	6	Detail
	- Non-cash payment instruments	5	Detail
	- Operational calendar	1	Brief
	- Cashier services	1	Brief

Timing	Type of Information	Numbers	Remarks
	- Settlement systems	2	Detail
	- Education	1	Detail
	- Licensing	4	Detail
	Regulations	7	Sub total
	- Banking	1	Detail
	- Monetary policy	1	Detail
	- Payment systems	1	Detail
	- Codification	2	Detail
	- Search engine	1	Detail
	- Archives	1	Detail
	Publications	32	Sub total
	- Economic journal	1	Detail
	- Annual reports	3	Detail
	- Performance Reports to Parliament	1	Detail
	- Monetary policy	1	Detail
	- Balance of payments	1	Detail
	- Banking and financial stability	6	Detail*)
			*) micro prudential supervision has been shifted to the OJK since 31 Dec 2013. The data/reports displayed are up to 31 Dec 2014.
	- Payment systems	2	Detail
	- Finance & international cooperation	1	Detail
	- Regional economic studies	1	Detail
	- Articles and working papers	1	Detail
	- Other publications	3	Detail
	- Surveys	9	Detail
	- Investor relation unit	1	Detail
	- Information counter	1	Detail
	Statistics	20	Sub total
	- Indonesian economy and finance	1	Detail
	- Selected monetary and payment systems indicators	1	Detail
	- Regional	1	Detail
	- Banking	4	Detail*)
			*) some parts of the detailed banking statistics have been shifted to the OJK since Dec. 31, 2013. The data/reports displayed are up to Dec 31, 2014.
	- Payment systems	8	Detail
	- Foreign debt	1	Detail
	- Special Data Dissemination Standard	1	Detail
	- Foreign exchange	1	Detail
	- Banking daily reports	1	Detail
	- Metadata	1	Detail
	Small medium enterprises	20	Detail
	- Overview	1	Brief
	- Cooperation	2	Detail
	- Consultation	1	Brief
	- Feasibility	3	Detail
	- Cluster development	4	Detail
	- Loans	3	Detail
	- Success stories	1	Detail

Timing	Type of Information	Numbers		Remarks
	- Research	2	Detail	
	- Commodity data	2	Detail	
	- External links	1	Brief	
	Other Information	2		
	- Procedures of access to public information	1	Brief	
	- Whistleblower system	0	Detail	
	- Procurements	1	Detail	
Prompt	N/A	0	Total	
	At any time	33	Total	
	A list of public information	0	Sub total	
	Regulation, decision and policy	9	Sub total	
	- Regulation	1	Detail	
	- Banking	1	Detail	
	- Monetary policy	1	Detail	
	- Payment systems	1	Detail	
	- Codifications	2	Detail	
	- Search engine	1	Detail	
	- Archives	1	Detail	
	- Decision or policy	1	Detail	
	Performance reports	12	Sub total	
	- Annual report	2	Detail	
	- Performance Reports to Parliament	1	Detail	
	- Monetary policy	1	Detail	
	- Balance of Payments Indonesia	1	Detail	
	- Financial Economics & International Cooperation	1	Detail	
	- Regional Economic Analysis	1	Detail	
	- Publications	1	Detail	
	- Statistics	1	Detail	
	- Surveys	1	Detail	
	- Investor Relation Unit	1	Detail	
	- Information counter	1	Detail	
	BI Policy in general	1	Brief	
	Access to public information services	1	Detail	
	Journals and Research	2	Detail	
	Press-related information	8	Sub total	
	- News	1	Detail	
	- Press release	1	Detail	
	- Speeches	1	Detail	
	- Agenda of the board	1	Detail	
	- Archives	1	Detail	
	- BI updates online	1	Brief (via social media)	
	- Gallery of the board's activities	1	Detail	
	- Ads and Video	1	Detail (via YouTube)	

## 2. Report of public information services of Bank Indonesia, 2015

Source: Bank Indonesia<sup>116</sup>

<sup>116</sup> Available at <http://www.bi.go.id/id/lip/laporan/Default.aspxa>, last accessed on February 10, 2016.