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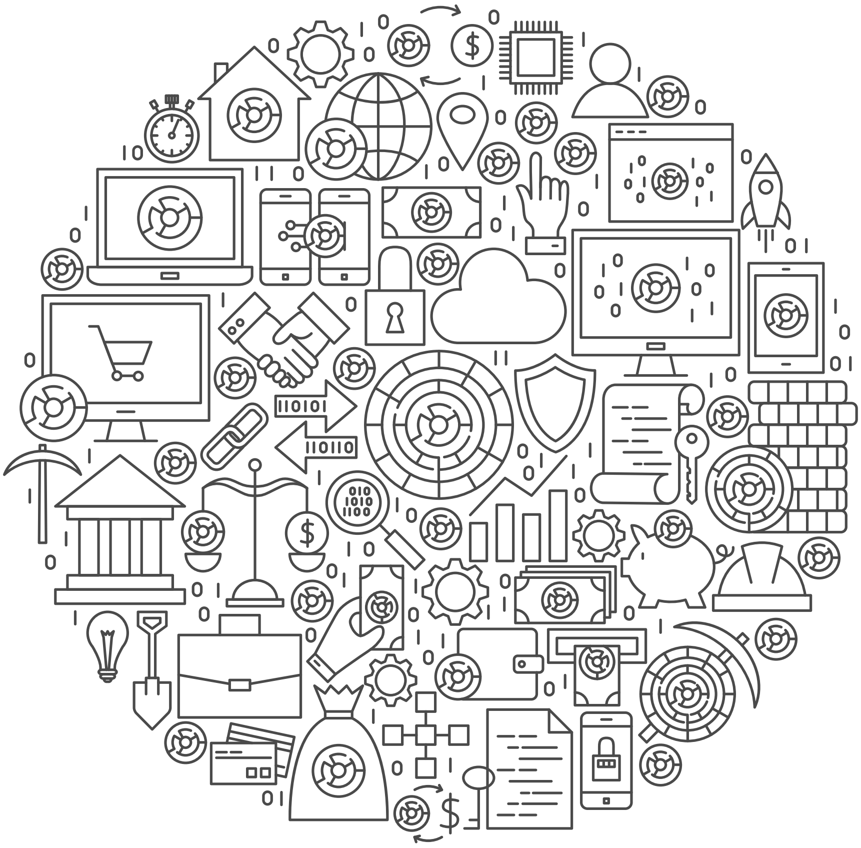


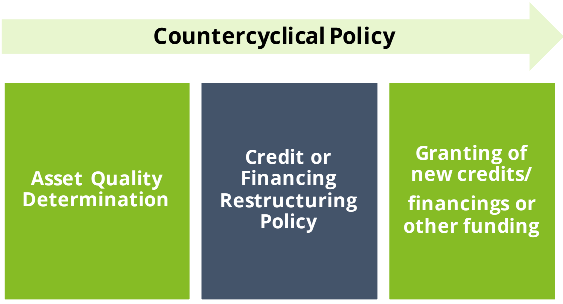
COVID-19 Indonesian Legal Talking Points Indonesian Financial Services Authority (OJK) Regulation No. 11 of 2020

National Economic Stimulus as Countercyclical Policy to the Impact of Coronavirus Disease 2019 Outbreak

OJK Regulation No. 11 of 2020 on National Economic Stimulus as Countercyclical Policy to the Impact of Covid-19 Outbreak ("OJK Regulation 11/2020")

Due to the increasing of Corona Virus Disease 2019 ("COVID-19") case in Indonesia, the Government issued Government Regulation in Lieu of Law No. 1 of 2020 on State Financial Policy and Stability of Financial Systems for the Management of Corona Virus Disease 2019 and/or Encounter the Threat to National Economy and/or Stability of Financial Systems. According to that regulation, OJK is given the authority to determine the policy in order to maintain the stability of financial system. In this respect, on 13 March 2020, OJK issued OJK Regulation 11/2020 as one of the effort to support the economic growth due to the outbreak of COVID-19.

The regulation allows Banks to implement policies that support economic growth stimulus for debtors who are affected by the COVID-19 outbreak including debtors in the form of micro, small, and medium-scale businesses. OJK Regulation 11/2020 is entered into force as of the issuance of the regulation and will be valid until March 31, 2021.



General
By implementing this policy, Banks shall have a guideline which at least contains:
a. Debtors' criteria who are affected by the COVID-19; and
b. Sectors that are affected by the COVID-19.

Banks
This regulation applies to all types of Bank, as follows: (a) Conventional Commercial Banks/Bank Umum Konvensional ("BUK"); (b) Sharia Commercial Banks/Bank Umum Syariah ("BUS"); (c) Sharia Business Unit/Unit Usaha Syariah ("UUS"); (d) Rural Credit Bank/Bank Perkreditan Rakyat ("BPR"); and (e) Sharia Rural Financing/Bank Pembiayaan Rakyat Syariah ("BPRS"). In addition, Banks shall pay attention on OJK Regulations that oversee the risk management practice on the respective Banks.

Reporting Requirements
- Banks that carry out the countercyclical policy shall submit offline report/ in the form of hard copy to OJK by referring to the Appendix of OJK Regulation 11/2020.
- The submission of the report based on the Banks' position at the end of April 2020, June 2020, September 2020, December 2020, and March 2021.

Credit or Financing Restructuring Policy as one of the Countercyclical Policy for the Affected Borrowers

According to OJK Regulation 11/2020 credit or financing restructuring is based on the following conditions:
- Credit or financing that is restructured shall be classified as performing-loan since the restructuring occurs.
- Credit for BPR or financing for BPRS that is restructured shall be exempted from the implementation of credit or financing restructuring accounting treatment.
- This facility is applicable for the debtors who are affected by COVID-19 outbreak and being restructured after debtors are affected by COVID-19 outbreak including UMKM.

Under the regulation, we note that Banks may conduct credit/financing restructuring without any ceiling limitation of the credit/financing or type of debtors. Thus, any debtors who are affected by COVID-19 outbreak may propose for restructuring to the Banks. However, it is subject to the policy in the respective Banks.

Below are credit restructuring that can be conducted based on OJK Regulation regarding the asset quality assessment:
a. Deduction of loan interest rate;
b. Extension of credit period;
c. Deduction of principal loan arrears;
d. Deduction of credit interest arrears;
e. Additional credit facilities; and/or
f. Credit conversion to temporary equity injection.

Who are Eligible to be Affected Debtors?

According to POJK 11/2020, affected debtors are:
- Any debtors who are having difficulties in fulfilling obligations to Bank due to the debtors being directly or indirectly affected by COVID-19 in sectors of economy, among others, tourism, transportation, hospitality, trading, processing, agriculture, and mining.
- Micro, small, and medium scale business/Usaha Mikro, Kecil dan Menengah ("UMKM").

Furthermore, OJK Regulation 11/2020 sets few examples of which situation that the debtors can be eligible to be deemed as Affected Debtors:
- Debtors affected by the closing down of a transportation line and tourism from and to China or other countries affected by COVID-19 and travel warning;
- 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;
- 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.

With reference to above elaborations, we note that the regulation does not limit neither the type of debtors nor the sectors, thus any debtors from any sectors is possible to obtain benefit form this countercyclical policy under the regulation. However, it is noteworthy that the eligible debtors will subject to respective Banks' criteria.

Key Takeaways

Some of the key takeaways which may be taken for consideration:
- The implementation of the countercyclical policy is expected to support economic growth and to provide economic stimulus for debtors who are affected by the COVID-19 outbreak including debtors in the form of micro, small, and medium-scale businesses.
- The implementation of this policy will be subject to the guideline, determined by the respective Banks, which indicates the debtors criteria and sectors that might be affected by COVID-19 outbreak.
- This countercyclical policy may not only apply for conventional banking sectors but also to sharia banking and rural credit banking that providing financial services to the rural areas, the Banks however shall take into consideration on risk management as regulated in this OJK regulation.
- However, whilst the intention of this OJK Regulation is noble, Banks which would implement such restructuring activities should also be mindful with their own respective restrictions and negative impacts that they may sustain vis-à-vis their stakeholders e.g. will they breach covenants/undertakings under their own facilities agreements, will their bonds/notes be down-graded to become a non-investment grade, will their share price, dividends policy etc be affected (and if so, is this something that is acceptable and to what level), how the restructuring affect their compliance on applicable capital adequacy requirements (is the shareholders of the Banks need to inject more capital?), etc – all of which may put some ceilings as to what these Banks can do and would need to be properly managed.

Contact us

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