

# Indonesia Regulatory Update

April 2017



## Regulatory Highlights

This publication sets out to highlight at summary level, some of the key current regulatory changes in Indonesia. These important changes have implications for industry, covering a wide range of industries and within these, specific and complex business processes. For further details on any of the items covered, a listing of KPMG Contact Points for further discussion is included at the end of the document. Hyperlinks to the source documentation (Bahasa Indonesia for most items) are provided as appropriate.

Regulatory updates covered in this publication are as follows:

- Share Ownership in Commercial Banks
- Application of Good Governance in Commercial Banks
- Assessment of Commercial Banks' Soundness Level
- Recovery Plan for Systemic Banks
- The Submission of Information on Foreign Customers Related to Taxes in the Context of International Automatic Exchange of Information by Using Common Reporting Standard.

## Financial Services

### Share Ownership in Commercial Banks

Indonesian Financial Services Authority ("Otoritas Jasa Keuangan" – "OJK") Circular Letter No. 12/SEOJK.03/2017 is the implementation of [OJK Regulation No. 56/POJK.03/2016](#) on the Share Ownership in Commercial Banks. This Circular letter revokes [Bank Indonesia \("BI"\) Circular Letter No. 15/4/DPNP](#) regarding the Share Ownership in Commercial Banks, and has come into effect as of 17 March 2017.

Some of the noteworthy provisions covered in the Circular Letter are, among others:

- The provisions on shareholding caps for Regional Governments and Bank Holding Companies. The shareholding cap for Regional Governments is set at 30%, whereas the shareholding cap for Bank Holding Companies is decided based on the Bank Holding Companies' highest shareholder category.
- The procedures for shareholders to own more than 40% of bank's shares as well as the mandatory commitment to buy the bank's equity bonds.
- The obligation for prospective controlling shareholders to support Indonesia's economic development. Such commitment must be made in written form which indicates economic sectors and the prioritized regions.
- The requirement for prospective controlling shareholders who own foreign nationality or domiciled overseas to obtain recommendation from supervisory authority of their country of origin in order to own more than 40% of bank's shares.

(Issued regulation in Bahasa: [OJK Circular Letter No. 12/SEOJK.03/2017](#))

### Application of Good Governance in Commercial Banks

OJK Circular Letter No. 13/SEOJK.03/2017 is the implementation of [OJK Regulation No. 4/POJK.03/2016](#) on Assessment of Commercial Banks' Soundness Level and [OJK Regulation No. 55/POJK.03/2016](#) on Implementation of Governance for Commercial Banks. This Circular Letter revokes [BI Circular Letter No. 15/15/DPNP](#) regarding the Application of Good Governance in Commercial Banks and has come into effect as of 17 March 2017.

This Circular Letter sets out provisions on Good Corporate Governance ("GCG") relating to:

- Boards of Directors ("BOD");
- Boards of Commissioners ("BOC");
- The establishment of Committees, which include the auditing, risk-monitoring, remuneration and nomination committees;
- Potential conflicts of interest;
- The implementation of GCG by foreign branch offices;
- Self-assessment of GCG;
- Transparency in the implementation of GCG; and
- Reporting on the implementation of GCG.

The Circular Letter excludes three requirements from the GCG implementation report, which are: the remuneration package and other facilities for BOC and BOD; share option owned by Commissioners, Directors and Executive Officers; as well as salary ratio.

*(Issued regulation in Bahasa: [OJK Circular Letter No. 13/SEOJK.03/2017](#))*

#### Assessment of Commercial Banks' Soundness Level

OJK Circular Letter No. 14/SEOJK.03/2017 is the implementation of [OJK Regulation No. 4/POJK.03/2016](#) on the Assessment of Commercial Banks' Soundness Level and [OJK Regulation No. 18/POJK.03/2016](#) on the Implementation of Risk Management in Commercial Banks. This Circular letter revokes [BI Circular Letter No. 13/24/DPNP](#) and has come into effect as of 17 March 2017.

Some of the noteworthy provisions covered in the Circular Letter are, among others:

- Banks are required to conduct self-assessment of Banks' Soundness Level by applying Risk Based Bank Rating ("RBBR") approach, either individually or in consolidated manner. The assessment of Banks' Soundness Level should include assessment of risk profile, corporate governance structures, rentability, and capitalization.
- BOD, BOC, and/or controlling shareholders are obliged to submit action plans to OJK if the assessment indicates that:
  - a. The financial-soundness level of Banks are classified as Rank 4 or Rank 5;
  - b. The composite financial-soundness level of Banks is classified as PK-4 or PK-5; and/or

c. The composite financial-soundness level of Banks is classified as PK-3, with significant problems which must be settled.

- Banks are required to submit the self-assessment results to OJK:
  - a. For individual assessments: no later than 31 July (if the last position is in June) or 31 January (if the last position is in December)
  - b. For consolidated assessments: latest by 15 August (if the last position is in June) or 15 February (if the last position is in December).

*(Issued regulation in Bahasa: [OJK Circular Letter No. 14/SEOJK.03/2017](#))*

#### Recovery Plan for Systemic Banks

OJK Regulation No. 14/POJK.03/2017 on the Recovery Plan for Systemic Banks repeals [BI Regulation No. 13/3/PBI/2011](#) on Status Determination and Follow-Up Supervision for Banks as well as [BI Regulation No. 15/2/PBI/2013](#) on Status Determination and Follow-Up Supervision for Conventional Banks. This Regulation has come into effect as of 7 April 2017.

This Regulation sets the requirements for systemic banks to prepare and submit recovery plans to OJK by 29 December 2017, at the latest, or within six months after the banks being classified as systemic banks. Systemic banks are also required to have a guideline on the recovery plan which is prepared by taking into account the governance principle to support the implementation of a recovery plan. The recovery plan should comprise of at least: executive summary; general description of systemic banks; the recovery option; and disclosure of the relevant recovery plans to both internal and external parties. BODs are obligated to prepare, deliver, communicate, evaluate, and implement the recovery plan, while BOCs are required to supervise and evaluate the implementation of the recovery plan.

Systemic Banks are required to implement their recovery plans if the trigger level for each indicator is reached. Moreover, Systemic Banks are also obliged to periodically evaluate and perform stress testing in order to assess their recovery plans. This testing should be undertaken at least once a year. BODs are required to report the evaluation and stress-testing results to the BOCs.

*(Issued regulation in Bahasa: [OJK Regulation No. 14/POJK.03/2017](#))*

## Taxation

### The Submission of Information on Foreign Customers Related to Taxes in the Context of International Automatic Exchange of Information by Using Common Reporting Standard

OJK Circular Letter No. 16/SEOJK.03/2017 on the Submission of Information on Foreign Customers Related to Taxes in the Context of International Automatic Exchange of Information ("AEoI") by Using Common Reporting Standard ("CRS") has come into effect as of 6 April 2017.

This Circular Letter requires financial-service institutions, which include commercial banks, securities companies, custodian banks, life insurance companies and sharia life insurance companies, to report information relating to their foreign customers to OJK latest by 2018.

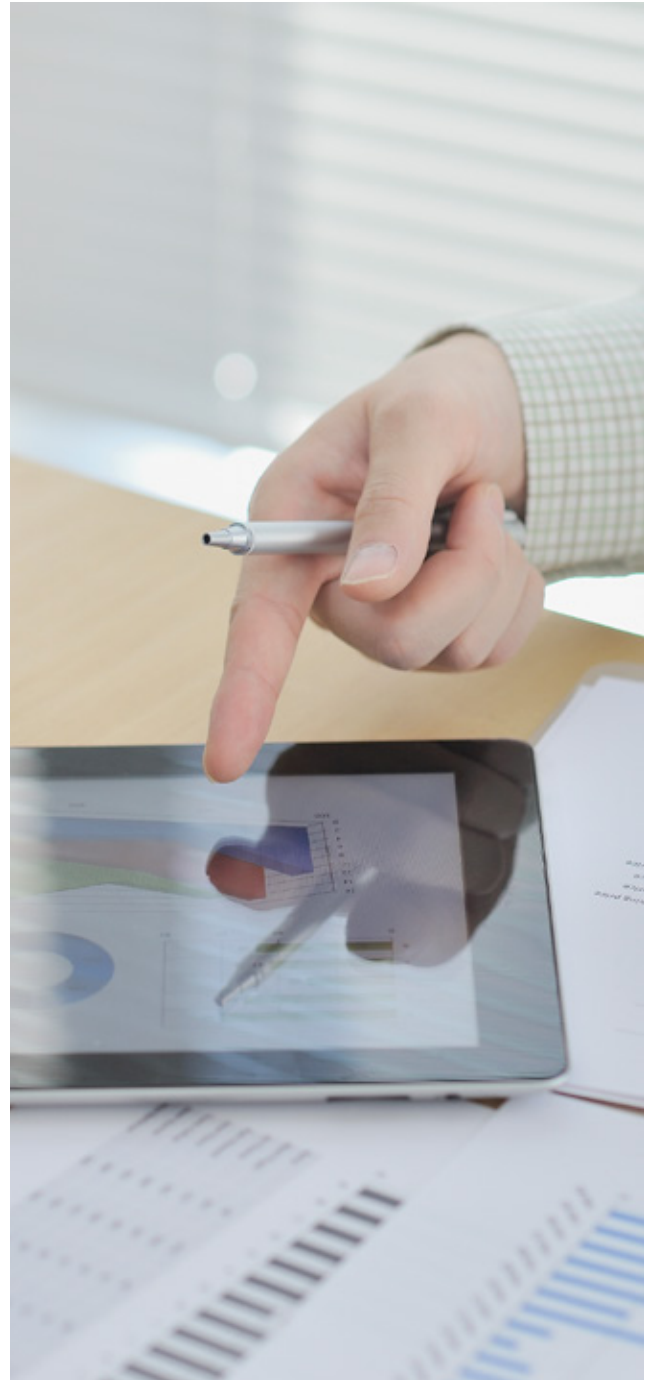
Foreign customers are individual or corporate customers who satisfy the following criteria (Refer to Attachment I of the Circular Letter):

1. Existing customers which fit into the lower (below USD 1 million) and upper (above USD 1 million) account-value brackets;
2. New customers, either from participating jurisdictions or passive, non-financial entities that do not operate within participating jurisdictions, and which have account values above USD 250,000.

The common reporting obligations will be applied to:

1. Any accounts held by foreign customers for which reporting is mandatory;
2. Undocumented accounts, on condition that the foreign customers concerned are classified as reported parties; and
3. Financial-service institutions which are acting as sales agents and/or custodians.

*(Issued regulation in Bahasa: [OJK Circular Letter No. 16/SEOJK.03/2017](#))*



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