

# NEWSLETTER

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## THE INDONESIAN FINANCIAL SERVICE AUTHORITY (“OJK”)’S AUTHORITY TO ORDER RESTRUCTURING AGAINST INDONESIAN BANKS

To overcome the deterioration of Indonesian economic due to the impact of Covid-19 pandemic and as one of the implementing regulations of the Government Regulation in Lieu of Law No. 1 of 2020 on State Financial Policy and Financial System Stability in Handling Covid-19 pandemic and/or to Manage the Threat that may Endanger the National Economy and/or Financial System Stability, OJK has issued OJK Regulation No. 18/POJK.03/2020 on Written Order to Manage Problematic Banks (“**OJK Reg. 18/2020**”).

### **The Subject of Mandatory Corporate Actions**

According to OJK Reg. 18/2020, OJK may issue a written instruction to Indonesian banks to exercise and/or being the subject of Corporate Actions. The followings are the criteria of the bank that may be instructed to perform the Corporate Actions:

1. the particular bank is categorized as experiencing financial problems that may disrupt its business continuity or be deemed incapable of dealing with pressures that will be faced shortly; and/or
2. the controlling shareholders of the bank are lack of ability/resources to strengthen the bank’s liquidity position and/or is inadequate to perform consolidation effort.

To be the counterparty of OJK’s Corporate Actions instruction, the banks shall satisfy the following categories:

1. Conventional Commercial Bank (*Bank Umum Konvensional* or “**BUK**”) or Sharia Commercial Bank (*Bank Umum Syariah* or “**BUS**”) is required to accomplish a minimum soundness level of composite rating 3 (*peringkat komposit 3* or “**PK-3**”) after implementing the relevant Corporate Actions;
2. Rural Bank (*Bank Perkreditan Rakyat* or “**BPR**”) is required to accomplish a minimum financially sound (*cukup sehat*) level after implementing the relevant Corporate Actions; or
3. Sharia Rural Bank (*Bank Perkreditan Rakyat Syariah* or “**BPRS**”) is required to accomplish a minimum soundness level of PK-3 after implementing the relevant Corporate Actions.

### **Corporate Actions Implementation Plan**

Essentially, OJK Reg. 18/2020 requires the banks to prepare an implementation plan that at least consists of information about the timeline and the process of such Corporate Actions (“**Implementation Plan**”) upon receiving the relevant written instruction.

Further, OJK Reg. 18/2020 obliges the banks to ensure the Corporate Actions are in-line with its Implementation Plan, while simultaneously reporting the development of such Corporate Actions to OJK.

## **Corporate Action Procedures**

This regulation expressed that the implementation of Corporate Actions must comply with the method specified under OJK Regulation No. 41/POJK.03/2019 on Mergers, Consolidations, Acquisitions, Integrations, and Conversions for Commercial Banks (“**OJK Reg. 41/2019**”) and/or OJK Regulation No. 21/POJK.03/2019 on Mergers, Consolidations, Acquisitions, Integrations, and Conversions for Rural Banks and Sharia Banks (“**OJK Reg. 21/2019**”), unless it is expressly stated otherwise by OJK Reg. 18/2020.

Aside from the requirements and procedures established under OJK Reg. 41/2019 and/or OJK Reg. 21/2019, this regulation also provides additional guidelines concerning the Corporate Actions.

## **Exemptions**

There are some immunities toward BUK and BUS that implement the OJK’s Corporate Actions orders under the OJK Reg. 18/2020, i.e.:

1. Exclusion from banks single presence policy.
2. Exclusion from banks ownership rules.
3. Exclusion from the minimum core capital compliance deadline.

If the banks, instructed by OJK to perform and/or accept the Corporate Actions, are public listed companies, they will be excluded from the disclosure requirements subject to prior approval from OJK.

## **Non-compliance Sanctions**

Disregarding OJK instructions to undergo Corporate Actions may lead to the imposition of administrative sanctions against the relevant bank as an entity, its management, and its controlling shareholders.

If you have any queries or would like us to assist you with any aspects of this mandatory restructuring order policy, please feel free to reach us by email through [info@yangandco.com](mailto:info@yangandco.com).