



Private Securities and Sukuk Securities: New Regulations

by Melisa Kristian



Image source: <https://encrypted-tbn0.gstatic.com/images?q=tbn%3AANd9GcR9co5BJZ8fsmJDXFLBN688mN6ZcBoK13mRQ&usqp=CAU>

In November 2019, the Financial Services Authority enacted new Regulations* relating to credit securities and sukuk securities (together, the **Securities**) that are not issued by public offering. Sukuk securities are a form of security that comply with sharia law by paying out profits not interest and are usually asset backed. These Securities may only be issued to professional investors.

The Regulations apply to Securities that are valued at least 1 billion Rp and either:

- mature after one year; or
- mature in less than one year, but are not subject to review by Indonesian authorities.

The Regulations state that the Securities must be issued either by:

- public or issuing companies;
- other Indonesian entities;
- supranational institutions; and/or
- certain types of collective investment contracts.

The Regulations give details of when a Security must be issued in conjunction with an issuance organizer and a supervising agent, which will oversee the regulation of the Securities until maturity.

The Regulations, as further clarified by letter in June 2020**, do not apply to Securities issued outside Indonesia and not available to Indonesian investors unless the issuer voluntarily complies with the Regulations or is instructed to comply with authorised officials.

*OJK Regulations No. 30/POJK.04/2019 of 2019

** OJK Letter No. S-161/D.04/2020 of 2020

Tax Reduction in the Midst of Covid-19

by Shaskia Putri Ramadhani

The government has issued new regulations to reduce income tax for eligible Indonesian public companies to help alleviate economic stress arising from Covid-19 (**Regulation No. 30**). *



Image source: https://encrypted-tbn0.gstatic.com/images?q=tbn%3AANd9GcQ_bFAhpOkjBuID5UqKR5d_SDvohUwO3BQLA&usqp=CAU

Prior to the issuance of Regulation No. 30, eligible Indonesian companies were subject to an income tax tariff of 28% as set out under Law No. 36 of 2008 as the fourth amendment of Law No. 7 of 1983. They will also get a further 5% reduction from the original tariff as set out on Regulation No. 77. Currently, Regulation No. 30 reduce the income tax to 22% for the 2020 and 2021 fiscal years and 20% for the 2022 fiscal years, with an additional 3% reduction in the tariffs that can be enjoy by some eligible tax payers.

The eligible Indonesian public companies are:

- must be public companies;
- the shares issued and traded in stock exchange must be at least 40% of the total number of shares;
- the shares must be owned by a minimum of 300 shareholders;
- each shareholders must owned less than 5% of the company's total issued and paid shares;
- all the requirements mentioned above shall be maintained for at least 183 calendar days during one fiscal year.

And the Indonesian public companies who are not eligible to enjoy tax reduction are companies that buybacks its shares and/or shareholders who become controlling shareholders or major shareholder with the public companies concerned.

The Regulation No. 30 came into effect on 19 June 2020.

* Government Regulation No. 30 Year 2020 concerning Income Tax Tariff Reduction for Domestic Corporate Taxpayers in the Form of Publicly Traded Companies, which revoked and declared invalid Regulation No. 77 Year 2020 concerning Income Tax Tariff Reduction for Domestic Corporate Taxpayers in the Form of Publicly Traded Companies (Regulation No. 77).

Mining Regulations Amended

by Pratiwi Widyastuti

The Indonesian government has made wide-ranging changes to regulations relating to mineral and coal mining (the Regulations).^{*} The changes encompass areas such as licensing, divestment of shares in foreign-owned mining concerns, the technical detail of the mining process itself, community based mining and sanctions.



Image source: <https://encrypted-tbn0.gstatic.com/images?q=tbn:3AAAd9GcT9UxV5L5bcG7hy 15W58nT1UpRyImAdQ8uugw-CAU>

The new Regulations introduce a new type of mining licence called the IUP. The IUP replaces the previous mining business licence and contracts of work (such as KK and PKP2B). The Regulations allow that current holders of the KK and the PKP2B will be converted to the new IUP if the mining entity is performing well. The new Regulations now allow for the transfer of ownership of an IUP.

The new Regulations provide clarity in relation to share divestment of mining entities owned by non-Indonesian owners. Those mining entities must divest 51% of their shares to the government, or to an entity specified by the government. This ensures that all Indonesian mining operations will be controlled by Indonesia.

The new Regulations require IUP holders not only to mine raw materials but also to process and refine them. Processing and refining can be carried out as a separate enterprise and with other parties. This rule is to ensure that Indonesian entities gain maximum value from their mining activities.

The new Regulations increase the grant set aside for community mining from 25 hectares with a 25 metre depth to 100 hectares with a 100 metre depth.

The new Regulations reduces by half the period of imprisonment for breach of the laws from ten years to five years and provides for a ten-fold increase in the maximum fine from 10 billion to 100 billion Rupiah.

^{*}Law No. 3 of 2020 to Amendment to Law Number 4 of 2009 regarding Mineral and Coal Mining.

Collective Investment Contracts: New Accounting Standards

by Silvana Jovanka Putri Surbakti



Image source: <https://encrypted-tbn0.gstatic.com/images?q=tbn:3AAAd9GcT9UxV5L5bcG7hy 15W58nT1UpRyImAdQ8uugw-CAU>

On 2 June 2020, The Financial Services Authority has introduced new regulations^{*} to introduce further transparency, consistency and legal certainty in the preparation of financial statements for collective investment contracts or, in Indonesian, Kontrak Investasi Kolektif (**KIK**).

KIK can include many different forms of collective investment, however, the new Regulations deal specifically with KIK backed:

- mutual funds;
- asset-backed securities (**KIK-EBA**);
- real-estate investment funds;
- multi-asset investment funds;
- infrastructure investment funds (**DINFRA**); and
- other products, as determined by the Financial Services Authority.

Investment managers and custodial banks are responsible for the preparation of KIK financial statements, which must be prepared based on Indonesia's financial accounting standards (Standar Akuntansi Keuangan), and the Financial Services Authority's Accounting Treatment Guidelines for KIK.

In the cases where a KIK has control over other entities, consequently KIK will be required to consolidate the financial statements of the other entities under its control into a single, consolidated financial statement. KIK will be categorized as having control over other entities if they meet the following criteria:

1. Exercises control over a party that is receiving investment;
2. Possesses exposure or rights relating to variable return as a result of its involvement with a party which is receiving investment; and
3. Has the ability to utilize its authority over a party which is receiving investment in order to influence the amount of variable investor return.

The new Regulations impose administrative sanctions for breach including the revocation of a business licence.