

Trade

Versi Bahasa Indonesia

Enforcement Date

1 July 2014

Related ILB

- Single Futures Trade Industry Association to be Established
- Futures Exchange: Acceptance of New Customers via Electronic Online System
- Mandatory Financial Reporting for Futures Brokers Reregulated

New Regulation on Futures Trading

Government Regulation [No. 49 of 2014](#) on Organizing Commodity Futures Trading (“**Regulation**”) was recently issued to provide for efficient and effective futures trading.¹

The Regulation sets out the requirements and procedures to carry out futures trading based on futures contracts, sharia derivative contracts, and other derivative contracts (“**Futures Trading**”).² The Regulation is of relevance to parties involved in Futures Trading, such as:

- Futures exchange(s) and futures clearing house(s);
- Futures brokers, futures traders, futures consultants, and their representatives;
- Individuals, business entities, and joint venture companies which may also act as consumers, or fund managers; and
- Banks that manage consumer funds, compensation funds, and funds of a fund manager.

Futures Exchange

A futures exchange must be established by at least 11 non-affiliated limited liability companies (*perseroan terbatas* – PT), which have been engaged in trading commodities or the financial sector for at least three years.³ The Regulation sets an IDR 100 billion minimum paid-up capital requirement for establishing a futures exchange.⁴ At present, there are two active futures exchanges in Indonesia, *Bursa Berjangka Jakarta* (BBJ)⁵ and *Bursa Komoditi dan Derivatif Indonesia* (BKDI).⁶

The Regulation provides for four types of parties that may own shares in a futures exchange business: its founders, members of the futures exchange, Indonesian legal entities, and individuals.⁷ Foreign investors are allowed to own shares in a futures exchange on the condition that the shares are purchased through their Indonesian legal entity business vehicle (must be a shareholder in an Indonesian company).

The Regulation sets a 40 percent cap for foreign shareholding in a futures exchange, and each individual foreign investor (shareholder of an Indonesian company) may only hold a maximum of 10 percent of the total issued shares.⁸

The trading activities of a futures exchange may be suspended under force majeure.⁹ A suspension must be reported to the Commodities Futures Trading Supervisory Agency (*Bappebti*) providing details of grounds, measures, and possible solutions to the suspension.¹⁰ Failure to solve the problem may result in *Bappebti* extending a suspension or even making it permanent.

¹ Elucidation, Regulation

² Art. 1 (1), Regulation

³ Art. 2 (1) & (2), Regulation

⁴ Art. 3, Regulation

⁵ See <http://www.jfx.co.id/>

⁶ See <http://www.icdx.co.id/>

⁷ Art. 8 (1), Regulation

⁸ Art. 8 (3) and (4), Regulation

⁹ See Article 13 (2) of the Regulation

¹⁰ Art. 14 (2), Regulation

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Permanent suspension will be followed by the revocation of the business license and a report to the Minister of Trade by *Bappebti* with details published in at least two nationally circulated newspapers.¹¹

Within two months of the business license being revoked, the futures exchange must organize a general meeting of shareholders for its dissolution as well as formation of a liquidation team. This request can also be made by *Bappebti* to the Attorney General's Office if the futures exchange fails to act within the prescribed time.¹²

Futures Brokers and Futures Traders

There are two main players in a futures exchange, futures brokers and futures traders.¹³ A futures broker buys and sells futures contracts on behalf of their customers acquiring commission from transaction margins.¹⁴ Futures traders buy and sell futures contracts on their-own behalf or for their business group.¹⁵

A futures broker must be a PT and member of the relevant futures exchange and before providing their services must obtain a business license from *Bappebti*. A futures broker may be a member of more than one futures exchange with all memberships reported to *Bappebti*.¹⁶ Futures brokers may also open a branch office with *Bappebti* approval.¹⁷

A futures broker must have three representatives (minimum)¹⁸ who must be individuals with expertise in intermediating futures transactions (*wakil pialang berjangka*), one of which must be the director of the underlying PT.¹⁹ Broker representatives are required to secure a license from *Bappebti*.²⁰

Note that the Regulation differentiates between the business forms for establishing a futures broker business and futures trading business. Individuals and legal entities (foreign and local businesses) may be acknowledged as futures traders and members of a futures exchange, while futures brokerage is strictly reserved for business in the form of a PT.

The scope of the Regulation is broad with 175 articles that additionally cover: organizational structure of futures exchanges, type of contracts being trading, other parties in the futures exchange (e.g., clearing houses, appointed banks, etc) alternative trading system and its participants, fund compensation,²¹ trading abroad in foreign futures exchange, business conduct, and sanctions.

The Regulation repeals and replaces Government Regulation [No. 9 of 1999](#) on the same matter.

The Regulation has been in force since 1 July 2014.

¹¹ Art. 20, Regulation

¹² Art. 23 juncto Art. 24, Regulation

¹³ For details of BKDI members, see www.icdx.co.id/membership/member. For details of BBJ members, see <http://www.jfx.co.id/daftar-pialang.html> (futures broker) and <http://www.jfx.co.id/daftar-pedagang.html> (futures trader)

¹⁴ Art. 1 (16), Regulation

¹⁵ Art. 1 (20), Regulation

¹⁶ Art. 54, Regulation

¹⁷ Art. 53 (1), Regulation

¹⁸ Art. 50, Regulation

¹⁹ Art. 57, Regulation

²⁰ Art. 55, Art. 57, Art. 58, Regulation

²¹ This fund is used to compensate losses of investors that are not member to the respective futures exchange due to breach of contract and/or fault of members of the futures exchange as futures broker, Art. 1 (22), Regulation

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Puri Imperium Office Plaza G-7 Kuningan, Jakarta 12980
to subscribe, call 62-21-83701827 or fax to 62-21 83701826 or email layanan@hukumonline.com
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