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Expanded Opportunities, Stricter Rules Under OJK's New Regulation

Rajah & Tann Asia

The Financial Services Authority (*Otoritas Jasa Keuangan* or "**OJK**") has issued OJK Regulation No. 40 of 2024 on Information Technology Based Collective Funding Services ("**New Regulation**"), bringing significant changes to the peer-to-peer ("**P2P**") lending landscape in Indonesia. Effective 27 December 2024, the New Regulation replaces OJK Regulation No. 10/POJK.05/2022 on Information Technology Based Collective Funding Services ("**Previous Regulation**").

Designed to both broaden participation and strengthen oversight, the New Regulation aims to foster growth within Indonesia's dynamic fintech sector. A key development is permitting Indonesian cooperatives to act as P2P lending operators, opening up new avenues for financial inclusion. Simultaneously, the OJK has implemented stricter operational, compliance, and governance requirements to enhance the safety and transparency of P2P lending activities.

The key changes are outlined below.

Operator's Legal Structure and Ownership

The New Regulation broadens the eligibility for P2P lending operators. Previously, only limited liability companies could operate P2P platforms. Now, Indonesian cooperatives are also permitted.

Similarly, the ownership structure of P2P platforms has been broadened. The Previous Regulation allowed ownership by Indonesian citizens, Indonesian entities owned by Indonesian citizens, and foreign entities or foreign citizens in partnership with Indonesian entities or citizens. The New Regulation now permits the Indonesian government, local governments, and foreign entities or foreign citizens in partnership with government entities to hold shares in P2P lending operators. This change aims to encourage greater participation and investment in the P2P lending sector.

Capital Requirements, Financial Soundness, and Ultimate Beneficial Owners

The New Regulation maintains the minimum paid-up capital requirement for P2P lending operators at IDR25 billion per 4 July 2025. In addition to these equity requirements, operators must maintain an equity ratio of 50% of their paid-up capital. This ensures that their equity remains proportional to their capital, enhancing financial stability.

Furthermore, the New Regulation requires P2P lending operators to fulfil financial soundness criteria, including capital, funding quality, management, profitability and liquidity, which were not regulated under the Previous Regulation. In addition, all operators must disclose their Ultimate Beneficial Owner (UBO) and report changes to OJK within 10 working days, which enhances OJK's supervisory capabilities and supports the overall health of the P2P lending ecosystem.

Funding Limits and Agreement Amendments

The New Regulation sets a maximum funding limit of IDR2 billion for both consumptive and productive funding provided to fund recipients. However, to support productive activities, P2P operators may extend funding up to IDR5 billion, provided they meet specific criteria as set in the New Regulation. It is also important to note that the OJK retains the authority to adjust these maximum funding limit based on industry developments.

Beyond the funding limits themselves, the OJK has also introduced measures to strengthen the integrity of the funding agreements. In a move to enhance transparency and protect the interests of both fund providers and recipients, the New Regulation introduces a new requirement: any amendments to the funding agreement must be approved by both the fund provider and the fund recipient. This ensures that all stakeholders are fully informed and agree to any changes in the terms of the funding arrangement.

Prohibitions

On prohibitions, the New Regulation builds upon the prohibitions outlined in the Previous Regulation by introducing additional restrictions on P2P lending operators. These include:

- Directly collecting public funds through checking accounts, savings, deposits, or similar instruments.
- Utilising third parties to manage funds from fund providers.
- Engaging in funding practices deemed unhealthy, such as those seen in P2P lending platforms that do not conduct adequate screening processes for potential debtors.

These expanded prohibitions aim to enhance the security and integrity of P2P lending operations.

Governance and Transparency

A key innovation in the New Regulation is the establishment of the General Meeting of Fund Providers. This platform aims to foster transparency and engagement among fund providers, particularly in decision-making processes such as amendments to funding agreements. Operators are required to develop guidelines for these meetings, outlining procedures, mechanisms, and implementation strategies tailored to their operational complexity and capabilities. These meetings must be conducted in accordance with these established guidelines.

Likewise, the New Regulation places a heightened emphasis on anti-fraud measures. Operators are now mandated to implement robust systems and controls to detect and prevent fraudulent activities. This includes the implementation of comprehensive anti-fraud strategies, as well as adherence to regulations related to anti-money laundering, countering the financing of terrorism, and countering the financing of proliferation of weapons of mass destruction. These measures collectively strengthen the security and trustworthiness of the P2P lending ecosystem.

Key Takeaways and Next Steps

The New Regulation represents a significant evolution in Indonesia's P2P lending sector, designed to foster growth while ensuring stability and transparency. The inclusion of cooperatives as eligible operators, coupled with the increased funding limits for productive loans, opens up new opportunities for financial inclusion and business expansion.

Furthermore, the allowance for P2P platforms to establish subsidiaries, with equity participation capped at 20%, reflects a move aligning with broader venture capital industry practices. These developments signal a proactive approach by the OJK to nurture a robust and dynamic fintech ecosystem.

Looking ahead, P2P lending operators should prioritise adapting to the new regulatory requirements. This includes reviewing and updating internal policies and procedures to ensure compliance with the enhanced standards for capital adequacy, operational conduct, and governance. Operators should also pay close attention to the forthcoming amendment to the OJK circular letter (SEOJK) concerning the implementation of information technology-based joint funding services (*Layanan Pendanaan Bersama Berbasis Teknologi Informasi* or LPBBTI), as this will provide further clarity on the practical application of the New Regulation.

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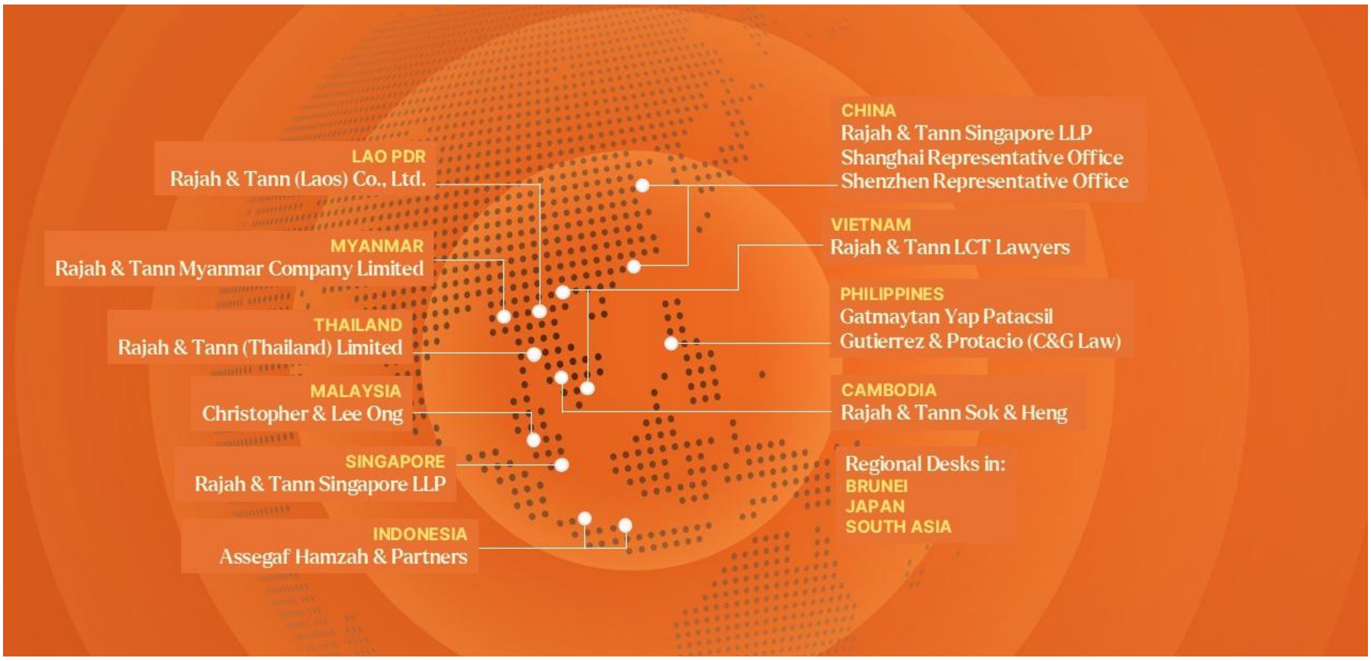

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