

OJK Elevates and Strengthens Bank's Good Corporate Governance ("GCG")

Annexure

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Below are the notable new provisions introduced in the POJK 17/2023, in comparison to the POJK 55/2016, particularly concerning the organs of banks:

A. Board of Directors ("BOD")

No.	Matter	POJK 55/2016	POJK 17/2023
1.	Composition	The BOD must be chaired by the President Director. ¹	One of members of the BOD must be appointed the President Director. If necessary, any of other members of the BOD may be appointed the Vice President Director. ²
2.	Criteria for Members of the BOD	The majority of the BOD members are required to have a minimum of 5 (five) years of experiences in operational roles and at least as executive officers. ³	The majority of the BOD members are required to have a minimum of 5 (five) years of experiences in operational roles as executive officers in banks. ⁴
3.	Appointment of BOD Members	Any proposal for the replacement and/or appointment of members of the BOD to the General Meeting of Shareholder (" GMS ") must take into consideration the recommendations of the remuneration and nomination committee. ⁵	Any proposal for the replacement and/or appointment of members of the BOD to the GMS must take into consideration the recommendations of the nomination committee . ⁶ In the event that members of the remuneration and nomination committee do not meet the minimum requirements as specified under the POJK 17/2023, the recommendation of the nomination committee regarding the replacement and/or appointment of members of the BOD to the GMS may be accepted, if the remuneration and nomination committee includes at least 1 (one) Independent Commissioner or 1 (one) Non-Independent Commissioner. ⁷

¹ Article 4 paragraph (3) of POJK 55/2016

² Article 7 paragraph (2) of POJK 17/2023

³ Article 6 paragraph (2) of POJK 55/2016

⁴ Article 6 paragraph (3) of POJK 17/2023

⁵ Article 6 paragraph (1) of POJK 55/2016

⁶ Article 9 paragraph (1) of POJK 17/2023

⁷ Article 77 paragraph (5) of POJK 17/2023

No.	Matter	POJK 55/2016	POJK 17/2023
4.	Replacement and Removal of BOD Members	Not regulated.	<p>The dismissal or replacement of members of the BOD must prioritize the bank's primary interests.⁸</p> <p>The OJK possesses the authority to assess decisions pertaining to the termination or replacement of members of the BOD made prior to the conclusion of their terms of offices.⁹</p> <p>The termination or replacement of members of the BOD before the end of their terms of offices must take into account at least:¹⁰</p> <ol style="list-style-type: none"> a. members of the BOD are assessed as incapable of fulfilling their duties and responsibilities in managing and implementing the bank's sound strategies; b. the termination or replacement is not based on subjective assessments by shareholders but is based on an objective assessment related to the bank's management; c. the termination or replacement has undergone proper planning and procedures, including assessments by the nomination committee, and has been scheduled in a GMS; d. the termination or replacement will not lead to organizational or operational disruptions for the bank; e. the termination or replacement prioritizes effective communication to relevant parties; and f. the termination or replacement has applied GCG principles within the bank and adheres to prudential principles. <p>This applies for the termination or replacement of the members of the BOC.</p>
		Not regulated.	<p>The termination or replacement of the President Director and/or the Director responsible for compliance functions prior to the end of their terms of offices shall be approved by the OJK before being decided in the GMS.¹¹</p> <p>The OJK evaluates the feasibility on the termination or replacement of the President Director and/or the Director in charge of compliance functions.¹²</p>

⁸ Article 10 paragraph (1) of POJK 17/2023

⁹ Article 10 paragraph (3) of POJK 17/2023

¹⁰ Article 10 paragraph (2) of POJK 17/2023

¹¹ Article 11 paragraph (1) of POJK 17/2023

¹² Article 11 paragraph (2) of POJK 17/2023

No.	Matter	POJK 55/2016	POJK 17/2023
			<p>The bank must submit an approval request to the OJK no later than 1 (one) month before the scheduled GMS for the removal or replacement of the President Director and/or the Director responsible for compliance functions, which the request shall include:¹³</p> <ul style="list-style-type: none"> a. the considerations leading to the termination or replacement of the President Director and/or the Director responsible for compliance functions; and b. the bank may include the candidate's profile, demonstrating their qualifications, for the fit and proper test. <p>In the event that the OJK deems the plan for the termination or replacement of the President Director and/or the Director responsible for compliance functions to be unsuitable:¹⁴</p> <ul style="list-style-type: none"> a. the plan for the termination or replacement of the President Director and/or the Director responsible for compliance functions will not be approved by the OJK; and b. the bank shall be prohibited from putting on the agenda for the termination or replacement of the President Director and/or the Director responsible for compliance functions in the GMS. <p>This applies for the termination or replacement of the Independent Commissioners prior to the end of their terms of offices.</p>
		Not regulated.	<p>The replacement and/or appointment of members of the BOD prioritize the professional composition, independence, competency suitability and take into account the diversity needed for the proper execution of the BOD's duties and responsibilities.¹⁵</p> <p>Taking into account the diversity, encompasses, among others, career background, experience, educational history, gender.¹⁶</p>
5.	Resignation of BOD Members	Not regulated.	<p>The members of BOD may resign from their positions before the expiration of their terms of offices by submitting a written notice to the bank.¹⁷</p>

¹³ Article 11 paragraphs (2) and (3) of POJK 17/2023

¹⁴ Article 11 paragraph (5) of POJK 17/2023

¹⁵ Article 9 paragraph (2) of POJK 17/2023

¹⁶ Elucidation of article 9 paragraph (2) of POJK 17/2023

¹⁷ Article 12 paragraph (1) of POJK 17/2023

No.	Matter	POJK 55/2016	POJK 17/2023
			<p>If such resignation leads to the number of BOD members to be less than 3 (three) persons, the resignation shall be considered valid upon approval by the GMS, and upon the appointment of a new BOD member to meet the required minimum number.¹⁸</p> <p>The OJK possesses the authority to evaluate and assess whether the resignation was voluntary, involved any coercion, or intended to relinquish the responsibilities as a member of the BOD in handling the bank's activities.¹⁹</p> <p>This applies for the resignation of the members of BOC.</p>
6.	<p>Inclusion of mechanisms and requirements in Articles of Association ("AOA")</p>	Not regulated.	<p>Bank shall establish in its AOA the criteria, mechanisms, and procedures for the appointment, replacement, removal, and/or resignation of members of the BOD, including the authority vested in the BOD.²⁰</p> <p>In the event that it is not specified in a GMS resolution or the bank's AOA, the BOD, through a board resolution, shall establish:²¹</p> <ol style="list-style-type: none"> a. the organizational structure of the bank, including the division of tasks among the members of the BOD; b. the mechanism for appointing a substitute director. The substitute director (or acting director) is a BOD member appointed to temporarily assume the duties of other BOD members who are unable to carry out their duties, either due to permanent reasons (e.g. resignation, termination) or temporary reasons (e.g. on leave, official duty, illness); and c. the mechanism in case of the substitute director is unable to perform their duties.
		Not regulated.	Throughout the members of BOD's tenure, the specialization of BOD members may be assigned or modified to another specialization, in accordance with the mechanisms outlined in the bank's AOA or as decided by the GMS. ²²

¹⁸ Article 12 paragraph (2) of POJK 17/2023

¹⁹ Article 12 paragraph (3) of POJK 17/2023 and its elucidation

²⁰ Article 6 paragraph (4) of POJK 17/2023

²¹ Article 14 paragraph (1) of POJK 17/2023 and its elucidation

²² Article 14 paragraph (2) of POJK 17/2023

No.	Matter	POJK 55/2016	POJK 17/2023
7.	Concurrent Positions	Members of the BOD are prohibited from holding concurrent positions as members of the BOD, members of the BOC, or executive officers in other banks, companies, and/or institutions, save for cases where the BOD members are responsible for overseeing the bank's investments in subsidiary companies fulfilling functional roles as members of Board of Commissioners in non-bank subsidiary companies controlled by the bank. ²³	<p>Members of the BOD are prohibited from holding concurrent positions:²⁴</p> <ol style="list-style-type: none"> a. as the BOD, members of the BOC, or executive officers in other banks, companies, and/or institutions; b. in the functional areas (e.g. advisor, expert staff and/or specialist) of both banks and non-bank financial institutions; and/or c. other positions as specified by the provisions of the applicable laws and regulations. <p>The followings shall not be considered as members of the BOD holding concurrent positions:²⁵</p> <ol style="list-style-type: none"> a. the BOD members are responsible for overseeing the bank's investments in subsidiary companies fulfilling functional roles as members of the BOC in non-bank subsidiary companies controlled by the bank, which shall be carried out upon the BOC approval; b. the BOD members are responsible for the oversight of a pension fund or performing duties as a pension fund supervisory board member, owned by the bank; c. performing duties as an acting director; and/or d. occupying a position in a non-profit organization or institution, which shall be reported to the BOC meeting. Non-profit organizations or institutions may include the membership in committees or task forces in specific areas outside of the bank.
8.	Shares ownership	<p>Members of the BOD, either individually or collectively, are prohibited from owning shares in other companies to the extent of 25% (twenty five percent) or more of the subscribed capital of the respective other company.²⁶</p> <p>Not regulated.</p>	<p>Members of the BOD, either individually or collectively, are prohibited from owning shares in other companies to the extent of 25% (twenty five percent) or more of the subscribed capital of the respective other company.²⁷</p> <p>Receiving bonuses or incentives in the form of shares, which lead to the ownership of 25% (twenty five percent) or more, is an exception to the above limitation.²⁸</p>

²³ Article 7 paragraphs (1) and (2) of POJK 55/2016

²⁴ Article 15 paragraph (1) of POJK 17/2023

²⁵ Article 15 paragraphs (2) and (3) of POJK 17/2023 and their elucidations

²⁶ Article 7 paragraph (3) of POJK 55/2016

²⁷ Article 16 paragraph (1) of POJK 17/2023

²⁸ Article 16 paragraph (2) of POJK 17/2023

No.	Matter	POJK 55/2016	POJK 17/2023
		Not regulated.	<p>The ownership of shares by the President Director or the director responsible for compliance functions, resulting from bonuses, incentives, stock ownership programs for management, and/or stock ownership programs for employees in the company that is a controlling shareholder and/or an ultimate controller of the bank, shall not be considered in the assessment of the independence concerning controlling shareholders, if:²⁹</p> <p>a. The ownership of shares is a policy of the controlling shareholder and/or ultimate controller of the bank and is not an initiative of the President Director or the director responsible for compliance functions; and</p> <p>b. The share ownership is not intended for trading.</p> <p>Further, the President Director or the director responsible for compliance functions that holds ownership of shares in the bank's controlling shareholder and/or ultimate controller shall provide a statement affirming their commitment to act independently while serving as President Director or as the director responsible for compliance functions.</p>
		<p>Members of the BOD shall disclose in the GCG implementation report:³⁰</p> <p>a. ownership of shares amounting to 5% (five percent) or more, whether in the respective bank or in other banks and companies, both domestically and internationally; and</p> <p>b. financial relationships and familial connections with other members of the BOD, members of the BOC, and/or controlling shareholders of the bank.</p>	<p>Members of the BOD shall disclose in the GCG implementation report:³¹</p> <p>a. ownership of shares amounting to 5% (five percent) or more, whether in the respective bank or in other banks and companies, both domestically and internationally;</p> <p>b. financial relationships with other members of the BOD, members of the BOC, and/or controlling shareholders of the bank; and</p> <p>c. familial relationships up to the second degree with other members of the BOD, members of the BOC, and/or controlling shareholders of the bank.</p>
9.	Duties and Responsibilities	The BOD is fully responsible for the execution of the bank's management. ³²	The BOD is a body of the bank authorized and fully responsible for managing the bank in the best interests of the bank, in accordance with the bank's purposes and objectives. They also represent the bank, both before and outside the court, in accordance with the provisions of the AOA for legally incorporated limited liability companies or as branch office heads and officials one level below the branch office head for KCBLN. ³³

²⁹ Article 16 paragraph (3) of POJK 17/2023

³⁰ Article 21 of POJK 55/2016

³¹ Article 32 POJK 17/2023

³² Article 10 of POJK 55/2016

³³ Article 1 point 5 of POJK 17/2023

No.	Matter	POJK 55/2016	POJK 17/2023
		Not regulated.	In the event that the BOD consists of only 1 (one) director, the duties and responsibilities of the director responsible for compliance functions shall be carried out by the head of the bank's compliance unit for a maximum of 6 (six) months. ³⁴
		Not regulated.	The substitute director must not be selected from individuals outside the current incumbent members of the BOD, unless mandated by legal regulations. ³⁵
		Not regulated.	The responsibilities undertaken by the substitute director shall be in effect for a maximum period of 6 (six) months and may be extended in accordance with the bank's considerations and subject to the approval of the OJK. ³⁶
		Not regulated.	The BOD is responsible for overseeing and managing the bank's activities in alignment with the bank's defined purposes and objectives, as per the applicable laws and regulations, the AOA, and resolutions passed during the GMS. ³⁷
		Not regulated.	The BOD is obliged to fulfill their duties, authorities, and responsibilities in good faith and with a principle of prudence. ³⁸
		Not regulated.	The BOD has the authority to represent the bank in accordance with the provisions of applicable laws and regulations, the AOA, and resolutions of the GMS. ³⁹
		The BOD applies the principles of GCG in all of the bank's business activities at all levels or tiers of the organization.	The BOD implements GCG in the bank integrated with risk management and compliance in accordance with the latest developments in the banking ecosystem, supported by digitization and technological innovation. ⁴⁰
		In implementing GCG in the bank, the BOD is required to establish at least: ⁴¹ a. Internal audit unit; b. Risk management unit; and c. Compliance unit.	In implementing GCG in the bank, the BOD is required to establish at least: a. Internal audit unit; b. Risk management unit; and c. Compliance unit. Further, the BOD shall also establish the units as required under the OJK's regulations. ⁴²

³⁴ Article 14 paragraph (3) of POJK 17/2023

³⁵ Article 14 paragraph (4) of POJK 17/2023

³⁶ Article 14 paragraphs (5) and (6) of POJK 17/2023

³⁷ Article 20 paragraph (1) of POJK 17/2023

³⁸ Article 20 paragraph (2) of POJK 17/2023

³⁹ Article 20 paragraph (3) of POJK 17/2023

⁴⁰ Article 21 of POJK 17/2023

⁴¹ Article 13 of POJK 55/2016

⁴² Article 22 of POJK 17/2023

No.	Matter	POJK 55/2016	POJK 17/2023
		<p>The BOD shall be prohibited from engaging individual advisors and/or professional services as experts or consultants. However, this prohibition does not apply under the following conditions:</p> <ol style="list-style-type: none"> a. for projects of a specialized nature; b. based on clear employment contracts; and c. carried out by Independent Parties possessing specific technical knowledge with adequate qualifications to work on specialized projects. 	<p>The BOD shall be prohibited from engaging individual advisors and/or professional services as experts or consultants. However, this prohibition does not apply under the following conditions:⁴⁴</p> <ol style="list-style-type: none"> a. for projects of a specialized nature; b. based on clear employment contracts; c. carried out by Independent Parties possessing specific technical knowledge with adequate qualifications to work on specialized projects; d. conducted by individuals who do not hold structural positions within the bank; and e. undertaken by individuals without the authority to make operational decisions for the bank.
		<p>The BOD is obliged to provide the accurate, relevant, and timely data and information to the BOC.</p>	<p>In managing data and information related to the bank, the BOD is obliged to:⁴⁵</p> <ol style="list-style-type: none"> a. possess and provide accurate, relevant, and timely data and information, including to the BOC; b. conduct data and information management in accordance with GCG in the bank and the provisions of applicable laws and regulations.
		<p>The BOD is required to have guidelines and working regulations (or BOD Charter) that are binding for each member of the BOD, which must include at least:⁴⁶</p> <ol style="list-style-type: none"> a. work ethics regulations for the BOD; b. working hours; and c. meeting arrangements. 	<p>The BOD is required to have guidelines and working regulations (or BOD Charter) that are binding for each member of the BOD, which must include at least:⁴⁷</p> <ol style="list-style-type: none"> a. organization of the bank and the allocation of tasks within the BOD which includes mechanisms for appointing substitute directors; b. duties, responsibilities, and authorities of the BOD; c. arrangement of authority and decision-making procedures of the BOD; d. work ethics regulations for the BOD;

⁴³ Article 16 of POJK 55/2016

⁴⁴ Article 26 of POJK 17/2023

⁴⁵ Article 27 of POJK 17/2023

⁴⁶ Article 18 of POJK 55/2016

⁴⁷ Article 28 of POJK 17/2023

No.	Matter	POJK 55/2016	POJK 17/2023
			<p>e. arrangements for BOD meetings which include, among others, the regulation of meeting agendas, quorum requirements, decision-making procedures, members' rights in the event of disagreements in decision-making, and meeting minutes;</p> <p>f. prohibitions for the BOD;</p> <p>g. performance evaluation of the BOD; and</p> <p>h. pattern of working relationships between the BOD and the BOC.</p>
		<p>For the implementation of GCG, the BOD shall establish at least:⁴⁸</p> <p>a. an internal audit unit;</p> <p>b. a risk management unit and a risk management committee; and</p> <p>c. compliance unit.</p>	<p>The BOD is required to establish committees consisting of at least:⁴⁹</p> <p>a. risk management committee;</p> <p>b. credit or financing policy committee;</p> <p>c. credit or financing committee; and</p> <p>d. information technology steering committee.</p> <p>The BOD may establish other committees tailored to the needs and/or complexity of the bank, which may include but not limited to, product committee, performance management committee, and human capital committee.⁵⁰</p> <p>Further, the BOD is required to evaluate the performance of the committees at least at the end of each fiscal year.⁵¹</p>
10.	BOD Meeting	Not regulated.	<p>The BOD is required to hold BOD meetings at least once every month, and joint meetings with the BOC, at least once every 4 (four) months.⁵²</p> <p>The aforementioned meeting should be held if a majority (more than 50% (fifty-percent)) of the members of the BOD are in attendance.</p>

B. Board of Commissioners (“BOC”)

No.	Matter	POJK 55/2016	POJK 17/2023
1.	Composition	The BOC must be chaired by the President Commissioner. ⁵³	<p>One of the members of the BOC must be appointed the President Commissioner.⁵⁴</p> <p>If necessary, any of other members of the BOD may be appointed the Vice President Commissioner.⁵⁵</p>

⁴³ Article 16 of POJK 55/2016

⁴⁴ Article 26 of POJK 17/2023

⁴⁵ Article 27 of POJK 17/2023

⁴⁶ Article 18 of POJK 55/2016

⁴⁸ Article 13 of POJK 55/2016

⁴⁹ Article 62 paragraph (2) of POJK 17/2023

⁵⁰ Article 62 paragraph (3) of POJK 17/2023 and its elucidation

⁵¹ Article 62 paragraph (4) of POJK 17/2023

⁵² Article 30 of POJK 17/2023

⁵³ Article 23 paragraph (3) of POJK 55/2016

⁵⁴ Article 36 paragraph (1) of POJK 17/2023

⁵⁵ Article 36 paragraph (2) of POJK 17/2023

No.	Matter	POJK 55/2016	POJK 17/2023
2.	Criteria for Members of the BOC	Not regulated.	Independent Commissioner candidate shall possess: <ul style="list-style-type: none"> a. adequate and relevant knowledge in the field of banking pertaining to the position of Independent Commissioner; and b. experience in the field of banking and/or finance.
3.	Appointment of BOC Members	Any proposal for the replacement and/or appointment of members of the BOC to the GMS must take into consideration the recommendations of the remuneration and nomination committee . ⁵⁶	Any proposal for the replacement and/or appointment of members of the BOC to the GMS must take into consideration the recommendations of the nomination committee . ⁵⁷ <p>In the event that the members of the remuneration and nomination committee do not meet the minimum requirements specified under the POJK 17/2023, the recommendation of the nominating committee regarding the replacement and/or appointment of members of the BOC to the GMS may be exempted, in the event of a vacancy in the BOC.⁵⁸</p>
		Not regulated.	The replacement and/or appointment of members of the BOC prioritize a professional composition, independence, competency suitability, and take into account the diversity needed for the proper execution of the BOC's duties and responsibilities. ⁵⁹ <p>Taking into account diversity, encompasses, among others, career background, experience, educational history, gender.</p>
		Former members of the BOD or Executive Officers of the bank, or individuals with connections to the bank that could influence the Independent Commissioner's ability to act independently, must undergo a minimum cooling-off period of 1 (one) year before assuming the role of Independent Commissioner at the respective bank. ⁶⁰ <p>The above cooling off period does not apply to former members of the BOD who supervise the compliance functions or Executive Officers who performed compliance functions at the bank in question.⁶¹</p>	Former members of the BOD or Executive Officers of the bank, or individuals with connections to the bank that could influence the Independent Commissioner's ability to act independently, must undergo a minimum cooling-off period of 1 (one) year before assuming the role of Independent Commissioner at the respective bank. <p>The cooling-off period for:⁶²</p> <ul style="list-style-type: none"> (i) Former President Director at the respective bank; and (ii) Former members of the BOD who supervise the compliance functions or executive officers who performed compliance functions at the bank in question, <p>shall be a minimum of 6 (six) months before serving the role of Independent Commissioner at the respective bank.</p>

⁵⁶ Article 41 paragraph (1) of POJK 55/2016

⁵⁷ Article 27 paragraph (1) of POJK 17/2023

⁵⁸ Article 77 paragraph (5) of POJK 17/2023

⁵⁹ Article 41 paragraph (3) of POJK 17/2023

⁶⁰ Article 24 paragraph (3) of POJK 55/2016

⁶¹ Article 24 paragraph (4) of POJK 55/2016

⁶² Article 38 paragraph (5) of POJK 17/2023

No.	Matter	POJK 55/2016	POJK 17/2023
		Not regulated.	In the event of a conflict of interest or potential conflict of interest involving a candidate for Independent Commissioner or Non-Independent Commissioner related to the bank in connection with their nomination at the bank, the respective candidate shall disclose the conflict of interest during the fit and proper test. ⁶³
		Not regulated.	In the event that, based on the assessment of the OJK, there is a conflict of interest or a potential conflict of interest involving a candidate for the Independent Commissioner or a candidate for the Non-Independent Commissioner related to the bank in connection with their nomination, the OJK shall be authorized to determine the necessary supervisory measures. ⁶⁴
		A Non-Independent Commissioner who will be appointed as an Independent Commissioner at the same bank, must undergo a minimum cooling-off period of 6 (six) months. ⁶⁵	A Non-Independent Commissioner who will be appointed as an Independent Commissioner at the same bank, must undergo a minimum cooling-off period of 1 (one) year. ⁶⁶
		<p>An Independent Commissioner who has served for 2 (two) consecutive terms can be re-appointed in the subsequent term as an Independent Commissioner if:</p> <ol style="list-style-type: none"> a. The BOC meeting assesses that the Independent Commissioner can continue to act independently; and b. The statement made by the Independent Commissioner during the GMS regarding their own independence.⁶⁷ 	<p>Independent Commissioners may be re-appointed for a maximum of 2 (two) consecutive terms.</p> <p>An Independent Commissioner who has served for 2 (two) consecutive terms can be re-appointed in the subsequent term as an Independent Commissioner by taking the followings into consideration:⁶⁸</p> <ol style="list-style-type: none"> a. The assessment of the Independent Commissioner's performance; b. The assessment results of the BOC meeting, stating that the Independent Commissioner can continue to act independently; c. The assessment results by the head of the internal audit unit and the executive officer overseeing the human resources function, stating that the Independent Commissioner can continue to act independently; and d. The statement made by the Independent Commissioner during the GMS regarding their own independence.
4.	Replacement and Removal of BOC Members	Not regulated.	Please refer to the above Replacement and Removal of BOD Members. ⁶⁹

⁶³ Article 38 paragraph (6) of POJK 17/2023

⁶⁴ Article 38 paragraph (7) of POJK 17/2023

⁶⁵ Article 25 paragraph (2) of POJK 55/2016

⁶⁶ Article 39 paragraph (2) of POJK 17/2023

⁶⁷ Article 26 paragraph (2) of POJK 55/2016

⁶⁸ Article 40 paragraph (2) of POJK 17/2023

⁶⁹ Articles 42 and 43 of POJK 17/2023

No.	Matter	POJK 55/2016	POJK 17/2023
5.	Resignation of BOC Members	Not regulated.	Please refer to the above Resignation of BOD Members. ⁷⁰
6.	Inclusion of Mechanisms and Requirements in AOA	Not regulated.	The bank establishes in its AOA the maximum term of office for members of the BOC, which is a maximum of 5 (five) years for one term, commencing from the effective date of their appointment by the GMS. The AOA may also specify other conditions for the appointment of members of the BOC. ⁷¹
7.	Concurrent Positions	Not regulated.	<p>Members of the BOC are prohibited from holding concurrent positions:⁷²</p> <ul style="list-style-type: none"> a. as members of BOD, members of BOC, members of sharia supervisory board, or Executive Officers in other banks, companies, and/or institutions; b. as members of BOD, members of BOC, members of sharia supervisory board, or Executive Officers in more than 1 (one) non-financial institution or company, whether located domestically or internationally; c. in the functional areas (e.g. advisor, expert staff and/or specialist) of both banks and non-bank financial institutions; d. in other positions that may create conflicts of interest in the execution of duties as a member of the Board of Commissioners; and/or e. other positions as specified by the provisions of the applicable laws and regulations. <p>The followings shall not be considered as members of the BOC holding concurrent positions:⁷³</p> <ul style="list-style-type: none"> a. serving as members of the BOD, members of the BOC, or executive officers performing oversight functions in 1 (one) non-bank subsidiary company controlled by the bank; b. Non-Independent Commissioners performing the functional duties of legal entity shareholders of the bank and/or the bank's business group; and/or c. occupying a position in a non-profit organization or institution. <p>Independent Commissioners shall be prohibited from holding positions as public officials.⁷⁴</p>

⁷⁰ Articles 44 and 45 of POJK 17/2023

⁷¹ Article 35 paragraph (3) of POJK 17/2023

⁷² Article 39 Article 46 paragraph (1) of POJK 17/2023

⁷³ Article 46 paragraph (2) of POJK 17/2023

⁷⁴ Article 46 paragraph (5) of POJK 17/2023

No.	Matter	POJK 55/2016	POJK 17/2023
8.	Shares Ownership	<p>Members of the BOC shall disclose in the GCG implementation report:⁷⁵</p> <ul style="list-style-type: none"> a. ownership of shares amounting to 5% (five percent) or more, whether in the respective bank or in other banks and companies, both domestically and internationally; and b. financial relationships and familial connections with other members of the BOD, members of the BOC, and/or controlling shareholders of the bank. 	<p>Members of the BOC shall disclose in the GCG implementation report:⁷⁶</p> <ul style="list-style-type: none"> a. ownership of shares amounting to 5% (five percent) or more, whether in the respective bank or in other banks and companies, both domestically and internationally; and b. financial relationships with other members of the BOC, members of the BOD, and/or controlling shareholders of the bank; and c. familial relationships up to the second degree with other members of the BOC, members of the BOD, and/or controlling shareholders of the bank.
		Not regulated.	Banks engaged in conventional activities and having sharia business units (<i>Unit Usaha Syariah – “UUS”</i>), the regulation regarding the responsibilities of UUS development for the BOC of banks engaged in conventional activities shall be carried out in accordance with the OJK’s regulation concerning UUS. ⁷⁷
9.	Duties and Responsibilities	Not regulated.	The BOC shall oversee, for the interests of the bank, the policies and management conducted by the BOD, providing advice to the BOD, and bearing responsibility for such oversight, in accordance with the purposes and objectives of the bank as specified in the provisions of laws and regulations, the AOA, and resolutions of the GMS. ⁷⁸
		Not regulated.	The BOC is obliged to fulfill their duties, authorities, and responsibilities in good faith and with a principle of prudence. ⁷⁹
		In performing its oversight, the BOC is obliged to direct, monitor, and evaluate as the implementation of strategic policies of the bank.	In performing its oversight, the BOC is obliged to direct, monitor, and evaluate the integrated implementation of corporate governance, risk management, and compliance, as well as the strategic policies of the bank, in accordance with the provisions of laws and regulations, the AOA, and/or resolutions of the GMS. ⁸⁰
		Not regulated.	<p>The BOC exercises the authorities delegated and/or granted to the BOC in accordance with the provisions of laws and regulations, the Articles of Association, and/or resolutions of the GMS.⁸¹</p> <p>The BOC may carry out other supervisory duties and authorities.⁸²</p>

⁷⁵ Article 39 of POJK 55/2016

⁷⁶ Article 57 POJK 17/2023

⁷⁷ Article 37 of POJK 17/2023

⁷⁸ Article 49 paragraph (1) of POJK 17/2023

⁷⁹ Article 49 paragraph (2) of POJK 17/2023

⁸⁰ Article 49 paragraph (3) of POJK 17/2023

⁸¹ Article 49 paragraph (4) of POJK 17/2023

⁸² Article 49 paragraph (5) of POJK 17/2023

No.	Matter	POJK 55/2016	POJK 17/2023
		<p>In carrying out its supervisory role, the BOC shall be prohibited from participating in the decision-making process of the bank's operational activities, except:⁸³</p> <ol style="list-style-type: none"> a. The provision of funds to related parties in accordance with the OJK's regulations regarding the maximum limits for credit provision by conventional banks; and b. other provisions established in the bank's AOA or in accordance with prevailing regulations. 	<p>In carrying out its supervisory role, the BOC shall be prohibited from participating in the decision-making process of the bank's operational activities, except:⁸⁴</p> <ol style="list-style-type: none"> a. The provision of funds to related parties in accordance with the OJK's regulations regarding the maximum limits for credit provision and large fund provision by conventional banks and the OJK regulations regarding the maximum limits for fund disbursement and large fund disbursement by sharia banks; and b. other provisions established in the bank's AOA or in accordance with prevailing regulations.
		<p>The BOC must report to the OJK no later than 7 (seven) working days from the date of discovery:⁸⁵</p> <ol style="list-style-type: none"> a. violations of the provisions of financial, banking, and related laws and regulations pertaining to the bank's business activities; and/or b. circumstances or anticipated circumstances that may jeopardize the bank's business continuity. 	<p>The BOC must report to the OJK no later than 5 (five) working days from the date of discovery:⁸⁶</p> <ol style="list-style-type: none"> a. violations of the provisions of financial, banking, and related laws and regulations pertaining to the bank's business activities; and/or b. circumstances or anticipated circumstances that may jeopardize the bank's business continuity.
		<p>The BOD is required to have guidelines and working regulations (or BOD Charter) that are binding for each member of the BOD, which must include at least:⁸⁷</p> <ol style="list-style-type: none"> a. work ethics regulations for the BOC; b. working hours; c. meeting arrangements 	<p>The BOC is required to have guidelines and working regulations (or BOC Charter) that are binding for each member of the BOC, which must include at least:⁸⁸</p> <ol style="list-style-type: none"> a. duties, responsibilities, and authorities of the BOC; b. arrangement of authority and decision-making procedures of the BOC; c. work ethics regulations for the BOC; d. arrangements for BOC meetings which include, among others, the regulation of meeting agendas, quorum requirements, decision-making procedures, members' rights in the event of disagreements in decision-making, and meeting minutes; e. prohibitions for the BOC; f. performance evaluation of the BOC; and g. pattern of working relationships between the BOD and the BOC.

⁸³ Article 49 paragraph (6) of POJK 17/2023

⁸⁴ Article 49 paragraph (6) of POJK 17/2023

⁸⁵ Article 33 of POJK 55/2016

⁸⁶ Article 51 of POJK 17/2023

⁸⁷ Article 35 of POJK 55/2016

⁸⁸ Article 28 of POJK 17/2023

No.	Matter	POJK 55/2016	POJK 17/2023
		Not regulated.	The BOC is required to safeguard all data and information related to the bank provided by the BOD, in accordance with the provisions of laws and regulations. ⁸⁹
		Not regulated.	The BOC is required to evaluate the performance of the committees established by the BOC at least at the end of each fiscal year.
10.	BOC Meeting	The BOC shall hold regular BOC meetings at least 4 (four) times in 1 (one) year. ⁹⁰	The BOC shall hold regular BOC meetings at least once every 2 (two) months, and joint meetings with the BOD, at least once every 4 (four) months ⁹¹ The aforementioned meeting should be held if a majority (more than 50% (fifty-percent)) of the members of the BOC are in attendance.

C. Shareholders

No.	Matter	POJK 55/2016	POJK 17/2023
1.	GCG Compliance for Shareholders	Not regulated.	The controlling shareholder of the bank and the ultimate controlling shareholder ⁹² of the bank must: (i) comply with the OJK's regulations and the provisions of financial sector regulations; as well as (ii) support the implementation of healthy, competitive, and prudently-managed bank activities in accordance with risk management principles. ⁹³
2.	Dividend Policy	Not regulated.	Banks are required to have a dividend policy – this policy should at least contain the following: ⁹⁴ <ol style="list-style-type: none"> considerations of the bank in dividend distribution; the amount of dividend provided; the mechanism for approval of dividend distribution proposals; and the current period of the dividend policy. <p>The dividend's policy stated above may also include: (i) the bank's authority to propose to the GMS the postponement of dividend payments; (ii) halting the approved dividend payments; (iii) halting the installment or gradual dividend payments; and/or (iv) recalling dividend payments from controlling shareholders, in the event of financial condition issues faced by the bank.⁹⁵</p>

⁸⁹ Article 54 of POJK 17/2023

⁹⁰ Article 37 paragraph (1) of POJK 55/2016

⁹¹ Article 55 paragraphs (1) and (2) of POJK 17/2023

⁹² The terms of "controlling shareholder" and "ultimate controlling shareholder" refer to the ones as defined and explained in the OJK regulation on the fit-and-proper test for key persons in financial services institutions. In its essence, "controlling shareholder" is any legal entity, individual, and/or business group that owns the shares or the equivalent of shares of the bank and has the ability to exercise control over the bank, while "ultimate controlling shareholder" is any individual or legal entity that directly or indirectly owns the bank's shares and is the ultimate controller of the whole structure of business group that controls the bank.

⁹³ Article 107 paragraph (1) of POJK 17/2023

⁹⁴ Article 108 paragraphs (1) and (2) of POJK 17/2023

⁹⁵ Article 108 paragraph (3) of POJK 17/2023

D. Bank's Business Group

No.	Matter	POJK 55/2016	POJK 17/2023
1.	Periodical Coordination and Evaluation	Not regulated.	The bank, as the parent company or the executing parent company (<i>pelaksana perusahaan induk</i>) within the banking group, is required to periodically coordinate and evaluate the implementation of GCG at the member banks within the banking group – shall be conducted at least one time per year. ⁹⁶
2.	Banking Synergy	Not regulated.	<p>A bank that is a member of a banking group may engage in a banking synergy in the form of the committee support from the bank as the parent company or executing parent company⁹⁷ – the implementations are as follows:⁹⁸</p> <ol style="list-style-type: none"> the committee at the parent company bank or the executing parent company also serves as the committee at the member bank within the banking group if there is no separate committee at the member bank within the banking group; or bank employees at the executive officer level or higher level at the parent company bank or the executing parent company are assigned as members of the committee at the member bank within the banking group if there is a separate committee at the member bank within the banking group. <p>Furthermore, a member bank within the banking group that utilizes committees owned by the bank as the parent company or the executing parent company must include at least one relevant executive officer-level employee in every decision-making process related to the bank that is a member of the respective banking group.⁹⁹ The participation of executive officers in decisions related to member banks within the banking group aims to ensure that the interests of the member banks within the banking group are accommodated and executed effectively, as well as to support the transfer of knowledge.¹⁰⁰</p>

⁹⁶ Article 127 paragraph (1) of POJK 17/2023

⁹⁷ Article 128 paragraph (1) of POJK 17/2023

⁹⁸ Elucidation of Article 128 paragraph (2) of POJK 17/2023

⁹⁹ Article 128 paragraph (3) of POJK 17/2023

¹⁰⁰ Elucidation of Article 128 paragraph (3) of POJK 17/2023

E. Bank's Offshore Branch Office (Kantor Cabang Bank Luar Negeri or "KCBLN")

No.	Matter	POJK 55/2016	POJK 17/2023
1.	Implementation of GCG	Not regulated.	GCG provisions for banks (which are limited liability companies or <i>perseroan terbatas</i>) apply to KCBLN, with necessary adjustments. ¹⁰¹
2.	Concurrent Positions for KCBLN's BOD	Not regulated.	<p>BOD members of KCBLN are prohibited to hold concurrent positions as the BOD members, BOC members or executive officers in:¹⁰²</p> <ol style="list-style-type: none"> banks; banks and/or other KCBLNs outside Indonesia; companies and/or institutions both domestically and abroad; in functional roles within financial institutions, banks, and/or non-bank financial institutions located both domestically and abroad; and/or in any other positions that may create conflicts of interest in the performance of their duties as members of the BOD. <p>Nevertheless, in some cases, the KCBLN's BOD members are allowed to have concurrent positions if: (i) the KCBLN's BOD members performing duties as substitute directors; (ii) and/or holding a position in a non-profit organization or institution, provided that it does not result in the negligence of the individual's duties and responsibilities as a member of the KCBLN's board.¹⁰³</p>

F. Committees

No.	Matter	POJK 55/2016	POJK 17/2023
1.	The Structure and Membership of Committees	<p>Remuneration and Nomination Committee¹⁰⁴</p> <p>The remuneration and nomination committee must consist of at least:</p> <ol style="list-style-type: none"> 1 (one) independent commissioner; 1 (one) commissioner; and 1 (one) executive officer who oversees the human resources function or 1 (one) representative of bank employees. 	<p>Remuneration and Nomination Committee¹⁰⁵</p> <p>The remuneration and nomination committee must consist of at least:</p> <ol style="list-style-type: none"> 1 (one) independent commissioner; 1 (one) non-independent commissioner; and 1 (one) executive officer who oversees the human resources function or 1 (one) representative of bank employees.

¹⁰¹ Article 136 of POJK 17/2023

¹⁰² Article 137 paragraph (1) of POJK 17/2023

¹⁰³ Article 137 paragraph (2) of POJK 17/2023

¹⁰⁴ Article 44 of POJK 55/2016

¹⁰⁵ Article 66 of POJK 17/2023

No.	Matter	POJK 55/2016	POJK 17/2023
			<p>In the event that the Bank does not have a non-independent commissioner, the remuneration and nomination committee must consist of at least:</p> <ul style="list-style-type: none"> a. 2 (two) independent commissioners; and b. 1 (one) executive officer in charge of the human resources function or c. 1 (one) representative of the bank's employees. <p>Further, banks conduct sharia business and conventional banks with an UUS, 1 (one) member of the sharia supervisory board may become a member of the remuneration and nomination committee.</p>
		<p><u>Risk Monitoring Committee</u>¹⁰⁶</p> <p>The risk monitoring committee must consist of at least:</p> <ul style="list-style-type: none"> a. 1 (one) independent commissioner; b. 1 (one) independent party with the expertise in finance; and c. 1 (one) independent party with the expertise in risk management. 	<p><u>Risk Monitoring Committee</u>¹⁰⁷</p> <p>The risk monitoring committee must consist of at least:</p> <ul style="list-style-type: none"> a. 1 (one) independent commissioner; b. 1 (one) independent party with the expertise in risk management; and c. 1 (one) independent party with the expertise in: <ul style="list-style-type: none"> (i) financial matters, for banks engaging in conventional business; or (ii) sharia banking, for banks engaging in sharia business and conventional banks with an UUS. <p>For banks conducting sharia business and conventional banks with an UUS, 1 (one) member of the sharia supervisory board may become a member of the risk monitoring committee.</p> <p>The expertise of independent parties is evidenced by:</p> <ul style="list-style-type: none"> a. possession of a risk management certificate, as applicable to the BOD; and b. possession of competency certificates support the execution of the committee's functions and responsibilities.

¹⁰⁶ Article 42 of POJK 55/2016

¹⁰⁷ Article 65 of POJK 17/2023

No.	Matter	POJK 55/2016	POJK 17/2023
		<p>Audit Committee¹⁰⁸</p> <p>The audit committee must consist of at least:</p> <ol style="list-style-type: none"> a. 1 (one) independent commissioner; b. 1 (one) independent party with the expertise in finance; and c. 1 (one) Independent Party with the expertise in risk management. 	<p>Audit Committee¹⁰⁹</p> <p>The audit committee must consist of at least:</p> <ol style="list-style-type: none"> a. 1 (one) independent commissioner; and b. 1 (one) independent party with the expertise in: <ol style="list-style-type: none"> (i) financial matters or accounting; or (ii) sharia banking, for banks engaging in sharia business and conventional banks with an UUS. <p>For banks conducting sharia business and conventional banks with an UUS, 1 (one) member of the sharia supervisory board may become a member of the audit committee.</p> <p>The expertise of independent parties is evidenced by a possession of competency certificates supporting the execution of the audit committee's functions and responsibilities.</p>
2.	Committees Meeting	Committee meetings shall be held as per the bank's needs. ¹¹⁰	<p>The committee meetings shall be held at least:¹¹¹</p> <ol style="list-style-type: none"> a. 1 (one) time per month for the audit committee. b. 1 (one) time per month for the risk monitoring committee. c. 1 (one) time every 3 (three) months for the remuneration and nomination committee.
3.	Committees' Guidelines and Working Procedures	Audit committee, risk monitoring committee, and remuneration and nomination committee shall establish guidelines and working procedures. ¹¹²	<p>The risk management committee, credit or financing policy committee, credit or financing committee, information technology steering committee, audit committee, risk monitoring committee, and remuneration and nomination committee shall establish guidelines and working procedures which must at least include:¹¹³</p> <ol style="list-style-type: none"> a. purpose of forming the committee; b. tasks, responsibilities, and authorities of the committee; c. structure and membership of the committee; d. committee meetings, quorum, and decision-making;

¹⁰⁸ Article 41 of POJK 55/2016

¹⁰⁹ Article 64 of POJK 17/2023

¹¹⁰ Article 50 paragraph (1) of POJK 55/2016

¹¹¹ Article 77 paragraph (1) of POJK 17/2023

¹¹² Article 34 paragraph (5) of POJK 55/2016

¹¹³ Article 75 of POJK 17/2023

No.	Matter	POJK 55/2016	POJK 17/2023
			<p>e. terms of offices for committee members from Independent Parties;</p> <p>f. performance evaluation mechanisms; and</p> <p>g. period of periodic reviews of guidelines and working procedures of the committee.</p> <p>Further, the bank is required to review guidelines and working procedures of the aforementioned committees at least once every 3 (three) years.</p>

G. Audit

No.	Matter	POJK 55/2016	POJK 17/2023
1.	Correspondence and Report to OJK for Internal Audit	Not regulated.	<p>The bank must communicate with the OJK at least once a year with regard to the implementation of the internal audit function.¹¹⁴</p> <p>Further, the bank is required to submit reports to the OJK regarding the implementation of the internal audit function, which shall include:¹¹⁵</p> <p>a. reports on the appointment or removal of the head of the internal audit unit;</p> <p>b. special reports on any internal audit findings that are estimated to jeopardize the bank's business continuity;</p> <p>c. reports on the results of independent external reviews;</p> <p>d. reports on the implementation and key findings of internal audits; and</p> <p>e. other reports upon the request of the OJK.</p>

H. Conflict of Interest

No.	Matter	POJK 55/2016	POJK 17/2023
1.	Conflict of Interest Policy	Not regulated.	The bank is required to establish a conflict of interest policy aimed at identifying, reducing, and managing potential conflicts of interest that may arise within the bank due to the conduct of the bank's business activities. ¹¹⁶

I. Remuneration

No.	Matter	POJK 55/2016	POJK 17/2023
1.	Remuneration Policy	The audit and remuneration committee in the bank must provide and evaluate the bank's remuneration policy. ¹¹⁷ However, the POJK 55/2016 did not specify whether the policy should be made in a written format.	The bank is required to have a written remuneration policy for the BOD, BOC, sharia supervisory board, and bank employees. ¹¹⁸

¹¹⁴ Article 83 paragraph (3) of POJK 17/2023

¹¹⁵ Article 83 paragraph (4) of POJK 17/2023

¹¹⁶ Article 80 paragraph (4) of POJK 17/2023

¹¹⁷ Article 49 of POJK 55/2016

¹¹⁸ Article 92 paragraph (2) of POJK 17/2023

No.	Matter	POJK 55/2016	POJK 17/2023
2.	Postponing the Payment of Remuneration	Not regulated.	The bank may delay the payment of deferred variable remuneration (<i>malus</i>) or claw back the variable remuneration that has already been paid under certain conditions ¹¹⁹ determined by the bank. ¹²⁰
3.	OJK's Intervention	Not regulated.	Under certain conditions ¹²¹ , the OJK has the authority to: ¹²² <ol style="list-style-type: none"> conduct a review of the amount of variable remuneration for the BOD, BOC, sharia supervisory board, and/or bank employees; evaluate payments of variable remuneration that do not adhere to principles of fairness and equity; and/or instruct the bank to make adjustments to variable remuneration policies.

Conclusion

Overall, the POJK 17/2023 aims to enhance the implementation of GCG of all banks' top executives. A strong commitment to the implementation of GCG (by controlling shareholders, BOD, BOC and all parties affiliated with the bank comprehensively in every business activity and lines of defense of the bank) is expected to provide a positive contribution in supporting the competitiveness, and resilience of the banks as well as upholding the integrity of the financial system.

The implementation of the POJK 17/2023 may be conflicting with how the bank's business is currently conducted. You may have any conflict in implementing dividend policy, time gap between the dismissal of member of board and the approval of OJK of the appointed new member of board.

Please contact us if you need our advice and assistance in implementing the POJK 17/2023. Please be advised that violation to the POJK 17/2023's requirements may result the banks to be imposed with several administrative sanctions by the OJK depending on the types of contravention – the sanction ranges from: (a) warning letter; (b) prohibition of issuing new banking products and/or business expansion; (c) the decrease in the assessment of governance factors in the assessment of the bank's health level; (d) prohibition for the bank's main party to be a main party in another banks; (d) fines.

¹¹⁹ The conditions specified by the bank include, among others, the experience of losses, the occurrence of risks negatively affecting the bank's finances, and fraud committed by individuals (who are material risk takers) that harms the bank.

¹²⁰ Article 92 paragraph (3) of POJK 17/2023

¹²¹ The term of "certain conditions" includes, among others: (a) the bank's supervisory status is not under normal supervision; and/or (b) there is an inconsistency in the provision of variable remuneration, such as being disproportionate, unfair, potentially fraudulent, and including instances where remuneration payments do not align with performance and risk.

¹²² Article 92 paragraph (4) of POJK 17/2023

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The article above was prepared by Dentons HPRP's lawyers

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