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LICENSE SEGMENTATION FOR BROKER DEALER

The Financial Supervisory Board (“OJK”) has recently issued its Regulation No. 22/POJK.04/2016 regarding Licensing Segmentation For Broker Dealers (the “Regulation”) dated 22 April 2016. The regulation was issued at the same time with Regulation No. 20/POJK.04/2016 regarding Licensing of Securities Company Which Engage in Underwriting and Broker Dealer which it has issued earlier in April 2016 (separate article).

In its preamble of the Regulation, OJK mentioned that the Regulation was issued to address the need of the industry to have a broker dealer that do not only serve as a dealer in its activity but will also to enable the dealer to also engage in marketing activities for a securities company where he/she is employed. Hence, the Regulation basically provides a legal basis for a broker dealer to also engage in marketing activities.



The Regulation stipulates that a broker dealer that is engaged in marketing activities comprise of the following namely: (i) a broker dealer for marketing; and (ii) a broker dealer for limited marketing activities. The Regulation is clear in that it stipulates that licenses for a broker dealer for marketing and a broker dealer for limited marketing activities is not eligible for an individual who would become a director for a securities company as required by Regulation No. 20/POJK.04/2016.

Article 6 of the Regulation stipulates a list of restrictive activities that both a broker dealer for marketing and a broker dealer for limited marketing activities may engage in representing a securities company in dealing with customers or prospective customers of a securities company. Further, the Regulation also states that individuals who have licenses for the broker dealer for marketing and the broker dealer for limited marketing activities may also work with agents of broker dealer that are separately regulated by OJK.

OJK finally provides various requirements to become a broker dealer for marketing and a broker dealer for limited marketing activities as well as sanctions which it describes in Article 9 - 11 and 12-14 of the Regulation.

The Regulation became effective on the day it is promulgated namely on 27 April 2016.

GOVERNMENT TO ACTIVELY HANDLES LAND DISPUTES AND CONFLICTS

Disputes and conflicts between big plantation companies and local people over lands have become very common in recent years. In light of the continued increase of such disputes and conflicts, the Minister of Agrarian and Spatial Planning/Head of the National Land Agency (the “Minister”) has issued its Regulation No. 11/2016 regarding Settlements of Land Matters (the “Regulation”).

The Minister states in the Regulation that the objectives of the Regulation is to: (i) know history and history of the disputes; (ii) formulate strategic policies for the settlements of the dispute; and (iii) settle the dispute so that the land may be used by its owners. As a result of such objectives, settlements of land disputes and conflicts may be initiated either by the Minister or as a result of complaints from public.

The Regulation provides extensive guidance both for the staffs of the Minister and its regional/local offices of the National Land Agency (“BPN”) as well as public in order to initiate settlement of the land disputes.

The Minister staffs in the country, for instance, are required to regularly monitor any land dispute and conflict either as a result of public complaints or news from media. The result of the monitoring will then be reported to the

Minister and the regional office of BPN or further handling by its staffs. Public may complaint or report any land dispute and conflict by mail or email to the Minister.

Officers Involvement

As part of the monitoring and the receiving of public complaints, the local BPN officers will compile data related to the land dispute and conflict being handled. The data compiled may be in the form of:

- i. Physical or juridical; (ii) court decision, minutes of police or district attorney investigation and other data including those that has been produced by corruption eradication commission (KPK); and (iii) information from any witness. The data will then have to be analyzed to determine whether or not the data as well as the dispute and conflict over the land in question is within the authority of the Minister and BPN to handle. If the dispute or conflict is not within the authority of the Minister or BPN, the Minister or BPM.
- ii. May facilitate the the dispute or conflict (Article 12 section 5).

The Regulation also addresses what kinds of disputes and conflicts on land issue that may be the domain of the Minister and BPN namely :

- i. Matters that are due to irregularities in measurement; mapping; or calculation of extent;



- ii. Wrongful registration procedures, registration as well as recognition of rights over the land or the process of such recognition of land rights and issuance of land rights certificates;
- iii. Overlapping of lands rights and title certificates; and
- iv. Misuse of spatial planning as well as misapplication of provisions of land laws and regulations.

In the event that a dispute and conflict fall within the authority of the Minister, the result of the analysis has to be submitted for resolution by the authorized officer in the Minister or the regional/local BPN office depending on the type and nature of dispute and conflict that the Regulation.

determines in Article 13 section 1 and 2. A settlement team may also be established if there is a need for that in order to resolve a dispute and conflict.

Further, and as a result of the analysis, an officer or a settlement team in the Minister and BPN who handles the result of the analysis have to review and conduct field investigation to further study the result of analysis and conduct field inspection,

presentation (if required) as well as provide proposal for settlement of the dispute and conflict for final resolution, as elaborated under Article 16 – 23 of the Regulation.

Resolution Of Disputes/Conflicts

Based on the proposal for settlement of the dispute and conflict for final resolution, the Minister or the regional BPN office may issue a decree to the following effects: (i) Revocation of land title as well as the land title certificate; (ii) change or amendment to information/data in the land title certificate and other data related to the certificate of title to the land; and (iii) issue a notification confirming there has not been any mistake on the status of the land in dispute. The Regulation also provides how the resolution has to be implemented (as they are stipulated in Article 24 – 26 of the Regulation) and finally enforced (Article 27 – 36).

The Regulation also provides mechanism for mediation namely in the event that the dispute and conflict over the land are not within the Minister or BPN authority, as is stipulated under Article 37 – 42 of the Regulation. The mediation is subject to the agreement of the parties involved. Mediation has to be convened within thirty days and will involve not only parties in a dispute but also other parties either from the Minister and BPN as well as experts. The Regulation stipulates mechanics of the mediation (Article 38 – 42 of the Regulation).

Finally, the Regulation also provides provisions with respect to a court dispute either involving the Minister and/or BPN or a dispute that only involve certain parties (Article 43 – 48) and enforcement of court decision (Article 49 – 60).

The Regulation was issued on 21 March 2016 and came into effect on the day it was promulgated namely on 14 April 2016. (*by: Hamud M. Balfas*).



NEW REGULATIONS ON DISCLOSURES INTRODUCED

As part of its efforts to improve quality of disclosure on publicly listed companies, the Financial Supervisory Board (“OJK”) has recently issued its Regulation No. 31/POJK.04/2016 regarding Disclosure of Information and Material Facts by an Issuer or Public Company (the “Regulation 31”) dated 16 December 2015 and Regulation No. 60/POJK.04/201 regarding Disclosure of Information for Certain Shareholders (the “Regulation 60”) dated 23 December 2015. Both regulations were issued to replace outdated regulations that were issued almost twenty years ago in 1996.

Unlike the old regulation that it replaced, Regulation 31 provides a number of provisions that require issuers to inform public on what information and material facts that has to be announced. These include information on date, type, description as well as impact of the events that constitute information and material facts. In addition, Regulation 31 also provides form of report for the reporting and a list of sample of information that issuers have to inform to OJK and public as part of the disclosure. The list includes details of information and material facts that an issuer must include in its disclosure documents.

Other new feature that Regulation 31 stipulates is that the disclosure of information and material facts must be made in the issuers' website as well as in a newspaper.

Separately, Regulation 60 that OJK issue to replace Regulation X.M.1 that was issued twenty years ago basically contains the same provisions with the old Regulation X.M.1 that it has replaced.

Unlike the old regulations that the two new OJK regulations has replaced, the two new regulations contain penalty provisions in the event that the parties that are obliged to disclose the information and material facts fail to comply with their requirements. **(by: Hamud M. Balfas).**

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