

Sharia Business Financing Regulations: Recent Updates

by Stanley Patria Armando

The Financial Services Authority has issued new Regulations* relating to the implementation of Sharia law for Business Financing Companies and Sharia Business Unit Financing Companies (the **Sharia Companies**). The new Regulations are intended to clarify the previous regulations on Shariah financing.**



Image source: greview

The Regulations are intended to support the growth of Shariah Companies by permitting broader business activities, providing legal certainty for industry players and giving priority to principles of good governance.

The Regulations introduce new obligations, including, those relating to fraud prevention and consumer protection with particular emphasis on transparency especially in relation to profit sharing ratios.

The Regulations are intended to stimulate growth and confidence in Shariah Companies and by doing so, ensure that Sharia Companies play a significant role in the growth of the Indonesian economy.

*Financial Service Authority Regulation Number 10/POJK.05/2019.

**Financial Services Authority Regulation Number 31/POJK.05/2014.

Facilities for Export-Oriented Goods: New Regulations

by Galih Adi Prasetya

In order to boost the import/export industries in Indonesia, in 2018 the Minister of Finance enacted new regulations relating to exemptions from import duties for export-oriented goods (the **MOF Regulations**)*.



Image source: ndh.vn

The purpose of the MOF Regulations is to simplify the rules relating to Import Facilities for Export - Oriented Goods (alternative, called **KITE**) to stimulate the growth of Indonesia's import/export industries. To that end, the Directorate General of Custom and Excise has enacted implementing regulations for the MoF Regulation** (the **Regulations**).

The Regulations set out procedures and obligations relating to the KITE per-

mit; granted by the Government to a company to allow it to use a facility to Import and Export certain goods exempt from certain taxes and duties that would normally apply.

The Regulations specify the following two types of KITE permits:

- KITE *Pembebasan*, which exempts a company from import duties, VAT or sales tax for imported goods and materials to be processed or assembled to become, or installed on, export-oriented luxury goods; and

- KITE *Pengembalian*, which allows companies to claim a reimbursement for any import duties paid on imported goods and materials to be processed or assembled to become, or installed on, export-oriented goods.

The Regulations set out a number of obligations for KITE permit holders including relating to:

- reporting;
- record keeping; and
- the re-importation of products due to faults or force majeure events.

The Regulations specify sanctions for breach of the obligations for KITE permit holders including the revocation of the KITE permit.

KITE permit applications may be submitted online through the Indonesian National Single Window System.

*Minister for Finance Regulation No. 160/PMK.04/2018 on the Exemption from Import Duties and Non-Collection of Value Added Tax (VAT) or VAT and Sales Tax for Luxury Goods on Imported Goods and Materials to be Processed, Assembled, or Installed on Export-Oriented Goods.

**The Directorate General for Customs and Excise Regulation No. PER-4/BC/2019 of 2019 on the Implementing Guidelines for Minister for Finance Regulation No. 160/PMK.04/2018.

Alternative Markets: New Regulations

by Margareth Nita Gunawan

On 21 February 2019, the Financial Services Authority (*Otoritas Jasa Keuangan - OJK*) passed Regulation 8*, revoking the Previous Regulation**. Regulation 8 is intended to provide appropriate regulation of new developments in alternative market trading.

Regulation 8 regulates alternative market organizers (*Penyelenggara Pasar Alternatif- PPA*), which are parties that organize, provide and/or use electronic marketplace systems for bond trading, including sharia bonds (**Bonds Transactions**). Regulation 8 regulates all aspects of PPA trading including defining the permitted scope, licensing, reporting and sanctions for breach.

Generally, Regulation 8 provides that Bonds Transactions may take place either through the stock exchange or through secondary markets. Bonds Transactions carried out through secondary markets may be completed directly between parties or through a PPA. Regulation 8 states that only the following types of securities may be traded through a PPA;

- bonds and sharia bonds, which have been offered through public offerings;
- state securities; and/or
- other bonds and sharia bonds, as determined by the OJK.

While Regulation 8 does not significantly change the OJK approval process to become a PPA, it does increase the administrative requirements for would-be PPA applicants in their business licence applications.



Image source: ikocommunitymanagement

Regulation 8 introduces more stringent obligations on PPA than the Previous Regulations, including that the PPA must:

- be a Limited-Liability Company, domiciled in Indonesia;
- have obtained a PPA business licenses from the OJK;
- have a minimum paid-up capital of 100 billion Rupiah and a cap on direct or indirect foreign capital investment of 20% of the paid-up capital;
- ensure that all shareholders are approved by the OJK and that the controlling shareholders are Indonesian; and
- have a board of directors and a board of commissions that are made

up of at least two members who are domiciled within Indonesia and meet certain standards of integrity and competence.

Regulation 8 imposes significant new reporting requirements for PPAs including in relation to approvals and rejections of new users, modification of the PPA systems and organization, resignation of board members and the results of general shareholders meetings.

*Financial Service Authority Regulation No. 8/POJK.04/2019 on Alternative Market Organizers.

Decree of the Head of the Capital Market Supervisory Agency (*Badan Pengawas Pasar Modal - BAPEPAM*) No. KEP-02/PM/2004 on State Securities Trading Organizers (Rule IILD.1**)

Import Tariffs: New Procedures

by Stanley Patria Armando

The Ministry of Finance has issued new Regulations* relating to the application of tariffs and import duties on goods imported in accordance with agreements made with parties in jurisdictions outside of Indonesia. The purpose of the Regulations is to simplify and clarify the current regime to stimulate growth in the Indonesian import/export industries.



Image source: emerhub

The new Regulations change some of the existing rules and introduce new obligations to free up importers from unnecessary administrative burdens.

Under the Regulations, importers are now free to choose between submission of a Certificate of Origin (an **SKA**), which can be done online, or an invoice declaration for tariff calculation purposes.

The Regulations also lift unnecessary administrative burdens for importers who wish to obtain preferential tariffs on bonded stockpiles (TPB) and for businesses in bonded logistics (PLB).

Similarly, the Regulations lift administrative burdens from entrepreneurs operating in Free Zones. The Government concluded that having met the strict criteria for operation in the Free Zones meant that these entre-

preneurs were already subject to the necessary oversight and are, therefore, exempt from the obligations to submit SKAs, certain notices and certain customs documents.

The intention behind the Regulations is clearly to lift unnecessary administrative burdens from entrepreneurs to stimulate economic growth. However, some entrepreneurs are concerned about the tight SKA submission deadlines set up in the Regulations. We will watch the implementation of the Regulations with interest.

*Regulation No. 11/PMK.04/2019.

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