

Executive Summary

The need to establish funding instrument to finance Reduction of Emissions from Deforestation and Forest Degradation (REDD+) is stated in the 2011 Letter of Intent between Indonesia and Norway and the 2012 REDD+ National Strategy. After eight years of deliberation, the Government of Indonesia launched the Environment Fund Management Agency (BPDLH) or *LH-Fund* on October 9 2019. The Fund will manage money that will be used to support protection and management of the environment, including climate change mitigation and adaptation in the forestry sector with REDD+ as the backbone.

The principles of environmental integrity, effective participation of civil society, indigenous people and local communities as well as respect for the rights of indigenous and local communities are integral part of REDD+ and firmly stated in the REDD+ National Strategy. In this regard, there are issues regarding LH-Fund operationalization for financing REDD+ that need to be highlighted and addressed by the government, namely:

- Institutional setting under the LH-Fund to ensure **compliance with social and environmental safeguards**, including establishment of an effective complaint mechanism.
- Representation of civil society, indigenous people and local communities in the institutional setting of the LH-Fund. There is currently no multi-stakeholder structure in the current setting of LH-Fund to ensure representation of civil society and indigenous people and local communities in the funding instrument.
- Ensuring effective participation of civil society, indigenous peoples and local communities in the
 development of LH-Fund and/or REDD+ Business Strategy Plan (RSB) to determine priority
 programs eligible for funding. Acceleration of social forestry, recognition of indigenous people
 territories, peatland restoration, and protection of the remaining natural forests and peatland must
 be prioritized.
- Addressing the need for simplified access to funding and capacity building to support indigenous people and local communities.

To make LH-Fund work as a fair and inclusive REDD+ funding instrument, Coordinating Minister for Economic Affairs as Chairperson of LH-Fund Steering Committee, Minister of Environment and Forestry as Deputy Chairperson of LH-Fund Steering Committee, and Minister of Finance in charge of the LF-Fund should:

- 1. Clarify institutional setting under the LH-Fund to ensure compliance with social and environmental safeguards, including complaint mechanism.
- 2. Institutionalize participation of civil society, indigenous people, and local community in the LH-Fund.
- 3. Ensure effective participation of civil society, indigenous people and local communities in the development of LH-Fund and/or REDD+ Business Strategy Plan.
- 4. Provides simplified access and capacity building for indigenous people and local communities, and
- 5. Prioritize acceleration of social forestry, recognition of indigenous territories, peatland restoration and protection of the remaining natural forests and peatland to ensure effectiveness of REDD+ funding and to put indigenous people and local communities as subjects in the implementation of REDD+.

Furthermore, the Norwegian government must also maintain consistency of their REDD+ results-based payment to the government of Indonesia with the requirements set up in the Letter of Intent, particularly with regards to ensuring safeguards implementation and institutionalized representation of civil society, indigenous people, and local communities in the governing structure of REDD+ funding instrument.

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LH-FUND AS REDD+ FUNDING INSTRUMENT: IMPORTANT CONSIDERATIONS TO MAKE IT A FAIR AND INCLUSIVE FUNDING INSTRUMENT

LH-Fund as REDD+ funding instrument

The Environment Fund Management Agency (BPDLH) or LH-Fund was initially formed to respond to the need to establish a REDD+ funding instrument as agreed in the Letter of Intent between Indonesia and the Kingdom of Norway to reduce emissions from deforestation and forest degradation. Today, the scope of the Fund is much broader.

Operationalization of LH-Fund to finance REDD+ shall refer to Government Regulation No. 46 of 2017 on Environment Economic Instruments, Presidential Regulation No. 77 of 2018 on the Management of the Environment Fund, and Regulation of Minister of Environment and Forestry No. 70 of 2017 on the Procedures on the Implementation of REDD+. Meanwhile, the structure and institutional setting of the LH-Fund refers to Regulation of Minister of Finance No. 137 of 2019 on the Organization and Governance of Environment Fund Management Agency.

In the current structure of the Fund, no organ or unit is specifically assigned to ensure compliance with the REDD+ safeguards. There is also no organ that institutionalizes representation of civil society, indigenous people, and local communities.

Meanwhile, the REDD+ National Strategy, which has been legally acknowledged through Minister of Environment and Forestry Regulation No. 70 of 2017 on the Procedures on the Implementation of REDD+, clearly states that REDD+ funding instrument shall be established to promote fair benefit sharing from the development of REDD+ programs / projects and shall ensure compliance with financial, social and environmental safeguards. The Strategy also states that REDD+ funding instrument shall ensure implementation and fulfillment of the overall safeguards requirements, both in financial and social/environmental aspects at the project or activity level prior to funding disbursement.²

Social and environmental safeguards, together with participation of civil society, indigenous peoples and local communities, are also explicitly stated in the Letter of Intent between Indonesia and Norway regarding the requirements for REDD+ funding instrument. The seven requirements are:

- 1. Based on contributions-for-deliverables. In the third phase or Results-Based Payment (RBP), the referred deliverable is verified emissions reductions at the national level.
- 2. Managed based on established international standards, including fiduciary, governance, environmental and social safeguards.
- 3. Ensure transparency in all aspects of disbursement and operation.
- 4. Include representatives of the central government, regional government, civil society, and indigenous and local communities in the governance structure, in accordance with the provisions of the applicable laws and regulations and relevant international instruments.
- 5. Channel specific financial resources to implement Indonesia's REDD+ and low carbon development strategies qualify as official development assistance (ODA).
- 6. Undergo independent annual audits.
- 7. Agreed by the governments of Indonesia and Norway prior to its establishment.

¹ REDD+ National Strategy, September 2012, p. 16.

² Ibid., P. 17

In Government Regulation No. 46/2017 on Environment Economic Instruments, it is stated that the purpose of LH-Fund is to finance environment protection and management activities. The Regulation categorizes environment funding to three types, namely:

- 1. **Environment Recovery Guarantee Fund.** This fund is aimed at addressing environmental emergencies inside a business/activity area and to finance post-operation environmental recovery or restoration. The money will be collected from companies. The government allocates 7 years to establish this fund so that it is not one of the sources of fund for the LH-Fund as stipulated in Presidential Regulation No. 77/2018 on the Management of Environment Funds.
- 2. **Pollution and / Environmental Damage Recovery Fund.** This fund is aimed at addressing pollution or environmental damage and restoring environmental functions in locations where the sources and perpetrators of such damages are unknown. This fund can be used to preserve atmospheric functions and must be set up by Central and Regional Governments.
- 3. **Trust Fund / Grants for Conservation.** This fund is aimed at conservation and preservation of natural resources and atmospheric functions, including for climate change adaptation and mitigation, ozone layer protection, and activities to support climate change control. This fund shall be managed according to the agreement between donors and the government / community and is most relevant for the cooperation between Indonesia and Norway on REDD+.

Note: Only No. 2 and 3 are included in the scope of the LH-Fund.

Unlike BPDP-KS or the CPO Fund, which only distributes money, the LH-Fund's mandate includes money collection, investment, and disbursement. When channeling fund (including for REDD+), it will create a business strategy plan and business plan, prepare and implement fund distribution plan, analyze feasibility of proposals, determine recipients of funding, submit analysis results to related Ministries/Institutions, channel funding, monitor and evaluate funding that has been disbursed, and provide assistance to funding recipients.³ Funding distribution shall be based on a contract/agreement through one of the following mechanisms: carbon trading, loans, subsidies, or grants.

To start-up the Fund's services, a Transition Team will develop a Business Strategy Plan (RSB) for new funding windows, one of which is REDD +, in the period of October 2019 to March 2020.⁴ Grants from Norway that will be paid based on verified emissions reduction through the Fund shall be managed based on the MoU or contract between the governments of Indonesia and Norway. Each fund will be managed in segregated accounts, e.g. account for Renewable Energy, Energy Efficiency, REDD+ and so on.⁵

The LH-Fund is located under the auspices of and shall answer to the Minister of Finance. It is led by a Managing Director who oversees four (4) directors, namely: (i) Director of Finance, General Affairs, and Information System, (ii) Director of Fund Collection and Investment, (iii) Director of Fund Distribution, (iv) Director of Legal and Risk Management and an Internal Audit Unit.⁶

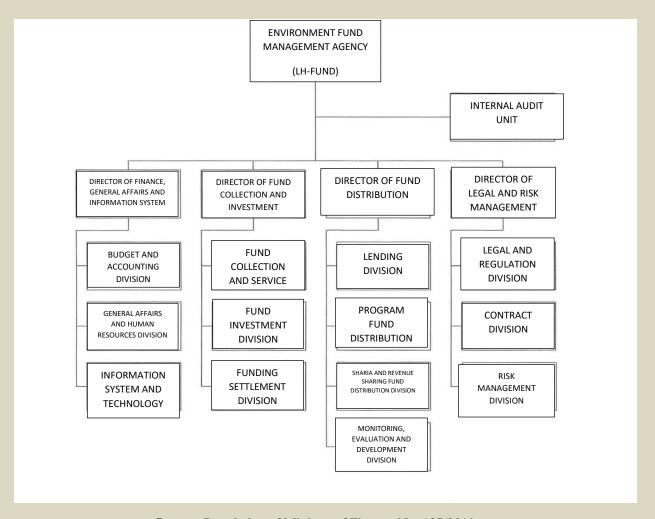
³ Article 3 point c of the Regulation of the Minister of Finance of the Republic of Indonesia No. 137 / PMK.01 / 2019 on Organization and Work Procedures of the Environment Fund Management Agency.

⁴ Minister of Environment and Forestry Presentation at BPDLH Steering Committee Meeting, Jakarta, October 9, 2019

⁵ Thamrin School Discussion, Regulation of the Minister of Finance no. 137 / PMKO.1 / 2019: BPDLH Organization and Work Procedure, October 11, 2019.

 $^{^6}$ Article 4 of the Regulation of the Minister of Finance of the Republic of Indonesia No. 137 / PMK.01 / 2019 on Organization and Work Procedures of the Environment Fund Management Agency.

Figure 1. Structure of the LH-Fund



Source: Regulation of Minister of Finance No. 137/2019

When carrying out its duties and functions, the Managing Director can establish a Technical Team and/or appoint experts. According to Regulation of Minister of Environment and Forestry No. 70/2017 on REDD+ implementation procedures, an Assessment Team in LH-Fund will review and assess proposals for REDD+ funding submitted to the Fund, which will consist of representatives from relevant Ministries, professionals, and ad hoc technical teams. The technical assessment and evaluation shall be based on REDD+ implementation tools among which Safeguards Information System is one. Given the importance of social and environmental safeguards in REDD+ implementation, the functions and mechanisms to ensure REDD+ safeguards implementation needs to be clarified, particularly in relation to its position in the Fund's structure.

Meanwhile, currently there is no structure in the LH-Fund that institutionalizes representation of civil society, indigenous peoples, and local communities, for example in the form of a multi-stakeholder forum. Presidential Regulation No. 77/2018 on the Management of Environment Funds has stipulated the establishment of a Steering Committee to provide policy directions in the implementation of the Fund's tasks, including general and technical policies. The Committee is chaired by the Coordinating Minister for

⁷ Article 34 of Regulation of the Minister of Finance of the Republic of Indonesia No. 137 / PMK.01 / 2019 on Organization and Work Procedures of the Environment Fund Management Agency.

⁸ Article 21 paragraph (3) - (5) the Regulation of the Minister of Environment and Forestry No. 70 of 2017 on the Procedures on the Implementation of REDD+.

Economic Affairs assisted by the Minister of Environment and Forestry as Deputy. The Committee Secretariat is housed in the MoEF. The Steering Committee may involve other relevant parties in carrying out its duties. However, there is no designated organ or structure in the Fund that carries similar functions to a multi-stakeholder forum that can represent the interests of civil society, indigenous peoples and local communities.

Distribution of REDD+ funding through the LH-Fund

REDD+ funding that can be distributed through the LH-Fund is divided into performance-based payments and funding for supporting activities. Performance-based payments will be allocated for:¹⁰

- 1. Reducing emissions from deforestation
- 2. Reducing emissions from forest degradation
- 3. Conservation of forest carbon stocks
- 4. Sustainable management of forests, and
- 5. Enhancement of forest carbon stocks

Performance-based payments may include payment for non-carbon benefits, 11 which include protection of hydrological functions, biodiversity, ecological functions, essential ecosystems, and improvement of livelihood and forest governance. 12

In addition to payments for the abovementioned "core" activities, the LH-Fund can also finance REDD+ supporting activities, such as: 1) increasing institutional capacity and human resources, 2) strengthening REDD+ policies and instruments, 3) research and development, and 4) other enabling conditions. ¹³ In REDD+ National Strategy, land tenure or land rights clarification is referred to as one of the activities to create REDD+ preconditions. ¹⁴ Inventory of indigenous people and local communities, resolution of tenurial conflicts, and harmonization of laws and policies to implement Free, Prior and Informed Consent (FPIC) in the licensing process of natural resources utilization are activities that should be able to be funded. ¹⁵

Community access to funding

Indigenous people and local communities can access REDD+ funding through the LH-Fund directly or indirectly. In the first scenario, communities can be REDD+ implementers and submit performance-based payments (which include carbon and non-carbon benefits) and/or apply for REDD+ supporting activities funding. Indirectly, if they are unable to submit funding proposal directly to the Fund, they can submit funding proposal through an Intermediary Institution.¹⁶

Even more indirectly, indigenous people and local communities may be beneficiaries of REDD+ supporting activities mentioned above and/or get a share of the performance-based payments received by REDD+ implementers through a benefit-sharing mechanism.

⁹ Article 10, the Presidential Regulation No. 77 of 2018 on Management of Environmental Funds.

¹⁰ Article 4 paragraph (2), Article 18 (a) (1) the Regulation of the Minister of Environment and Forestry No. 70 of 2017 on the Procedures on the Implementation of REDD+.

¹¹ Article 4 paragraph (4), Article 18 (a) (2) the Regulation of the Minister of Environment and Forestry No. 70 of 2017 on the Procedures on the Implementation of REDD+.

¹² Appendix "Proposal Assessment Form" the Regulation of the Minister of Environment and Forestry No. 70 of 2017 on the Procedures on the Implementation of REDD+.

¹³ Article 4 paragraph (3), Article 18 (b) the Regulation of the Minister of Environment and Forestry No. 70 of 2017 on the Procedures on the Implementation of REDD+.

¹⁴ REDD+ National Strategy, September 2012, p. 23.

¹⁵ Ibid.

¹⁶ Appendix IV A of "Procedure for Preparing a REDD + Funding Proposal" the Regulation of the Minister of Environment and Forestry No. 70 of 2017 on the Procedures on the Implementation of REDD+.

According to Regulation of the Minister of Environment and Forestry No. 70/2017, REDD+ implementers and thus parties that may have access to REDD+ funding include local governments, managers of forest management units (KPH), forest and land permit-holders, forest managers, and managers of private forests.¹⁷ Communities can be REDD+ implementers if they hold forest and land permits, for example through Social Forestry permits (village forest, community forestry, community timber plantations, forestry partnerships, customary forest). There is a strong tendency in the regulation towards a legal-formal perspective. Therefore, communities without legal-formal rights (permits or rights sanctioned by the government) may not be eligible to become REDD+ implementers although de facto they manage and protect forests.

With the slow progress of Social Forestry realization, especially customary forests, it is difficult for indigenous people and local communities to contribute as REDD+ implementers. Until September 2019, the realization of social forestry permits/rights is only 3.3 million hectares from the target of 12.7 million hectares and PIAPS (Indicative Map of Social Forestry Area) of 13.8 million hectares. This number includes an indicative area of customary forests covering 554 thousand hectares that have not been actually given to indigenous peoples. Customary forests that have been stipulated are the smallest in size, which is only 24 thousand hectares. ¹⁸

Therefore, community access to REDD+ funding as direct implementers of REDD+ is likely to be very limited, especially when compared to large-scale actors such as forest management rights holders like Perhutani, logging, timber plantation, and ecosystem restoration permit-holders as well as large permit-holders in the land sector such as palm oil plantations that still control large amounts of forest cover in their concessions or permit areas as shown in the Table below.

Table1. Natural forests in the area of logging, timber plantation, and palm oil plantation permits (2018)

No.	Category	Total (ha)
1	Natural forests in the area of palm oil plantation permits	3,415,602.79
2	Natural forests in the area of timber plantation concessions	3,205,856,30
3	Natural forests in the area of logging concessions	17,557,146,48
4	Natural forests in in the area of palm oil plantation permits that overlap with timber plantation concessions	93. 816.14
5	Natural forest in the area of palm oil plantation permits that overlap with logging concessions	315,359.18
	TOTAL natural forests in palm oil plantation permits, timber plantation, and logging concessions	30,800 .064,54
	TOTAL non-overlapping natural forests in palm oil plantation permits, timber plantation, and logging	30,390,889.22
	concessions	

Source: Analysis of the 2018 Land Cover Map by MoEF (Madani, 2019)

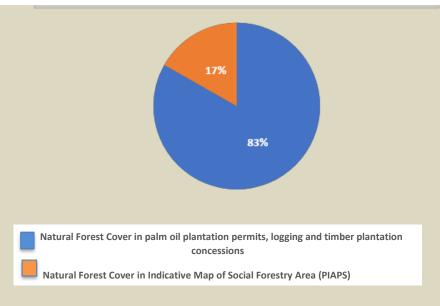
In comparison, natural forest cover within the area allocated for Social Forestry is only 6,138,169 hectares¹⁹ and the target is not fully realized/granted for communities.

¹⁷ Article 1 paragraph (38) the Regulation of the Minister of Environment and Forestry No. 70 of 2017 on the Procedures on the Implementation of REDD+.

¹⁸ Presentation of the Director General of Social Forestry and Environmental Partnerships in the Climate Festival, October 2, 2019.

¹⁹ Director General of Climate Change Control, "Unfolding First NDC: Mitigation NDC Road Map" presented at the Climate Festival, October 3, 2019.

Natural Forest Cover in Large Permits and Concessions vs Social Forestry



To be able to propose performance-based REDD+ activities that can be paid through the LH-Fund, there are two initial requirements that must be fulfilled by the community: 1) having a valid work area (legal-formal rights) and 2) located in REDD+ location or REDD+ implementation area (FREL/FRL area).²⁰ In addition, the community must meet technical requirements, for example calculation of FREL, and must conduct MRV (measurement, reporting, and verification) at least once every two years to calculate emission reductions and/or conservation or enhancement of forest carbon stocks for a certain period, and must register their activities in the National Registry System (SRN), including information regarding the implementation of safeguards.²¹

When implementing REDD+, the community can propose funding for REDD+ supporting activities, e.g. activities to achieve enabling conditions for REDD+. In the National Strategy, land tenure or land rights arrangements are referred to as one of the activities to fulfill REDD+ preconditions.²² Inventory of indigenous peoples and local communities, resolution of tenurial conflicts, and harmonization of laws and policies to implement Free, Prior and Informed Consent (FPIC) in the licensing process of natural resource utilization are part of the tenure restructuring activity that should be able to be funded through BPDLH. ²³

When the communities are unable to be direct REDD+ implementer, they can still benefit from the abovementioned REDD+ supporting activities or get a share of the performance-based payments through a benefit-sharing mechanism. In the National Strategy for REDD+, every right-holder for an area/site that becomes REDD+ program/project/activity is entitled to payment. Communities as individuals or collective groups that provide services to REDD+ program/project/activity providers are also entitled to such benefit. In addition, communities that contribute to the achievement of verified or certified emission reduction (VER/CER) in the form of collective ownership of land and/or collective forest management, where they are

²⁰ Article 6 paragraph (3) of the Regulation of the Minister of Environment and Forestry No. 70 of 2017 on the Procedures on the Implementation of REDD+.

²¹ Article 9-14 of the Regulation of the Minister of Environment and Forestry No. 70 of 2017 on the Procedures on the Implementation of REDD+.

²² REDD+ National Strategy, September 2012, p. 23.

²³ Ibid.

not paid as workers, are also entitled to benefit-sharing.²⁴ The REDD+ safeguards also include equitable distribution of benefits among affected indigenous peoples and local communities.²⁵

Social forestry as key to achieving climate commitment

Based on the national land cover data, natural forest cover in social forestry indicative area is 6.1 million hectares, 21.5% of which or around 1.37 million ha have moderate to high deforestation risk. This means that if social forestry in these areas are accelerated, accompanied by strong empowerment, this program can prevent deforestation in high-risk areas and has the potential to contribute 34.6% to the national NDC target in the deforestation sector. This potential has not calculated contribution in conserving and enhancing forest carbon stocks and protection of peatland as well has forest and peatland rehabilitation and restoration that can be conducted in social forestry areas.²⁶

Thus, in addition to support the achievement of economic equality targets, improving community welfare, and reducing poverty, social forestry can be the key to achieving Indonesia's climate commitments and NDC targets in the forestry sector provided that the government accelerates realization of social forestry and strengthen empowerment of communities in these areas in terms of area/land management, institutional governance, and business management. Therefore, it is important to prioritize REDD+ funding through the LH-Fund to support social forestry acceleration and community empowerment programs, including REDD+ implementation in social forestry area.

²⁴ REDD+ National Strategy, September 2012, p. 38.

²⁵ Appendix III A of Principles, Criteria and Indicators for SIS-REDD+, indicators 3.3.2 and 3.4.1 of the Regulation of Minister of Environment and Forestry No. 70 of 2017 on the Procedures on the Implementation of REDD+.

²⁶ Madani and the Climate & Society Foundation, "Contribution of Social Forestry to the Achievement of NDC," draft report.

Conclusions and recommendations

The principles of environmental integrity, effective participation of civil society, indigenous people and local communities as well as respect for the rights of indigenous and local communities are integral part of REDD+ and firmly stated in the REDD+ National Strategy. In this regard, there are issues regarding LH-Fund operationalization for financing REDD+ that need to be highlighted and addressed by the government, namely:

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To make LH-Fund work as a fair and inclusive REDD+ funding instrument, Coordinating Minister for Economic Affairs as Chairperson of LH-Fund Steering Committee, Minister of Environment and Forestry as Deputy Chairperson of LH-Fund Steering Committee, and Minister of Finance in charge of the LF-Fund should:

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Furthermore, the Norwegian government must also maintain consistency of their REDD+ results-based payment to the government of Indonesia with the requirements set up in the Letter of Intent, particularly with regards to ensuring safeguards implementation and institutionalized representation of civil society, indigenous people, and local communities in the governing structure of REDD+ funding instrument.

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Yayasan Madani Berkelanjutan is a non-profit organization aimed to bridge relations between key stakeholders (government, private sector, and civil society) to find innovative solutions in forest and land governance sector.

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