

## Covid-19 Stimulus Package: OJK's Countercyclical Policy to Relieve Financially Distressed Debtors Affected by the Pandemic

Since its emergence at the end of last year, the novel coronavirus disease, Covid-19, has rapidly spread throughout the world and as of 29 March 2020, over 200 countries, areas and territories (including Indonesia), have reported cases of Covid-19,<sup>1</sup> with the death toll steadily climbing. The dramatic disruption has impeded cash flow and upset daily operations to the point that some business owners and debtors may not be able to continue fulfilling their payment obligations to their lenders. The startling rate of Covid-19 spread has pushed the Indonesian government to take steps to deal with the potential effect of the pandemic to the nation's economy.

In light of the above background, on 16 March 2020, the OJK, Indonesia's financial services authority, issued OJK Regulation No. 11/POJK.03/2020 on the National Economic Stimulus as Countercyclical Policy on the Impact of the COVID-19 Spread ("**Regulation**"). The Regulation is the government's attempt to push the banking industries' intermediary function, stabilise the financial system and support the nation's economic growth<sup>2</sup> amidst the outbreak.

### Key Points

The Regulation applies to all types of banks, including:

1. conventional banks (*bank umum konvensional*, including branch offices of foreign banks in Indonesia – "**BUK**");
2. sharia banks (*bank umum syariah* – "**BUS**");
3. sharia business units (*unit usaha syariah* – "**UUS**");
4. rural banks (*bank perkreditan rakyat* – "**BPR**"); and
5. sharia rural banks (*bank perkreditan rakyat syariah* – "**BPRS**").

In general, the Regulation purports to give guidance and regulatory framework for banks to prepare and implement their internal policy and procedure ("**SOP**"), specifically for their debtors, including micro, small and middle enterprise borrowers, that are affected directly or indirectly by Covid-19.

<sup>1</sup> *Coronavirus Disease (COVID-19) Outbreak Situation* (<https://www.who.int/emergencies/diseases/novel-coronavirus-2019>, accessed on 29 March 2020).

<sup>2</sup> Consideration item c of the Regulation.

A bank's SOP should cover determination of assets collectability (*penetapan kualitas aset*) policy and credit or financing restructuring (*restrukturisasi kredit atau pembiayaan*) policy, while concurrently implementing the risk management provision based on OJK's prevailing regulation on banks' risk management implementation (*penerapan manajemen resiko bank*).<sup>3</sup>

Further, if a bank decides to implement the SOP, such bank must prepare internal guidance to determine the affected debtors, which must cover the criteria for affected debtors and the business sectors impacted by Covid-19.

The above stimulus to support the affected debtors is granted for approximately one year as of the issuance of the Regulation and will be valid until 31 March 2021.<sup>4</sup>

## Affected Debtors

Under the Regulation, affected debtors are debtors (including micro, small and medium enterprise debtors) that experience difficulties in fulfilling its obligations to lenders/banks due to direct or indirect impact of Covid-19 on the debtor or its business sector. The Regulation specifically states tourism, transportation, hotel, trading, processing (*pengolahan*), agriculture and mining as affected sectors.<sup>5</sup>

We note that the above definition of affected debtors is not limited to a certain type of borrower or loan and therefore any type of debtor (whether individual, business entity or corporate borrower) and any type of loan (whether working capital loans, investment credits, etc.) can benefit from the economic stimulus policy under the Regulation. However, it remains to be seen whether banks can limit the types of borrowers and loans under the Regulation based on its own SOP or internal guidance. As the Regulation requires banks to self-regulate, there is no requirement for banks to submit or obtain approval from OJK on either its SOP or internal guidance.

Further, the Regulation gave examples of situations where the relevant borrower (conducting business in the affected sectors) can be deemed as an affected debtor:<sup>6</sup>

1. debtors affected by the closing down of a transportation line and tourism from and to China or other countries afflicted by Covid-19 and travel warning;
2. debtors affected by a significant decrease of import-export volume due to the connectivity of supply chains and trading with China or other countries affected by Covid-19; and
3. debtors affected by the delay in infrastructure project development due to the cessation of raw material, labour and machinery supplied from China or other countries affected by Covid-19.

Although it is not clearly regulated under the Regulation, OJK has further circulated confirmation that debtors outside the affected sectors who are nevertheless affected by Covid-19 can still seek benefit

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<sup>3</sup> Articles 2 and 3 of the Regulation.

<sup>4</sup> Article 10 of the Regulation.

<sup>5</sup> Elucidation of Article 2(1) of the Regulation.

<sup>6</sup> *Idem*.

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from the stimulus policy under the Regulation as long as the debtor falls within the criteria of affected debtors based on the bank's assessment pursuant to its SOP and internal guidance.<sup>7</sup>

## **Credit Collectability Assessment: 3 Pillars Principles Curtailed to 1 Pillar**

The Regulation stipulates that banks may provide new credit/financing or other funding (such as the issuance of bank guarantee and letter of credit) to affected debtors and the determination of collectability of such new credit/financing or other funding will be separated from existing credit/financing or other funding granted to such debtor prior to it being affected by Covid-19. Please note that the granting of a new credit/facility or other funding must still observe the prudential principle in granting loans by banks.<sup>8</sup>

The Regulation also provides certain relief for affected debtors by curtailing the so-called three pillars of credit collectability principles (namely: (i) punctuality of payments, (ii) financial conditions, and (ii) business prospects) to become one pillar on the punctuality of payments. This relief is available for any existing and/or new credit/financing or other funding given to an affected debtor up to a limit of IDR 10 billion. Credits/financings or other funding of more than IDR 10 billion will still be subject to the three pillar principles under the prevailing OJK regulations.

## **Comparison with Provisions under Normal Conditions**

Other than the key provisions set out above, we provide a brief list of the stimulus under the Regulation, in comparison with the provisions applicable under normal conditions.

## **Recent Development**

It is interesting to note that the provisions of the Regulation are leaning towards voluntary actions of each bank in respect of affected debtors, meaning that bank are not required to take the initiative but if requested by their affected customer the bank may (but are not obliged to) provide such credit relaxation. However, recent development shows that most banks in Indonesia have proactively issued announcements to their customers informing of possible credit relaxation and inform the affected customers to reach out to the banks. These announcements state that such relaxation will be provided after the bank and the affected debtors have reached an agreement on the terms and conditions.

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<sup>7</sup> OJK's Frequently Asked Question of the Regulation.

<sup>8</sup> Elucidation Chapter I (General) paragraph 3 of the Regulation.

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## Conclusion

While the Regulation is very much welcomed, there is still uncertainty. For example, banks' implementation may be significantly different from the intended purpose of the Regulation<sup>9</sup> as banks are free to adopt their own SOP and internal guidance.

Another issue is the credit collectability status of a restructured credit based on the provisions of the Regulation and the stimulus afforded therein is only valid for one year. After the lapse of this period, banks can go back to their usual policies, including the strict three pillar principles for determining credit collectability status (which may, in turn, drop the credit collectability of an affected debtor back to the original status). The question that may be lurking in the debtor's mind is whether they will need to amend their credit/facility agreement again or undergo another restructuring process if their credit collectability basis is no longer valid.

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<sup>9</sup> as provided pursuant to the President's statement on 24 March 2020 (<https://www.presidentri.go.id/transkrip/keterangan-pers-presiden-republik-indonesia-mengenai-kebijakan-pemerintah-dalam-penanganan-pandemi-covid-19/>, accessed on 30 March 2020).

**Appendix**  
**Comparison of Provisions under the Regulation against Normal Conditions**

Issue	Provisions Under the Regulation	Provisions Under Normal Conditions
<b>Determination of asset quality (<i>kualitas aset</i>)</b>	For credits to affected debtors of up to IDR 10 billion, the determination of credit quality may only be based on the timely/punctuality payments of principal and/or interest. <sup>10</sup>	<p>a. For a BUK, the credit quality of a credit of up to IDR 5 billion will be based only on timely/punctuality of payments of the principal and/or interest (OJK Regulation No. 40/POJK.03/2019 on Determination of BUK's Assets Quality – “<b>OJK Regulation No. 40/2019</b>”);</p> <p>b. For BUS &amp; UUS, the credit quality of a financing of up to IDR 1 billion will be based only on the assessment of payment ability (OJK Regulation No. 16/POJK.03/2014 on Determination of BUS' and UUS' Assets Quality – “<b>OJK Regulation No. 16/2014</b>”); and</p> <p>c. For BPR &amp; BPRS, the credit quality of a credit of up to IDR 5 billion will be based only on timely/punctuality of payments of the principal and/or interest is for credit of up to IDR 5 billion (OJK Regulations No. 33/POJK.03/2018 (for BPR – “<b>OJK Regulation No. 33/2018</b>”) and No. 29/POJK.03/2019 (for BPRS – “<b>OJK Regulation No. 29/2019</b>”).</p>
<b>Determination of the collectability of a restructured credit/financing</b>	The quality of the credit or financing (granted to an affected debtor) that is restructured after the relevant debtor is affected by Covid-19 will be determined as	a. Under OJK Regulation No. 40/2019 and OJK Regulation No. 16/2014, for BUK, BUS & UUS:

<sup>10</sup> Articles 3 and 4 of the Regulation.

Issue	Provisions Under the Regulation	Provisions Under Normal Conditions
	<p>'current' (<i>lanca</i>) as of the restructuring process.<sup>11</sup></p>	<p>(i). the highest level will be the same level as before restructuring, so long as the debtor has not fulfilled its payment obligations (principal and/or interest) for three consecutive periods within an agreed period; and</p> <p>may be increased by one level as before restructuring, provided that the debtor has fulfilled its payment obligations (principal and/or interest) for three consecutive periods within an agreed period.</p> <p>b. Under OJK Regulations No. 33/2018 and No. 29/2019, for BPR &amp; BPRS:</p> <p>(i). the highest level will be 'substandard' (<i>kurang lanca</i>) for credits ranked as 'doubtful' (<i>diragukan</i>) or 'bad' (<i>macet</i>) prior to restructuring;</p> <p>(ii). there will be no change for credits ranked as 'current' (<i>lanca</i>), 'special mention' (<i>dalam perhatian khusus</i>) or 'substandard' (<i>kurang lanca</i>) prior to restructuring.</p>
<p><b>Granting of new credits/financings or other funding</b></p>	<p>Banks may provide new credit/financing or other funding to affected debtors and the determination of collectability of such new credit/financing or other</p>	<p>a. Under OJK Regulation No. 40/2019, for BUK, the bank must stipulate the same collectability rating for credits granted to one</p>

<sup>11</sup> Articles 5 and 6 of the Regulation.

Issue	Provisions Under the Regulation	Provisions Under Normal Conditions
	funding will be separated from the existing credit/financing of such debtor. <sup>12</sup>	<p>borrower and for credits granted to finance the same project;</p> <p>b. Under OJK Regulation No. 16/2014, for BUS &amp; UUS, the bank must determine the quality of several productive asset accounts which are used to finance one customer on one bank, with the same collectability quality. The same provisions will apply to productive assets granted by more than one bank pursuant to a club deal and/or syndicated loan;</p> <p>c. OJK Regulations No. 33/2018 and No. 29/2019, for BPR &amp; BPRS, the bank must determine the quality of productive asset in the form of a same credit for several credit to finance one debtor or one project on the same BPR/BPRS and/or granted by more than one BPR/BPRS collectively to finance one debtor or one same project pursuant to a collective loan agreement.</p>

<sup>12</sup> Article 7 of the Regulation.

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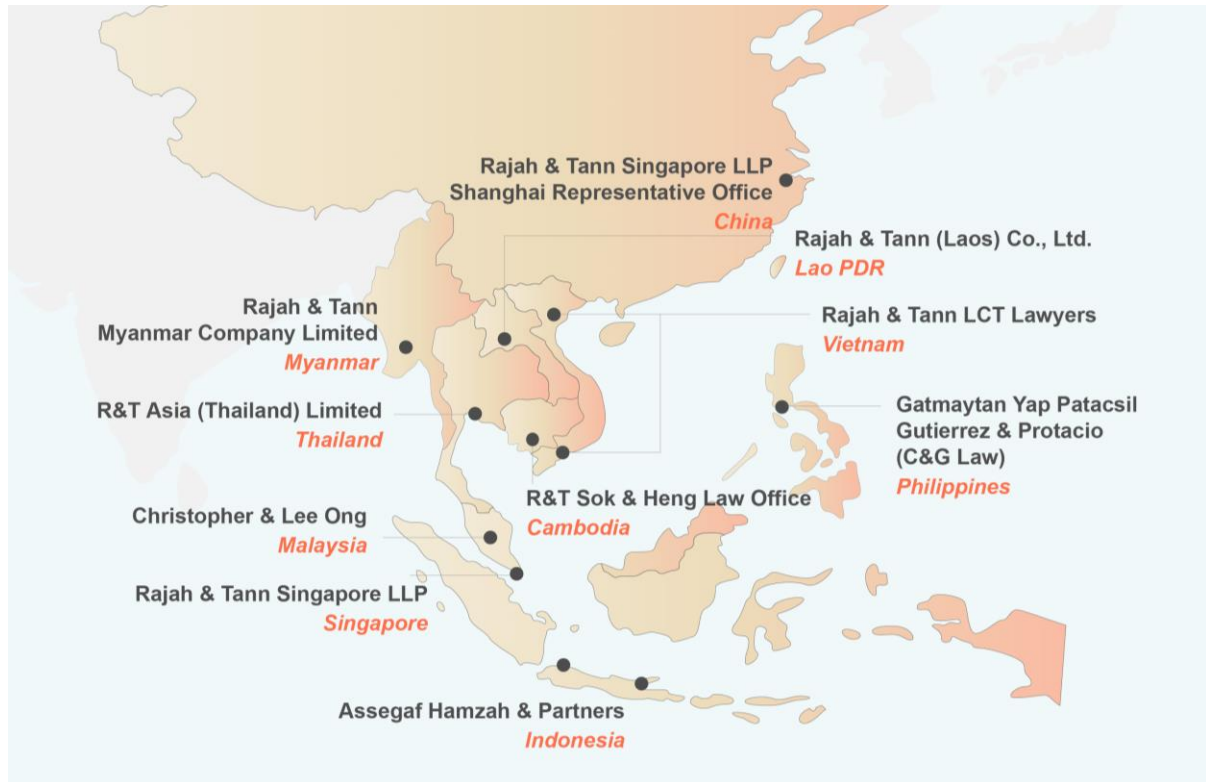
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