



INDONESIAN EQUITY CROWDFUNDING REGULATION

The Financial Services Authority (“OJK”) issued OJK Regulation No. 37/POJK.04/2018, on 31 December 2018 on equity crowdfunding services (the “Crowdfunding Services”) which allow offers of shares for sale by an issuer directly to investors through an open information technology system (“POJK 37/2018”).

POJK 37/2018 applies to offers of shares through a Crowdfunding Services Provider’s system. This regulation also applies to offers of other forms of equity linked securities through this system.

A company which provided Crowdfunding Services before 31 December 2018 must apply to the OJK for a license as a Provider within six (6) months of 31 December 2018. Such company is also prohibited from entering into any new agreements with Issuers until it has acquired a license from the OJK.

Offering shares for sale through Crowdfunding Services does not constitute a Public Offering as defined under the Capital Market Law that requires registration with the OJK, provided that (i) the share offering is only made through a licensed Provider; (ii) the share offering is only made available for up to 12 months; and (iii) the maximum amount of funds collected from the offering is IDR10 billion. The Issuer may not also be deemed a Public Company if it has fewer than 300 shareholders and less than IDR30 billion in paid-up capital.

Crowdfunding Services involve three parties, a **Provider**, an **Issuer** and an **Investor**.

A. The Provider

A Provider must be a limited liability company (PT) or cooperative (*Koperasi*) and provide, manage and operate Crowdfunding Services. A licensed securities company (*Perusahaan Efek*) may act as a Provider upon obtaining approval from the OJK.

When applying to the OJK for a license as a Provider, the company must have at least IDR 2.5 billion in paid-up capital. A Provider must also be registered as an Electronic System Provider (*Penyelenggaraan Sistem Elektronik*) with the Ministry of Communications and Information.

Providers are prohibited from engaging in other business activities, but certain exceptions may apply if the Provider is a securities company. Providers are also prohibited from acting as providers of information technology services unless they are registered with and/or have obtained a license from the OJK.

Providers are also prohibited from having affiliations with Issuers, providing financial assistance to Investors for their investments, keeping Investors’ funds and giving investment advice or recommendations etc. to Issuers or Investors.

POJK 37/2018 imposes various obligations on Providers, including among others, to receive share certificates issued by Issuers for Investors, to channel Investors’ funds to the Issuers within a certain time limit etc. Other requirements apply to their system, having an escrow account for receiving funds from Investors, data protection, having a data centre and data recovery centre, customer protection, the application of the know-of-your-customer principle, and enrolment as a member of an acknowledged association etc.

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In addition, for offering shares, a Provider may also provide a system for Investors to sell their shares to other Investors provided that the shares were previously sold through the Provider's system and the seller of the shares is among Investors registered with the Provider.

B. The Issuer

An Issuer is a party that offers its shares for sale through a Provider's system. An Issuer may not be a company controlled directly or indirectly by a group of businesses or a conglomerate, a public company or a subsidiary of a public company and must be an Indonesian legal entity established as a PT which has more than IDR10 billion in assets (excluding land and buildings).

An Issuer may only offer its shares through one Provider at the same time. The funds that can be collected from the Crowdfunding Services are limited to IDR10 billion within 12 months, through one or more offers.

An Issuer must, among other things, deliver annual reports to the OJK, publish its annual report, list all shares owned by its Investors in the Issuer's list of shareholders.

C. The Investor

An Investor is a party that may purchase shares (from one or more Issuer) through a Provider's system after analysing the risks associated with the Issuer's shares and must adhere to the following limits:

- (a) an Investor with an annual income of up to IDR500 billion may purchase shares valued at up to 5% of its annual income; and
- (b) an Investor with an annual income of more than IDR500 billion may purchase shares valued at up to 10% of its annual income.

The above limits do not apply to Investors who are legal entities or individual Investors who have sufficient investment experience.

The following two (2) principal agreements are required for providing equity crowdfunding services:

- 1) a crowdfunding agreement between the Provider and the Issuer (Issuer Agreement) which can be in notarial deed form or electronic document form (with electronic signatures); and
- 2) a crowdfunding agreement between the Provider and the Investor (Investor Agreement) in a standard agreement form which can also grant the Provider the authority to represent the Investor as a shareholder of an Issuer.

The OJK will impose sanctions on anyone who violates or causes POJK 37/2018 to be violated which include a written warning, a fine(s), a limitation on their business activities, the freezing of their business activities, the revocation of their business license, the cancellation of any OJK related approval(s) and/or the cancellation of their registration with the OJK.

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