

Issuance of Medium Term Notes That Are Privately Offered

Medium Term Notes (“**MTN**”) is one source of financing that is of interest to companies that are in need of funding. Funding which more faster because of the simpler issuing process compare to others process of issuing other bonds, lead to MTN become one of the source of choice for funding. The regulation itself can be seen on the Financial Services Authority Indonesia Regulation No. 30/POJK.04/2019 concerning Issuance of Debt Securities and/or Sukuk Issued Through a Private Placement.

Criteria of Medium Term Notes

In the explanation of Article 4 OJK Regulation No. 30 of 2019 have stated that MTN is categorized as a form of Debt Securities that are privately offered. Article 4 give definition to Debt Securities that are privately offered, as debt securities and/or sukuk issued without going through a public offering and meeting predetermined criteria. Criteria for the Debt Securities that are privately offered as regulated in Article 3, consist of:

- a. due of more than 1 (one) year, the issuance value of which is at least Rp. 1.000.000.000,- (one billion Rupiah) or less than Rp. 1.000.000.000,- (one billion Rupiah) which is issued several times so that in a period of 1 (one) year reaching a value of at lease Rp. 1.000.000.000,- (one billion Rupiah); or
- b. due no more than 1 (one) year that is not supervised by another authority, whose issuance value is at least Rp. 1,000,000,000.- (one billion Rupiah) or less than Rp. 1,000,000,000.00 (one billion Rupiah) which is issued several times so that within a period of 1 (one) year it reaches a value of at least Rp. 1,000,000,000.- (one billion Rupiah).

LEGAL ARTICLE



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Issuer of Medium Term Notes

Before executing out the issuance, OJK Regulation No. 30 of 2019 has regulated the parties who can carry out the issuance of Debt Securities that are privately offered including (1) issuers or public companies; (2) business entities or legal entities in Indonesia other than issuers or public companies; (3) supranational institutions; or (4) collective investment contracts that can issue debt securities and/or sukuk as regulated in the capital markets sector.

Issuance Process and Procedure of Medium Term Notes

The process and procedures for issuing Debt Securities that are privately offered is mentioned in Article 15 which explained that first, the party that issue Debt Security that are privately offered have the obligation to submit documents for issuing debt securities to the OJK. Second, the issuance of Debt Securities that are privately offered must be carried out within 30 (thirty) days after the issuance document of Debt Securities that are privately offered are submitted to the OJK.

Regulated in the Article 18 that issuance document for Debt Securities that are privately offered which submitted to the OJK, must at least contain, including:

- a. cover letter for the issuance of Debt Securities that are privately offered in accordance with the format of the cover letter for submitting documents for the issuance of Debt Securities that are privately offered as set out in the attachment to this OJK Regulation; and
- b. information memorandum. In Article 20 determines the minimum content of the information memorandum, namely:
 1. issuance date or distribution date of Debt Securities that are privately offered;
 2. statement regarding the issuance of Debt Securities that are privately offered;
 3. information regarding the Issuer;
 4. information regarding the sponsoring company in the event that the Issuer is a new legal entity formed by the sponsoring company to issue Debt Securities that are privately offered;
 5. information regarding issuance of Debt Securities that are privately offered;

The issuance of Medium Term Notes (MTN) must be reported to the Financial Services Authority (OJK) by submitting Debt Securities that are privately offered documents and also an Information Memorandum containing detailed important technical information about the MTN

6. use of funds obtained from the issuance of Debt Securities that are privately offered;
7. overview of important financial data;
8. analysis and discussion by management;
9. risk factors;
10. parties involved in the issuance of Debt Securities that are privately offered; and
11. procedures for ordering Debt Securities that are privately offered.

Other than the need to pay attention to the process of issuing Debt Securities that are privately offered, Issuers also need to pay attention that Debt Securities that are privately offered can only be sold to Professional Investors who are defined as parties who have the ability to purchase Securities and carry out risk analysis on investments in these Securities. Furthermore, Article 8 POJK 30 of 2019 regulates that the party wishing to purchase is obliged to state in advance to the Issuer or Issuance Manager that the party has met the criteria as a Professional Investor.

Issuance of the Debt Securities that are privately offered can be done directly in one transaction or in stages over a 2 year period. Additional information regarding the information memorandum for the second stage of Phased Issuance and subsequent stages must be submitted to the Financial Services Authority no later than 1 (one) working day before the issuance of the Debt Securities that are privately offered for the second stage and the subsequent stages.

The final stage is that the Issuer is obliged to submit a report on the results of the publication in print and electronic form to the OJK no later than 5 days after the issuance of the Debt Securities that are privately offered. In the event that a transaction occurs in the secondary market, any party is obliged to report such transaction to the OJK.

This OJK regulation to the MTN have helped in provide a legal umbrella for MTN transactions. The disclosure of information required through certain reports from the Issuer to the OJK will help in providing guarantees and security for MTN issuance. Moreover, the sanctions given for violation of the provisions of OJK Regulation No. 30 of 2019 will provide a relief for MTN buyers.

The final stage of MTN issuance is to submit a report on the results of the issuance to the OJK to ensure that the implementation of the MTN issuance is in accordance with the issuance documents and the Information Memorandum