



Digital Financial Innovation in the Financial Sector

by Pratiwi Widyastuti

As technology advances, digital financial innovation cannot be ignored and needs to be managed in order to provide maximum benefits for community interests. It needs to be regulated, which will result in more reliable digital financial innovation that prioritizes consumer protection. Pursuant to these points, on 16 August 2018, the Financial Security Authorization (FSA) launched FSA Regulation No. 13/POJK.02/2018 regarding Digital Financial Innovation in the Financial Sector (DFI).

There are eight points to the scope of DFI. First, transaction completion, among others related to investment completion. Second, capital gathering, inter alia, equity crowdfunding, virtual exchange and smart contracts, and alternative due diligence. Third, investment management, which consists of advanced algorithms, cloud computing, capabilities sharing, open source information technology, automated advice and management, social trading, and retail algorithmic trading. Fourth, fund collection and distribution, which contains P2P lending, alternative adjudication, virtual technologies, mobile 3.0, and third party application programming interfaces. Fifth, insurance, which contains sharing economy, autonomous vehicles, digital distribution, securitization and hedge-funds. Sixth, market support, including artificial intelligence/machine learning, machine readable news, social sentiment, big data, market information platforms, and automated data collection and analysis. Seventh, other digital financial support made up of social/eco crowdfunding, Islamic digital financing, e-waaf, e-zakat, robo advice, and credit scoring. Eighth, other financial service activity, involving invoice trading, vouchers, tokens, and blockchain application based products.

FSA executing Regulatory Sandbox, meaning a process where institutions are allowed, to several exceptions from FSA regulations, to foresee the performance of the institution in respect of later approval or disapproval of their applications. This will assure the DFI fulfilment of criteria which are innovative and prospective, using IT and communication as a main facility for consumers in the financial services sector, support inclusion and financial literacy, are useful and can be used extensively, can be integrated into existing financial services using a colla-



borative approach, and lastly, has regard for aspects of consumer protection and data privacy.

FSA also demands any financial institutions intending to establish DFI are collaborating with other parties in the financial services sector. The establishment of DFI has to be by an incorporated company (PT) or a cooperative (koperasi). The execution must not manage a portfolio or exposure.

FSA decided the Institutions must do a trial of the Regulatory Sandbox which at least fulfils these requirements: registered as DFI at FSA or a based on request letter applied to related supervisory work units at FSA, new business model, have wide market business scale, registered at the association of Institutions, and other criteria decided by the FSA. The Regulatory Sandbox is performed for one year as the longest period and can be extended for six months if necessary. The results of the Regulatory Sandbox are declared as recommended, not recommended, and improvement status. The Institutions which obtain recommended status can rightfully make an application request to FSA. It is then authorized to supervise the registered Institutions. To complete the supervision mechanism, the Institutions also obliged to conduct principles of independent monitoring.

The Institutions which are in the Regulatory Sandbox period are required to deliver performance periodic reports to FSA, inform about the changes made to the DFI, are committed to revealing information regarding the process, attend counselling and education regarding the financial services sector, are willing to cooperate with other ministries, and lastly, the institutions must be willing to collaborate with other parties within the same sector.

Failure to follow the regulations will be sanctioned with administrative sanctions in the form of a written warning, fine, revoking agreement, and/or revoking application.

The Acquisition of Publicly Traded Companies

by Margareth Nita Gunawan



There is a new Regulation of The Financial Services Authority Number 9/POJK.04/2018 of 2018 regarding The Acquisition of Publicly Traded Companies (“**POJK No. 9/2018**”). Guidelines and Procedures for the acquisition of Publicly Trade Companies as governed by this POJK No. 9/2018 is intended to improve protection for holders of publicly traded shares, as well as to improve the quality of information disclosure to the government, and it has been deemed necessary to perfect regulations as regards the acquisition of publicly traded companies;

Any prospective new Controller which is undertaking negotiations that may lead to an acquisition, may announce the negotiation on acquisition plan. The announcement and submission of announcement shall be undertaken by no later than 2 (two) business days after any developments toward the said negotiation. In the case of the prospective new Controller deciding not to announce the negotiation, the prospective new Controller, including the Parties involved in the negotiation, are required to keep confidential any information of said negotiation.

After the acquisition, the Controller is required to announce it in at a minimum of 1 (one) Indonesian language daily newspaper which is circulated nationally or the website of the web Stock Exchange, and report to the Financial Services Authority as regards the occurrence of the acquisition by no later than 1 (one) business day after the acquisition, and undertake the Mandatory Tender Offering, except for:

1. shares owned by shareholders who already undertake acquisition transaction with new the Controller;
2. the shares owned by other Parties which have already secured an offer having the same requirements and conditions from the new Controller;

3. the shares owned by other Parties which at the same time also undertake the Mandatory Tender Offering or voluntary tender offering over the same Publicly Traded Company's shares;
4. the shares owned by Majority Shareholders; and
5. the shares owned by the other Controller of the said Publicly Traded Company.

New Controllers are required to implement the Mandatory Tender Offering for 30 (thirty) days which starts 1 (one) day after the announcement and to settle the Mandatory Tender Offering transaction by way of money handover by no later than 12 (twelve) days after the term of offer.

Holders of Publicly Traded Company shares who intend to sell the shares they own in connection to the Mandatory Tender Offering, should handover said shares to the custodian appointed by the new Controller and may withdraw the shares they own at any time prior to the Mandatory Tender Offering.

The new Controller is required to submit a report on the result of the Mandatory Tender Offering to the Financial Services Authority by no later than 5 (five) business days after the expiry of the transaction settlement.

The Financial Services Authority has the authority to impose administrative sanctions toward any Party who commits a violation toward the provisions of this POJK No. 9/2018, including any Party causing the occurrence of said violation, in the form of:

1. written warnings;
2. fine, namely the obligation to pay a certain amount of money;
3. restriction of business activities;
4. suspension of business activities;
5. revocation of business license;
6. nullification of approval; and/or
7. nullification of registration.

The administrative sanctions may be imposed with or without the imposition of administrative sanctions in the form of written warnings. The administrative sanction in the form of fines may be imposed individually or jointly with the imposition of other administrative sanctions.

Upon the effective enforcement of this POJK No. 9/2018, Rule Number IX.H.1, appendix to the Decree of the Head of Capital Market and Financial Institutions Supervisory Board Number Kep-264/BL/2011 on the Acquisition of Publicly Traded Company is repealed and declared invalid. This Regulation of the Financial Services Authority came into force on 27 July 2018.

Integration of Ministry of Communication and Information Permits and Services into OSS

by Gilbert Hansel

The Ministry of Communication and Information issued Ministry Regulation Number 7 of 2018 regarding Integrated Electronic Business Licensing Services for Fields of Communication and Information on 31 July 2018. This regulation integrates the business licenses issued by the Ministry of Communication and Information into the OSS system. This integration is mandated by Government Regulation Number 24 of 2018, which requires integration of the following permits and services into OSS:

- a. Postal operation permit;
- b. Telecommunication operation permit;
 1. Operation of Telecommunication Networks permit;
 2. Operation of Telecommunication Services permit; and
 3. Operation of special telecommunications for legal entity permits.
- c. Broadcasting permit;
 1. IPP for Local Public Broadcasters of Radio Broadcasting Services Institution;
 2. IPP for Local Public Broadcasting of Television Broadcasting Services Institution;
 3. IPP for Private Broadcasting Institutions of Radio Broadcasting Services;
 4. IPP for Private Broadcasting Institutions of Television Broadcasting Services;
 5. IPP for Community Broadcasting of Radio Broadcasting Services Institution;
 6. IPP for Community Broadcasting of Television Broadcasting Services Institution; and
 7. IPP for Subscribed Broadcasting for Television Broadcasting Services Institution.
- d. Usage of Radio Frequency Spectrum permit;
 1. IPFSR
 2. ISR
- e. Stipulation of telecommunication numbering;
 1. Block Number;
 2. National Destination Code (NDC);
 3. Signaling Point Code (SPC);
 4. International Signaling Point Code (ISPC);
 5. Public Land Mobile Network Identity (PLMNID);
 6. Intelligent Network (IN) Access Code;
 7. International Connection Access Code (SLI);
 8. Access Code for Long Distance Direct Dialing (SLJJ);



9. Telephony Internet Access Code for Public Needs (ITKP);
 10. Access Code of Call Center;
 11. Premium Short Message Content Service Access Code (Premium SMS);
 12. Calling Card Access Code;
 13. Access Code for Community Service Centers;
 14. Access Code for Community Services Short Message; and
 15. Other telecommunications numbering in accordance with the applied regulation.
- f. Satellite landing rights;
 - g. Certification of telecommunication tools and / or equipment
 - h. Registration of Electronic System Operator;
 - i. Recognition as an Electronic Certification Operator; and
 - j. Registration of Information Security Management System Certification Institution.

There are also some improvements for permits and services processing time; all the permits and services approval or refusal will be issued on the same date if the complete submission is received no later than 11.00 on a working day. If the submission is received after 11.00 on a working day, the approval or refusal will be issued on the next working day. Whereas for fixed and land mobile ISR and satellite ISR, they will be issued on the latest working day after the complete submission.

Any business entity that wishes to conduct business development at a new location in the same field and type of operation can apply for expansion of service area by submission to the OSS, and making a commitment statement, the fulfillment of which the Ministry will perform an evaluation.

As mentioned above, submission for permits and services that had been submitted but where no permit was issued must be processed through the OSS System. Any businesses that have obtained a permit before the enactment of this Ministerial Regulation must register through the OSS system no later than a year after the promulgation of this Ministerial Regulation.

Guidelines and Procedures for Investment Licenses and Facilities

by Alexander Josua Hutagalung

For the purposes of implementing the provisions of Article 88 Government Regulation No. 24 of 2018 concerning Electronic Integrated Business Licensing Services ("**Government Regulation No. 24/2018**"), it is necessary to develop norms, standards, procedures and criteria for Business Licensing and Investment Facilities. Therefore, the Capital Investment Coordinating Board ("**BKPM**") has established new guidelines and procedures through the issuance of regulation number 6 of 2018, which is dated and effective as of 20 July 2018 ("**Regulation No. 6/2018**"). This regulation revokes The Investment Coordinating Board Regulation No. 13 of 2017 on Guidelines and Procedure for Investment Licensing and Facilities. Guidelines and Procedures for Investment Licensing and Facilities as governed by this BKPM Regulation No.13/2017 is intended as a guide for central PTSP officials in BKPM, Provincial DPMPTSP, DPMPTSP Regency / City, KEK Administrator, KPBPB Management Board, business actors and the public.

BKPM remains authorized to issue business licenses in the energy and mineral resources sector, public works and housing sector and would also continue processing applications for: i) a Foreign Company Representative Office, for businesses in sectors other than trade and construction; ii) a branch opening license for business actors whose business licenses were issued by the central PTSP; iii) a recommendation for a limited stay visa for shareholders ("**ITAS**"); iv) a recommendation for changing an ITAS to a permanent stay permit.

Since the issuance of Regulation No. 6/2018, BKPM has finally made it clear that even though the OSS System has been launched, it will continue to handle several licenses, which will remain under the authority of BKPM. There are several provisions following Investment Licenses which are now regulated by Regulation No. 6/2018, such as: i) Business conditions; ii) Provision on Investment and Capital Value; and iii) provisions of business fields. Companies that wish to start a business must already have NIB (Nomor Induk Berusaha) and Business Licensing in accordance with the provisions of the law and regulations.

To be clear, all companies must still register in the OSS system and obtain a NIB. Their data and information must also be uploaded to the OSS system. According to Government Re-



gulation No. 24/2018, this is its business identity. A company's NIB also serves as its company registration certificate, importer's identification number and Customs access. A NIB is required for all business license and commercial or operating license applications submitted through the OSS system. Without it, the application will not be processed. Therefore, all applications for a business license, commercial license, a permit to expand a business, etc. must now be submitted through the OSS system as long as the business activities are under the authority of OSS (not the BKPM, as explained above). To date, the OSS system is already in operation but not yet fully operational. The OSS agency is still developing, making adjustments and updating the system to make it fully operational.