

OJK Issues New Regulation on Buyback Requirements for Public Companies

On December 29, 2023, the Indonesian Financial Services Authority (*Otoritas Jasa Keuangan* or "**OJK**") issued a new regulation concerning the buyback requirements for public companies, POJK No. 29 of 2023 ("**OJK Reg. 29**"), replacing the previous regulation, POJK Nomor 30/POJK.04/2017. This update addresses several implementation challenges related to the repurchase of shares by public companies and the transfer of repurchased shares, aiming to streamline these processes through adjustments in the transfer mechanisms and additional transfer options.

Key Changes in the New Regulation:

1. Source of Buyback Funds:

OJK Reg. 29 stipulates new rule regarding the source of the buyback funds, of which the public companies must ensure that the funds used for share repurchases comply with the following: a. Do not significantly impact the company's ability to meet maturing obligations. b. Utilize the company's internal funds. c. Are not derived from public offerings. d. Are not sourced from loans or any form of debt.

2. Buyback Completion Timeline:

Share repurchases must be completed within 12 months from the date of the General Meeting of Shareholders (RUPS). The previous regulation allowed up to 18 months for completion.

3. Extended Transfer Period After Buyback (Rfloat):

Public companies must re-transfer repurchased shares within 3 years, with possible extensions of 2 years + 1 year if: a. At least 10% of the repurchased shares have been re-transferred. b. The company's share price has not exceeded the average repurchase price over the 3-year period. If these above conditions are not met, only a maximum extension of 1 year is allowed.

In the previous regulation, an extension is only applicable for 2 years.

4. Rfloat Reporting Obligations:

OJK Reg. 29 requires public companies to report the progress of their refloating obligations to OJK semi-annually, with reports due on June 30 and December 31. These reports must be submitted by the 15th of the following month and adhere to the specified reporting format.

5. Additional Rfloat Methods:

OJK Reg. 29 provide more option for public companies to comply with the refloating obligations. The buyback shares can be refloated through various methods, including; a. Selling on or off the stock exchange. b. Reducing capital by cancelling the shares. c. Implementing employee, director, and commissioner stock ownership programs. d. Settling specific transactions. e. Converting equity securities issued by the public company. f. Distributing shares proportionally to shareholders. g. other methods approved by OJK.

The new regulation also includes mechanisms for one or more of these transfer methods.

6. Rfloat Price Regulation:

Below is the comparison between the rfloat price regulations under OJK Reg. 29 and the previous regulation:

OJK Reg. 29	POJK Nomor 30/POJK.04/2017
<ul style="list-style-type: none"> For shares listed and traded on the stock exchange, the sale price must not be lower than: a. The closing price on the stock exchange one day before the sale. b. The average closing price over the last 90 days before the sale, with a maximum discount of 7.5%, whichever is higher. For shares traded via negotiation on the stock exchange, the sale price must follow the average closing price over the last 90 days before the sale, with a maximum discount of 7.5%. For shares not listed on the stock exchange, the sale price must not be lower than the fair market value determined by an appraiser. 	<p>the sale price for shares listed and traded on the stock exchange should not be lower than the closing price one day before the sale or the average closing price over the last 90 days, whichever is higher. For shares not listed on the stock exchange, the price had to meet the fair market value set by an appraiser.</p>

Implementation and Market Response

As of the date of this alert, several public companies have implemented or are planning to implement share buybacks based on the new regulation. The market has responded positively to these changes, indicating a favourable reception of the new rules.

Further Information and Assistance:

For more detailed advice or assistance, please contact our legal team with expertise in Indonesian capital market regulations:

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