

# Market Condition Pushes the OJK to Relax Buyback Procedures

The OJK, Indonesia's financial services authority, recently issued a circular that allows all issuers or public companies to conduct a buyback of shares without convening a general meeting of shareholders. In OJK Circular Letter No. 3/SEOJK.04/2020 on Other Conditions as Significantly Fluctuating Market Conditions in the Implementation of Shares Buyback by Issuers or Public Companies ("Circular"), the OJK states that the trading condition in the Indonesia Stock Exchange ("IDX") has experienced significant pressure as evidenced by the decline in the Composite Stock Price Index (IHSG) by 18.46% from the beginning of 2020 until the date of the Circular. The economy is also slowing down due to regional and national pressure, including as a result of the COVID-19 outbreak ("Market Conditions").

In the Circular, OJK states that the revision to the buyback procedure is an attempt by the government to provide economic stimulus to the market and at the same time reducing the adverse impact from the current market condition.

## Buyback Procedure

An issuer or a public company can now conduct a buy back without obtaining prior approval from the general meeting of shareholders as regulated under OJK Regulation No. 2/POJK.04/2013 on Shares Buyback Issued by Issuers or Public Companies in Significantly Fluctuating Market Conditions ("OJK Regulation No. 2/2013").

In the Circular, an issuer or public company can buy back a maximum of 20% of its issued and paid-up capital<sup>1</sup>, provided that at least 7.5% of its issued and paid-up capital continue to be held by the public. An issuer or public company can initiate the buyback by submitting a disclosure statement to OJK and IDX at the latest seven trading days after OJK determines the existence of the Market Conditions.

The disclosure must include information on:

1. estimated schedule, buyback fee and the nominal value of the buyback shares;
2. estimated decrease of the issuer or public company's revenue as a result of the shares buyback and impact on the financing cost;
3. proforma of profit per company's share after the implementation of the shares buyback by considering the decrease of revenue;
4. restriction on the share price for the shares buyback;

<sup>1</sup> The 20% of issued and paid-up capital limit will consider other forms of buyback conducted by the issuer or public company.

# Client Update: Indonesia

12 March 2020

5. restriction of the shares buyback period;
6. the method that will be used for the shares buyback; and
7. discussion and analysis of the management on the effect of the shares buyback on the issuer or public company's business activities and future growth.

Upon submission of the disclosure, the issuer or public company must conduct the buyback within three months after the date of the disclosure.

The issuer or public company will then have three years after the completion of the buyback to hold the shares purchased from the buyback. After the lapse of such three-year period, the issuer or public company will have two years to transfer the shares purchased from the buyback, with an additional one year if it fails to transfer all shares within two years.

OJK Regulation No. 2/2013 provides that the shares purchased from the buyback may be transferred by way of:

1. sale through the IDX or outside the IDX;
2. withdrawal through capital reduction;
3. implementation of an employee's stock option plan or employee's stock purchase plan;
4. implementation of debt conversion into the company's shares; and/or
5. implementation of warrants.

## Contacts



**Putu Suryastuti**  
Partner

D +62 21 2555 7810  
F +62 21 2555 7899  
[putu.suryastuti@ahp.id](mailto:putu.suryastuti@ahp.id)

## Our Regional Contacts

### RAJAH & TANN | *Singapore*

**Rajah & Tann Singapore LLP**  
T +65 6535 3600  
sg.rajahtannasia.com

### R&T SOK & HENG | *Cambodia*

**R&T Sok & Heng Law Office**  
T +855 23 963 112 / 113  
F +855 23 963 116  
kh.rajahtannasia.com

### RAJAH & TANN 立杰上海

SHANGHAI REPRESENTATIVE OFFICE | *China*  
**Rajah & Tann Singapore LLP**  
**Shanghai Representative Office**  
T +86 21 6120 8818  
F +86 21 6120 8820  
cn.rajahtannasia.com

### ASSEGAF HAMZAH & PARTNERS | *Indonesia* **Assegaf Hamzah & Partners**

**Jakarta Office**  
T +62 21 2555 7800  
F +62 21 2555 7899

**Surabaya Office**  
T +62 31 5116 4550  
F +62 31 5116 4560  
www.ahp.co.id

### RAJAH & TANN | *Lao PDR*

**Rajah & Tann (Laos) Co., Ltd.**  
T +856 21 454 239  
F +856 21 285 261  
la.rajahtannasia.com

### CHRISTOPHER & LEE ONG | *Malaysia*

**Christopher & Lee Ong**  
T +60 3 2273 1919  
F +60 3 2273 8310  
www.christopherleeong.com

### RAJAH & TANN | *Myanmar*

**Rajah & Tann Myanmar Company Limited**  
T +95 1 9345 343 / +95 1 9345 346  
F +95 1 9345 348  
mm.rajahtannasia.com

### GATMAYTAN YAP PATACSL

**GUTIERREZ & PROTACIO (C&G LAW) | *Philippines***  
**Gatmaytan Yap Patacsil Gutierrez & Protacio (C&G Law)**  
T +632 8894 0377 to 79 / +632 8894 4931 to 32  
F +632 8552 1977 to 78  
www.cagatlaw.com

### RAJAH & TANN | *Thailand*

**R&T Asia (Thailand) Limited**  
T +66 2 656 1991  
F +66 2 656 0833  
th.rajahtannasia.com

### RAJAH & TANN LCT LAWYERS | *Vietnam*

**Rajah & Tann LCT Lawyers**

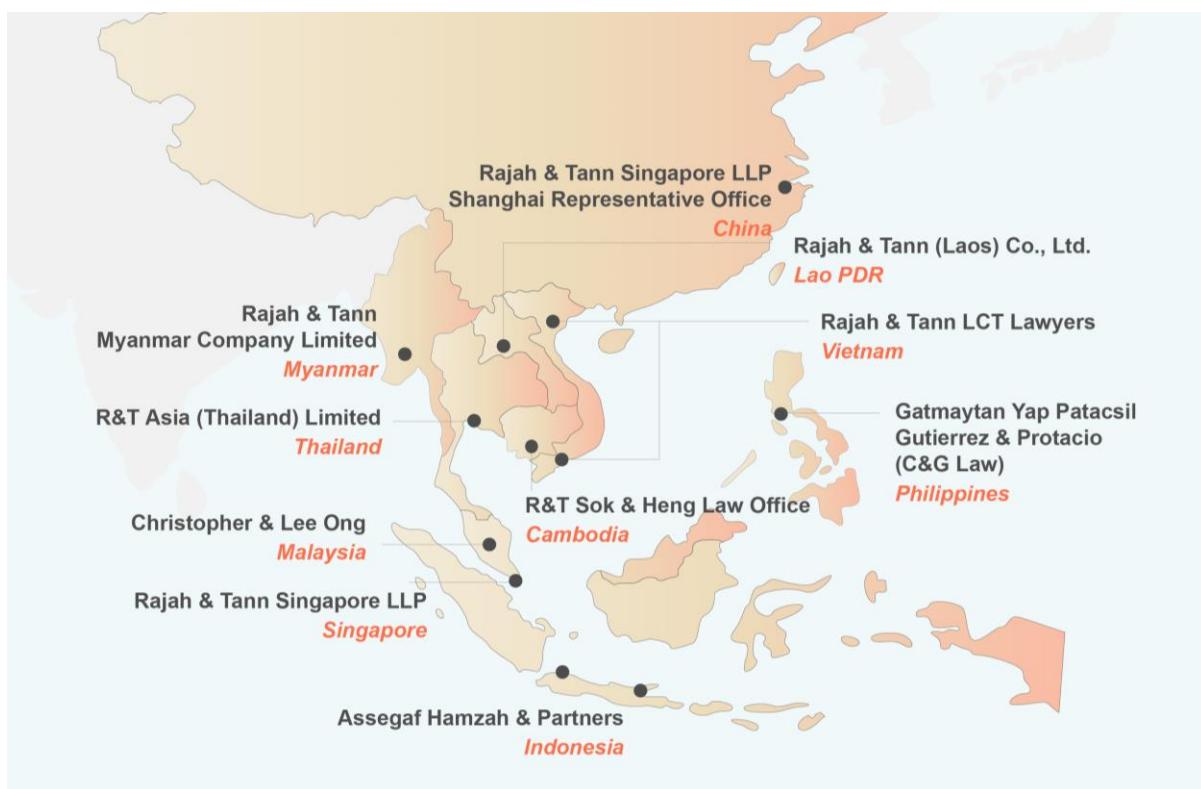
**Ho Chi Minh City Office**  
T +84 28 3821 2382 / +84 28 3821 2673  
F +84 28 3520 8206

**Hanoi Office**  
T +84 24 3267 6127  
F +84 24 3267 6128  
www.rajahtannlct.com

Rajah & Tann Asia is a network of legal practices based in South-East Asia. Member firms are independently constituted and regulated in accordance with relevant local legal requirements. Services provided by a member firm are governed by the terms of engagement between the member firm and the client.

This Update is solely intended to provide general information and does not provide any advice or create any relationship, whether legally binding or otherwise. Rajah & Tann Asia and its member firms do not accept, and fully disclaim, responsibility for any loss or damage which may result from accessing or relying on this Update.

## Our Regional Presence



Based in Indonesia, and consistently gaining recognition from independent observers, Assegaf Hamzah & Partners has established itself as a major force locally and regionally and is ranked as a top-tier firm in many practice areas. Founded in 2001, it has a reputation for providing advice of the highest quality to a wide variety of blue-chip corporate clients, high net worth individuals, and government institutions.

Assegaf Hamzah & Partners is part of Rajah & Tann Asia, a network of local law firms in Singapore, Cambodia, China, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Thailand and Vietnam. Our Asian network also includes regional desks focused on Brunei, Japan and South Asia.

The contents of this Update are owned by Assegaf Hamzah & Partners and subject to copyright protection under the laws of Indonesia and, through international treaties, other countries. No part of this Update may be reproduced, licensed, sold, published, transmitted, modified, adapted, publicly displayed, broadcast (including storage in any medium by electronic means whether or not transiently for any purpose save as permitted herein) without the prior written permission of Assegaf Hamzah & Partners.

Please note also that whilst the information in this Update is correct to the best of our knowledge and belief at the time of writing, it is only intended to provide a general guide to the subject matter and should not be treated as a substitute for specific professional advice for any particular course of action as such information may not suit your specific business and operational requirements. It is to your advantage to seek legal advice for your specific situation. In this regard, you may call the lawyer you normally deal with in Assegaf Hamzah & Partners.