

Client Alert

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The OJK Issues New Circular Letter on Periodic Reports

Recent Development

On 31 July 2017, the Financial Services Authority ("**OJK**") issued Circular Letter No. 55/POJK.55/2017 on Periodic Reports of Insurance Companies, Reinsurance Companies, Insurance Brokerage Companies, Reinsurance Brokerage Companies and Loss Adjuster Companies ("**CL 55/2017**"). It became effective on the same day.

CL 55/2017 is an implementing regulation of Law No. 40 of 2014 on Insurance ("**Insurance Law**").

CL 55/2017 applies to all reports that must be submitted by insurance companies, reinsurance companies, insurance brokerage companies, reinsurance brokerage companies, sharia units within insurance/reinsurance companies and loss adjuster companies.

CL 55/2017 applies also to sharia insurance/reinsurance companies.

Overview

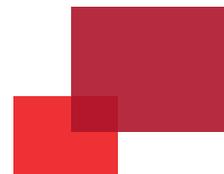
Insurance companies, reinsurance companies, and sharia units within insurance/reinsurance companies

Insurance companies, reinsurance companies, and sharia units within insurance/reinsurance companies must prepare and submit:

- a. a monthly financial report, which must be submitted to the OJK no later than 10 days after the end of the month
- b. a quarterly financial report, which must be submitted to the OJK no later than 1 month after the end of the reporting period
- c. an annual report, which consists of financial reporting and a management analysis, that must be submitted to the OJK no later than 30 April in the next financial year
- d. other reports, eg, a business plan, a company plan, a reinsurance program plan and a financial integrated management plan (if any) as required

CL 55/2017 now specifies that the annual report for insurance companies, reinsurance companies, and sharia units within insurance/reinsurance companies must consist of at least the following reporting/analysis:

- a. an analysis that the controlling shareholder(s) of the insurance companies, the reinsurance companies or the sharia units have met requirements set out under prevailing regulations



- b. a year-end risk assessment of the insurance companies, reinsurance companies and sharia units
- c. an action plan to mitigate any risks specified in item (b) above
- d. a self-assessment report on risk management
- e. an implementation report on the anti-fraud work plan
- f. a good corporate governance report
- g. an implementation report on the covering the annual business plan
- h. a report on insurance risk data (eg, tariff and own retention)
- i. an implementation report on the reinsurance program
- j. an annual actuarial report prepared by the appointed actuary of the insurance company and the reinsurance company

CL 55/2017 complements OJK Regulation No. 71 of 2016 on Financial Soundness of Insurance Companies and Reinsurance Companies ("**Regulation 71**") and OJK Regulation No. 72 of 2016 on Financial Soundness of Sharia Insurance Companies and Reinsurance Companies ("**Regulation 72**"), as regards reporting obligations of insurance companies and reinsurance companies.

Regulation 71 and Regulation 72 do not provide specific requirements on the contents of the annual reports.

Insurance brokerage companies, reinsurance brokerage companies and loss adjuster companies

Insurance brokerage companies, reinsurance brokerage companies and loss adjuster companies must prepare and submit:

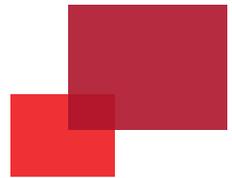
- a. a semester report, which must be submitted to the OJK no later than 1 month after the end of the reporting period
- b. an annual report, which consists of financial reporting and a management analysis, that must be submitted to the OJK no later than 30 April in the next financial year.

CL 55/2017 now specifies that the annual report for insurance brokerage companies, reinsurance brokerage companies and loss adjuster companies must consist of at least the following reporting/analysis:

- a. a self-assessment report on risk management
- b. a good corporate governance report

CL 55/2017 complements OJK Regulation No. 70 of 2016 on Business Implementation of Insurance Brokerage Companies, Reinsurance Brokerage Companies and Loss Adjuster Companies ("**Regulation 70**").

Regulation 70 does not provide specific requirements on the contents of the annual reports.



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"Complete" Reporting

CL 55/2017 requires insurance companies, reinsurance companies, insurance brokerage companies, reinsurance brokerage companies and loss adjuster companies to submit complete periodic reports to the OJK. CL 55/2017 defines a "complete report" as a report in which: (i) at least all the required contents are presented, and (ii) all material facts or information that should have been presented have been accurately represented.

Any failure to meet this reporting standard will be subject to sanctions specified in CL 55/2017 as specified below. Sanctions were not addressed in Regulation 70, Regulation 71 and Regulation 72.

CL 55/2017 also complements Article 74.1 of the Insurance Law. Article 74.1 of the Insurance Law stipulates that a member of the board of directors, the board of commissioners or sharia supervisory board or an actuary or an internal auditor or an employee of an insurance company who intentionally provides misleading information or a false report to the OJK is subject to fines in the maximum amount of Rp10 billion and imprisonment for a maximum of five years.

Given the nature of Indonesian criminal proceedings, eg, the process tends to be slow, the process must be started by an investigation by the Indonesian police force, etc, the OJK may be of the view that it would be too difficult for the OJK to have the criminal sanctions stipulated in the Insurance Law applied to a director who intentionally provides misleading information or a false report to the OJK. CL 55/2017 may provide a more practical way for the OJK to impose the sanction under CL 55/2017 directly to a director.

Consequently, all directors who sign periodic reports now must ascertain that the reports meet the above requirements and standards.

Sanctions

Under CL 55/2017, the OJK can place a defaulting shareholder, a controller, a director or a commissioner on a blacklist such that person/entity cannot become a shareholder, a controller, a director or a commissioner in insurance companies, reinsurance companies, insurance brokerage companies, reinsurance brokerage companies and loss adjuster companies. This sanction is in addition to existing sanctions regulated under Regulation 70, Regulation 71 and Regulation 73, eg, warning letters, limitation imposed on business activities (in part or in full) or fines.
