

## Indonesia: New OJK Rule on carbon trading on carbon exchange

### In brief

On 2 August 2023, the Financial Services Authority or *Otoritas Jasa Keuangan* (OJK) issued its Rule No. 14 of 2023 on Carbon Trading on Carbon Exchange ("**OJK Rule 14/2023**"). OJK Rule 14/2023 is issued as one of the implementing regulations of Law No. 4/2023 on Development and Strengthening of the Financial Sector ("**Law 4/2023**").

OJK Rule 14/2023 sets out the standard criteria for carbon units that will be traded on a carbon exchange, as well as the licensing requirements for any company that will apply to become a carbon exchange.

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### Highlight: Criteria of Carbon Units that will be traded on the Carbon Exchange

Following the stipulation of carbon units as securities in Law 4/2023, OJK Rule 14/2023 reaffirms this provision and stipulates the following criteria for carbon units that are eligible for trading on a carbon exchange:

- Carbon units must be listed in the National Registry System for Climate Change Control or *Sistem Registri Nasional Pengendalian Perubahan Iklim* (SRN-PPI) and a carbon exchange.
- Foreign carbon units that are not listed in the SRN-PPI must: (i) be listed, validated and verified by an international registration system organizer, (ii) fulfill the requirements for trading on a foreign carbon exchange and (iii) fulfil other requirements as stipulated by OJK (after OJK has coordinated with the Ministry of Environment and Forestry).
- Carbon units are traded in the following forms: (i) Technical Emissions Ceiling Approvals for Business Actors or *Persetujuan Teknis Batas Atas Emisi Pelaku Usaha* (PTBAE-PU) and (ii) Greenhouse Gas Emissions Reduction Certification or *Sertifikat Pengurangan Emisi Gas Rumah Kaca* (SPE-GRK).

### Highlight: Implementation of Carbon Unit Trading on Carbon

OJK Rule 14/2023 stipulates the following requirements that must be considered in carbon unit trading:

- Parties may conduct carbon unit transactions directly and/or through an intermediary service.
- A carbon exchange must provide and use electronic systems capable of processing carbon unit transactions. The electronic systems must be able to facilitate: (i) meetings between traders and buyers and (ii) settlement of carbon unit transactions.
- A carbon exchange may enter into agreements with a third party to carry out customer due diligence and/or create a single identification number.

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## Highlight: Licensing Requirements for the Carbon Exchange

A carbon exchange must be licensed by OJK and fulfill, among others, the following criteria:

- It must be in the form of an Indonesian limited-liability company.
- It must have paid-up capital amounting to at least IDR 100 billion. The paid-up capital cannot be sourced from loans.
- It can only be owned by: (i) sui generis institutions (e.g., Bank Indonesia and INA), (ii) Indonesian citizens/legal entities or (iii) foreign legal entities that are licensed or supervised by the relevant financial regulators. Foreign ownership (either direct or indirect) is limited to a maximum of 20%.
- It must have a minimum of two directors (all of them must be domiciled in Indonesia) and two commissioners.
- Its (i) shareholders, (ii) directors and (iii) commissioners must secure prior approvals from OJK and fulfill various requirements.
- It must be supported with adequate operational systems, internal controls and risk management procedures.
- It must administer, store and maintain all carbon unit trading data for at least five years.
- It must set its own regulations on the users of the carbon exchange, carbon units and their trading as well as the supervision mechanism.

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## What's next?

We anticipate the following developments to occur in the near future:

- OJK will issue a circular letter on the requirements and procedures for applications for approvals for the shareholders, directors and commissioners of a carbon exchange.
- An approved carbon exchange will issue its own regulations.

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