

Financial Service

Versi Bahasa Indonesia

Enforcement Date

29 July 2016

Related ILB

- Compulsory Reporting for Non-Bank Financial-Service Providers
- Risk Management for Non-Bank Financial Institutions Regulated in Further Detail
- Risk Management for Non-Bank Financial Institutions
- Mandatory Risk-Level Assessment for Non-Bank Financial Institutions
- Direct Examination of Non-Bank Financial Institutions

- d. Business activities;
- e. Mandatory reporting;
- f. Mergers, acquisitions and spin offs;
- g. Monitoring and evaluation;
- h. Revocation of business permits;
- i. State-Owned Pawnbroker Companies;
- j. Sanctions for non-compliance; and
- k. Transitional provisions.

Due to the broad nature of the 2016 Regulation, this edition of Indonesian Legal Brief (ILB) will confine its discussion to points (a), (b) and (c) above.

The 2016 Regulation is of relevance to businesses who have already established pawn shops or pawnbroker companies, as well as to businesses which are looking to invest in this sector.

Legal Status and Capital Ownership

The 2016 regulation mandates that pawnbroker businesses should be established in the form of limited-liability companies (*perseroan terbatas*/"PT") or cooperatives. A pawnbroker business that takes the

OJK Finally Regulates Pawnbroker Businesses

In the wake of officially gaining the authority to regulate and supervise non-bank financial institutions on 31 December 2012¹, the Financial Services Authority ("OJK") has finally issued its first regulation on pawning businesses, specifically OJK Regulation [No. 31/POJK.05/2016](#) on Pawnbroker Businesses ("2016 Regulation").

The 2016 Regulation introduces a holistic arrangement for pawnbroker businesses which have previously never been supervised or otherwise regulated, despite having existed in the country since the Dutch colonial era. To this end, the 2016 Regulation sets out provisions on the establishment of sharia or conventional pawnbroker businesses, and covers:²

- a. Mandatory legal forms and capital ownership;
- b. Registration;
- c. Business permits;

¹ Art. 55 (1), Law [No. 21 of 2011](#) on the OJK.

² Art. 1 (1), 2016 Regulation.

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form of a cooperative can only be owned by an Indonesian citizen, pursuant to Law [No. 25 of 1992](#) on Cooperatives.³ Similarly, shares in pawnbroker businesses which take the form of a PT can only be owned by the State, regional governments, Indonesian citizens and/or Indonesian incorporated entities.⁴ Nevertheless, indirect ownership by foreign entities through capital market is still allowed.⁵

Any pawnbroker business must satisfy the mandated minimum paid-up capital level or mandatory/principle saving level, which has been set at IDR 500 million for businesses offering regency/city-level working coverage or IDR 2.5 billion for businesses offering provincial-level working coverage. Note that these mandatory capital levels must not be generated through loan facilities.⁶

Business Permits

All pawnbroker businesses must first secure a business license from the OJK prior to rendering any service to the general public.⁷ In order to secure this license, the director/management of the relevant pawnbroker business must submit an application and enclose the following documents:⁸

- a. Deed of establishment and its amendment;
- b. Lists of members of any Board of Directors/Management, Board of Commissioners/Supervisor, or Sharia Board of Commissioners (*Dewan Pengawas Syariah* or “DPS”), along with legal documents relating to each member of said boards, such as copies of Indonesian identity cards (*Kartu Tanda Penduduk* or “KTP”), taxpayer identification numbers (*Nomor Pokok Wajib Pajak* or “NPWP”), and so forth;
- c. Data relating to shareholders or founders;
- d. Copy of a receipt of payment for paid-up capital or mandatory/principle savings;
- e. Organizational chart, which should at least cover functions such as loan brokers, appraisers, customer service and administration;
- f. Business plan covering the next five years plan;
- g. DPS recommendation letter issued by National Sharia Counsels/Indonesian Ulema Council (for sharia pawnbroker businesses);
- h. Guidelines covering the implementation of anti-money laundering measures and prevention of terrorism funding efforts; and so forth.

After taking receipt of a completed application, the OJK must either approve or reject the application in question within 10 business days.⁹ Subsequently, a pawnbroker business which has secured a business permit must commence business operations within 30 business days. Moreover, pawnbroker businesses

³ For more information on incorporated legal entities in Indonesia, see ILD [No. 391](#) and [No. 392](#).

⁴ Art. 2, 2016 Regulation.

⁵ Art. 3, 2016 Regulation.

⁶ Art. 9 (2) (c1) and (c2) and Art. 1 (9), 2016 Regulation.

⁷ Art. 9 (1), 2016 Regulation,

⁸ Art. 9 (2) and Art. 1 (6) (7), 2016 Regulation.

⁹ Art. 9 (3 – 7), 2016 Regulation.

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are also required to submit reports on their business activities to the OJK within 15 business days of commencing any such activity.¹⁰

Mandatory Registration

In addition to a business license, any pawnbroker business which was established prior to the issuance of the 2016 Regulation must also ensure that they are registered with the OJK. This registration process must be completed by an existing pawnbroker business no later than two years after the issuance of the regulation, i.e. 29 July 2018.¹¹ Moreover, such registration is also a requirement for existing pawnbroker businesses to secure a business license from the OJK, and this license must be secured within three years of being registered with the OJK.¹²

During the registration process, the 2016 Regulation grants privileges whereby already existing pawnbroker businesses are exempt from having to gain mandatory incorporated legal-entity status, meet minimum-capital requirements, as well as set out the scope of their business. However, upon taking receipt of a business license from the OJK, such existing pawnbroker businesses are then required to meet all these requirements.¹³

In order to secure a registration certificate, an already existing pawnbroker business must submit an application to the Chief Executive for Financing Institutions Supervision, Insurance, Pension Funds, and Other Financial Services at the OJK, along with the following supporting documents:¹⁴

- a. Deed of establishment and its amendment;
- b. KTP and valid resumes along, with current 4x4 size colored photographs of:
 - 1) Owners (except for cooperatives);
 - 2) Board of Directors members/management; and
 - 3) Board of Commissioners members.
- c. Domicile certificate;
- d. Evidence which supports the claim that the already existing pawnbroker business was already engaging in the activity in question prior to the issuance of the 2016 Regulation; and so forth.

After the OJK has received a completed application, it will then issue a registration certificate within 10 business days. Subsequently, the already existing pawnbroker business may then officially open outlets, provided that the certificate is prominently placed within said outlets.¹⁵

Note that pawnbroker businesses which have secured registration certificates must submit a business report every three months on 31 March, 30 June, 30 September and 31 December. These reports should consist of the profile of the pawnbroker business, along with a financial statement and an operational report.¹⁶

¹⁰ Art. 11, 2016 Regulation.

¹¹ Art. 5 (3), 2016 Regulation.

¹² Art. 5 (1), and Art. 8 (1) 2016 Regulation

¹³ Art. 5 (2) and Art. 8 (2), 2016 Regulation.

¹⁴ Art. 5 (4 – 5), 2016 Regulation.

¹⁵ Art. 5 (6 – 8) and Art. 6 (1), 2016 Regulation.

¹⁶ Art. 6 (1), and Art 7 (1), 2016 Regulation.

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The 2016 Regulation has been in force since 29 July 2016.

RECENTLY PUBLISHED ILB

- Tax, Customs and Excise Facilities for Companies and Businesses Located in Special Economic Zones
- Draft Bill on Industrial Design
- Registration of Processed Foods Reregulated
- New Income Tax Regime for the Transfer of Land and/or Buildings

RECENT REGULATION

- Law [No. 11 of 2016](#) on Tax Amnesty
- Governor of Jakarta Regulation [No. 143 of 2016](#) on Fire Safety Management for Buildings and the Environment
- Governor of Jakarta Regulation [No. 144 of 2016](#) on Revocation of Governor of Special Region of Jakarta Regulation No. Da.11/3/4/1972 on Guidelines for Determining the Estimated Amount of Compensation for Land Acquisition, Including Fixtures Within the Special Region of Jakarta, and Governor's Regulation No. 190 of 2014 on Guidelines for the Granting of Donations to Cultivators of State-Owned Land
- Governor of Jakarta Regulation [No. 149 of 2016](#) on Management of Electronic Road Pricing

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