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Indonesia
Capital Markets

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This country-specific Q&A provides an overview of capital markets laws and regulations applicable in Indonesia.

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Indonesia: Capital Markets

1. Please briefly describe the regulatory framework and landscape of both equity and debt capital market in your jurisdiction, including the major regimes, regulators and authorities.

The main capital markets law in Indonesia is Law 8 of 1995 on Capital Markets as amended by Law 4 of 2023 on Development and Strengthening of Financial Sectors ("**Capital Markets Law**"). The Capital Markets Law regulates all capital markets aspects in Indonesia, including public offering of securities, disclosures and reporting, stock exchange, issuer, clearing and guarantee institution, depository and settlement institution, securities company and financial advisor, and criminal activities in the capital markets sector.

The Financial Services Authority (Otoritas Jasa Keuangan or "**OJK**"), established under Law 21 of 2011 on OJK (as amended), is the regulator and supervisor of capital markets activities in Indonesia. OJK's functions and authorities are to oversee, supervise, examine, and investigate financial service activities by institutions engaged in banking, capital market, insurance, pension funds, finance, and other financial services. OJK also issues capital markets rules, including on registration statement requirements for public offerings or private placements.

Besides OJK, public companies in Indonesia are also supervised by PT Bursa Efek Indonesia ("**IDX**"). IDX is the only stock exchange in Indonesia and is responsible to issue listing rules, including on disclosure and reporting requirements.

2. Please briefly describe the common exemptions for securities offerings without prospectus and/or regulatory registration in your market.

Under Article 70(2) of the Capital Markets Law, no registration statement is required if the offering is:

i. An offering of debt securities and/or sukuk with a maturity of less than 1 year;
ii. An offering of securities issued by and/or guaranteed by the Indonesian government;
iii. An offering of debt securities and/or sukuk to professional investors by the Indonesia Deposit Insurance Corporation in implementing its duties and functions;
iv. An offering of securities or commercial papers specifically regulated by law; or
v. Any other offerings of securities regulated by OJK.

Moreover, under OJK Regulation 29/POJK.04/2021 on Offerings Classified as Non-Public Offerings and OJK Circular Letter 33/SEOJK.04/2022 on Guidelines for Implementing Securities Offerings not Classified as Public Offerings, a securities offering will not be classified as public offering in Indonesia (thus no registration statement is required) if:

i. The overall value of the offering does not exceed IDR5 billion; and
ii. The offering is conducted once or over several instances within 12 months.

OJK may also determine other thresholds if:

i. The securities offering is conducted by a supranational institution;
ii. The securities offering is an equity offering by a foreign public company to its employees, directors, and/or commissioners and/or controlled company;
iii. The purpose of the securities offering is for financial market deepening; and/or
iv. The purpose of the securities offering is to support government policies.

Lastly, under OJK Regulation 30/POJK.04/2019 on Issuance of Debt-Linked Securities and/or Sukuk issued through Private Placement, private placement of debt securities and/or sukuk of at least IDR1 billion will not require a registration statement and announcement of the prospectus. However, the issuer must still, among others, provide an information memorandum for professional investors.

3. Please describe the insider trading regulations and describe what a public company would generally do to prevent any violation of such regulations.

The Capital Markets Law prohibits an insider who

possesses inside information to:

i. Trade the securities of the public company;
ii. Influence other parties to trade the securities of the public company; or
iii. Provide inside information to other parties that would be reasonably expected to use such information in securities trading.

An "insider" means:

i. A commissioner, director, or employee of the issuer or public company;
ii. A substantial shareholder (*pemegang saham utama*) of the issuer or public company;
iii. An individual, who because of his position or profession, or because of a business relationship with the issuer or public company, has access to MNPI (as defined below); or
iv. An individual who within the last six months was a person defined under points (a) to (c) above.

Insider information is defined as "material information", which consists of information or facts that may affect the valuation of the securities' price and/or the decision of an investor or potential investor, that is possessed by an insider and not yet publicly available ("**MNPI**").

OJK Regulation 78/POJK.04/2017 on Unrestricted Securities Transaction for Insider exempts the following transactions from being deemed an insider transaction:

i. A securities transaction between insiders of the same issuer or public company that have the same MNPI, and such transaction is performed outside IDX (i.e., over-the-counter transaction); or
ii. A securities transaction between:
    a. An insider of an issuer or public company who possesses MNPI; and
    b. A person that is not an insider of such issuer or public company or another company that is engaged in transaction with such issuer or public company ("**non-insider**"), provided that the transaction is performed outside IDX and comply with these requirements:
        1. The insider has given all its MNPI to the non-insider;
        2. The non-insider does not use the MNPI except in connection with the securities transaction with the insider;
        3. The non-insider has given a written statement to the insider who shared the MNPI stating that the non-insider will keep confidential the MNPI received and will not use the MNPI for any purpose other than in connection with the securities transaction with the insider; and
        4. The non-insider will not conduct any transaction for the securities of the issuer or public company or any other company that is involved in a transaction with such issuer or public company for six months from the date of provision of MNPI, other than the securities transaction with the insider.

A public company may adopt insider trading policies to minimize potential violations by employees or management. These policies often include:

i. Trading "blackouts" for personnel during periods close to the release of financial statements;
ii. Applying information barriers to ensure MNPI is not leaked to other employees or management members; and
iii. Cleansing MNPI by announcing it to the public (e.g. uploading it to the public company's website).

4. What are the key remedies available to shareholders of public companies / debt securities holders in your market?

The Capital Markets Law provides, among others, these remedies and protections for shareholders of a public company:

i. Any party that suffers losses due to violations of the Capital Markets Law may sue for compensation against the party causing the

violation, either jointly or severally with other parties with similar claims;
ii. Any party may claim compensation against the parties signing the registration statement, the board of directors or commissioners of the issuer, each lead underwriter, and other capital market professionals involved in the offering, for losses suffered due to false or misleading information in the registration statement; and
iii. Investors may claim compensation from one or more of the underwriters for losses suffered by it due to the underwriters' negligence.

Under Law 40 of 2007 on Limited Liability Companies (as amended) ("**Companies Law**"), a shareholder may request the company to buy back their share at fair market value if the shareholder objects to actions that they deem to be averse to them or the company, namely:

i. Amendment to the articles of association;
ii. Transfer or encumbrance over assets valued at above 50% of the company's net assets; or
iii. Merger, consolidation, acquisition, or separation.

If the company suffers losses due to the board of directors' fault or negligence, shareholders representing at least 1/10 of the total number of shares with voting rights may call an extraordinary general meeting of shareholders ("**GMS**") or bring claims to a district court against relevant directors. If there is a change of control in the public company, the new controller must conduct a mandatory tender offer ("**MTO**") to the remaining shareholders. Lastly, if a public company delists or goes private, minority shareholders may sell their shares through a voluntary tender offer to a third party or other existing shareholders or the company may conduct a share buyback of these shares.

Meanwhile, the key remedies for bondholders are among others:

i. The trustee ("*wali amanat*") must compensate bondholders for losses caused by the trustee's negligence in carrying out its duties; and
ii. The bondholders may seek to enforce the contractual obligations under the trust agreement ("*perjanjian perwaliamanatan*") by, among others, instructing issuer to make mandatory pre-payment, enforcing the collateral granted (if any), and filling a bankruptcy or suspension of payment claim against the issuer.

5. Please describe the expected outlook in fund raising activities (equity and debt) in your market in 2024.

Companies are currently navigating market uncertainty due to the recent 2024 election in Indonesia and in anticipation of the policies and changes that will be introduced by the new cabinet. From a global standpoint, many countries experience high inflations due to disruptions in supply chains and geopolitical issues from energy supplier countries amidst the Ukraine-Russia war. Despite these uncertainties, 79 Indonesian companies went public in 2023, and 62 companies are expected to go public in 2024 (according to publicly available data in IDX). While offerings in 2024 may decline compared to 2023, we do not expect a sharp decline in the ability of Indonesian companies to raise funds through the Indonesian capital markets.

6. What are the essential requirements for listing a company in the main stock exchange(s) in your market? Please describe the simplified regime (if any) for company seeking a dual-listing in your market.

The essential requirements for a company to list on IDX are as follows:

i. The entity must be a limited liability company (*perseroan terbatas*);
ii. The company has obtained an effective statement from OJK;
iii. If the issuer is a subsidiary or a parent company of a listed company, which causes their financial statements to be consolidated, the potential issuer must:
    a. Submit an independent appraisal report confirming that both companies can continue their respective businesses if they are no longer affiliated with each other;
    b. Submit a statement that the issuer will continuously fulfil the listing requirements as evidenced by its audited proforma financials; and
    c. Ensure that its share price at the initial public offering ("**IPO**") is at least IDR100;
iv. If the issuer plans to issue warrants with the IPO, the price of the warrant must be at least 90% of the offering price or the initial price of the shares and at the minimum equal to the nominal value of the shares;

v. The issuer must enter into an underwriting agreement with the underwriters and the underwriting must be fully committed; and
vi. The shares must be registered with Indonesian Central Securities Depository (PT Kustodian Sentral Efek Indonesia or KSEI).

Please note that securities can be listed on the Main Board, New Economy Board, Development Board, or Acceleration Board, each having specific requirements based on the potential issuer's financial performance.

As of the date of this guideline, IDX has not issued regulations to simplify the requirements for dual listing. Furthermore, it may be difficult for a foreign company to list on IDX because law requires an issuer to be an Indonesian limited liability company.

7. Are weighted voting rights in listed companies allowed in your market? What special rights are allowed to be reserved (if any) to certain shareholders after a company goes public?

Under the Companies Law, every one share provides one voting right unless the articles of association regulate otherwise. Specifically for public companies, issued shares must have the same rights for each shareholder except for multiple voting share structures and special shares held by the Indonesian government in state-owned enterprises (called *dwiwarna* shares).

In Indonesia, weighted voting rights for listed companies are known as multiple voting shares ("**MVS**") and is regulated under OJK Regulation 22/POJK.04/2021 on Implementation of Classification of Shares with Multiple Voting Rights by Issuers with Innovation and High Growth Conducting Public Offering of Shares. MVS is a classification of share that allows the holder to cast more than one vote per share. A public company can issue MVS if:

i. It uses a specific technology to create an innovative product, which may increase productivity, economic growth, and social benefit;
ii. Its shareholders have made significant contribution in technology utilisation;
iii. Its minimum asset is IDR2 trillion;
iv. It has carried out its business activities for at least three years before submitting the registration statement to the OJK;
v. Its compound annual growth rate ("**CAGR**") of its total assets for the last three years is at least 20%;
vi. It has at least a 30% of CAGR of its revenue for the last three years;
vii. It has never carried out an IPO; and
viii. It fulfils any other criteria as determined by the OJK.

Moreover, the public company must ensure that its articles of association regulate:

i. The classification of shares and rights attached to the shares;
ii. The criteria of parties eligible to hold MVS;
iii. The ratio of voting rights of MVS against that of ordinary shares;
iv. That the limitation of voting rights of a shareholder (either from MVS or ordinary shares) is a maximum of 90% of all voting rights, including regulating treatment of shareholder that has more than 90% of all voting rights;
v. That the voting rights from MVS and ordinary shares have equal power with respect to agenda that must be resolved in a GMS;
vi. The term of MVS and any extension;
vii. The conditions that can trigger the conversion of MVS into ordinary shares before the end of the MVS term; and
viii. the treatment of different votes cast by MVS holders in a GMS, whereh a lesser vote is deemed to cast the same vote as the majority vote cast by MVS holders.

MVS can be implemented for a maximum of 10 years from the effective date of the IPO, which may be extended for 10 years if approved by the company's independent shareholders.

Aside from MVS and *dwiwarna* shares, a listed company in Indonesia cannot have multiple classes of shares with different rights.

8. Is listing of SPAC allowed in your market? If so, please briefly describe the relevant regulations for SPAC listing.

Indonesian law does not recognise Special Purpose Acquisition Companies ("**SPAC**") listing.

9. Please describe the potential prospectus liabilities in your market.

Prospectus liabilities is covered under the Capital Markets Law, OJK Regulation 8/POJK.04/2017 on Form

and Contents of Prospectus and Abridged Prospectus for Equity Public Offerings, and OJK Regulation 9/POJK.04/2017 on Form and Contents of Prospectus and Abridged Prospectus for Debt Public Offerings. Under these rules, liability for material misleading statements or material omissions of information within the prospectus or other registration statement document may lie with:

i. Parties that signed the registration statement;
ii. Directors and commissioners of the company when the registration statement became effective;
iii. Underwriters; and
iv. Capital market professionals who provided opinion or statement and consented to have their opinion or statement included in the registration statement.

These parties may be responsible, individually or collectively, for losses caused by material misleading statements or material omissions of information. Liability will not attach to underwriters or capital market professionals if they can prove that they have acted professionally and with due care to ensure that:

i. The disclosure or statement is correct; and
ii. No material facts that they were aware of were omitted.

Claims against material misleading statements or material omissions must be submitted within five years since the effectiveness of the registration statement.

OJK can also impose sanctions ranging from written warnings, fines, limitation of business activities, suspension of business activities, revocation of licenses, cancellation of approval, to cancellation of registration statement.

10. Please describe the key minority shareholder protection mechanisms in your market.

Generally, capital markets laws and regulations protect public shareholders (including minority shareholders) and ensure equal distribution of information for stakeholders by requiring public companies to publicly disclose material information.

Other key minority shareholder protection mechanisms include:

i. Right to call GMS and right to request buyback of shares if they disagree with certain corporate actions;
ii. Requirement for disclosure, fairness opinions, and in certain circumstances, for transactions to be approved by the independent shareholders (i.e., material transactions and/or affiliated transactions and/or conflict of interest transactions); and
iii. Right to tender their shares to the new controller through an MTO in a change of control in the company.

Please refer to our responses to Questions 4 and 12 on protection of minority shareholders.

11. What are the common types of transactions involving public companies that would require regulatory scrutiny and/or disclosure?

Transactions that typically trigger regulatory scrutiny and disclosures include IPO, rights issue, debt securities issuance, tender offer, go private and delisting, public merger, public acquisition, material transactions, affiliated transactions, change of business activities, buyback, and conflict of interest transactions and material facts.

12. Please describe the scope of related parties and introduce any special regulatory approval and disclosure mechanism in place for related parties' transactions.

Related party transactions are typically referred to as affiliated transactions in Indonesia. OJK Regulation 42/POJK.04/2020 on Affiliated Party Transactions and Conflict of Interest Transactions ("**OJK Regulation 42**") defines an affiliated transaction as activities and/or transactions by a public company or controlled company with the affiliate of the public company or its directors, commissioners, major shareholders, or controllers, including activities and/or transactions carried out by a public company or controlled company for the benefit of an affiliate of that public company or affiliate of a director, commissioner, majority shareholder, or controller.

An affiliate ("**Affiliate**") occurs due to:

i. Family relationship from marriage and descent up to the second degree, both horizontally and vertically, which consists of a relationship between a person and:
    a. Their husband or wife;
    b. Parents of the husband or wife and husband or wife of the child;
    c. Grandparents of the husband or

wife and husband or wife of the grandchildren;
    d. Relative of the husband or wife including the husband or wife of the said relative member; or
    e. The husband or wife of a relative.
ii. Family relationship from marriage and descent up to the second degree, both horizontally and vertically, which consists of a relationship between a person and:
    a. Parents and children;
    b. Grandparents and grandchildren; or
    c. Relatives.
iii. A relationship between a party with an employee, director, or commissioner of that party;
iv. A relationship between two or more companies with at least one common director, committee, commissioner or supervisor;
v. A relationship between a company and a party, either directly or indirectly, in any manner, controlling or being controlled by that company or party in determining management and/or policies of that company or party;
vi. A relationship between two or more companies controlled, either directly or indirectly, in any manner, in determining their management and/or policies by the same party; or
vii. A relationship between a company and its major shareholders who directly or indirectly own at least 20% voting rights within the company.

In an affiliate transaction, a public company must, among others:

i. Appoint an appraiser to provide a fairness opinion; and
ii. Disclose information on the affiliated transaction to the public through at leas the public company and IDX's websites, and submit evidence of the disclosure and supporting documents to OJK.

Disclosure must be made within two business days after the date of the affiliate transaction, which means the date when the agreement governing the transactions becomes final and binding and creates rights and obligations for the parties involved (elucidations of OJK Regulation 42).

OJK Regulation 42 also requires independent shareholders' approval to be obtained through an independent GMS if:

i. The affiliate transaction constitutes a material transaction that requires GMS' approval under OJK Regulation 17/POJK.04/2020 on Material Transaction and Change of Business Activities ("**OJK Regulation 17**");
ii. The affiliate transaction may adversely affect the company's business;
iii. independent shareholders' approval is requested by OJK; and/or
iv. The transaction is a conflict-of-interest transaction.

Independent shareholders are shareholders of the public company who:

i. Have no economic interest in the particular transaction; and
ii. Are not:
    a. A director, commissioner, major shareholder, or controller of the public company; or
    b. An Affiliate of any director, commissioner, major shareholder, or controller.

Under OJK Regulation 42, these transactions are exempted from the fairness opinion and shareholders' approval requirements:

i. The transaction is conducted to implement a law, regulation, or court decision;
ii. The transaction is between: (a) the public company and its controlled company where the public company holds 99% ownership; (b) controlled companies where the public company owns 99% of the shares of the controlled company; (c) a controlled company with a company owned 99% by the controlled company;
iii. The transaction value does not exceed 0.5% of the issued and paid-up capital of the public company or IDR5 billion (whichever is lower);
iv. The transaction is a loan received directly from domestic or foreign banks, venture capital companies, financing companies, or infrastructure-financing companies, or the transaction is a guarantee transaction to domestic or foreign banks, venture capital companies, financing companies, or infrastructure-financing companies for loans that are directly received by the public company or its controlled company;
v. An increase or decrease of capital participation in a subsidiary to maintain the public company's shareholding percentage within one year from the implementation of

such capital participation; and
vi. The transaction's purpose is for restructuring of a public company controlled, either directly or indirectly, by the government.

13. What are the key continuing obligations of a substantial shareholder and controlling shareholder of a listed company?

Before August 2024, any shareholder holding 5% of the shares in a public company must report any 0.5% changes to their shareholding to the public. As of August 2024, any shareholder holding 5% of the shares with voting rights in a public company must report its ownership and any changes to it, i.e. any change to the front decimal in their shareholding, to OJK within five business days. For instance, a shareholder who holds 5.1% of shares and increases their shareholding to 6.2% must report the 1.1% increase of their shareholding to the public.

14. What corporate actions or transactions require shareholders' approval?

Under the Companies Law, some transactions that require shareholders' approval are:

i. IPO;
ii. Merger;
iii. Increase in authorized capital or issued and paid-up capital of the company;
iv. Amendments to articles of association;
v. Conflict of interest transactions;
vi. Any other transactions that require shareholders' approval under the company's articles of association and the Companies Law.

In addition, certain transactions that fulfill the following criteria require shareholders' approval:

i. The transaction value is equal to 50% or more of the public company's equity;
ii. The total assets of the transaction object divided by the total assets of the public company is equal to or more than 50%;
iii. The net profit of the transaction object divided by the net profit of the public company is equal to or more than 50%;
iv. The revenue of the transaction object divided by the revenue of the public company is equal to or more than 50%; or

If the public company has negative equity, a transaction will be material if it constitutes 25% or more of the total assets of the public company (**"Materiality Threshold"**).

The criteria listed in point (ii) to (iv) are applicable only to the acquisition and disposal of a company or business segment.

Certain transactions referred above include, among others:

i. any investment or participation in a company, project and/or business activities;
ii. any purchase, sale, usage, exchange of assets or business segments;
iii. any acquisition, disposal, and/or use of services;
iv. lease of assets;
v. financing transactions;
vi. securing the company's assets and/or controlled company's assets; and
vii. providing corporate guarantees.

The Materiality Threshold is calculated based on the most recent of the company's:

i. Audited financial statements;
ii. Quarterly financial statements with an accountant's report with limited review or audit results (March, June or September); or
iii. Audited interim financial statement other than those stated in point (ii) above.

15. Under what circumstances a mandatory tender offer would be triggered? Is there any exemption commonly relied upon?

An MTO would be triggered in a change of control in the public company. Under OJK Regulation 9/POJK.04/2018 on Acquisitions of Public Companies, a change of control occurs when the controller of the public company changes. A controller means a party that directly or indirectly:

i. Holds more than 50% of the total issued shares with voting rights; or
ii. Has the ability to determine in any way the management and/or policy of the public company.

No MTO is required if the change of control is due to:

i. Marriage or inheritance;
ii. The purchase or obtaining of shares of the public company within every 12 months with a

maximum amount of 10% by a party that previously did not own any shares within the public company;
iii. The implementation of duties and authority from a body, government institution, or the Republic of Indonesia based on the law;
iv. The direct share purchase by a body, government institution, or the Republic of Indonesia in implementing point (iii) above;
v. A binding (*in kracht*) court decree or judgment;
vi. A merger, spin off, dissolution or implementation of a shareholder liquidation;
vii. A grant (*hibah*) of shares based on a share granting agreement without any consideration in any form;
viii. The execution of securities for indebtedness under a loan agreement and securities for indebtedness for restructuring of the public company as decided by a body, government institution, or the Republic of Indonesia based on the law;
ix. A party obtaining shares through exercising their pre-emptive rights in proportion of their share ownership as regulated under the OJK regulation on rights issue;
x. A party obtaining shares through exercising an increase in capital of the public company for the purposes of improving the public company's financial condition as regulated under the OJK regulation on increase of capital without pre-emptive rights;
xi. The implementation of policies by a body, government institution, or the Republic of Indonesia;
xii. A voluntary tender offer; or
xiii. An action that has been disclosed in an equity public offering prospectus in line with the relevant OJK regulation on prospectus and within one year after the effectiveness of the registration statement.

Furthermore, no MTO is required if the MTO would violate the law e.g., MTO will cause the new controller to hold more shares than legally permitted.

16. Are public companies required to engage any independent directors? What are the specific requirements for a director to be considered as "independent"?

As of 2018, IDX no longer requires a public company to appoint independent director(s).

17. What financial statements are required for a public equity offering? When do financial statements go stale? Under what accounting standards do the financial statements have to be prepared?

Financial statements must be prepared based on the Indonesian Financial Accounting Standards. Under OJK Regulation 7/POJK.04/2017 on Registration Statement Documents for Public Offerings of Equity, Debt and/or Sukuk, a potential issuer must submit their audited financial statements for the last three years and its interim audited financial statement (if any).

IDX also imposes requirements on the opinion of the auditor on the financial statements depending on the listing board chosen:

Main Board/New Economy Board	Development Board	Acceleration Board
Audited financial statements **for the past three consecutive years**, and the past two audited financial statements and the latest audited interim financial statements have obtained unqualified opinions.	Audited financial statements for the past one year and the latest audited interim financial statements (if any) have obtained an unqualified opinion.	Audited financial statements for the past one year or during establishment (if the issuer has not existed for a year), have obtained an unqualified opinion.

Financial statements for the public offering will become stale after six months.

18. Please describe the key environmental, social, and governance (ESG) and sustainability requirements in your market. What are the key recent changes or potential changes?

Generally, prospectus or information memorandum for corporate bonds and sukuk must disclose material regulations, government policies, or ongoing environmental concerns and expenses related to ESG matters. OJK Regulation 18/POJK.04/2023 on Issuance and Requirements of Sustainable Debt and Sukuk Securities ("**OJK Regulation 18**") regulates the issuance of green bonds, green sukuk, social bonds/sukuk, sustainability bonds/sukuk and sukuk-linked *waqf*. The use of proceeds of these debts and sukuk securities must relate to sustainability. Moreover, the securities must have a sustainability reporting mechanism and an external review services provider and independent party must be appointed to provide statements on the ESG

aspects of the securities.

Some key recent changes related to ESG in the Indonesian capital markets are:

i. OJK Regulation 18 replaces OJK Regulation 60/POJK.04/2017 on Issuance and Requirements of Green Bonds. The key difference is the widened scope that also covers sharia sustainable securities and private placement.
ii. In 2023, OJK became authorized to regulate and oversee financial services activities in the carbon exchange sector operated by IDX. In this respect, OJK has issued OJK Regulation 14 of 2023 on Carbon Trading through Carbon Exchange and OJK Circular Letter 12/SEOJK.04/2023 on the Procedures for Organizing Carbon Trading through Carbon Exchange. Carbon units are considered as securities and may be traded directly between parties and through the carbon exchange.

19. What are the typical offering structures for issuing debt securities in your jurisdiction? Does the holding company issue debt securities directly or indirectly (by setting up a SPV)? What are the main purposes for issuing debt securities indirectly?

Commonly, the listed entity or parent company acts as the issuer, with subsidiaries or controller sometimes acting as guarantors. This is because the former is typically the most creditworthy entity within the corporate group.

Where the issuer is a holding company, credit support may be enhanced by having guarantees from its material subsidiaries or parent company.

In securitization or project finance, bonds are sometimes issued directly by a subsidiary without additional credit support. Here, an SPV may be established as the issuer of offshore debt securities with repayment funded by the project or underlying assets being securitized. This bankruptcy-remote SPV can be deemed more creditworthy than its parent as it is not subject to the general credit risk of the parent company, consequently allowing it to issue bonds at a better financing rate.

20. Are trust structures adopted for issuing debt securities in your jurisdiction? What are the typical trustee's duties and obligations under the trust structure after the offering?

In Indonesia, a trust structure is often adopted for issuing debt securities. An Indonesian commercial bank licensed by OJK may act as a trustee. Under the Capital Markets Law, a trustee acts as an intermediary between the bondholders and its duties are to represent bondholders inside and outside courts, monitor the issuer and its financial conditions (ensure that the issuer has sufficient fund to pay interests and principal amount), and hold bondholder meetings to decide amendments to the bonds or action against the issuer.

Rights and obligations of trustee and bondholders are regulated under a trust deed agreement ("*perjanjian perwaliamanatan*"), which contains, among others, identity of the parties, trustee's authorities, restrictive covenants against the issuer, and use of proceeds. If debt securities are issued through a private placement, bondholders will be represented by a monitoring agent through a monitoring agreement. The agent will monitor the issuer's compliance with obligations relating to the bondholder's interests and must report issuer's negligence or circumstances that may hurt the bondholder's interests to OJK.

21. What are the typical credit enhancement measure (guarantee, letter of credit or keep-well deed) for issuing debt securities? Please describe the factors when considering which credit enhancement structure to adopt.

Debt securities in Indonesia may include credit enhancements to reduce the risk of default for the investors. Credit enhancements are typically provided to boost credit ratings and marketability of debt securities.

(i) **Collateral**

Issuers may grant Indonesian law-governed collateral over their assets, which include pledge, fiducia, and mortgage (for fixed assets). If the issuer's defaults or goes bankrupt, these collaterals give priority to investors over the secured assets and allow investors to directly enforce the collateral.

(ii) **Guarantees**

The parent company, subsidiary, or beneficial owner of the issuer may provide guarantees, which constitute a contractual obligation, to repay the amount owed by the issuer if it defaults.

(iii) **Repayment ranking**

While uncommon in Indonesia, debt securities may have different levels of repayment seniority relative to the issuer's other debt securities. Junior repayment ranking will typically be repaid after the senior repayment ranking is repaid (subject to negotiated exemptions) and junior repayment ranking will typically be issued with higher coupons.

Provision of credit enhancements depend on the nature of the issuer and risk appetite of the investors. The issuer's existing financing may also limit its ability to provide guarantees or collateral.

22. What are the typical restrictive covenants in the debt securities' terms and conditions, if any, and the purposes of such restrictive covenants? What are the future development trends of such restrictive covenants in your jurisdiction?

Restrictive covenants depend on the contractual arrangement between the parties and the investors' risk appetite. We have noticed a wide range of covenants applying to Indonesian debt security issuers. Some issuers have more lax covenants (only subject to material adverse qualifiers), while others must obtain consent for major changes to their business or structure. Some issuers also largely mirror their debt securities covenants with the covenants in their existing bank loans.

The typical restrictive covenants for Indonesian debt security issuers are, among others:

i. Incurring indebtedness and granting liens that may materially affect the issuer's ability to repay their debt;
ii. Complying with certain financial ratios for a certain period;
iii. Non-arm's length basis transactions with affiliates;
iv. Declaring bankruptcy or suspension of payment obligations;
v. Selling substantial assets that may cause a material adverse effect;
vi. Changing the issuer's controller that may cause a material adverse effect;
vii. Changing business activities; and
viii. Merging with other companies or liquidating the issuer.

In addition, covenants are typically further customized according to the risks or typical corporate actions conducted by the issuer.

23. In general, who is responsible for any profit/income/withholding taxes related to the payment of debt securities' interests in your jurisdiction?

Generally, the securities company of the bondholders are responsible for taxes relating to the interests received. Please note that this would depend on the debt securities structure and parties should always check with a qualified tax advisor on the tax responsibilities relating to payments under debt securities.

24. What are the main listing requirements for listing debt securities in your jurisdiction? What are the continuing obligations of the issuer after the listing?

The essential requirements for a company to list its debt securities on IDX are as follows:

i. It must be a legal entity and not an individual.
ii. It must have obtained an effective statement from OJK.
iii. It must have obtained a credit rating from an OJK registered credit ratings agency.
iv. It must:
    a. up until the listing application is submitted, have carried out its core business for at least 24 consecutive months; or
    b. have obtained a credit rating within the four highest grades (investment grade) from an OJK licensed credit rating agency.
v. It must have audited financial statements for the latest two financial years and the latest audited interim financial statements (if any) or audited financial statements since its operations if the issuer has operated for less than two years, and the latest audited financial statement must obtain an unqualified opinion.

The continuing obligations for companies with listed debt securities are, among others, submitting their financial statements and disclosing material facts.

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