

Client Alert

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COVID-19: OJK and IDX Relax the Submission Deadlines of Annual Reports and Annual Financial Statements, and OJK Allows the AGMS of Public Companies to Be Postponed or Done via e-Proxy

Recent Developments

Still in light of the corona virus (COVID-19) outbreak, the Financial Services Authority ("**OJK**") and the Indonesia Stock Exchange ("**IDX**") have issued new policies that essentially relax certain public companies' obligations to submit annual reports and annual financial statements. AGMS of public companies can also be postponed or done via e-Proxy.

Reporting Requirements under the New Policies

OJK has introduced Circular Letter No. S-92/D.04/2020 on Relaxation of the Obligation to Submit Reports and Conduct of Shareholders Meetings ("**OJK Circular Letter**"). IDX has introduced Decree of the Board of Directors of the IDX No. Kep-00027/BEI/03-2020 on Relaxation of the Obligation to Submit Financial Statements and Annual Reports ("**IDX Decree**", together with OJK Circular Letter referred to as "**New Policies**")

Under the existing OJK and IDX rules, the following reports must be submitted to OJK and IDX by the relevant parties:

- no later than the end of the third month after the end of the financial year (assuming the FY ends on 31 December, then the submission must be made by 31 March), the audited annual financial statements of, among other things:
 - a. Issuers or public companies
 - b. Mutual Funds (*Reksa Dana*)
 - c. Real Estate Investment Funds in the form of Collective Investment Contracts ("**CIC**") (*Dana Investasi Real Estate* (DIRE))
 - d. Infrastructure Investment Funds in the form of CIC (*Dana Investasi Infrastruktur* (DINFRA))
 - e. Asset-Backed Securities in the form of CICs (KIK-EBA)
 - f. Asset-Backed Securities in the form of Participation Letter (EBA-SP)
- no later than the end of the fourth month (or if to IDX, the end of the fifth month) after the end of the financial year (assuming the FY ends on 31 December, then the submission must be made by 30 April, or if to IDX, 31 May), the annual reports of issuers or public companies



Under the New Policies, the deadlines for those reporting requirements are now two months later.

Annual General Meeting of Shareholders ("AGMS")

Postponement of AGMS

Under OJK Rule No. 32/2014 on Plans and Implementations of General Meetings of Shareholders of Public Companies ("**OJK Rule No. 32/2014**"), public companies must conduct an Annual General Meeting of Shareholders ("**AGMS**") at the latest six months after the end of the financial year. Under the OJK Circular Letter, the deadline to conduct an AGMS is two months later (i.e., at the latest eight months after the end of the financial year, and therefore, assuming the FY ends on 31 December, now an AGMS can be held by 31 August at the latest).

From our recent experience, OJK provides further relaxation (although verbal) for public companies that would like to postpone their meetings to a later date, but they already, for example, make an AGMS announcement. That is, public companies do not have to start over the AGMS procedures under OJK Rule No. 32/2014. So, for those companies, they do not need to redo the notification of agenda to OJK and make a new announcement. They may proceed with the invitation upon the AGMS date has been fixed, provided that they still have to follow the 21 clear days rule when making such an invitation. As you may appreciate, this is not OJK's written policy, and therefore the implementation remains unclear (e.g., whether such relaxation is applicable if an invitation is already made or how long the postponement is allowed to enjoy this "not-starting over" relaxation).

E-Proxy

In line with the government's recent direction to suppress the corona outbreak, e.g., by encouraging the public to limit mass gathering events, OJK allows public companies to carry out AGMS electronically (under the OJK Circular Letter, referred to as an "**e-GMS**"). In imposing this policy, OJK will coordinate with the Indonesia Central Securities Depository ("**KSEI**"). The e-GMS mechanics are to be further regulated by KSEI. Until the date of this client alert, we are not aware of any such implementing regulation being issued by KSEI.

While the OJK Circular Letter does not explain further the meaning of the term e-GMS and how e-GMS should be implemented, based on our informal discussion with the relevant stakeholders (i.e., OJK, KSEI, notaries and public companies' share registrars), we understand that an e-GMS would not be a virtual meeting through video conference or conference call where shareholders could participate virtually, but would rather be an electronic proxy arrangement facilitated by KSEI ("**e-Proxy**"). In brief, public companies would still need to convene an actual physical meeting (which has to be attended physically at least by the board of directors, the board of commissioners and the supporting professionals (e.g., notaries, share registrars and consultants)). Shareholders, instead of attending the meeting themselves, could be represented in the meeting by arranging proxies (e.g.,



to the share registrar or a few proxies designated by public companies) through an electronic system KSEI is currently developing and will provide soon.

What We Know so Far about e-Proxy

Based on our discussion with the relevant stakeholders and subject to further formal information/direction by the relevant authorities, the e-Proxy system is scheduled to be ready for use on 20 April. However, the system will only cater to public companies that publish their GMS invitations, at the earliest, on 21 April¹. Public companies that publish their GMS invitations on or prior to 20 April may instead opt to implement e-Proxy using their own system (e.g., through their electronic platforms such as their websites), so that, despite not using KSEI's facility, public companies could still encourage fewer attendees in the meeting room (e.g., having just a few proxies representing a pool of shareholders).

What's Next?

At this stage, it is not mandatory for public companies to implement e-Proxy (whether through KSEI's or their own system). Subject to further policy the relevant authorities may implement in handling this virus outbreak issue, public companies may opt to convene their AGMS in the usual manner.

However, issuers and public companies that are conducting their AGMS (or GMS) anytime soon should consider implementing certain protocols as recommended by the government. You may refer to our client alert on Conducting Shareholders Meetings for public companies in Light of COVID-19, [here](#).

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¹ Referencing to shareholders register and recording date per 20 April.