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OJK REGULATION: DIGITAL FINANCIAL INNOVATION



In recent years, Indonesian fintech players have emerged rapidly yet the regulations on fintech have been lagging behind. On 16 August 2018, Indonesian Financial Services Authority (Otoritas Jasa Keuangan or “OJK”) issued OJK Regulation No. 13/POJK.02/2018 regarding Digital Financial Innovation in the Financial Services Sector (“POJK 13/2018”), to provide a legal basis for the fintech business types that are under OJK supervision.

Definition

POJK 13/2018 defines Digital Financial Innovation (“DFI”) as an updated activity of business processes, business models and financial instruments that gives new added value in the financial services sector by involving a digital ecosystem.

Scope, Criteria and Type of Provider

Article 3 of POJK 13/2018 stipulates the scope of DFI, which consists of:

- a. transaction settlement;
- b. raising capital (equity crowdfunding, virtual exchange and smart contracts, and alternative due diligence);
- c. investment management (advance algorithm, cloud computing, capabilities sharing, open source information technology, automated advice management, social trading and retail algorithmic trading);
- d. raising and disbursing funds (P2P Lending, alternative adjudication, virtual technologies, mobile 3.0, and third-party application programming interface);
- e. insurance (sharing economy, autonomous vehicle, digital distribution and securitization and hedge funds);
- f. market support (artificial intelligence/machine learning, machine readable news, social sentiment, big data, market information platform, and automated data collection and analysis);

- g. other digital financial support (social/eco crowdfunding, Islamic digital financing, e-waqf, e-zakat, robo advice and credit scoring); and/or
- h. other financial services activities (invoice trading, voucher, token, and blockchain-based product).

A DFI must fulfill the following criteria:

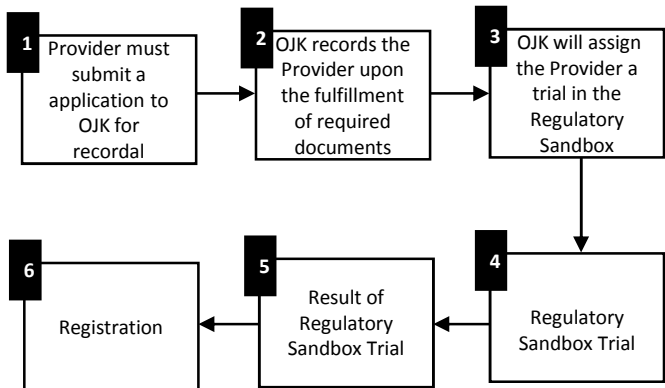
- a. be innovative and future-oriented;
- b. use information and communication technology as the main tool for providing services to consumers in the financial services sector;
- c. support financial inclusion and literacy;
- d. be useful and widely used;
- e. can be integrated into existing financial services;
- f. use a collaborative approach; and
- g. consider the aspects of consumer protection and data protection.

The DFI provider can be (i) a financial services institution (institution which conducts activity in the banking, capital market, insurance, pension fund, multi finance and other financial services institution as defined in the Law No. 21 of 2011 on OJK) and/or (ii) other party which conducts activities in the financial services sector (“**Provider**”). The Provider is allowed to use a limited liability company (PT) and cooperatives for its legal entity. However, it is prohibited for a Provider to manage portfolios or exposure.

Regulatory Sandbox

OJK introduces a “Regulatory Sandbox” which is a trial mechanism conducted by the OJK to assess the reliability of the business process, business model, financial instrument and Provider’s governance.

The mechanism of the Regulatory Sandbox is as follows:



Description:

1. A Provider, who will engage in or has already engaged in the scope of DFI and fulfills the criteria, must submit an application to OJK for recordal. However, Providers who are already registered with and/or have obtained a license from OJK are exempt from the obligation to apply for recordal.
2. The application for recordal must be submitted to the OJK along with the required documents, which are:
 - a. copy of the deed of establishment of the Provider and the ID of the management;
 - b. written brief description regarding the product;
 - c. data and other information related to the DFI activity; and
 - d. business plan.
3. The Provider must fulfill the following criteria to be trialed in the Regulatory Sandbox:
 - a. recorded as a DFI with the OJK or based on a letter of application submitted by the relevant supervisory work unit (*satuan kerja pengawas*) in the OJK;
 - b. be using a new business model;
 - c. have a business scale with broad market coverage;

- d. be registered with the Provider association; and
 - e. other criteria set by the OJK.
4. The Regulatory Sandbox Trial is conducted for a maximum period of 1 (one) year, which can be extended for 6 (six) months, if necessary.
 5. The result of the Regulatory Sandbox are:
 - a. Recommended, meaning OJK will give a recommendation for registration in accordance with the business activity of the Provider;
 - b. Correction, meaning OJK will give an extension for a maximum period of 6 (six) months from the date of status assignment; or
 - c. Not recommended, meaning the Provider cannot re-submit the same DFI and removed from the record as a Provider.

6. A recommended Provider must submit a registration application at the latest 6 (six) months from the determination of recommended status. If the Provider does not submit the registration application within the specified period, the recommendation will be revoked and deemed to be invalid.

The registration application must be submitted with the documents in point 2 above and OJK will issue a registration letter the Providers who complete the registration process.

Sanctions

OJK may impose administrative sanctions for the violation of POJK 13/2018:

1. Written warning;
2. Fine (monetary charge);
3. Cancellation of approval; and
4. Cancellation of registration.

OJK may also take certain actions against the party who violates the provisions in the POJK 13/2018.

Other Related Matters

On 20 August 2018, OJK launched OJK Innovation Centre for Digital Financial Technology (OJK Infinity) as the facility for discussion with industries, regulators, government, academics, and innovation hub. OJK Infinity has three main functions, which are

(i) providing a regulatory sandbox facility as a fintech incubator to balance innovation with consumer protection, (ii) as an innovation hub for digital DFI as well as a complete DFI's ecosystem for development, and (iii) as an education center for financial service players, consumers, or academics expecting to be a part of DFI as future Indonesian economic players.

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