

Understanding the Latest Changes in IDX's Delisting and Relisting Rule



Starting from May 2024, public investors in Indonesia enjoy greater transparency of information on potentially problematic listed companies and/or issuer of bonds or sukuk. This benefit was introduced under Indonesia Stock Exchange (*Bursa Efek Indonesia* or “**IDX**”) Regulation No. I-N on delisting and relisting of shares and debt-linked securities or sukuk (“**Regulation**”). Besides regulating delisting – which can be done voluntarily or under the order of IDX or the Financial Services Authority (*Otoritas Jasa Keuangan* or “**OJK**”) – the Regulation also mandates IDX to periodically announce the potential delisting of companies whose shares have been suspended for six consecutive months. In addition, the Regulation revokes the previous rules on delisting and relisting.

The Regulation was issued after OJK enacted OJK Regulation No. 3/POJK.04/2021 on the Implementation of Capital Market Activities (“**OJK Regulation**”). The OJK Regulation governs, among others, the change of status of a public company to a private company (commonly called ‘go private’).

Delisting of Shares

As mentioned, delisting can occur based on an order from IDX or OJK or voluntarily by the company.

1. *Delisting by IDX*

Under the Regulation, IDX can order a company to delist if:

- (i) The company experiences a significant condition or event that negatively impacts its continuity of business, either financially or legally, and the company cannot recover from such condition;
- (ii) The company fails to comply with the listing requirements at IDX; or
- (iii) The company's shares have been suspended,¹ either on the regular market and cash market or across all markets, for the last 24 months.

However, delisting will not happen automatically. Upon indications that a company is experiencing one or more of the above conditions, IDX may request clarification from the company or any other party, request the company to carry out an incidental public expose, and/or request the company to prepare and present a recovery plan, which must disclose the company's plan to recover from the suspension of trading within three months from the date of suspension. Prior to delisting, IDX may put the company in the special supervision board (*papan pemantauan khusus*).

The above steps evidence IDX's intention to protect public shareholders. Additionally, the Regulation also enhances the transparency of information by requiring IDX to periodically announce the potential delisting of companies whose shares have been suspended for six consecutive months. However, the Regulation does not specify the maximum time allowed between the announcement of a recovery plan by the company (as mentioned above) and the delisting. As a result, it is unclear how long IDX will wait before delisting the shares of a company that fails to show improvement.

When IDX orders and announces a delisting, the company must announce a disclosure of information on the proposed share buyback, which is triggered by the forced delisting. This announcement must be made within 30 days after the delisting announcement by IDX. In terms of timing, the share buyback can be immediately implemented after the company announces the disclosure of information, and there is no need for the company to obtain shareholders' approval for the buyback.

¹ IDX is entitled to suspend the shares of a listed company if the company has been on the Watchlist Board for more than one consecutive year due to meeting one or more of the criteria specified in IDX Decree No. Kep-00081/BEI/05-2023.

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Delisting will occur six months after the disclosure of information about the share buyback is announced or at any other time determined by IDX, based on OJK's discretion.

2. Voluntary delisting

Because the procedures of voluntary go private are already detailed in the OJK Regulation, including the mechanism for shareholders' approval and pricing for the share buyback, the Regulation does not touch on these matters. Instead, the Regulation emphasises that IDX will suspend the trading of a company's shares in all markets if a company voluntarily delists its shares. This means that no transaction can be done during the delisting process.

In this process, the company must pay the delisting fee amounting to five times of the last annual listing fee. This is an increase from the delisting fee under the previous regulatory framework, which was twice of the last annual listing fee.

3. Delisting by OJK

Provisions for delisting due to OJK's order are detailed in the OJK Regulation. In this respect, the Regulation requires companies to announce the progress of the go private process periodically after receiving OJK's order. This report must be announced no later than the end of June and the end of December, or whenever there is progress, whichever is earlier, until OJK effectively revokes the company's registration statement.

Delisting of Debt or Sukuk

The Regulation introduces a new provision that regulates the delisting of debt-linked instruments, including sukuk. Such delisting by IDX can occur if:

- (i) The company experiences a significant condition or event that negatively impacts its continuity of business, either financially or legally, and the company cannot recover from such conditions;
- (ii) Six months has passed since IDX announced a default of the debt or sukuk; and/or
- (iii) The company fails to comply with the listing requirements at IDX.

Similarly to the delisting of shares, IDX may request a clarification and/or recovery plan from the company. IDX will also publicly announce the potential delisting of the company's debt or sukuk and/or the company's inability to fulfil its payment obligations (default).

However, the Regulation does not contain any details on the recovery plan, i.e., the frequency of submission, duration of submission, and most importantly, whether the debt or sukuk remain tradable given that there would have been no suspension of the debt or sukuk prior to the delisting. As a result, there is uncertainty on the impact of delisting for holders of the debt or sukuk because they would not be able to trade their debt or sukuk at the stock exchange.

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Lastly, IDX will announce the delisting no later than 1 trading day before the effective delisting date, compared to the previous 15 days.

Relisting of Shares

The Regulation simplifies the regulatory framework regarding the relisting of shares by referring to the procedures outlined in IDX Regulation No. I-A on the Listing of Shares and Equity Securities other than Shares Issued by Listed Companies and IDX Regulation No. I-Y on the Listing of Shares and Equity Securities other than Shares Issued by Listed Companies on the New Economic Board.

Key Takeaways

The Regulation marks a significant step forward in enhancing protection for investors. By mandating the disclosure of information about potentially problematic companies, the Regulation puts investors on alert and provides greater visibility in taking decisions. This heightened level of transparency not only safeguards investors but also fosters a more trustworthy market environment.

If you have any queries on the above, please feel free to contact our team members below who will be happy to assist.

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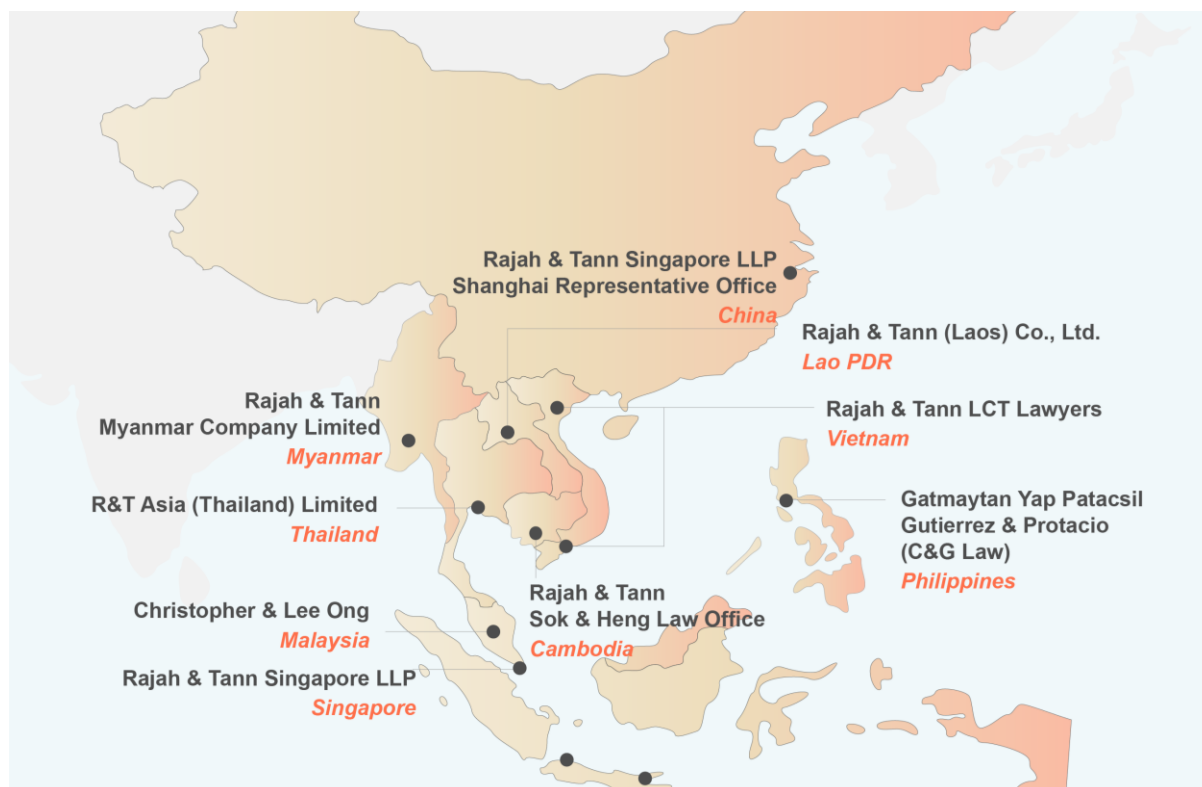
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