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LEGAL UPDATE

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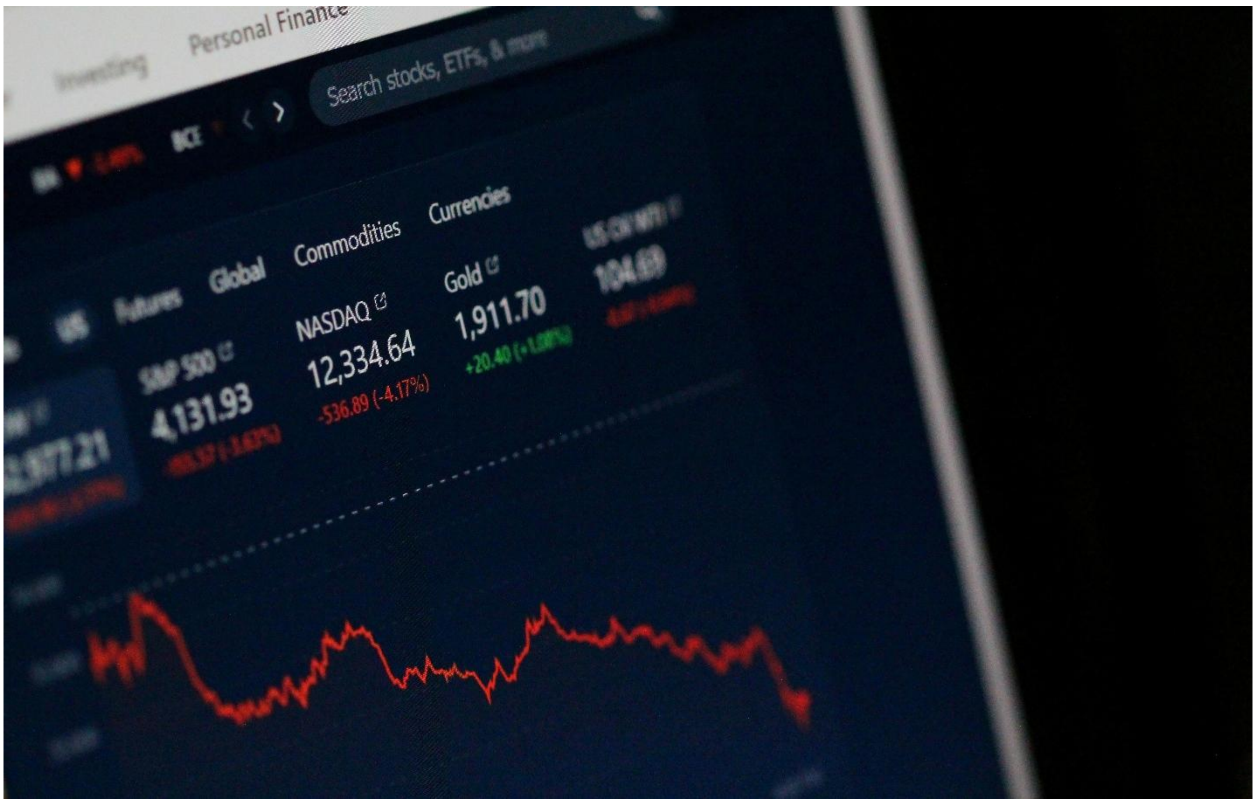
Key Changes to Public Offering Use of Proceeds Plan and Report Under OJK Regulation No. 40 of 2025



Summary

- On 19 December 2025, OJK issued Regulation No. 40 of 2025, which governs the new requirements on the use of public offering proceeds.

- Among its key changes, POJK 40/2025 clarifies and provides specific thresholds to determine whether an amendment to the initial use of public offering proceeds necessitates GMS approval. Furthermore, POJK 40/2025 mandates heightened transparency standards, requiring more granular prospectus disclosures, the reporting of dedicated account mutations to the OJK, and the public disclosure of the issuer's LRPD.

Background

On 19 December 2025, the Indonesian Financial Services Authority (*Otoritas Jasa Keuangan* or "**OJK**") issued Regulation No. 40 of 2025 on the Use of Proceeds from Public Offering ("**POJK 40/2025**"), which will come into force on 19 June 2026. Once enacted, MR 49/2025 will supersede the previous regime under OJK Regulation No. 30 of 2015 ("**POJK 30/2015**").

The enactment of POJK 40/2025 is primarily driven by the need to resolve recurring issues identified under the prior framework, specifically: (i) discrepancies between the actual proceeds utilization and the intended used stated in the prospectuses; (ii) proceeds remain unrealized for more than three years and (iii) the restrictive flexibility for issuers to adjust the use of proceeds.

By introducing POJK 40/2025, OJK intends to elevate the disclosure standards, improve issuer's corporate governance standards and strengthen investor protection by ensuring that the use of their funds remains consistent with the issuer's strategic goals that were disclosed in the prospectus to the investors.

This update highlights the key changes introduced by POJK 40/2025 and provides practical guidance for stakeholders to navigate these new requirements.

Key Update and Changes

- ***Enhanced Public Disclosure of the Use of Proceeds Report***

  POJK 30/2015 previously only required issuers to submit the Use of Proceeds Realization Report (*Laporan Realisasi Penggunaan Dana* or "**LRPD**") to the OJK until all proceeds were fully utilized.

  POJK 40/2025 expands this requirement, where issuers are now mandated to not only submit the LRPD to the OJK but also to announce the LRPD to the public.

  Furthermore, POJK 40/2025 broadens the scope of these requirements. The reporting and public disclosure now explicitly extend to proceeds derived from the conversion of securities, specifically those granting rights to purchase shares (such as warrants) or debt convertible securities that are convertible or mandatory convertible into shares.

- ***Subsequent Public Offerings with Unutilized Proceeds***

  POJK 40/2025 also introduced specific requirements for issuers that intend to conduct a new public offering while proceeds from the previous public offering still remain unutilized. In such cases, the registration statement submitted to the OJK must include a detailed justification and supporting documentation explaining the necessity of the new offering.

Furthermore, if the proposed use of proceeds from the new offering is the same to that of the prior one, POJK 40/2025 mandates the issuers to fully utilize all remaining proceeds from the prior offering within 12 months from the date the new registration statement becomes effective.

- ***Tiered Framework for the Use of Public Offering Proceeds***

  POJK 40/2025 introduces a structured, four-tier "level-based" framework to govern the down streaming of public offering proceeds. It clarifies the permissible flow of funds, extending oversight beyond the issuer to its indirect subsidiaries and related entities.

  The use of proceeds is categorized into four distinct tiers based on the proximity of the recipient to the issuer, ranging from direct use by the issuer (Level 1), to use by entities receiving the proceeds directly from the issuer (Level 2), indirectly through a Level 2 entity (Level 3), and further indirectly through a Level 3 entity (Level 4).

- ***Prohibition on the Use of Proceeds for Down Payments***

  POJK 40/2025 strictly prohibits allocation of public offering proceeds (not only to the initial utilization plan disclosed in the prospectus but also to any subsequent changes) for down payments across all four levels of fund utilization (Level 1 through Level 4). This restriction is applied to ensure that funds remain dedicated to the actual realization rather than preliminary commitments.

- ***Enhanced Prospectus Disclosure Requirements***

  POJK 40/2025 introduces higher transparency standards for use of proceeds plans and their subsequent realization timelines.

  The key additions to the prospectus requirements are as follows:

  1. Disclosure of Repayment Proceeds: Where public offering proceeds are utilized to provide loans to other parties, the issuer must now explicitly disclose the proposed use of the funds once they are repaid to the issuer.

  2. Mandatory Realization Timelines: Issuers are now required to specify a target timeline for the realization of the use of proceeds within the prospectus, moving away from open-ended utilization periods.

  3. Disclosure of Timeline Amendments: Any deviation from the previously disclosed target timeline triggers an immediate reporting obligation. Issuer must disclose such changes to the OJK and the public within two business days following the determination of such change.

- ***Expanded Reporting Obligations at the General Meeting of Shareholders***

POJK 40/2025 significantly expands the scope of information that issuers must present at an Annual General Meeting of Shareholders ("**GMS**") regarding the accountability for the use of public offering proceeds.

The additional information that needs to be disclosed at the Annual GMS now includes:

1. the original utilization plan from the prospectus;
2. any subsequent amendments with their underlying justifications for such changes;
3. the nominal value and percentage of unutilized funds (relative to net proceeds), including the reasons for the delay in realization;
4. information on the dedicated accounts where proceeds are placed and the current balance of the proceeds;
5. information on the placement of unutilized funds, including the type of placement, the institution involved, the current balance and the interest rate or return generated;
6. any affiliation relationships between the issuer and the entities where funds are placed, including the rationale for choosing such entities, if relevant; and
7. the target date by which all remaining proceeds are expected to be fully realized.

- ***Clarified Requirements for Amending the Use of Proceeds***

POJK 40/2025 introduces a clearer guideline for issuers intending to amend their public offering utilization plans. While the previous regime under POJK 30/2015 required a prior approval from a GMS for all changes deemed "material", a term subject to varying interpretations, the new regulation establishes specific quantitative and qualitative thresholds that trigger a GMS approval.

Under POJK 40/2025, prior GMS approval and information disclosure to public are mandatory only if the proposed change meets any of the following criteria:

1. a change to any single utilization item that amounts to 20% or more of the total public offering proceeds;
2. a change in location which, according to a feasibility study by an independent licensed appraiser, cause negative impact;
3. any change that differs from the original plan (as disclosed in the prospectus or determined by a prior GMS/Bondholders Meeting/Sukuk-holders Meeting) with a value exceeding 10% of the total proceeds.

If a proposed change does not meet the above thresholds, the issuer is exempted from the GMS requirement. Instead, the issuer must only: (i) disclose the information as prescribed in the POJK 40/2025 to the public; and (ii) submit supporting documentation to the OJK, within two business days after the issuer determines the change.

- ***Mandatory Placement of Proceeds in Dedicated Accounts***

  POJK 40/2025 now mandates issuers to place all public offering proceeds into a dedicated account (*rekening penampungan*) presumably to prevent the mixing of public offering funds with general corporate cash.

  The key requirements for these accounts include:

  1. the account must be maintained in the issuer's name at a commercial bank or sharia commercial bank supervised by the OJK; and

  2. the proceeds must be kept strictly separate from the issuer's operational accounts.

  Issuers must also submit the transaction mutations of these dedicated accounts to the OJK. This documentation must be submitted simultaneously with the periodic LRPD to ensure a verifiable paper trail of all disbursements.

- ***Expansion of Prohibited Uses for Unspent Proceeds***

  POJK 40/2025 expands the restrictions on the utilization of unspent proceeds to ensure that they are used strictly for the strategic objectives disclosed to investors.

  While POJK 30/2015 prohibited the use of unspent proceeds as debt collateral, the new regulation introduces a significant further prohibition where issuers are now explicitly barred from using unspent public offering proceeds to fund the repurchase of their own shares.

- ***Transitional Provisions***

  To ensure legal certainty and continuity during the transition period, POJK 40/2025 provides that issuers that received OJK approval to commence a preliminary offering (*penawaran awal*) prior to the effective date are not required to amend their prospectus to meet the new disclosure standards.

Conclusion

The shift to POJK 40/2025 fundamentally changes how issuers must manage and report their public offering proceeds. By shifting from simple reporting to one of active accountability, the OJK now requires every proceed to be traceable and used strictly as disclosed to investors.

The prohibition on using proceeds for down payments means issuers must consider alternatives to fund their down payment costs. Additionally, the new four-level limit on down streaming funds to subsidiaries requires large corporate groups to carefully map their internal funding routes prior to filing.

Strategic planning is also more critical under the new rules. The 12-month deadline to spend remaining proceeds from prior offering before conducting a subsequent offering forces issuers to align their business execution more closely with their fundraising cycles. Furthermore, as the LRPDs are now publicly disclosed and must include details such as bank interest and affiliate relationships, investors have more visibility to scrutinize management's handling of idle cash.

A critical takeaway for issuers is when preparing a prospectus, issuers must now ensure full compliance not only with the general OJK regulations governing prospectus content but also with the specific disclosure mandates introduced by POJK 40/2025.

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