

## **OJK urges sharia finance to optimize fintech**

**Jakarta** – The head of the Financial Service Authority (OJK), Wimboh Santoso, encourages the sharia finance industry to continue expanding its business using the latest technology. One way is by optimizing utilization of financial technology or *fintech*. "Fintech is a strategic opportunity for sharia finances to expand their market segment," Wimboh said in a statement, Friday, May 4.

However, according to Wimboh, industry players must also understand the risks of fintech. The financial industry, he added, should also have good mitigation plans as an effort to improve consumer protection.

<https://en.tempo.co/read/news/2018/05/04/056918161/OJK-Urges-Sharia-Finance-to-Optimize-Fintech>

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## **MUI encourages cooperation in fintech sharia and Islamic banking**

**REPUBLIKA.CO.ID, MAKASSAR:** The National Sharia Council of Indonesian Ulemas (DSN MUI) encourages cooperation between financial technology companies (fintech) with sharia banking. This will accelerate the increase in the Islamic financial market share in Indonesia. A member of the MUI DSN, Adiwarmar Karim, said that DSN MUI issued a fatwa concerning sharia fintech in the form of an Islamic fintech e-money fatwa and a fatwa on fintech lending or financing. There are four business models in fintech financing: crowdfunding, marketplace, peer to peer lending and e-money. "We have provided a strong enough foundation to develop Islamic fintech in Indonesia," Adiwarmar said in Makassar, Wednesday (4/7).

Adiwarmar believes that development of Islamic fintech is progressing quickly. DSN MUI uses the principle for the development of the sharia fintech industry called *yasiru wala tuasiru*. That means it provides convenience to develop Fintech so that it is expected that more Islamic fintech companies will develop in Indonesia.

To encourage development of syariah fintech, MUI encourages collaboration between sharia fintech and sharia banking. Unlike countries with small Muslim populations, such as Malaysia and Saudi Arabia, Indonesia is huge; the total population of Malaysia is only 30 million, the same as Jakarta plus Surabaya. Indonesia is in the category of countries with large populations, such as China and India. Indonesia has the largest Muslim population market share.

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## Legal News

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He added that the challenge for sharia fintech or conventional fintech is that giving out loans does not follow the same procedure as in banking. The fintech procedure is easier. In terms of cost: fintech is more efficient. Sharia fintech adopts Islamic banking financing standards, which will reduce risk because banking standards will be applied. On the other hand, Islamic banks are investors who are standing by to channel 10 percent of total financing. "Whenever fintech wishes to ask for financing, Islamic banks are ready. Thanks to this collaboration, Sharia fintech can work together to advance Islamic finance in Indonesia," said the President Director of Karim Consulting Indonesia.

*Source: Republika.co.id*

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## Online Single Submission (OSS) system

*(Amanda Prinka, S.H., Cisca Harun, S.H.)*

As part of the attempt to effect licensing reform in Indonesia, the government recently issued Government Regulation No. 24 of 2018 on Electronic Integrated Business Licensing Services (“**GR 24/2018**”) which introduced a nationwide system for the issuance of business licenses through an online single submission (“**OSS**”) system. GR 24/2018 became effective as of June 21, 2018.

The OSS system is a web portal which was set up in order to process business license applications across several business sectors. The launch of the OSS system shifted the licensing procedures from manual applications to electronic applications and is intended to simplify the processing requirements for business licenses. The OSS system was designed and developed by the central government and will operate on a 24-hour basis nationwide. The intention is that the OSS system will be administered by the OSS Agency. However, for the first six months, the OSS system will be administered by the Coordinating Ministry for Economic Affairs and will then be administered by the Capital Investment Coordinating Board (the “**BKPM**”) pending the establishment of the OSS Agency.

With the OSS system, business entities which are required to obtain licenses or other types of paperwork may now submit their applications through the OSS system and these applications will be forwarded to the relevant license issuers (ministers, agency heads, governors, regents or mayors) or to officials who have been authorized by such license issuers. The required licenses or other types of paperwork will be issued in electronic form through the OSS system.

### **OSS System Overview**

To be able to access the OSS system, business entities are first required to create and activate an account in the OSS portal ([oss.go.id](http://oss.go.id)). After the OSS account has been created, a direct link email will be sent to the business owners to activate the OSS account. After the OSS account has been activated, the business owners will receive a user-ID and password which will be used to log in to the OSS system.

Under the OSS system business entities are responsible for ensuring their own compliance as opposed to the government being responsible for monitoring compliance. Business licenses are now issued with an obligation to fulfill certain obligations and will only become effective after all obligations imposed on the license holders have been fulfilled. The intention is that, when such obligations have been fulfilled, compliance will be recorded in the OSS system so that relevant government agencies will be aware of such compliance. The OSS system will not issue any additional documents to confirm the effectiveness of any business licenses. For any non-compliant business entity, such business entity's registration will be frozen and, accordingly, any dealings with the government will be delayed.

We wish to draw to your attention that, under the OSS system, an investor may establish a company by first obtaining the necessary Ministry of Law and Human Rights approval for the establishment of the company and, thereafter, obtaining the necessary foreign investment approval/business license from the OSS system. This is a fundamental change to the old licensing system where, before establishing a company, an investor had to first obtain an in-principle license from the BKPM, meaning that the BKPM would assess the applicant's investment plan before allowing the investor to establish a company in Indonesia. With the OSS system, investors need to carry out a self-assessment of the relevant business licenses, foreign ownership restrictions (if any), capital requirements and investment plan etc. before establishing the company. They may also need to obtain professional advice and have discussions with the BKPM if they require clarification regarding their proposed investment.

The OSS system applies to all business entities and is intended in the future to apply to all business sectors and to be fully integrated with all other government agencies. However, currently, two business sectors are not covered by the OSS system, namely:

1. Licenses for banks and non-bank financial institutions will continue to be issued by the Financial Services Authority (OJK) and Bank Indonesia; and
2. Licenses for the mining and oil and gas sectors will continue to be issued by the Ministry of Energy and Mineral Resources.

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## Legal News

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### **NIB (*Nomor Induk Berusaha*/Business Identification Number)**

In accordance with GR 24/2018, the OSS system will also introduce an NIB. An NIB is mandatory for all business entities operating in Indonesia. It will be issued to applicants after they have completed the OSS registration process. An NIB is a 13-digit number which constitutes the applicant's business identity and having an NIB is a requirement for obtaining all business licenses in the OSS system. An NIB will remain valid for as long as business entities continue to conduct business operations in Indonesia in accordance with relevant laws and regulations and can only be revoked if business entities undertake any activities which violate the terms of their NIB and/or if their NIB is declared null and void based on a binding court decision.

Once issued, an NIB will also simultaneously apply as a Company Registration Certificate (*Tanda Daftar Perusahaan* or "TDP"), an Import Identification Number (*Angka Pengenal Importir* or "API") and a customs access document as well as proof of participation in the Social Security for Health (*BPJS Kesehatan*) and Manpower (*BPJS Ketenagakerjaan*) programmes.

### **Existing business entities**

Existing business entities are also required to register in the OSS system (to obtain an NIB) although there is no time limit for such registration. The OSS system is new and, as expected, there have been delays and technical problems when business entities have tried to access the OSS system. We are aware of a situation where an existing foreign direct investment (or "FDI") company could not register in the OSS system as there was an alert notification by the OSS system that an FDI company must have minimum issued and paid-up capital of Rp. 10,000,000,000 (ten billion Rupiah). We understand that the OSS system automatically rejects applications by FDI companies with issued and paid-up capital of less than Rp. 10,000,000,000 (ten billion Rupiah) although, based on verbal confirmation which we received from relevant BKPM officials, this requirement should only apply to new investments and existing FDI companies should be exempted from this requirement.

If you wish to discuss the OSS system, please contact any of the following MKK attorneys:-

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## **Regulation of the Minister of Energy and Mineral Resources No. 26 of 2018**

*(MKK mining team, research by Adit Muchtar, S.H.)*

The Minister of Energy and Mineral Resources (MEMR) has issued a new regulation on the implementation of good mining rules and supervision of mineral and coal mining. This regulation was issued to provide guidance on implementation of good mining technique rules, as mandated in Article 95 paragraph a and article 96 of Law No. 4 of 2009, regarding Minerals and Coal Mining and to enforce Article 35 of Government Regulation Number 55 of 2010, regarding Development and Supervision of Mineral and Coal Mining Management.

Ministerial Regulation No 26 of 2018 states that the rules of good mining techniques include the following:

1. technical mining specifications;
2. conservation of Minerals and Coal;
3. safety and health of mining work;
4. safety of mining operations;
5. environmental management of mining, reclamation, and post-mining and post-operation activities;
6. technology, engineering capability, design, development and application of mining technology.

The following bullet points provide a quick overview of the regulation:

- Good Mining Engineering Principles cover five subjects, namely Mining Engineering, Mining Safety (KP), Environmental Management, Minerals Conservation, and Utilization of Mining Technology

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## **Legal News**

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- Mining business management covers various matters: namely marketing, finance, data management, mainstreaming and utilization of domestic services, development of mining technical workers, development and empowerment of local communities, activities related to public interest, implementation of activities in accordance with IUP or IUPK, type and quality of mining products.
- Supervision of the management of mining companies includes establishment of WIUP, IPR issuance, IUP, IUP for special production operations, issuance of IUJP, implementation and supervision of mining activity, management of mining business data and preparation of the blueprint for community development and empowerment.

### **DISCLAIMER**

*The articles in this newsletter are purely informational in nature and should in no way be construed as constituting legal advice.*

