ADVISORY

April 2020

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New Regulation on the Consolidation of Commercial Banks

The Financial Services Authority (*Otoritas Jasa Keuangan* / "**OJK**") recently issued OJK Regulation Number 12/POJK.03/2020 of 2020 on the Consolidation of Commercial Banks ("**OJK Reg 12/2020**"). This new regulation aims for strengthening the structure, resilience, and competitiveness of the national banking industry to support national economic stability and growth through the strengthening of bank capital and the consolidation of banks in Indonesia.

OJK Reg 12/2020 introduces provisions on the banking consolidation policy for conventional and sharia commercial banks. The main provisions include the following:

1. Commercial Bank ("Bank") Consolidation Schemes

OJK Reg 12/2020 introduces the following five consolidations schemes:

Scheme	Relevant Parties
Merger, consolidation or integration	This scheme is applicable to controlling shareholders (*Pemegang Saham Pengendali* / "**PSP**") of Banks.
An acquisition followed by a merger, consolidation or integration	This scheme is applicable to parties, which i) have become a Bank PSP and will acquire one **or** more banks or ii) will become a Bank PSP and acquire two or more Banks, to be followed by a merger, consolidation or integration.
The establishment of a Bank Business Group (*Kelompok Usaha Bank* / "**KUB**") of Banks owned	This scheme is applicable to PSPs which are Banks which own one or more Banks **or** PSPs which are non-bank financial institutions, non-financial legal entities or individuals, or PSPs domiciled abroad which own two or more Banks.
The establishment of a KUB due to an acquisition	This scheme is applicable to parties which have become a Bank PSP and will acquire one or more Banks.
The establishment of a KUB due to the spin-off of a Sharia Business Unit (*Unit Usaha Syariah* / "**UUS**")	This scheme is applicable to Conventional Commercial Banks (*Bank Umum Konvensional* / BUK) that spin-off their UUS.

2. KUBs

A KUB can be established if the following conditions are met:

1. the PSP, parent company and/or administrator of the parent company meet the required bank capital and liquidity levels for the Banks within the KUB; and

2. the merger, consolidation or integration of Banks will not result in any significant increase in the business scale of the Banks following the merger, consolidation or integration.

A KUB consists of a) a parent company (a legal entity which consolidates and directly controls the KUB's activities) which is a Bank and b) one or more Banks as subsidiaries. The parent company is either i) the PSP which is a bank or ii) if the PSP is a non-bank financial institution, a non-financial legal entity, an individual or a PSP domiciled abroad that owns two or more Banks, one of the Banks owned (which meets certain requirements) is appointed as the administrator of the parent company.

In order to establish a KUB, the parent company or the appointed administrator of the parent company must submit the following to the OJK: a) the KUB establishment plan and structure; and b) documents evidencing the appointment of the parent company's administrator (if applicable). The OJK will provide a confirmation letter on the KUB's establishment if it meets the KUB establishment requirements.

The deadlines for submitting the documents required for the establishment of a KUB and the provision of the OJK's confirmation differ according to the type of KUB as explained in detail below:

Type of Establishment	Deadline for the Submission of the Establishment Documents	Deadline for the Delivery of the OJK Confirmation
A KUB of Banks which are owned by a PSP	No later than 17 April 2020	Within ten business days of receipt of the KUB establishment documents
A KUB through a UUS spin-off	When submitting the application for an UUS spin-off permit	Within five business days of the UUS spin-off becoming effective
A KUB through an acquisition	When submitting the application for an acquisition permit	Within five business days of the acquisition becoming effective

3. Minimum Core-Capital and Capital Equivalency Maintained Asset ("CEMA") Requirements

Banks are required to have a minimum core capital of Rp3,000,000,000,000 by 31 December 2022 in the following stages: (i) Rp1,000,000,000,000 by 31 December 2020, (ii) Rp2,000,000,000,000 by 31 December 2021 and (iii) Rp3,000,000,000,000 by 31 December 2022.

However, for Banks that are owned by a regional government, the deadline to have a minimum core capital of Rp3,000,000,000,000 is longer, ie 31 December 2024.

The minimum core-capital requirements for Banks involved in the consolidation schemes are the following:

a. a minimum core capital of Rp3,000,000,000,000 for i) the surviving Bank in a merger or Bank resulting from a consolidation or integration, ii) the surviving Bank in a merger or Bank resulting from a consolidation or integration, which is preceded by an acquisition, and iii) the Bank which is a parent company or administrator of a parent company in a KUB; and

b. a minimum core capital of Rp1,000,000,000,000 for a Bank which is not a parent company or administrator of a parent company in a KUB.

Furthermore, branch offices of banks domiciled abroad are required to have a minimum CEMA of Rp3,000,000,000,000 by 31 December 2022 in the following stages: Rp2,000,000,000,000 by 31 December 2021 and Rp3,000,000,000,000 by 31 December 2022.

Action plans with respect to the satisfaction of the minimum core capital and CEMA requirements (as relevant) must be submitted by Banks and branch offices of banks domiciled abroad as an attachment to their business plans to the OJK. This obligation also applies to Banks whose minimum core capital in 2020 is less than Rp1,000,000,000,000.

OJK Reg 12/2020 came into effect on 17 March 2020 and revokes Bank Indonesia Regulation No. 7/15/PBI/2005 on the Minimum Core Capital of Commercial Banks (as amended). For failure to comply with this new regulation, certain administrative sanctions will be imposed (ie written warnings, an expansion restriction or a suspension of certain business activities).

In addition, for Banks on which administrative sanctions have been imposed and the relevant requirements remain unsatisfied, they must adjust their business form and activities to be a rural bank or sharia rural bank (this adjustment can also be undertaken based on the OJK's decision) **or** apply for the revocation of their business license. The obligation to apply for the revocation of business license also applies to branch offices of banks domiciled abroad on which administrative sanctions have been imposed and the relevant requirements remain unsatisfied. The PSPs, directors, commissioners and/or executive officers of the Banks or branch offices of banks domiciled abroad failing to do the foregoing will also be subject to a sanction in the form of a restriction to be a principal party (*pihak utama*) based on the OJK regulation on the reassessment of principal parties of a financial services institution.

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