



Initial Public Offering Online: Indonesia's New System

by Silvana Jovanka Putri Surbakti



Image source: <https://encrypted-tbn0.gstatic.com/images?q=tbn%3AANd9GcTBIXFTVfCweq2AluStqf6ExCaluDY5MO6yww&usqp=CAU>

In July 2020, the Financial Services Authority, or the OJK, enacted Regulations* implementing Indonesia's first online initial public offering system, which can be accessed at: www.e-ipo.co.id

The new system can be used for all initial public offerings and all associated transactions including settlement of orders.

The system has been set up by institutions appointed by the OJK including the stock exchange and various other financial institutions. Securities companies may use the system only if they have an OJK securities underwriting/broking licence and/or they have been approved by the OJK as system participants.

The new system must be used if securities will be offered to the public via a securities underwriting service and will be listed on the stock exchange. Besides that, the issuers should allocate a certain number of securities offered for centralized allotment according to the public offering class. However, these mandatory usage only applied in 2 January 2021 to any issuers of equity securities (in the form of stocks) that were in the process submitting registration statements to the OJK.

In order to use the system to buy securities, prospective buyers must have a Single Investor Identification code (SID), a securities account and a customer fund account. These can be applied for through the PT. Kustodian Sentral Efek Indonesia (KSEI). Prospective buyers can register an expression of interest in particular securities. These expressions of interest will be converted to orders if the price bid is equal to, or higher than, the final price and the prospective buyer has confirmed that they had read the relevant prospectus at the time the expression of interest was submitted.

The new Regulations impose administrative sanctions for breach including the revocation a business license and fines.

*OJK Regulation No. 41/POJK.04/2020 of 2020

New Financial Regulations: Affiliated Transactions and Conflicts of Interest

by Pratiwi Widyastuti

Indonesia's financial sector is strictly regulated by the Financial Services Authority (FSA). Supervision of capital markets falls within the FSA's remit including dealing with any kinds of conflicts of interests in transactions and transactions between affiliated companies. Conflicts and transactions between affiliates are regulated by the FSA Regulation No. 42/2020.*



Image source: https://encrypted-tbn0.gstatic.com/images?q=tbn%3AANd9GcQ25LQFLz29R8pRt88W5LL2dRpG3_7Lwh_1Q&usqp=CAU

The new Regulations broaden the definition of affiliated transactions to include any transaction carried out by a public company with any of the companies within its company structure. The definition of company structure includes individuals associated with the company in some way including directors, shareholders and board members. This means that any transaction carried out by a parent company with any of its wholly or partly owned companies and/or related individuals is now classed as an affiliated transaction. The Regulations also provides specific examples of the types of transactions between affiliated parties that may be caught by the Regulations.

The Regulations now require public companies to assess planned transactions to determine whether they are affiliated transactions. Public companies now need to employ an appraiser to independently assess the proposed transaction as appropriately at arms-length and also to obtain shareholders' prior approval for the transaction. The Regulations list a number of exempted transactions, which are usually transactions that benefit the company structure as a whole.

In addition to affiliated transactions, the new Regulations provide more clarity when defining conflicts of interest in transactions carried out by public companies. Conflicts can arise in a transaction between a public company and any party if the result of the transaction harms the public company. The Regulations provide some exceptions including if transactions are for the purposes of implementing the law or a court decision or for restructuring purposes.

The Regulations provide for administrative sanctions for breach of its provisions.

*FSA Regulation No. 42/2020. This revoked Regulation of the Head of Capital Markets and Financial Institutions Supervisory Agency No. Kep-412/BL/2009.

Easier Access to Capital Market Funding for Small to Medium Enterprises

by Shaskia Putri Ramadhani

To stimulate the economy, the Financial Services Authority has issued Regulation No. 43 to relax certain rules relating to information disclosure and corporate governance for small to medium sized companies (assets up to 250 billion Rupiah) in relation to initial public offerings. Regulation No. 43 allows these normally strict regulations to be relaxed once the company has issued an officially registered statement that it intends to make a public offering.



Image source: <https://encrypted-tbn0.gstatic.com/images?q=tbn%3AANd9GcQQiWY16nPI0sXj83WoUEeJrB8PMFjbLUXA&usqp=CAU>

The Regulations are strict about which companies they apply to and even if a company meets the asset threshold, the rules will not apply if, for example, the company is controlled by another company that does not meet the asset threshold.

While the normal information disclosure and transparency rules are relaxed by Regulation No. 43, they are not discarded. Rather, these rules are simplified for qualifying companies. For example, qualifying companies are not required to conduct general shareholders meeting in relation to the resignation of directors or commissioners, qualifying companies to have only one independent commissioner, qualifying companies do not need to establish an audit committee, rather the function of an audit committee may be carried out by an independent auditor, and another example is eliminating the companies obligation to publish financial statements and information disclosure through national newspaper (if the companies listed on Indonesian stock exchange).

The relaxation of these rules is intended to balance smaller companies' need for smoother, less onerous access to capital market funding with investors' interests in transparency and governance.

Violation of Regulation No. 43 will be subject to administrative sanctions.

* Financial Services Authority Regulation No. 43/POJK.04/2020 regarding Obligation of Information Transparency and Corporate Governance for Issuers or Public Companies Fulfilling Criteria for Issuers with Small-Scale Assets and Issuers with Medium-Scale Assets, which became effective on 2 July 2020.

New Regulations: Streamlining VAT Administration

by Melisa Kristian



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In June 2020, the Director General of Taxation enacted new regulations to streamline the methods of administering VAT for businesses that carry out their activities at more than one location (the **New Regulations**).^{*} Businesses that administer VAT at different premises may now be able to nominate one (or more) premises that can act as a centralised hub allowing the businesses to administer VAT collected across all their premises in one location.

A centralised VAT administration location must be one of the locations at which the businesses operate and/or administer VAT.

Businesses must notify the Director General of Taxation which location has been chosen as a central payment hub. Any business that has previously been granted the right to pay VAT from one location must reapply for approval from the authorities in accordance with the New Regulations.

*Director General of Taxation Regulations No. PER-11/PJ/2020 of 2020

COVID19: Subsidies for Businesses

by A. A. A. Reditha Saras

In the course of this pandemic, the government has issued several regulations to support its National Economy Recovery Program. On 9 July 2020, the Minister for Finance issued Regulation 85* to implement a simplified scheme to distribute interest and margin subsidies to qualifying businesses (together, the **Subsidies**).

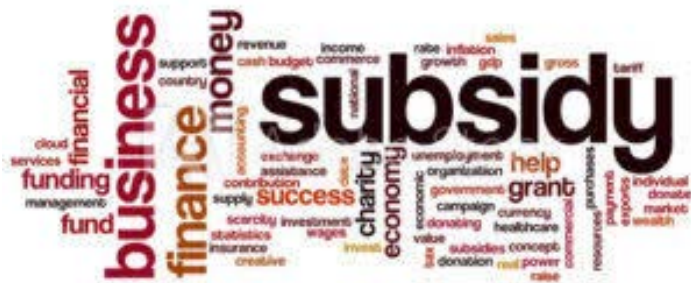


Image source: <https://encrypted-tbn0.gstatic.com/images?q=tbn%3AAND9GcTbYzUzifjoOdA5pMwCQ7Y7EjwPuCuwdl98usap=CAU>

The government provides an interest subsidy when it pays the difference between the interest rate provided to a Credit/Finance Lender and the interest rate that Credit/Finance lender charges to its customers.

By contrast, a margin subsidy is when the government pays the difference between the margin received by a Credit/Finance lender and the margin that the Credit/Finance lender charges to its customers for sharia financing schemes.

Regulation 85 provides that the government will pay Subsidies to micro, small and medium sized enterprises that have, among other things, credit/financing of no more than Rp 10 billion and that are adversely affected by COVID-19.

The Subsidies are paid for 6 months from 1 May 2020 to 31 December 2020. The Subsidies are distributed through various government organisations, which will determine those enterprises that qualify for the Subsidies.

Qualification for other subsidies does not exclude a qualifying business from receiving Subsidies under Regulation 85.

*Minister for Finance Regulation No. 85/PMK.05/2020 of 2020 concerning Procedures for the Provision of Interest Subsidies/Margin Subsidies For Credit/Financing Micro, Small, and Medium Business Enterprises in Supporting the Implementation of the National Economic Recovery Program.

Oil and Gas Production Sharing: Latest Developments

by Kemal Rayoza



Image source: https://encrypted-tbn0.gstatic.com/images?q=tbn%3AAND9GcSdhYkDix-4B0hTrzSnJJ_WDAT-8npw8usap=CAU

On 15 July 2020, the Minister for Energy and Mineral Resources (ESDM) enacted the third amendment to the Production Sharing Contract (**PSC**) Regulation.* This ministerial regulation was stipulated to provide legal clarity and stimulate investment in upstream oil and gas industry. The new amendment gives oil and gas producers the freedom to choose the type of sharing scheme they want to enter into with the government. This ministerial regulation was stipulated to provide legal clarity and stimulate investment in the upstream oil and gas industry.

Prior to the amendment, oil and gas producers were obliged to share their gains with the government by splitting their gross gains or using gross split scheme. However, the new amendment enables producers to choose other ways to share production gains including via a cost recovery scheme, which was in use prior to the introduction of the gross split scheme in 2017.

The Minister will determine the form and main provisions of any production sharing scheme chosen. A production sharing scheme must include at least the agreement that natural resources are owned by the government until the point of delivery, that operational management is controlled by government taskforce, SKK Migas, and that capital is raised, and risk is borne, by the contractor. In deciding the production sharing scheme, the Minister will consider the risk of the project, the investment climate, and the benefit for the Republic of Indonesia.

Any production sharing scheme entered into before the amendment will remain valid for the term of the contract, though contractors may propose to change their sharing scheme in accordance with the new amendment.

* Minister for Energy and Mineral Resources Regulation No. 12 of 2020 concerning the third amendment to the Minister for Energy and Mineral Resources Regulation No.08 of 2017 concerning Gross Split Production Sharing Contracts.