

# BLP NEWSLETTER

ISSUE 100 • DECEMBER 2023

In the latter part of this year, Indonesia has witnessed significant legislative changes, particularly in the finance sector, where the Financial Services Authority (FSA) has introduced various regulations to enhance transparency and innovation, covering areas such as debt securities, Sharia-compliant bonds, e-commerce, and governance standards for commercial banks. Simultaneously, the FSA addresses business continuity disruptions and promotes financial inclusivity. Additionally, the Minister for Energy and Mineral Resources has streamlined mining business license administration to bring consistency and boost confidence in the mining sector. More details on any of these legislative developments can be found in this newsletter. Please contact your usual BLP lawyer to find out how these developments affect your business.

## Indonesia's Tech-Driven Innovation in Collaborative Financing Services

by Kumalasari Retnopati



The Indonesian Financial Services Authority ("OJK") has taken a significant leap in integrating information technology into collaborative financing services with its Circular Letter No. 19/SEOJK.06/2023 (the "**Regulation**"),<sup>1</sup> which came into effect on 8 November 2023. The Regulation aims to encourage financial institutions to harness technology for innovation, highlighting its potential to drive financial inclusion and expand services to a broader audience.

This Regulation applies to any Indonesian legal entity which operates a digital platform that unites fund providers and fund recipients for funding transactions. The Regulation addresses various key aspects of collaborative financing, one of which is, users' data and information management. The Regulation states that the operator can only access, obtain, store, manage, process and/or use users' personal data with consent – bringing collaborative financing in line with the general regulatory regime relating to personal data protection.

<sup>1</sup> The Indonesian Financial Services Authority (OJK) Circular Letter Number 19/SEOJK.06/2023 regarding the Implementation of Collaborative Financing Services Based on Information Technology.



## Commercial Banks' Governance: New Regulations

by Luisa Srihandayani

Indonesia's Financial Services Authority (FSA) recently enacted the FSA Regulation No. 17 of 2023 concerning the Application of Governance for Commercial Banks (the **New Regulations**) on 14 September 2023.

In the New Regulations, the FSA amends some existing regulations to bolster the governance standards for commercial banks. Amendments include the replacement and dismissal procedures for the board of directors and the board of commissioners, the classification of committees and work guidelines, the implementation of risk management, and the updating of the dividend policy. These provisions will need to be incorporated into commercial banks' internal guidelines and procedures. The New Regulations provide administrative sanctions for breach.

In addition, the FSA aims to consolidate the general governance of commercial banks under a single FSA regulation. The New Regulations outline the entire compliance framework for both conventional and sharia banks, bringing the current regime, consisting of at least 19 different regulations, under one legislative umbrella. In the event of a conflict between the provisions of the New Regulations and the current regulatory regime, the provisions of the New Regulations will apply.

## Sustainability-Based Debt Securities and Sukuk: New Regulations

by Valya Hermayrani

The Indonesian government aims to integrate activities relating to environmental sustainability and social enterprises into Indonesia's financial legislative framework. To further this aim, the Financial Services Authority (*Otoritas Jasa Keuangan/OJK*) issued new regulations (the **New Regulations**).<sup>\*</sup> The New Regulations are intended to strengthen Indonesia's capital market industry through the development of debt securities and Sharia compliant bonds, *sukuk*, that relate to environmental sustainability and social enterprises. The New Regulations are not only limited to environmental debt securities (*green bond*), but also cover environmental *sukuk* (*green sukuk*), social debt securities (*social bond*) and *sukuk* (*social sukuk*), sustainability bond and *sukuk*, *sukuk*-linked *waqf* and sustainability-linked bond and *sukuk*.

The New Regulations apply to relevant financial instruments issued through a public offering or privately, if they have a due date of more than 1 year.

The New Regulations require that issuers of the relevant securities must submit an annual report to the OJK covering the performance of the financial instrument. This report must be reviewed by an independent reviewer provided by the issuers. Issuers should ensure the independence of the independent reviewer. Administrative penalties apply for failure to submit the annual report – including business licence revocation.

The New Regulations replace OJK Regulation No. 60 Year 2017 on the Issuance and Terms of Green Bond.

\* Financial Services Authority Regulation Number 18 of 2023 on the Issuance and Terms of Debt Securities and Sustainability-Based Sukuk.

## Newest Mining Business Licence Procedures

by Faudzan Eka Putra

The Minister for Energy and Mineral Resources has issued new regulations to streamline the administration of mining business licenses.<sup>\*</sup> The new regulation addresses several problems in the administration of mining business licenses arising from the previous regulation.<sup>\*\*</sup>

The new regulation sets out several new procedures by which a business, that fulfills certain criteria, may carry out certain appeal-like processes. These processes including being able to apply directly to the Director-General of Mineral and Coal, against decisions of the State Administrative Court and/or a state agency responsible for public services, in relation to the entity's mining business licence. Furthermore, the regulation allows that even if the decision of the State Administrative Court in relation to the business' mining licence are legally binding, business entities may submit further applications directly to the Director General of Mineral and Coal.

Similarly, holders of multiple mining licences may, in certain circumstances, submit further licence applications directly to the Director General of Mineral and Coal. In effect, this new regulation allows the Ministry for Energy and Mineral Resources to override local governing bodies, and bolsters business confidence in the mining sector with consistent and predictable decision making.

\* Decree of the Minister of Energy and Mineral Resources No. 297.K/Mb.01/Mem.B/2023 Of 2023 on Procedures for Processing the Issuance and Registration of Mining Business Licenses

\*\* Decree of the Minister of Energy and Mineral Resources Number 15.K/HK.02/MEM.B/2022 on the Processing of Issuance and Registration of Mining Business Licenses

## Public-to-Private Transition due to a Listing Cancellation

by Hans Sebastian Adiwinata

The Financial Services Authority (FSA) has issued a Circular Letter to regulate the buyback of shares and the subsequent public-to-private transition of a company due to a listing cancellation.\* The Circular was enacted on 6 September 2023. The Circular sets out the share buyback procedures for a public company, the listing of which has been cancelled by the Stock Exchange due to a condition or an event which significantly negatively affected the company's business continuity.

A public company, the subject of such a listing cancellation, must begin the share buyback from public shareholders no later than 30 days after the Stock Exchange has announced the cancellation to the public.

Similarly, a public company, the subject of such a listing cancellation, must begin the process to change its status from public to private no later than 30 days after the decision to cancel its listing is effective – which is the date that the company's change of status has been announced at the general shareholders meeting.

Failure to comply with the provisions of the Circular may result in administrative sanctions.

\* Circular Letter No. 13/SEOJK.04.2023 of 2023 on the Buyback of Shares of Publicly Traded Companies as a Result of the Cancellation of Listing of Securities by the Stock Exchange due to Conditions or Events that have Significant Negative Impacts on the Business Continuity.

## Indonesia's New E-Commerce Regulations

by Annisa Ayu A

Indonesia's Minister of Trade has enacted new regulations\* that significantly impact both local and offshore businesses operating through Indonesia's e-commerce systems. The regulations took effect on 26 September 2023, replacing and revoking the prior regulation.\*\*

The purpose of the new regulations is to enhance transparency, build consumer trust, and create a more robust foundation for Indonesia's digital economy. Under the regulations, in order to operate through Indonesia's e-commerce systems, businesses must obtain trading business licenses relevant for their specific sectors, in accordance with the regulatory regimes governing those sectors. In addition, all businesses operating an e-commerce platform in Indonesia must uphold ethical advertising practices, providing consumers with accurate and reliable information. Failure to comply may result in severe administrative measures, such as restricting the business' access to websites/platforms or the revocation of a business licence.



The regulations mark a significant step toward balancing the rapid growth of e-commerce with the necessity for a structured and regulated marketplace. As businesses navigate this dynamic landscape, those who embrace these standards are not just following the rules – they are shaping the future of responsible and prosperous commerce in Indonesia.

\* Regulation of The Minister of Trade of The Republic of Indonesia (PERMENDAGRI) No. 31 of 2023 regarding Business Licensing, Advertising, Development, and Supervision of Business Actors in Trading Through Electronic Systems.

\*\* Regulation of The Minister of Trade of The Republic of Indonesia (PERMENDAGRI) No. 50 of 2020 regarding Business Licensing, Advertising, Development, and Supervision of Business Actors in Trading Through Electronic Systems.

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