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POJK 26/2024 on the Expansion of Banking Activities: Definitions and the Implementation of Cessie in Banking

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Cessie plays a crucial role in Indonesia's financial and legal framework, enabling the transfer of receivables while providing flexibility for creditors and investors. With evolving regulations such as the **Law on the Development and Strengthening of the Financial Sector** (Undang-Undang Pengembangan dan Penguatan Sektor Keuangan, **P2SK Law**) and **Financial Services Authority Regulation No. 26 of 2024 (POJK 26/2024)**, cessie continues to be a dynamic tool in Indonesia's financial sector, balancing flexibility with legal certainty while expanding business opportunities for banks.

Cessie Under Civil Code (KUHPerdata)

Before **POJK 26/2024**, cessie was primarily regulated under **Article 613 of the Indonesian Civil Code (KUHPerdata)**. **Article 613 of KUHPerdata** allows a creditor to assign their receivables to another party through a written agreement, effectively transferring the right to collect the debt. According to Article 613, cessie must be executed through an authentic deed or a private agreement, and notification must be given to the debtor to ensure legal enforceability. While the debtor's consent is not required, they must be notified to acknowledge the new creditor. These requirements provide legal certainty in financial transactions and assignments of receivables.

The Evolution of Cessie in Financial Transactions

Over time, the application of cessie has expanded to adapt to Indonesia's changing financial and regulatory landscape. Key areas where cessie has been widely utilized include:

1. **Banking and Finance**: Banks and financial institutions often use cessie to securitize loans and transfer non-performing loans (NPLs) to asset management companies or investors.
2. **Debt Trading and Investment**: Cessie enables the trading of receivables, allowing businesses to convert outstanding debts into liquid assets.

Despite these benefits, cessie also presents challenges, particularly legal disputes, enforcement issues, and the need for stronger regulatory oversight to prevent abusive practices.

The P2SK Law as the Foundation for POJK 26/2024

The P2SK Law serves as the foundation for various financial regulations, including POJK 26/2024. It is designed to strengthen financial system stability, enhance investor protection, and improve financial inclusion and accessibility.

By modernizing financial regulations, the P2SK Law provides the legal framework that enables financial institutions to engage in innovative business activities, such as cessie.

POJK 26/2024: Cessie as a Banking Business Activity

POJK 26/2024 introduces a significant development by allowing banks to conduct cessie as a business activity. This regulation enables banks to actively engage in the transfer and management of receivables, further enhancing liquidity and risk management within the financial sector.

One of the most significant questions raised by this regulation is whether the expansion of banking activities (perluasan usaha perbankan) allows banks to buy and resell receivables (piutang) as a profit-generating business activity, rather than simply as a means to improve financial stability. This marks a shift in how cessie is viewed within the banking industry.

Regulatory Implications: BMPK and GWM in the Context of POJK 26/2024

BMPK (Credit Exposure Limits)

Batas Maksimum Pemberian Kredit (BMPK) is a regulation that limits the maximum amount of credit a bank can extend to a single borrower or a group of related borrowers. The primary objective of BMPK is to mitigate credit concentration risk by ensuring that banks maintain a diversified credit portfolio, thereby reducing systemic risks.

With POJK 26/2024 allowing banks to engage in cessie, an important question arises: How does this impact BMPK compliance? If banks are permitted to purchase and resell receivables, they could potentially bypass BMPK limits by acquiring receivables from related parties or high-risk debtors. This raise concerns that cessie might create regulatory loopholes, indirectly allowing banks to extend credit beyond the prescribed limits. Another potential risk is the use of cessie for acquiring non-performing loans (NPLs), which could lead to artificially restructuring bad loans rather than genuinely resolving them.

To prevent excessive exposure and regulatory arbitrage, clear guidelines on how receivables transactions factor into BMPK calculations are necessary. Proper **Risk-Weighted Asset (RWA)** assessments should be in place to ensure that banks do not exploit cessie as a means to circumvent credit exposure regulations. Regulators must provide clarity on whether purchased receivables should be counted toward BMPK limits to prevent unintended risks to financial stability.

GWM (Minimum Reserve Requirement)

Giro Wajib Minimum (GWM), or the **Minimum Reserve Requirement**, is the portion of a bank's funds that must be held at Bank Indonesia (BI) as reserves. It serves as a critical monetary policy tool to control liquidity and maintain financial stability. The introduction of cessie as a recognized banking activity under POJK 26/2024 could have implications for GWM compliance, depending on how banks utilize receivables transactions.

If banks actively sell receivables, they may experience an increase in liquidity, reducing their need to hold excess reserves beyond the required GWM. Conversely, if banks purchase receivables—particularly riskier assets—their overall credit exposure could rise, potentially necessitating higher reserves. This shift in asset composition may have a direct impact on reserve management strategies.

Several risks could emerge from these developments. Liquidity fluctuations may occur if banks aggressively trade receivables, causing variations in their **loan-to-deposit ratio (LDR)** and affecting reserve requirements. Additionally, heavy reliance on receivables trading could lead to short-term liquidity mismatches, where banks face misalignment between short-term liquidity needs and long-term financial obligations, especially if the receivables market becomes volatile.

Given these potential risks, Bank Indonesia may need to assess whether adjustments to GWM policies are necessary to prevent cessie transactions from causing excessive liquidity shifts. Stronger oversight may be required to maintain stability and mitigate unintended financial imbalances.

POJK 26/2024 and POJK 47/2020: Differing Regulatory Approaches to Asset Transactions

The **Financial Services Authority ("OJK")** issued **Regulation No. 47/POJK.05/2020** on Business Licensing and Institutional Aspects of Finance Companies and Sharia Financing Companies **(POJK 47/2020)** in November 2020, establishing a regulatory framework for finance companies, including the requirement for OJK approval for asset integration activities. Although POJK 47/2020 does not provide a specific definition of asset integration, it generally refers to activities such as the merging, consolidation, or transfer of assets and liabilities between finance companies or other entities with similar business activities, which could include the assignment (cessie) of receivables. This broad definition could be interpreted in various ways, with the narrowest interpretation potentially categorizing cessie as part of asset integration.

Building on this, POJK 26/2024 introduces a different regulatory approach for banks, particularly regarding cessie transactions. While financing companies remain subject to OJK approval for asset integration, POJK 26/2024 does not explicitly impose such a requirement on banks. This reflects OJK's confidence in banks' established risk management frameworks and supervision mechanisms.

By recognizing cessie as a standard banking activity, POJK 26/2024 reduces administrative burdens while maintaining necessary safeguards. Banks, which routinely engage in loan transfers and asset sales, can conduct receivables transactions more efficiently under this framework. Meanwhile, financing companies, which depend heavily on receivables as their primary assets, remain under stricter regulatory scrutiny to ensure solvency and consumer protection.

By streamlining the regulatory process, POJK 26/2024 allows banks to better manage receivables, improving liquidity and capital allocation. This regulatory framework enhances flexibility in financial transactions while maintaining stability in the financial sector.

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POJK 26/2024 marks a significant shift in the use of cessie within Indonesia's banking sector, enhancing liquidity and risk management while aligning with the P2SK Law. However, it raises concerns about BMPK compliance, credit concentration risks, and potential regulatory arbitrage. Additionally, its impact on GWM could introduce liquidity fluctuations and financial imbalances. To mitigate these risks, regulators must establish clear guidelines and oversight. While the regulation grants banks greater flexibility, its success will ultimately depend on balancing business expansion with financial stability through prudent risk management and regulatory safeguards.

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The article above was prepared by Dentons HPRP's lawyers