

## The New Regulation on Fintech in Indonesia - What You Need to Know

On 28 December 2016 the Indonesian Financial Services Authority (*Otoritas Jasa Keuangan* - “**OJK**”) promulgated a long-awaited Regulation No. 77/POJK.01/2016 on Lending Services via Electronic Platform (“**Fintech Regulation**”). Please find below the key provisions that you need to know:

1. **Licensing Requirements** – There are two stages of licensing process ie (i) the registration stage and (ii) licensing state. Prior obtaining license a service provider must first be registered with the OJK. At the latest of one (1) year as of its registration with the OJK, the service provider must submit application to obtain license to the OJK. Service providers exist prior to the promulgation of the Fintech Regulation must submit a registration application to the OJK at the latest of six (6) months after the date of promulgation of the Fintech Regulation.
2. **Foreign Ownership Restrictions** – A service provider can be in the form of limited liability companies or cooperatives. The maximum foreign ownership for service providers in the form of limited liability companies, direct or indirect, is 85% (eighty five percent).
3. **Dedicated Business and Capital Requirements** - The service provider must not engage in other businesses other than the lending services via electronic platform. The minimum paid-up capital requirement is Rp. 1,000,000,000.00 (one billion Rupiah) at the time of registration and Rp. 2,500,000,00.00 (two billion and five hundred million Rupiah) when it submits the application for a license to the OJK.
4. **Change in Ownership and Human Capital Requirements** – Any change in ownership is subject to approval by the OJK. The service provider must have at least one (1) Director and one (1) Commissioner with at least one (1) year experience in financial service industries.
5. **Legal Lending Limit** – the maximum legal lending limit to each borrower is Rp. 2,000,000,000.00 (two billion Rupiah). Any financing exist prior to the promulgation of the Fintech Regulation that exceed the limit provided under the Fintech Regulation is still valid until the expiry of the agreement.
6. **Restrictions on Borrowers and Lenders** –The Borrower must be from and domiciled in Indonesia and are Indonesian citizens and/or legal entities. The Lenders can be from and/or outside Indonesia.
7. **Lending in Rupiah and the Use of Indonesian Language** – the loan provided through the platform must be in Rupiah and the agreements among the parties must be in Indonesian language or in bilingual (in Indonesian language and the relevant foreign language).
8. **Requirements to establish Escrow Account and Virtual Account** –The service providers must utilize escrow account and virtual account in performing the services. The service providers must provide virtual account for the lenders. In relation to loan

repayment, it must go through the service providers' escrow account to be subsequently channeled to lenders' virtual account.

9. **Data Center & Disaster Recovery Center** – The data center and the disaster recovery center must be located in Indonesia.
10. **Other Restrictions/Requirements** – Other restrictions/requirements that are worth noting are as follows:
  - a. **Advertisements** - any advertisements and promotions must include statement that the service providers are registered and supervised by the OJK;
  - b. **Standard Clause** - if the service providers adopt standard clause then such standard clause must not transfer responsibilities from the service providers and any statement which says that the users are subject to any upcoming rules affected unilaterally by the service providers;
  - c. **Data Protection** - the service providers must not share any data and/information on the users to third parties (except with users' consent and/or as required by the prevailing laws and regulations);
  - d. **Complaints Handling** - the service providers must report any complaints received every months to the OJK and the service providers are prohibited to gain/take any revenues/fees for any complaints submitted by the users;
  - e. **Granting Securities** - the service providers are prohibited to grant security in any form whatsoever to secure third parties' obligations;
  - f. **Issuance of Debt Instruments** - the service providers are prohibited to issue debt instruments; and
  - f. **Periodic Reports** - the service providers that have obtained license must submit a monthly and annual report to the OJK.

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