

DIGITALIZATION IN INDONESIA



The Indonesia Canada Chamber of Commerce



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DISCUSSION POINTS

- **PART 1**
Development of Digitalization in Indonesia
- **PART 2**
The Rise of e-commerce and its Regulations
- **PART 3**
Peer to Peer (P2P) Lending
- **PART 4**
Payment Systems and the 2025 Indonesian Payment System Blueprint
- **PART 5**
Cryptocurrency Market
- **PART 6**
Cloud Computing
- **PART 7**
Over the Top (OTT) Platform
- **PART 8**
Digital Banking



INDONESIA'S VISION AS A DIGITAL NATION

Issuance of Presidential Regulation No. 95 of 2018 on Electronic Based Government System as the bedrock of its vision to become a digital and electronic based nation.

Main focus based on the National Digitalization Plan 2021:

- ✓ Digital Finance
- ✓ Digital Banking
- ✓ E-Commerce
- ✓ Digital Tourism
- ✓ Digital Small, Micro and Medium Enterprises

^ Digital Small, Micro and Medium Enterprises

E-COMMERCE



tokopedia



bukalapak



Shopee



Lazada

E-COMMERCE

DRIVING FACTORS

- Increase in smartphone penetration
- Emerging middle class with larger portion of disposable income
- Foreign direct investment in e-commerce platforms
- Evolution of payments infrastructure

Main Regulations in the E-Commerce Sectors

- Law No. 11 of 2008 regarding Electronic Information and Transaction as amended by Law No. 19 of 2016 (**ITE Law**)
- Presidential Regulation No. 10 of 2021 regarding Capital Investment Business Fields as amended by Presidential Regulation No. 49 of 2021 (**Positive List**)
- Government Regulation No. 71 of 2019 regarding Organization of Electronic System
- Government Regulation No. 80 of 2019 regarding Trading through Electronic Systems ("**GR 80/2019**")
- Minister of Trade ("MOT") Regulation No. 50 of 2020 regarding Provisions on Business Licensing, Advertising, Guidance and Supervision of Businesses Trading Trade through Electronic Systems ("**MOT Reg. 50/2020**")
- Minister of Communication and Informatics ("MOCI") Regulation No. 5 of 2020 regarding Private Scope Electronic System Provider, as amended by MOCI Regulation No. 10 of 2021
- Capital Investment Coordinating Board Regulation No. 4 of 2021 regarding Guidelines and Procedures for Risk-Based Business Licensing and Capital Investment Facilities
- MOCI Circular Letter No. 5 of 2016 regarding Limitations and Liability of Platform Providers and Merchants in Trade through Electronic System (Electronic Commerce) in the form of User Generated Content

E-Commerce Business Actors under GR 80/2019 and MOT Reg. 50/2020

E-COMMERCE PROVIDERS

Business Actors providing Electronic Communication facilities used for commercial transactions.

This includes:

- online retail or merchant that has its own e-commerce infrastructure;
- marketplace/medium provider that connects sellers and buyers for bid/offer of goods;
- platform/medium to connect buyers and sellers where the entire transaction process occurs without involving the E-Commerce Provider;
- social media which facilitates online transaction (facebook/Instagram).

MERCHANTS

Business Actors conducting commercial transaction either through self-managed facilities or facilities provided by other e-commerce providers, or other parties providing e-commerce facilities.

This includes those who conducts e-commerce transactions through social media which provides e-commerce facilities (e.g., facebook business).

INTERMEDIARY SERVICE PROVIDERS (ISP)

Business Actors providing Electronic Communication facilities other than telecommunications operators serving as intermediaries in electronic communication between sender and recipient.

This includes provider of information search (search engine), permanent information storage (hosting) or temporary storage (caching).

E-Commerce Business Actors under GR 80/2019 and MOT Reg. 50/2020

1) E-Commerce Provider(s)

(Penyelenggara Perdagangan Melalui Sistem Elektronik)



Tokopedia

Bukalapak

Bukalapak

amazon

Amazon



Shopee



Blibli

2) Merchants

(Pedagang)

Berrybenka

Duma

Nike online store

Anyone commercially trading their goods/services online

***DOES NOT include** people who sell goods/services not as their daily commercial activities

3) Intermediary Service Providers (ISP)

(Penyedia Jasa Perantara)



Google



Bing

E-Commerce Business Actors under GR 80/2019 and MOT Reg. 50/2020



Domestic Business Actors

- Domestic E-Commerce Providers;
- Domestic Merchants; and
- Domestic ISPs.



Foreign Business Actors

- Foreign E-Commerce Providers;
- Foreign Merchants; and
- Foreign ISPs.



Domestic E-Commerce Merchants

Licensing Obligations of Domestic Merchants

- In general, Domestic Merchants who engage in the general trading activities shall acquire the relevant licenses applicable to the commodities being traded by such Domestic Merchants.
- If Domestic Merchants also engage in online retail activity, it must obtain E-Commerce Trade Business License (*Surat Izin Usaha Perdagangan Melalui Sistem Elektronik* or **SIUPMSE**) from the OSS System in retail through internet or post services as the line of business or KBLI.

Domestic E-Commerce Providers

- **Business Classification:**

- Market Place without Own Goods (KBLI No. 63122 – Web Portal for Commercial Purposes)
- Market Place with Own Goods/Inventory to be sold (KBLI No. 63122 and KBLI 4791 – Retail Trade through Postal Order or Internet)

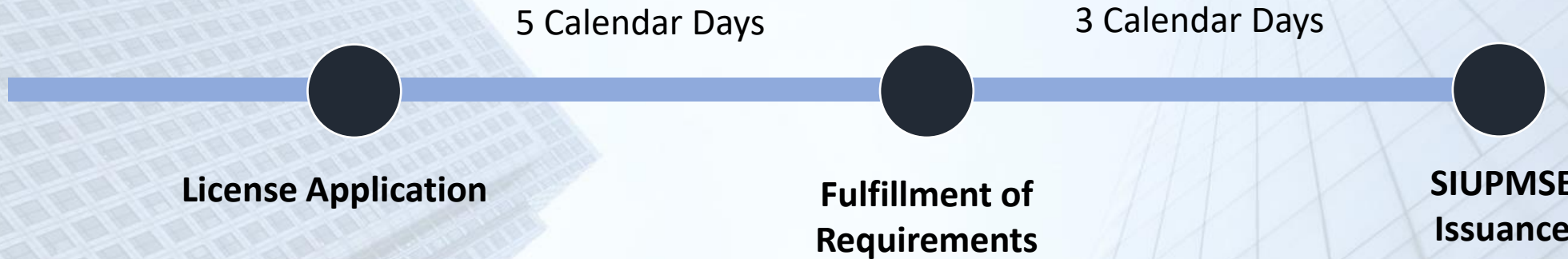
- **Foreign Ownership Restriction:** No foreign restriction except for a number of KBLIs under the KBLI 4791 group.

- **Capitalization:**

- For newly established PMA Company the total issued and paid-up capital must be at least IDR 10 billion.



Obtainment of SIUPMSE



Requirements:

1. ESP Registration Certificate from the MOCI;
2. Website address and/or name of the application;
3. Consumer report service (a telephone number and/or email address); and
4. Consumer protection service which includes information on the contact number of the Directorate General on Consumer Protection and Trade Administration.

Timeline: The above timeline is based on GR 5/2021. The actual time required to obtain SIUPMSE may take longer.





Foreign E-Commerce Merchants

Obligations of Foreign Merchants

- Foreign Merchants who engage in the e-commerce via domestic E-Commerce Providers are obliged to register its valid business license number, name, and issuing authority from the originating state to the Domestic E-Commerce Provider which provides means of communication for the Foreign Merchant concerned.
- For example, if a Singaporean foreign merchant sells its goods through a local marketplace, it will have to register its business license issued in Singapore to the local marketplace.



Foreign E-Commerce Providers

Obligations of Foreign E-Commerce Providers

- If the Foreign E-commerce Provider:
 - ✓ Has concluded transactions with more than 1,000 (one thousand) consumers within 1 (one) year period: and/or
 - ✓ Has made deliveries of more than 1,000 (one thousand) packages to consumers within 1 (one) year period,it shall subject such Foreign E-Commerce Provider to the obligation to establish a Trade Representative Office (Trade RO) domiciled within the Republic of Indonesia territory.
- One Trade RO for E-Commerce can only represent 1 (one) Foreign E-Commerce Provider.
- This Trade RO for E-Commerce must obtain a Trade Representative Business License (*Surat Izin Usaha Perwakilan Perusahaan Perdagangan Asing* or **SIUP3A**) from the OSS System

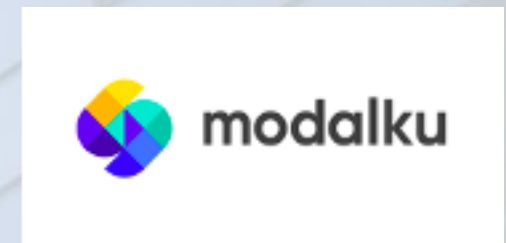
Regulations relevant to Peer to Peer Lending

1. Financial Services Authority (Otoritas Jasa Keuangan or "OJK") Regulation No. 77/POJK.01/2016 on Information Technology-Based Lending Services dated December 29, 2016 ("POJK 77/2016") which provides the general regulatory framework for P2P lending including licensing requirements; and
2. Vice-Chairman of the Board of Commissioner of OJK Circular Letter No. 18/SEOJK.02/2017 regarding Good Governance and Information-Technology Risk Management for Technology Based Fund-Lending Services dated April 18, 2017 ("SE OJK 18/2017") which is the implementing regulation of POJK 77/2016 specifically governing on risk management.

Peer to Peer Lending (P2P Lending)

P2P Lending in Indonesia

1. The main supervisory and regulatory body for P2P Lending businesses and activities is the Financial Services Authority (*Otoritas Jasa Keuangan* or **OJK**).
2. P2P Companies can only be established in 2 (two) forms of legal entities:
 - Limited liability company; or
 - Cooperatives
3. Shareholders of P2P companies can be:
 - Indonesian individuals and/or Indonesian legal entity; and/or
 - Foreign individuals and/or foreign legal entity
4. While Lenders can be foreigners, Borrowers are only limited to Indonesian individuals and legal entities



Peer to Peer Lending (P2P Lending)

Business Activity and Licensing

- P2P company is prohibited to engage in other business activities other than P2P business.
- OJK differentiate P2P licensing into 2 categories: registered and licensed.

Foreign Ownership Limitation and Capitalization Requirement

- Current Restrictions on Foreign Ownership: 85% open to foreign investment
- Registered P2P companies must have at least IDR 1 billion paid-up capital, while P2P companies applying for licenses must have at least IDR 2.5 billion of paid-up capital. However, PMA P2P companies must still follow min. IDR 10 billion capital requirements

Loan Disbursement

- Loan is limited to maximum IDR 2 billion and can only be received by either Indonesian individuals or legal entities

Temporary Limitation on Obtaining Licenses

Due to the arising cases of illegal P2P lenders in Indonesia, the government is currently enacting a moratorium for the registration of new P2P lending business and is gearing up also temporarily halt the licensing application (from both OJK and MOCI)

PAYMENT SYSTEM

**Indonesia Payment
Systems Blueprint 2025
will be Realized through :**

- The issuance of umbrella regulation for payment system
- The launching of retail payment system BI-FAST
- Issuance of National Standard on Payment Open API

MAIN REGULATION ON PAYMENT SYSTEMS

- Bank Indonesia Regulation No. 22/23/PBI/2020 regarding Payment System
- Bank Indonesia Regulation No. 23/6/PBI/2021 regarding Payment Service Provider
- Bank Indonesia Regulation No. 23/7/PBI/2021 regarding Payment Service Infrastructure Provider

MAIN PARTIES TO PAYMENT SYSTEMS

1. Payment Service Provider (PSP)

Banks or Non-Bank Institutions that provide services to facilitate payment transaction to service user

2. Payment System Infrastructure Provider (PSIP)

Parties that provide infrastructure as facility that can be used in transferring funds for the benefit of its members

3. Supporting Provider

Parties cooperating with PSP and PSIP to support the provision of payment system service activities

4. Self-Regulatory Organization (SRO)

Forum or legal entity that represents the industry and determined by Bank Indonesia to support the provision of payment system

PAYMENT SYSTEM LICENSING – PAYMENT SERVICE PROVIDER LICENSE

License Category	Permitted Activity	Capital Requirement	Foreign Ownership Restriction
Category 1	<ul style="list-style-type: none"> Account information services Payment initiation and/or acquiring services Account issuance service Remittance services 	<ul style="list-style-type: none"> Minimum initial paid-up capital of IDR 15 billion 	<ul style="list-style-type: none"> <u>Ownership</u> Minimum of 15% of shares must be owned by domestic party: <ol style="list-style-type: none"> Indonesian citizen; and/or Indonesian legal entity <u>Control</u> Minimum of 51% of shares with voting rights must be owned by domestic party: <ol style="list-style-type: none"> Indonesian citizen; and/or Indonesian legal entity
Category 2	<ul style="list-style-type: none"> Account information services Payment initiation and/or acquiring services 	<ul style="list-style-type: none"> Minimum initial paid-up capital of IDR 5 billion 	
Category 3	<ul style="list-style-type: none"> Remittance services 	Minimum initial paid-up capital of: <ul style="list-style-type: none"> IDR 500 million for PSP who does not provide system that can be used by other PSPs IDR 1 billion for PSP that provide system that can be used by other PSPs 	

PAYMENT SYSTEM LICENSING – PAYMENT SERVICE INFRASTRUCTURE

PROVIDER STIPULATION

License Category	Permitted Activity	Capital Requirement	Foreign Ownership Restriction
All Stipulation	<ul style="list-style-type: none">▪ Clearing▪ Final Settlement	Minimum initial paid-up capital of IDR 100 billion	Minimum 80% of shares with voting rights must be owned by domestic party: <ol style="list-style-type: none">1. Indonesian citizen; and/or2. Indonesian legal entity

SUPPORTING PROVIDER

Activities:

- a. Providing technology for payment transaction processing:
 1. Providing technology for payment transaction processing encompassing the provision of technology, system, and/or platform used by PSP in payment transaction processing; and/or
 2. Providing technology services for payment transaction processing encompassing provision of authentication feature for payment transaction authorization, provision of fraud management system, provision of cloud computing, and provision of card management system.
- b. Other supporting Payment System activities:
 1. Provision of services during pre-transaction and post-transaction stages
 2. Marketing of payment product and/or services
 3. Provision of infrastructure and system for other PSP that conducts payment transaction processing (white labelling)
 4. Fund disbursement to Goods and/or Services provider
 5. Other supporting services relating to PSIP activities.

SUPPORTING PROVIDER

Limitation:

- a. Control over the payment transaction processing remains at the PSP;
- b. Supporting Provider only provides supporting services that are technical or providing solution in nature; and
- c. Supporting Provider cannot access and/or administer Source of Fund

Foreign Investment Limitation & Capitalization:

Not regulated by Bank Indonesia and is regulated by its respective sectoral regulator.

Licensing:

Regulated by its respective sectoral regulator, however cooperation between a PSP/PSIP with Supporting Provider must be approved by Bank Indonesia.

CRYPTOCURRENCY

Cryptocurrency and its regulation in Indonesia

- ❖ Pursuant to Regulation of Minister of Trade No. 99 of 2018, cryptocurrency is considered as a commodity that can become a subject to a Futures Contract and sold through the Futures Exchange.
- ❖ Trade for cryptocurrency is supervised by Commodity Futures Trading Supervisory Body (Badan Pengawas Perdagangan Berjangka Komoditi or Bappebti).
- ❖ Currently, there are 13 registered Crypto Trading Platform i.e., current business actors which facilitates cryptocurrency trade from an electronic system in Bappebti.

Relevant Regulations on Cryptocurrency

- Law No. 32 of 1997 as amended by Law No. 10 of 2011 regarding Commodities Futures Trading (“Law 32/1997”)
- Government Regulation No. 49 of 2014 regarding the Implementation of Commodity Futures Trading (“GR 49/2014”)
- Regulation of Minister of Trade No. 99 of 2018 regarding General Policy on the Implementation of Trading of Crypto Asset (“MOT Reg 99/2018”)
- Regulation of Commodity Futures Trading Supervisory Body (*Badan Pengawas Perdagangan Berjangka Komoditi* or “Bappebti”) No. 7 of 2020 regarding Stipulation of List of Crypto Assets that can be Traded in Crypto Trading Platform
- Bappebti Regulation No. 8 of 2021 regarding Guidelines on the Implementation of Physical Market of Crypto Asset in Futures Exchange (“Bappebti Reg 8/2021”)

CRYPTOCURRENCY

Licensing

1. Register to Bappebti and obtain to obtain Certificate as Candidate of Crypto Trading Platforms.
2. Obtain an license from Bappebti.

Foreign Ownership and Capitalization Requirement

The business activity of Crypto Trading Platform is open 100% for foreign investment. With minimum paid-up capital of IDR 50 billion and, and minimum paid-up capital of IDR 80billion



CLOUD COMPUTING

Obligation and Licensing

- ❖ Cloud Computing Service Organizers must:
 1. Have governance of Electronic Documents/Information.
 2. Must provide electronic information or electronic data regarding their users for legal enforcement purposes.

- ❖ Cloud Computing Service Organizers register as private electronic system providers to MOCI, prior to the utilization of the electronic system by the User of Electronic System. MOCI will issue a Certificate of Private ESP Registration (Tanda Daftar PSE Lingkup Privat).

Foreign Investment Limitation and Capitalization Requirement

- ❖ Should be open 100% for foreign investment (not listed in DNI).

- ❖ PMA Cloud Computing Service companies must:
 1. fulfill the minimum paid-up and issued capital of Rp10,000,000,000.00 (ten billion Rupiah), unless otherwise regulated in the laws and regulations (see above).



OVER-THE-TOP

iflix

prime video


 **viu**

NETFLIX

OVER THE TOP (OTT) Service Providers

Licensing and Foreign Ownership Limitation:

Since the issuance of the 2021 DNI, KBLI number for webportal/digital platform (i.e. KBLI No. 63122) is open to 100% foreign shareholding, shifted from the previous DNI in 2016 whereas the same KBLI number is restricted to maximum 49% of foreign shareholding if the investment amount does not reach the minimum IDR 100 billion.

Main Regulations on OTT Platforms

- EIT Law
- Government Regulation No. 71 of 2019 regarding the Organization of Electronic System and Transaction
- MOCI Reg. 5/2020
- Ministry of Communication and Informatics Circular Letter No. 3 of 2016 regarding Provision of Applications and/or Content Services through the Internet

DIGITAL BANK



DIGITAL BANK LICENSING, CAPITALIZATION & FOREIGN OWNERSHIP

OJK recently issued OJK Regulation No. 12/POJK

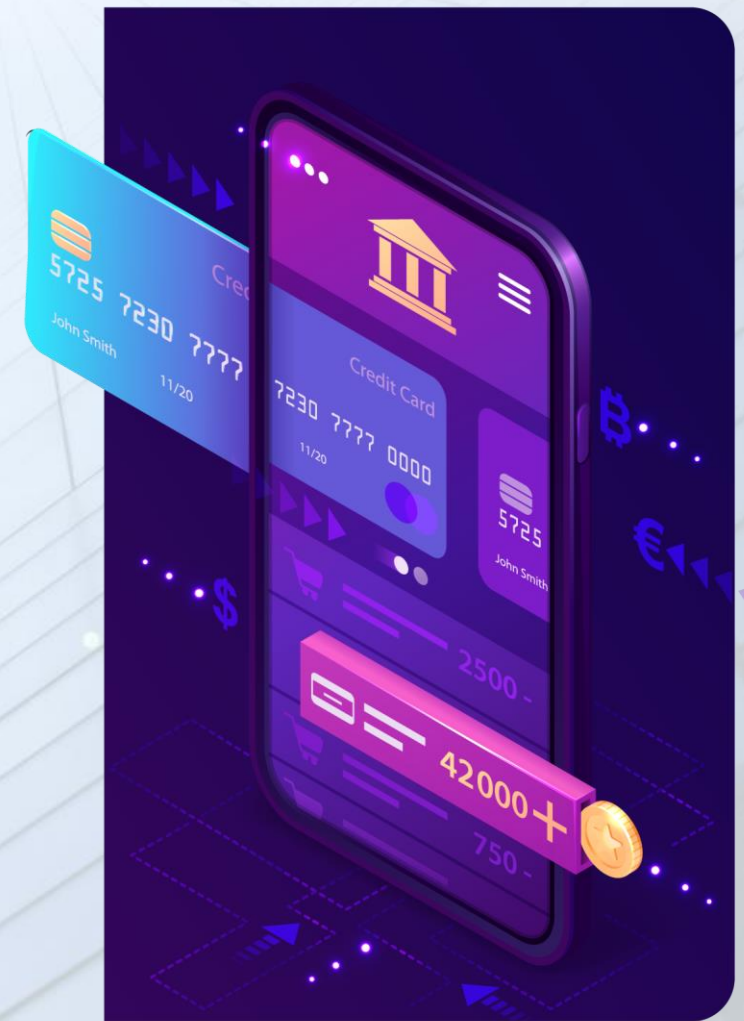
.03/2021 on Commercial Bank addressing both conventional and digital banking.

Digital Bank is defined as Indonesian Legal Entity Bank providing and carries out business activities through electronic channel without physical office except for Representative Office (*Kantor Perwakilan* or KP) or use limited physical office

In regard to licensing, there are no differentiation between license granted to conventional banks and to digital banks.

Min. paid up capital for digital/conventional bank: IDR 10 trillion

Max. foreign ownership for digital/conventional bank: 99% from the total paid-up capital



REQUIREMENTS FOR DIGITAL BANK

INTRODUCED BY POJK 12/2021

- Have business model using innovative and secure technology in meeting the customer's needs;
- Have the ability to manage prudent and continuous digital banking business model;
- Have sufficient risk management;
- Fulfills governance aspects including the requirement for its BOD to have competence in the field of information technology;
- Carries out the protection of customer data security; and
- Provides contributory effort to the development of digital financial ecosystem and/or financial inclusion.

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