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## OJK Reg. No. 3/2024: Balancing Promotions and Regulatory Oversight within Technology Innovation in the Financial Sector

Indonesia's Financial Services Authority (*Otoritas Jasa Keuangan* – “OJK”) has enacted OJK Regulation No. 3/2024 on the Implementation of Technology Innovation in the Financial Sector (“OJK Reg. No. 3/2024”) which replaces OJK Regulation No. 13/POJK.02/2018 on Digital Financial Innovation (“OJK Reg. No. 13/2018”). OJK Reg. No. 3/2024 was issued following the enactment of Law No. 4/2023 on Development and Strengthening of the Financial Sector (“Law No. 4/2023”) and aims to further strengthen the catch-all-basket regulatory framework for Technology Innovation in the Financial Sector (or *Inovasi Teknologi Sektor Keuangan* “ITSK”).

Through OJK Reg. No. 3/2024, OJK stipulates new and/or enhanced provisions, such as the scope of ITSK, eligibility criteria, entry policy, regulatory sandbox mechanism, and governance, among others. Additionally, it also changed the nomenclature from Digital Financial Innovation (or *Inovasi Keuangan Digital* “IKD”) to ITSK.

Below we highlight several notable items stipulated under OJK Reg. No. 3/2024:

### I. Scope of ITSK

Two significant changes have been introduced to the Scope of ITSK under OJK Reg. No. 3/2024. First, activities related to digital financial assets (including crypto assets) now for within the scope of ITSK.<sup>1</sup> Secondly, technology innovation related to insurance activities is no longer included as of the scope of ITSK.

In summary, under OJK Reg. No. 3/2024, business activities/models of technology innovation that fall under the scope of ITSK are now as follows:<sup>2</sup>

- a. Settlement of securities transactions;
- b. Raising capital;
- c. Investment management;

<sup>1</sup>Previously, activities related to crypto assets were regulated under the authority of Indonesian Commodity Futures Supervisory Agency (or *Badan Pengawas Perdagangan Berjangka Komoditi* “BAPPEBTI”). However, with the enactment of Law No. 4/2023, activities related to crypto assets are now included as ITSK, thus shifting the authority from BAPPEBTI to OJK. In this case, Article 312 (1) Law No. 4/2023 stipulates a transitional period of 24 months for the shift of the authority to regulate and supervise crypto assets from BAPPETI to OJK.  
<sup>2</sup>Article 2 of OJK Reg. No. 3/2024.

- d. Risk management;
- e. Collection and/or distribution of funds;
- f. Market support;
- g. Activities related to digital financial assets, including crypto; and
- h. Other digital financial service activities.

As of March 2024 (post-issuance of OJK Reg. No. 3/2024), there are 63 (sixty-three) recorded ITSK operators that are currently undergoing the regulatory sandbox process. These ITSK operators are classified into eight different clusters, namely:

- a. Aggregator Cluster;
- b. Financial Planner Cluster;
- c. Financing Agent Cluster;
- d. Funding Agent Cluster;
- e. Online Distress Solution Cluster;
- f. Tax & Accounting Cluster;
- g. Authentication Cluster; and
- h. Wealth Tech Cluster.

## II. Entry Policy Mechanism

OJK Reg. No. 3/2024 revamps the procedures for an ITSK operator to begin their ITSK activities within the financial sector. Under the previous regime, IKD operators were required to record their IKD prior to conducting IKD activities. However, under the new regime, ITSK operators must first operate within OJK's regulatory sandbox before being deemed to have passed OJK's regulatory sandbox.

Once an ITSK operator successfully completes OJK's regulatory sandbox program, they will be required to apply for a business license for their ITSK activities. Alternatively, OJK will require certain ITSK operators to register as an ITSK operator with OJK prior to applying for a business license.<sup>3</sup> Only after completing these steps they be able to conduct ITSK activities.<sup>4</sup>

## III. Regulatory Sandbox Process

OJK's regulatory sandbox serves as a facility to conduct testing and development for ITSK products before they are by the general public.<sup>5</sup> By testing and developing their ITSK within the regulatory sandbox, ITSK operators may carefully identify potential consumer groups/needs, hence why OJK requires all prospective ITSK operators to participate in the regulatory sandbox process before conducting their ITSK activities.<sup>6</sup>

<sup>3</sup>Article 15 (2) & Article 16 (1) of OJK Reg. No. 3/2024.

<sup>4</sup>Article 6 of OJK Reg. No. 3/2024.

<sup>5</sup>Article 7 of OJK Reg. No. 3/2024.

<sup>6</sup>Article 6 of OJK Reg. No. 3/2024.

## A. Application Process

Prior to an ITSK operator testing their ITSK products within OJK's regulatory sandbox, they must submit an application to become a participant. Participants are limited to only Financial Institutions (or *Lembaga Jasa Keuangan* or "LJK") and/or other legal entities that are authorized to conduct activities in the financial sector.<sup>7</sup> Specifically, for an LJK, they must also receive a recommendation letter from their relevant supervisory unit at OJK.<sup>8</sup>

In addition, prospective regulatory sandbox participants must also include test plans (or *Rencana Pengujian*) and other supplementary documents with their applications.<sup>9</sup> Test plans are an elaboration of the business plans as regulated by OJK Reg. No. 13/2018. Moreover, the test plans submitted shall form the basis of the regulatory sandbox process of the ITSK operators.<sup>10</sup>

## B. Eligibility Criteria of ITSK

To be admitted to participate in OJK's regulatory sandbox, ITSK operators must fulfill the newly imposed eligibility criteria for ITSK, which are as follows:<sup>11</sup>

- a. Innovations must have a scope of coverage in the financial services sector that will be used by consumers, partners, and/or the public of Indonesia;
- b. Innovations that have an element of novelty and/or have a significant differentiating component from what has been implemented before in the financial sector;
- c. Innovations that provide benefits, improve services, and provide added value to consumers, the public, and/or the financial sector ecosystem;
- d. Innovations that are ready for testing and development;
- e. Innovations that require trial and development support, and have not been regulated and supervised previously in the applicable provisions in the financial sector; and
- f. Other criteria set by OJK.

OJK Reg. No. 3/2024 amends the eligibility criteria of ITSK by emphasizing the technicalities of the ITSK. Furthermore, OJK plans to enact another regulation that will further detail the eligibility criteria of ITSK and possibly further detail the technicalities thereof that must be fulfilled.

## C. Regulatory Sandbox Participation

### Test Plans

OJK's regulatory sandbox process shall be conducted based on the test plans that have been submitted to OJK during the application process. OJK Reg. No. 3/2024 obligates that the test plan must include at least:<sup>12</sup>

<sup>7</sup>Article 3 (1) of OJK Reg. No. 3/2024.

<sup>8</sup>Article 9 (2) of OJK Reg. No. 3/2024.

<sup>9</sup>Supplementary documents must at least include documents relating to institutional matters, explanations related to the innovations being developed, and evidence of the prospect participants' readiness to organize ITSK within the financial sector.

<sup>10</sup>Article 11 (2) of OJK Reg. No. 3/2024.

<sup>11</sup>Article 10 (1) of OJK Reg. No. 3/2024.

<sup>12</sup>Article 9 (5) of OJK Reg. No. 3/2024.

- a. Explanation of product innovations, activities, services, and/or business models that will be tested and developed;
- b. Identification of potential risks of product innovations, activities, services, and/or business models to be tested and developed;
- c. Risk mitigation implementation plan for the potential risks;
- d. Limitation of the implementation of trial and development of innovations which includes the period of testing required, target and profile of consumers, number of consumers, trial and development partners, number of transactions, and other measurable limitations;
- e. Consumer protection framework that includes at least consumer complaint services and redress mechanism;
- f. Availability of capital and resources to conduct trials and development of innovations;
- g. Exit policy and transition policy if the tested and developed innovations cannot be continued after the regulatory sandbox process;
- h. Test scenarios and development of product, activity, service, and/or business model innovations to be tested and developed; and
- i. Key performance indicators for the innovation testing and development scenario.

As mentioned, although OJK Reg. No. 3/2024 requires ITSK operators to include an 'exit policy' in their trial plan, details of the exit policy are not elaborated on. To provide an illustration, a similar requirement was present under OJK Circular Letter No. 21/SEOJK.02/2019 of 2019 on Regulatory Sandbox ("**SEOJK No. 21/2019**").<sup>13</sup> In essence, the exiting process is a set of procedures that must be completed by a participant to exit the regulatory sandbox if they have been deemed to have failed the regulatory sandbox process.

### **Regulatory Sandbox Participant Obligations**

During the regulatory sandbox process, participants are obliged to notify OJK of any changes relevant to them and their ITSK, disclose any information and/or documents relating to the implementation of the regulatory sandbox process to OJK, and participate in any regulatory sandbox activities.<sup>14</sup> In addition, regulatory sandbox participants are required to submit a report on the results of the regulatory sandbox process periodically and/or when requested to OJK.<sup>15</sup>

### **Regulatory Sandbox Timeline and Final Report**

OJK's regulatory sandbox process shall be carried out for a maximum of 1 (one) year.<sup>16</sup> OJK may shorten or lengthen the period at its discretion. Furthermore, OJK may prematurely terminate the process if it discovers there has been non-compliance with the eligibility criteria of ITSK.<sup>17</sup>

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<sup>13</sup>SEOJK No. 21/2019 is an implementing regulation of OJK Reg. No. 13/2018, which provides further elaboration regarding the mechanisms of the trial and development within OJK's regulatory sandbox.

<sup>14</sup>Article 11 (3) of OJK Reg. No. 3/2024.

<sup>15</sup>Specifically for this reporting obligation, OJK will determine whether the participant shall report periodically and/or at any time.

<sup>16</sup>Article 13 (1) of OJK Reg. No. 3/2024.

<sup>17</sup>Article 13 (2) and (3) of OJK Reg. No. 3/2024.

No later than 20 (twenty) days before the regulatory sandbox period ends, participants must submit a final report regulatory sandbox period ends, participants must submit a final report on the implementation of the regulatory sandbox process.<sup>18</sup>

#### D. Implementation of Test Results

After the regulatory sandbox process has been concluded, OJK will determine whether each participant has passed or failed.<sup>19</sup> If the tests show the relevancy of other authorities, OJK shall coordinate with these authorities to implement the test results.<sup>20</sup> Participants shall then conduct post-test obligations in accordance with the results, which are as follows:

##### Procedures if Regulatory Sandbox Participant Passes

Regulatory sandbox participants that are deemed to have passed the regulatory sandbox process shall receive a letter announcing they have passed, which will have a validity period of up to 6 (six) months.<sup>21</sup> Furthermore, ITSK operators are obligated to apply for a business license for their ITSK directly to OJK within the validity period.<sup>22</sup> If the regulatory sandbox participant does not apply for a business license within the validity period of the letter, then the letter shall automatically expire and be declared invalid, after which, the regulatory sandbox participant shall act accordingly, as if they have not passed the process.<sup>23</sup>

OJK may also stipulate that regulatory sandbox participants shall register as an ITSK operator with OJK, prior to applying for a business license.<sup>24</sup> OJK Reg. No. 3/2024 states that the licensing process for regulatory sandbox participants that have passed the process will be conducted in accordance with OJK regulations on the licensing and supervision of each type of ITSK.<sup>25</sup> However, at the time of this publication OJK has yet to issue any regulation regarding this matter.

##### Procedures if Regulatory Sandbox Participant Fails

Regulatory sandbox participants that are deemed to have failed the regulatory sandbox process shall receive a letter from OJK announcing that they have failed the process. Therefore, within a maximum of three months after receiving such letter, they shall:<sup>26</sup>

- a. Cease all business operations, product innovations, activities, and services using the business model tested and developed during the regulatory sandbox process;
- b. Conclude all their obligations to consumers and other parties; and
- c. Implement their exit policy.

<sup>18</sup>Final report shall include a. the results of trials and development of innovation trial and development scenarios within the test plans; b. fulfillment of key performance indicators within the test plans; c. identification of failed innovation trials and development and incidents that occurred during trials and development; d. assessment of Participants' compliance with the provisions of laws and regulations; and e. the Participant's follow-up plan after the end of the trial and development period.

<sup>19</sup>Article 14 (2) of OJK Reg. No. 3/2024.

<sup>20</sup>OJK may coordinate with other authorities such as Bank Indonesia in regards with the supervision of ITSK in the event there are relevancy between the two authorities.

<sup>21</sup>Article 15 (1) and (3) of OJK Reg. No. 3/2024.

<sup>22</sup>Article 15 (2) of OJK Reg. No. 3/2024.

<sup>23</sup>Procedures such as ceasing all business operations, conducting all its obligations to consumers, and implementing their exit policy, in accordance to their test plans submitted during the application process.

<sup>24</sup>Article 16 (1) of OJK Reg. No. 3/2024.

<sup>25</sup>Article 20 (3) of OJK Reg. No. 3/2024.

<sup>26</sup>Article 17 (2) of OJK Reg. No. 3/2024.

By way of comparison under the previous regime, if a regulatory sandbox participant failed the regulatory sandbox process, then all IKD operators under the same cluster were also obliged to cease operations.<sup>27</sup> However, a provision similar to this has yet to be seen within OJK Reg. No. 3/2024, therefore it may be regulated within a future regulation to be implemented, as this provision was regulated as part of the previous regime's implementation regulation.

#### IV. Governance

OJK Reg. No. 3/2024 improves on the governance aspect of ITSK by supporting the principles of Law No. 3/2024 to strengthen and develop the financial sector, by further emphasizing aspects such as openness, accountability, responsibility, independence, and fairness for each ITSK operator.<sup>28</sup> To improve the governance aspect of ITSK, OJK Reg. No. 3/2024 imposes important obligations on ITSK operators when they conduct their ITSK activities.

##### A. Strategic Plans

ITSK operators that have been registered and/or obtained business licenses are required to have in place a strategic plan that supports their business goals.<sup>29</sup> The strategic plan shall include at least their policies for: business strategy; consumer protection; risk and capitalization; human resource development; product and service development; information technology operations;

communication network; information security; disaster recovery plans; user services; and use of information technology service providers.<sup>30</sup>

##### B. Institutional Aspects

In improving ITSK governance, OJK shall conduct institutional restructuring of the implementation of ITSK activities.<sup>31</sup> As such, OJK requires ITSK operators to include institutional aspects as part of the implementation of their ITSK. Registered ITSK operators must at least include institutional aspects of governance and ensure they have sufficient capital and resources to conduct and develop their innovations.<sup>32</sup> Meanwhile, ITSK operators with an ITSK business license must at least include institutional aspects of organizational support, as well as adequate resources, governance, and implementation of operational budget.<sup>33</sup> In addition, ITSK operators that have obtained a business license shall adhere to the OJK regulations on licensing and supervision for each of their ITSK products.<sup>34</sup>

##### C. Cooperation for the Implementation of ITSK

ITSK operators that have been registered and/or obtained licensing may cooperate with another LJK and a non-financial institution to create a synergized digital financial ecosystem.<sup>35</sup> To minimize risk, OJK obligates that the cooperation to only be with other institutions under the supervision of

<sup>27</sup>Point VII number 2 of SEOJK No. 21/2019.

<sup>28</sup>Elucidation Article 3 (3) letter of OJK Reg. No. 3/2024.

<sup>29</sup>Article 31 (1) of OJK Reg. No. 3/2024.

<sup>30</sup>Article 31 (2) of OJK Reg. No. 3/2024.

<sup>31</sup>Article 40 (1) of OJK Reg. No. 3/2024.

<sup>32</sup>Article 40 (2) of OJK Reg. No. 3/2024.

<sup>33</sup>Article 40 (3) of OJK Reg. No. 3/2024.

<sup>34</sup>As of the writing of this newsletter, OJK has yet to publish a regulation on the licensing and supervision of ITSK.

<sup>35</sup>Article 42 (1) of OJK Reg. No. 3/2024.

OJK or other government authorities, in addition the cooperation must be construed within an agreement and reported to OJK.<sup>36</sup>

#### **D. Self-Evaluation and Reporting Obligations**

##### **Self-Evaluation**

ITSK operators that have been registered and/or obtained licenses are required to conduct regular self-evaluating procedures every three months and report to OJK. This evaluation shall include at least the following:<sup>37</sup>

- a. Principles of communication and information technology governance;
- b. Consumer protection principles;
- c. Financial education and socialization programs to consumers and/or the general public;
- d. Confidentiality of consumer data and/or information;
- e. Principles of risk management and prudence;
- f. Principles of anti-money laundering, prevention of terrorism funding, and prevention of funding the proliferation of weapons of mass destruction; and
- g. Inclusivity and information disclosure principles.

##### **Reporting Obligations**

To further support OJK's supervisory function over ITSK activities, ITSK operators that have been registered and/or obtained licenses are required to submit regular and incidental reports to OJK. These reports must be submitted monthly and annually.<sup>38</sup>

#### **E. Financial Education and Consumer Protection**

ITSK operators that have been registered and/or obtained licenses are required to implement consumer protection principles as well as measures to improve financial literacy and inclusion, including offering financial education to consumers and/or to the general public.<sup>39</sup>

#### **F. Other Compliance Aspects**

ITSK operators must comply with various other financial regulations by implementing anti-money laundering programs, programs for the prevention of financing of terrorism, and programs for the prevention of financing the proliferation of weapons of mass destruction.<sup>40</sup>

#### **V. Personal Data Protection and Localized DC/DRC Requirement**

OJK Reg. No. 3/2024 acknowledges and requires ITSK operators to adhere to and comply with the applicable general personal data protection laws,<sup>41</sup> including

<sup>36</sup>Other authorities include Bank Indonesia, BAPPETI, and other competent authorities.

<sup>37</sup>Article 26 (2) of OJK Reg. No. 3/2024.

<sup>38</sup>Article 29 (1) of OJK Reg. No. 3/2024.

<sup>39</sup>Article 36 and Article 37 of OJK Reg. No. 3/2024.

<sup>40</sup>Article 44 of OJK Reg. No. 3/2024.

<sup>41</sup>While there is no specific law explicitly mentioned, such reference can be interpreted as a reference to the general personal data protection law that is applicable in Indonesia, i.e., Law No. 27 of 2022 on Personal Data Protection ("PDP Law").

the obligation to maintain the confidentiality, integrity, and availability of personal data, transaction data, and financial data.<sup>42</sup> However, in addition to the provisions set out in general personal data protection laws, OJK Reg. No. 3/2024 also sets out certain stricter rules for the use/processing of personal data, in particular:

- a. The requirement to obtain consent from the user. In other words, OJK Reg. No. 3/2024 still adopts a consent-based approach, as ITSK operators are required to obtain consent from their users for the processing of personal data,<sup>43</sup>
- b. The requirement to have a data center and disaster recovery center located in Indonesian territory.<sup>44</sup>

## VI. Key Takeaways

OJK Reg. No. 3/2024 balances the promotion of financial technology innovation with the need for regulatory oversight, consumer protection, and systemic stability. The new regulation introduces major changes to the regulatory framework of ITSK/IKD, including an overhaul of the regulatory sandbox process, as well as the business activities and governance of ITSK operators.

Implementing regulations are highly anticipated as, with the enactment of OJK Reg. No. 3/2024, regulations of OJK Reg. No. 13/2018, such as SEOJK 21/2019 and other regulations which detail the mechanisms of the regulatory sandbox and IKD recordation, are revoked and deemed invalid.

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<sup>42</sup>Article 38 (1) and (2) of OJK Reg. No. 3/2024.

<sup>43</sup>Article 38 (5) (a) of OJK Reg. No. 3/2024. <sup>38</sup> Article 29 (1) of OJK Reg. No. 3/2024.

<sup>44</sup>Article 34 (1) and (2) of OJK Reg. No. 3/2024.

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