

February 19, 2016

As a response to the ASEAN Economic Community which requires the reinforcement of Indonesian capital market frameworks with regard to the accountability and transparency of Issuers and Public Companies, the Indonesian Financial Services Authority (or Otoritas Jasa Keuangan “OJK”) enacted on 22 December 2015, 3 (three) new regulation: (i) OJK Regulation No.31/POJK.04/2015 concerning the Disclosure of Material Facts or Information by Issuers and Public Companies (“POJK 31/2015”), (ii) OJK Regulation No.32/POJK.04/2015 concerning Capital Increase of a Public Company with Pre-Emptive Rights (“POJK 32/2015”), and (iii) OJK Regulation No. 33/POJK.04/2015 concerning the Format and Contents of a Prospectus Within the Framework of a Capital Increase by a Public Company with Pre-Emptive Rights (“POJK 33/2015”).

## Disclosure of Material Facts or Information by the Issuer or Public Company

POJK 31/2015 demands more transparency from Issuers or Public Companies in Indonesia with regard to the Material Facts or Information of an Issuer or a Public Company. In POJK 31/2015, OJK emphasizes the importance of Good Corporate Governance (“GCG”) of an Issuer or Public Company in Indonesia capital markets. Thus, the updating of the disclosure of Material Facts or Information in POJK 31/2015 encourages the Issuer or Public Company to be more accountable and transparent in order to protect minority shareholders’ interests.

Now that POJK 31/2015 has replaced the “old” previous regulation that was enacted in 1996 (Regulation X.K.1 of Indonesia Capital Market Supervisory Board), the following are the the key points that must be taken account by Issuers or Public Companies in Indonesia:

1. the disclosure of a Material Fact or Information must at least cover (i) the date, (ii) the type, (iii) the description, and (iv) the impact of such Material Fact or Information;
2. the disclosure of a Material Fact or Information must be made using a Material Fact or Information Report Format as provided in the Annexure of POJK 31/2015 and must be signed by at least the Board of Directors or by the Corporate Secretary of the Issuer or Public Company if authorized in writing by the Board of Directors;
3. the disclosure of a Material Fact or Information of an Issuer or Public Company whose shares are listed on the Stock Exchange must at least be made through (i) such Issuer or Public Company’s official website in at least Bahasa Indonesia/Indonesian language and English, and (ii) the Stock Exchange’s official website or 1 (one) daily Indonesian newspaper with nation-wide circulation;
4. there are updated lists of Material Fact or Information which must be disclosed by an Issuer or Public Company, among others are (i) changes of the financial year, (ii) special supervision from the relevant authority that may impact the business activities of the Issuer or Public Company, (iii) any restriction by the relevant authority on the Issuer or Public Company’s conduct of its business activity, (iv) any amendment to or failure to achieve financial projection of the Issuer or Public Company (if it is material), and (v) debt restructuring;
5. the disclosure of a Material Fact or Information of an Issuer or Public Company whose shares are not listed on the Stock Exchange must at least be made through (i) such Issuer or Public Company’s official website in at least Bahasa Indonesia/Indonesian language and English, and (ii) 1 (one) daily Indonesian newspaper with nation-wide

circulation;

6. the Material Fact or Information as listed under POJK 31/2015 occurs in a controlled company which is not an Issuer or Public Company but whose financial statement is consolidated with an Issuer or a Public Company must be reported by such Issuer or Public Company, except for (i) the replacement of Securities Administration Bureau (Biro Administrasi Efek), (ii) the replacement of Trustee, (iii) the delisting and relisting of shares on the Stock Exchange, (iv) interim distributions of dividends, and (v) stock splits or reverse stock splits; and
7. the Material Fact or Information as listed under POJK 31/2015 occurs in a controlled company which is an Issuer or a Public Company and whose financial statement is consolidated with an Issuer or a Public Company's must be reported by such controlled company.

## Capital Increase with Pre-Emptive Rights

POJK 32/2015 offers more efficiency for a Public Company (whether or not listed on the Indonesian Stock Exchange ("IDX")) to conduct Capital Increases with Pre-Emptive Rights (or Penambahan Modal dengan Hak Memesan Efek Terlebih Dahulu (HMETD)). One of the key updates of POJK 32/2015 is that the Extraordinary General Meeting of Shareholders ("EGMS") to approve the plan to conduct a Capital Increase with Pre-Emptive Rights may be held concurrently with the Registration Statement process at OJK.

The previous Regulation IX.D.1 required the Registration Statement to conduct a Capital Increase with Pre-Emptive Rights must have been effectuated by OJK prior to the EGMS. In practice, there are many Public Companies which planned to conduct a Capital Increase with Pre-Emptive Rights but had to re-arrange the EGMS due to a delay in the effectiveness of the Registration Statement from OJK.

Furthermore, POJK 32/2015 also regulates the Capital Increase with Pre-Emptive Rights in which capital injections are made without cash, and the issuance of Pre-Emptive Rights for Debt Securities.

## Your Key Contacts



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