Global Public M&A Guide - Indonesia

Delisting

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# 8. Delisting

[Last updated: 1 June 2022, unless otherwise noted]

For a delisting or "go private" in Indonesia,  OJK Rule No. 3/POJK.04/2021 on Implementation of Capital Market Activities ("**OJK Rule 3/2021**") requires the following considerations to be addressed:

There are three types of go private, namely (i) voluntary go private, (ii) go private due to an order from OJK, and (iii) go private due to a request from IDX.

A "go private" process must not contravene the public company's articles of association and the prevailing provisions of the Capital Markets Law. Going private can only be done following a resolution of a general meeting of shareholders at which only independent shareholders can vote, i.e. the main shareholder seeking to take the public company private cannot vote.

The process must not harm public investors, particularly with respect to determining the price. The share purchase/buyback process must be smooth and emphasis must be placed on the public interest.

The implementation of a go private plan (after being approved by the independent shareholders) will be done in accordance with (i) OJK Rule No. 54/2015 through a voluntary tender offer process ("**Voluntary Tender Offer**") or (ii) OJK Rule No. 30/2017 through share buyback ("**Share Buyback**").

In general, there cannot be more than 50 shareholders after going private but the OJK may have discretion to increase this. In one precedent, the OJK agreed to increase the threshold to 300 shareholders on a discretionary basis.

Going private also includes a delisting from the IDX. In order to go private, the voluntary delisting rules of the IDX must be complied with, e.g. once the Voluntary Tender Offer or Share Buyback is implemented, the company should request the delisting of its shares from the IDX.

The result of the general meeting of shareholders resolving to go private must be reported to the OJK and announced to the public at the latest at the end of the second working day after the general meeting of shareholders approves the "go private" process, under, among other things, OJK Regulation No. 31/POJK.04/2015 on Disclosure of Material Information or Facts by Issuers or Public Companies.

Please note that different requirements and mechanisms will apply for a go private that is based on an order from OJK, or request from IDX.

You may also refer to Baker McKenzie's [Global Guide to Take-Private Transactions](https://insightplus.bakermckenzie.com/bm/attachment_dw.action?attkey=FRbANEucS95NMLRN47z%2BeeOgEFCt8EGQJsWJiCH2WAWHb%2FPDBPVvgoynF5xh3j3s&amp;nav=FRbANEucS95NMLRN47z%2BeeOgEFCt8EGQbuwypnpZjc4%3D&amp;attdocparam=pB7HEsg%2FZ312Bk8OIuOIH1c%2BY4beLEAeuDFUqE5GaTc%3D&amp;fromContentView=1), which covers some of the noteworthy features and requirements applicable to take-private transactions.

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