

CLIENT ALERT

Client Alert: Key Regulatory Updates under POJK 40/2024 on Technology-Based Collective Funding Services

I. Introduction

The Indonesian Financial Services Authority (*Otoritas Jasa Keuangan*, “**OJK**”) has issued Financial Services Authority Regulation No. 40 of 2024 on Information Technology-Based Collective Funding Services (“**POJK 40/2024**”), which came into effect on 27 December 2024. This regulation introduces comprehensive rules and oversight provisions to streamline the licensing process, enhance protection for asset holders, and strengthen supervision of digital financial asset trading providers, including cryptocurrencies. The regulation also encompasses critical responsibilities such as governance, data protection, reporting, and anti-money laundering programs.

This regulation governs technology-based collective financing services, commonly known as “fintech peer-to-peer lending”. It aims to maximize lender protection by establishing stricter regulatory standards. Key provisions include assessment of the financial health of Peer-to-Peer Lending Providers (“**P2P Providers**”), strengthened risk management and governance, mandatory credit scoring enforcement, and other regulatory enhancements.

This client alert provides an overview of the key provision of POJK 40/2024 and their implications for businesses operating in the relevant industry. Stakeholders are encouraged to familiarize themselves with this new regulation to ensure compliance and leverage the updated framework effectively.

II. Key Points

a. Maximum Funding Limit of Disbursement by P2P Providers

This POJK introduces a new provision that differentiates the maximum funding limit for consumptive funding (funding for goods and/or services needed by the fund recipient for use/consumption and not for business purposes) and productive funding (funding for businesses that produce goods and/or services, including businesses that provide added value and increased income for the fund recipient), with the consumptive and productive funding cap set at IDR 2 billion. This marks a regulatory update from the previous regulation, which applied a maximum funding limit of IDR 2 billion, without distinguishing between consumptive and productive funding.

Furthermore, Technology-Based Collective Financing Services (*Layanan Pendanaan Bersama Berbasis Teknologi*, LPBBTI) P2P Providers are permitted to extend productive financing exceeding the maximum limit, up to IDR 5 billion, provided that they meet specific conditions, namely maintaining a non-performing loan (NPL) ratio of no more than 5% within the last six months, and not being subject to any business activity restrictions or partial or full suspension of business operations imposed by the OJK.

b. Introduction of Sharia Business Unit

This regulation introduces a new provision for P2P Providers, allowing them to establish a *sharia* business unit. Such unit must have a minimum working capital of IDR 10 billion at the time of establishment, which must be stated in a board of directors resolution, approved by its board of commissioners, and authorized by the OJK. Once approved by the OJK, the unit must commence *sharia*-compliant funding activities within 30 working days from the date the establishment permit is issued by the OJK and must submit all activity reports to the OJK in accordance with regulatory requirements.

c. Competency Requirements, Employment of Foreign Workers, and Outsourcing Restrictions

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In conducting business activities, P2P Providers are required to ensure that members of its board of directors, board of commissioners, and senior officers one level below the board of directors hold professional competency certificates issued by a professional certification body in the financial technology sector that is registered with the OJK. They must also employ technical experts with at least 3 years of experience in database management, networking, electronic system security, and programming to maintain system integrity.

If a P2P Provider intends to employ foreign workers, prior approval from the OJK is required, and such arrangement must be incorporated into the P2P Provider's business plan. The use of foreign workers is subject to strict limitations, including a maximum employment period of 2 years per worker, which may be extended for an additional 2 years at most. Furthermore, foreign workers may only be engaged in information technology roles as experts one level below the board of directors or as consultants. The P2P Provider is also obligated to report all activities related to foreign workers to the OJK.

In cases where a P2P Provider utilizes outsourced labor, it may delegate certain operational tasks to third parties through outsourcing agreements. The permitted forms of outsourcing agreements include work contract arrangements and the provision of labor services. However, P2P Providers are prohibited from outsourcing functions related to funding feasibility assessments and IT operations, including user access management and database administration. Nevertheless, P2P Providers are permitted to outsource technology development activities to enhance their digital infrastructure.

d. Provisions on Ownership Changes and Acquisitions

All changes in ownership carried out by the P2P Provider that results in an acquisition must be reported to the OJK, including: (i) a change in the controlling shareholder (*Pemegang Saham Pengendali*, "**PSP**"); (ii) a change in the controlling shareholder of a PSP; (iii) a change in shareholders other than the PSP in a P2P Provider that is not a publicly listed company; and (iv) a change in shareholders other than the controlling shareholder of a PSP in a P2P Provider that is not a publicly listed company.

P2P Providers are prohibited from making ownership changes that result in a change of PSP within 3 years from the date the P2P Provider obtained its business license from the OJK. In cases where ownership changes arise due to an increase in paid-up capital, such an increase may only be conducted through (i) cash deposits, (ii) conversion or transfer of retained earnings, (iii) conversion or transfer of loans, and/or (iv) bonus shares.

P2P Providers that have already obtained a license and intend to undergo an ownership change through an acquisition at the time POJK 40/2024 takes effect must adjust their paid-up capital to a minimum IDR 25 billion. Additionally, all planned ownership changes must be incorporated into the business plan and be approved through a General Meeting of Shareholders (*Rapat Umum Pemegang Saham*, RUPS) in accordance with the applicable regulations.

e. Risk Mitigation Obligations for P2P Providers

P2P Providers are required to implement risk mitigation measures, at a minimum consisting of (i) risk analysis of the financing requested by the recipient; (ii) verification of user identity and authenticity of documents; and (iii) optimal collection efforts on disbursed financing. In carrying out risk mitigation, P2P Providers may also facilitate by (i) transferring the financing risk if requested by the lender, (ii) transferring the risk over the guarantee if there is a guarantee, and/or (iii) other risk mitigation measures for lender protection with OJK approval.

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If the P2P Provider facilitates risk mitigation in the form of credit insurance and/or credit guarantees, the P2P Provider must use an insurance company or guarantee institution that has obtained a license from OJK and is not subject to administrative sanctions.

f. Obligation to Implement Credit Scoring

Under POJK 40/2024, P2P Providers are required to implement credit scoring in distributing financing. The implementation of credit scoring must be carried out by (i) verifying the accuracy of documents submitted in accordance with assessment guidelines, (ii) conducting clarification and confirmation either through direct meetings, electronic face-to-face meetings, and/or electronic communication with the prospective recipients, (iii) processing data from relevant third parties, and (iv) analyzing prospective recipients.

This assessment must be based on character, repayment ability, capital, economic prospects, and collateral objects. In conducting credit scoring, P2P Providers must evaluate the effectiveness of the assessment in mitigating financing risks. This evaluation must be conducted at least every 3 months.

g. Health Rating

In conducting P2P lending activities, P2P Providers are required to comply with health level requirements. The health assessment is conducted by evaluating several factors, including:

Capital Requirement	<p>P2P Providers are required to maintain a minimum equity of IDR 12.5 billion at all times.</p> <p>For P2P Providers that obtained a business license before POJK 40/2024 came into effect, the minimum equity requirement must be met gradually (i) at least IDR 7,5 billion from the effective date of POJK 40/2024; and (ii) at least IDR 12,5 billion by 4 July 2025.</p>
Funding Quality	<p>The funding quality consists of:</p> <ol style="list-style-type: none">PerformingUnder special attentionLess-performingDoubtfulNon-performing <p>P2P Providers are required to maintain a maximum non-performing financing ratio of 5%.</p>
Profitability	<p>Profitability is assessed by evaluating factors such as:</p> <ol style="list-style-type: none">The ability of productive assets to generate profitThe level of operational efficiency
Liquidity	<p>Liquidity is assessed by evaluating factors such as:</p>

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	<ul style="list-style-type: none"> a. The ability to meet short-term and long-term obligations, as well as the potential mismatch between short-term and long-term liabilities b. The adequacy of liquidity management policies <p>P2P Providers are required to maintain a minimum liquidity ratio of 120%.</p>
Management	<p>Management is assessed by evaluating factors such as:</p> <ul style="list-style-type: none"> a. The quality of general management, including the fulfillment of commitments to OJK b. The implementation of risk management, particularly management's understanding c. The implementation of good corporate governance d. The P2P Provider's compliance with <i>sharia</i> principles and the implementation of social functions

The health ratings regulated under POJK 40/2024 are determined based on a comprehensive analysis. Ratings for the P2P Providers are categorized as follows:

Very Healthy	Indicating high capability to withstand significant negative impacts from changes in business conditions and external factors
Healthy	Indicating a capability to withstand significant negative impacts from changes in business conditions and external factors
Moderately Healthy	Indicating a sufficient capability to withstand significant negative impacts from changes in business conditions and external factors
Less Healthy	Indicating less capability to withstand significant negative impacts from changes in business conditions and external factors
Unhealthy	Indicating inability to withstand significant negative impacts from changes in business conditions and external factors

III. Conclusion

POJK 40/2024 has established a comprehensive regulatory framework for P2P Providers to strengthen its governance, consumer protection, and regulatory oversight in the P2P lending

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industry. This regulation covers various critical aspects, including maximum funding limits, the establishment of *sharia* business units, competency requirements, the use of foreign workers, ownership changes and acquisitions, risk mitigation, and the obligation to implement credit scoring.

Additionally, POJK 40/2024 introduces health rating requirements for P2P Providers, covering capitalization, funding quality, profitability, liquidity, and management. Based on a comprehensive analysis of these factors, P2P Providers will be classified into health rating categories that reflect their stability and ability to withstand changes in business conditions and external factors.

P2P Providers that have obtained a business license and were operating before the enforcement of POJK 40/2024 are required to comply with the new provisions within the specified timeframe, including minimum capital requirements, credit scoring implementation, and adherence to governance principles and personal data protection. Through this regulation, OJK aims to create a healthier, more transparent, and sustainable P2P lending ecosystem while enhancing protection for lenders and borrowers in Indonesia.

Further Information and Assistance

For more detailed advice or assistance, please contact our legal team with expertise in Indonesian Technology, Media, and Telecommunication (TMT), Data Privacy, Intellectual Property, and capital market and financial services institutions:



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