

# Financial Sector Development and Reinforcement Law: An Adjustment to the Complex and Diverse Financial Technology Industry

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To support the rapid dynamic of change in the financial sector caused by developments in technological innovation and financial products/services, the House of Representatives approved a bill on 15 December 2022 to be enacted as law, using the omnibus method in order to align various regulations into 1 (one) law, namely the Financial Sector Development and Reinforcement (*Pengembangan dan Penguatan Sektor Keuangan*) Law (“PPSK Law”).

The PPSK Law will increase the authority of the Financial Services Authority (OJK) to regulate and supervise cooperatives engaged in the financial sector, digital asset activities, Financial Sector Technology Innovation (ITSK), strengthening the education function, consumer protection, and monitoring market behavior (market conduct), which aims to make the national financial sector stronger and more developed.

In this article, we will mainly discuss a few changes and additions to the laws and regulations relating to financial technology products/services.

## Overview

The PPSK Law introduces a new currency, namely digital Rupiah, which has never appeared in any Indonesian Law before the PPSK Law. The introduction of this new currency amends the provision under Law No. 7 of 2011 on Currency (“Law 7/2011”).

The PPSK Law also introduces the term Financial Sector Technology Innovation or *Inovasi Teknologi Sektor Keuangan* (“ITSK”), a technology-based innovation that impacts products, activities, services and business models in the digital finance ecosystem. Further, to support the amendments and newly added sectors, the PPSK Law also designates a single authority in the new financial sector, which will be detailed below.

## Digital Rupiah as a New Type of Currency

Before being amended in the PPSK Law, the Law 7/2011 only recognised 2 (two) forms of the Indonesian currency. The following table is the comparison between the changes made in PPSK Law relating to the introduction of the new form of currency and the relevant provisions in the PPSK Law:

Law 7/2011	PPSK Law
<p>Article 2</p> <p>(1) The Currency of the Unitary State of the Republic of Indonesia is the Rupiah.</p> <p>(2) The forms of Rupiah consist of Rupiah banknotes and Rupiah coins.</p> <p>(3) The Rupiah referred to in paragraph (1) shall be symbolized as Rp.</p>	<p>Article 2</p> <p>(1) The Currency of the Unitary State of the Republic of Indonesia is the Rupiah.</p> <p>(2) The forms of Rupiah consist of Rupiah banknotes and Rupiah coins, and <b>digital Rupiah</b>.</p> <p>(3) The Rupiah as referred to in paragraph (1) shall be symbolized with Rp.</p>
	<p><b>Article 14A</b></p> <p><b>(1) Management of the digital Rupiah referred to in Article 2 paragraph (2) includes planning, issuance, distribution and administration.</b></p> <p><b>(2) Bank Indonesia is the only institution authorized to manage the digital Rupiah as referred to in paragraph (1).</b></p> <p><b>(3) The management of the digital Rupiah referred to in paragraph (1) shall pay attention to the following aspects:</b></p> <p><b>a. provision of digital Rupiah as legal means of payment in the Unitary State of the Republic of Indonesia;</b></p>

Law 7/2011	PPSK Law
	<p><b>b. the effective implementation of Bank Indonesia's task in maintaining monetary stability, the payment system, and the financial system;</b></p> <p><b>c. support for technological innovation and digital economic and financial inclusion;</b></p> <p><b>d. developing a nationally integrated digital economy and finance; and</b></p> <p><b>e. utilization of digital technology that can ensure the security of data and information systems as well as protection of personal data.</b></p> <p><b>(4) In carrying out the digital Rupiah planning referred to in paragraph (1), Bank Indonesia shall coordinate with the Government.</b></p> <p><b>(5) Further provisions regarding the issuance of digital Rupiah as referred to in paragraph (1) will be stated in Bank Indonesia Regulations</b></p>

\*the bold wording is the new amendments of the law.

## ITSK

The PPSK Law will regulate the financial sector ecosystem including ITSK. ITSK products, better known as financial technology, according to Article 213 of PPSK Law, will cover the following functions:

- payment system**, including technological innovation in the payment transaction processing stage, which consists of pre-transaction, initiation, authorization, clearing, settlement and post-transaction activities in support of the digital economy and finance;
- settlement of securities transactions**, including among others technological innovations in the clearing process, settlement process, and registration of ownership and safekeeping of instruments in the Money Market and Foreign Exchange Market, as well as securities in the Capital Market;
- capital accumulation**, includes technological innovation in raising public funds through offering securities using the services of an electronic system operator (securities crowdfunding) using the services of an electronic system operator and taking into account the provisions of relevant laws and regulations, including in the capital market sector;

- investment management**, technological innovation in investment management using advanced algorithms (such as robo advisors), automated advice and management (such as digital financial planners), and retail algorithmic trading (such as forex trading);
- risk management**, including technological innovation in the areas of product development, risk selection (underwriting), claims handling, as well as distribution and sales;
- collection and/or channeling of funds**, including digital banking, lending and borrowing based on technology applications (peer-to-peer lending), funding agents, financing agents, and project financing;
- market support**, including credit scoring, aggregator, and e-know your customer (e-KYC) which uses technology including artificial intelligence/machine learning, machine readable news, social sentiment, big data, market information platform, and automated data collection and analysis;
- activities related to digital financial assets, including crypto assets**, or financial assets that are stored or represented digitally, including crypto assets; and
- other digital financial service activities.**

The PPSK Law also classifies the parties that can engage in ITSK, including: (i) Financial Service Institutions; and/or (ii) other parties conducting activities in the financial sector in accordance with the provisions of laws and regulations. Further, ITSK must be performed by: (i) limited liability company legal entities; or (ii) other legal entities in accordance with the provisions of laws and regulations, and these innovators must comply with the licensing requirements set by Bank Indonesia or the OJK in accordance with their respective competencies.

Pursuant to the above, Article 216 of PPSK Law regulates that Bank Indonesia and the OJK will regulate and supervise the implementation of ITSK according to the scope of their respective competencies, the rights and obligations of each authority being coordinated between the two institutions.

## OJK as the Authority for Crypto Assets

Before this regulation came into effect, crypto assets were a type of commodity that was regulated independently under the Ministry of Trade, specifically under the Bappebti. However, with the enactment of the PPSK Law, authority over crypto asset currencies is now exercised by the OJK, as the PPSK Law amended the provisions on the authority of the OJK under Law 21 of 2011 on the Financial Service Authority ("**Law 21/2011**"). The following is a comparison of the provisions of Law 21/2011 and the PPSK Law regarding the authority of the OJK.

Law 21/2011	PPSK Law
<p>Article 6</p> <p>The OJK shall performs regulatory and supervisory duties on:</p> <ol style="list-style-type: none"> <li>financial services in the Banking sector;</li> <li>financial services in the Capital Market sector; and</li> </ol>	<p>Article 6</p> <p>The OJK shall performs regulatory and supervisory duties on:</p> <ol style="list-style-type: none"> <li>financial services in the Banking sector;</li> <li>financial services in the Capital Market sector; and</li> </ol>

Law 21/2011	PPSK Law		
<p>c. financial services activities in the sectors of Insurance, Pension Fund, Financing Institutions, and Other Financial Services Institutions.</p>	<p>c. financial services activities in the sectors of Insurance, Pension Fund, Financing Institutions, and Other Financial Services Institutions;</p> <p><b>d. financial services in the sector of Financial Institutions, venture capital companies, microfinance institutions, and other Financial Service Institutions;</b></p> <p><b>e. activities in the ITSK sector as well as digital financial assets and crypto assets;</b></p> <p><b>f. the behavior of financial service business actors and the implementation of consumer education and protection; and</b></p> <p><b>g. the financial sector in an integrated manner as well as conducting a systemic impact assessment of Financial Conglomerates.</b></p>	<p>d. a Chief Executive functioning as Capital Market Supervisor and concurrently a member;</p> <p>e. a Chief Executive functioning as a Supervisor of Insurance, Pension Fund, Financing Institutions, and Other Financial Service Institutions and concurrently a member;</p> <p>f. a Chairman of the Audit Board and concurrently a member;</p> <p>g. a member in charge of the education and protection of Consumers;</p> <p>h. an ex-officio member from Bank Indonesia, who is a member of the Board of Governors of Bank Indonesia; and</p> <p>i. an ex-officio member from the Ministry of Finance, who is an echelon I level official at the Ministry of Finance.</p>	<p>c. an Executive Head functioning as Banking Supervisor and concurrently a member;</p> <p><b>d. a Chief Executive of Capital Market, Derivative Finance and Carbon Exchange Supervision and concurrently a member;</b></p> <p><b>e. a Chief Executive of the Insurance, Guarantee and Pension Fund Supervision and concurrently a member;</b></p> <p><b>f. a Chief Executive Supervising Financing Institutions, Venture Capital Companies, Microfinance Institutions, and other Financial Service Institutions and concurrently a member;</b></p> <p><b>g. a Chief Executive of the Financial Sector Technological Innovation Supervisor, Digital Financial Assets and Crypto Assets and concurrently a member;</b></p> <p><b>h. a Chief Executive for the Supervision of the Behavior of Financial Services, Education and Consumer Protection Business Actors who is also a member;</b></p> <p>i. a Chairman of the Audit Board who is also a member;</p> <p>j. an ex-officio member of Bank Indonesia who is a member of the Board of Governors of Bank Indonesia; and</p> <p>k. an ex-officio member from the Ministry of Finance who is an echelon I level official of the Ministry.</p>
<p>Article 10</p> <p>(1) The OJK shall be led by a Board of Commissioners.</p> <p>(2) The Board of Commissioners shall consist of 9 (nine) members established by Presidential Decree.</p> <p>(3) The Board of Commissioners referred to in paragraph (3) shall be composed of:</p> <p>a. a Chairman, concurrently a member;</p> <p>b. a Vice Chairman functioning as the Chairman of the Ethics Committee and concurrently a member;</p> <p>c. a Chief Executive functioning as Banking Supervisor and concurrently a member;</p>	<p>Article 10</p> <p>(1) The OJK shall be led by a Board of Commissioners.</p> <p><b>(2) The Chairman of the Board of Commissioners shall preside over the Board of Commissioners.</b></p> <p><b>(3) The Board of Commissioners shall consist of 11 (eleven) members established by Presidential Decree.</b></p> <p>(4) The Board of Commissioners referred to in paragraph (3) shall be composed Of:</p> <p>a. a Chairman, concurrently a member;</p> <p>b. a Vice Chairman functioning as the Chairman of the Ethics Committee and concurrently a member;</p>		

\*the bold wording is the new amendments of the law.

**The OJK as the Independent Investigator for Criminal Acts in the Financial Services Sector**

The duty of performing investigations of criminal acts under Law 21/2011, which previously could only be carried out by Investigating Officers of the Police Force of the Republic of Indonesia or certain Civil Servant Officials whose scope of duties and responsibilities included supervision of the financial services sector within the OJK, has now been shifted and mandated to be the responsibility of the OJK. According to Article 49 paragraph (5) of the PPSK Law, which amended Article 49 of Law 21/2011, investigations into criminal acts in the financial services sector can only be carried out by investigators from OJK. The following is a comparison of the provision on investigators of criminal acts under Law 21/2011, which has been amended by the PPSK Law:

Law 21/2011	PPSK Law
<p>Article 49</p> <p>(1) In addition to Investigators of the National Police Force of the Republic of Indonesia, certain Civil Servant Officials whose scope of duties and responsibilities include supervising the financial services sector within the OJK are given a special authority as investigators as referred to in the Criminal-Law Procedural Code.</p>	<p>Article 49</p> <p><b>(1) Financial Services Authority investigators consist of:</b></p> <p><b>a. investigator officers of the Indonesian National Police Force;</b></p> <p><b>b. certain civil servant officials; and</b></p> <p><b>c. certain employees, who are given special authority as an investigator as referred to in the Criminal Procedure Code, to conduct investigations of criminal acts in the financial services sector.</b></p>

Law 21/2011	PPSK Law
<p>(2) The civil servants referred to in Article 27 paragraph (2) may be appointed as the Civil Servant Investigators referred to in paragraph (1).</p>	<p><b>(2) The investigators referred to in paragraph (1) letter b shall be appointed by the minister administering government affairs in the field of law.</b></p> <p><b>(3) The employees who are given special authority as investigators as referred to in paragraph (1) letter c shall be determined after fulfilling the qualifications set by the Indonesian National Police.</b></p> <p><b>(4) The administration of the appointment, transfer, dismissal and inauguration of investigators referred to in paragraph (3) shall be carried out by the minister administering government affairs in the field of law.</b></p> <p><b>(5) <u>Investigations into criminal acts in the financial services sector can only be carried out by investigators from the Financial Services Authority.</u></b></p> <p><b>(6) In carrying out the investigations referred to in paragraph (3), the OJK shall coordinate with the Indonesian National Police Force.</b></p>

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*The article above was prepared by Dentons HPRP's lawyers*

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