ADVISORY

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The Government amends Government Regulation on Foreign Ownership in Insurance Companies

Overview

The Indonesian government has recently issued Government Regulation No. 3 of 2020 ("**New GR**") amending Government Regulation No. 14 of 2018 ("**GR 14/2018**") on Foreign Ownership in Insurance Companies, which came into effect on 20 January 2020.

Changes under the New GR include changes to the limit on foreign ownership of shares in (i) insurance/reinsurance companies (both conventional and sharia), insurance/reinsurance brokers and insurance loss assessment companies ("**Insurance Companies**") and (ii) sharia insurance/ reinsurance companies from spin-offs of sharia business units ("**Spun-Off Sharia Insurance Companies**").

Under Article 6(1) of the New GR, which remains unchanged from GR 14/2018, an Insurance Company which is not a publicly listed company with foreign share ownership exceeded 80% when the New GR came into effect:

a. is exempt from the foreign share ownership limit (80% of the paid-up capital); and

b. may not increase its foreign share ownership percentage.

Previously, GR 14/2018 only allowed a non-listed Insurance Company with more than 80% foreign share ownership to increase its paid-up capital if at least 20% of the capital was subscribed to by Indonesian citizens ("**WNI**") or Indonesian legal entities directly/indirectly fully-owned by Indonesian citizens ("**BHI**"), **or** at least 20% of the capital through an initial public offering (IPO).

Now, under the New GR, a non-listed Insurance Company with more than 80% foreign share ownership may only increase its paid-up capital if the foreign share ownership percentage after the capital increase does not exceed the Insurance Company's current foreign share ownership percentage. For instance, a non-listed Insurance Company with 90% foreign share ownership may only increase its capital if at least 10% of the increased capital is subscribed to by WNI or BHI so that the Insurance Company retains its 90% foreign share ownership. Otherwise, if no WNI or BHI subscribe to the capital to meet the required limit, the New GR requires the Insurance Company to increase its capital through an IPO.

Spun-Off Sharia Insurance Companies

A Spun-Off Sharia Insurance Company, resulting from a non-listed insurance/re-insurance company with more than 80% foreign share ownership spinning-off its sharia business unit, must comply with the limit on foreign share ownership in the insurance/reinsurance company it is derived from.

The same rules on foreign ownership limit and increase of capital which apply to its original insurance/reinsurance company also applies to the Spun-Off Insurance Company (ie. exemption from foreign ownership limit requirement, prohibition from increasing the foreign ownership percentage, and capital increase mechanism under the New GR explained above).

Under the New GR, Spun-Off Sharia Insurance Companies which do not comply with the restriction on increasing their foreign share ownership percentage may have the following administrative sanctions imposed on them by the OJK:

a) written warnings;

b) a restriction on business activities;

c) the revocation of the business license; and/or

d) administrative fines.

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