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Venture Capital Firms (PMV) in Indonesia
Amendment of FSA Regulations
(FSA Regulations 25/2023)

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1. Introduction

The Financial Services Agency of Indonesia (*Otoritas Jasa Keuangan*; OJK) issued OJK Regulation 25/2023 regarding the business development of Venture Capital Companies (*Perusahaan Modal Vetura*; PMV)[1] and Shariah Venture Capital Companies (*Perusahaan Modal Ventura Syariah*; PMVS)[2]. (PMVS) on December 22, 2023 (the "**Regulation**"). The Regulation replaces OJK Regulation 35/2015 (the "**Pre-Amendment Regulation**").

2. Contents of the Amendments

(1) Categorization

The Regulation provides that Venture Capital Companies (PMV) and Shariah Venture Capital Companies (PMVS) shall be divided into two categories, depending on whether the emphasis is on capital participation, etc., or the purchase of receivables, and that separate requirements shall be introduced for each category.

- Venture Capital Corporation: a corporation that focuses on capital participation, purchase of convertible bonds, and/or operation of venture funds (Art. 9.1 (a)).
- Venture Debt Corporation: a corporation that focuses on raising capital through the purchase of debt issued by business partners (or Islamic debt (Sukuk) in the case of Islamic finance-based venture capital companies (PMVS and UUS[3])) at the start-up or business development stage. (Art. 9.1(b)).

(2) Regulations on Venture Capital Corporations

(a) Minimum Investment Ratio

As a minimum investment ratio, the Venture Capital Corporation must ensure that investments through capital participation (including the purchase of convertible bonds) account for at least 51% of the Venture Capital Corporation's total business activities (Art. 17.1), which is a significant change from 15% in the Pre-Amendment Regulations.

(b) Investment Ratio Limit

Apart from this, there is also an investment ratio cap for each investee, which is 10% of the investee's capital for investments in related parties and 20% for unrelated parties (Art. 17.2).

(c) Investments

Venture Capital Corporations are required to make direct capital investments in Indonesian companies (or foreign companies operating in Indonesia) (Art. 17.3).

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[1] Venture Capital Company (PMV) is an enterprise that provides financing (venture capital undertaking) for the business of a business partner (this means investee or financing destination) or a debtor through capital participation or financing (Art. 1.3).

[2] Shariah Venture Capital company (PMVS) is an enterprise that engages in venture capital business based on Shariah (Islamic law) principles (Art. 1.2).

[3] Shariah Business Unit (*Unit Usaha Syariah*; UUS) means a working unit of the PMV Head Office, which carries out Shariah venture capital business activities (Art. 1.6).

(d) Other Requirements

Venture Capital Corporations must calculate and record impairment losses following applicable financial accounting standards (Art. 17.6). Capital participation in a company listed on a stock exchange may amount to a maximum of 10% of the total capital participation (Art. 17.7).

As for divestments[4], which were previously conducted through public offerings, private placements, and repurchases (Art. 16), the Regulation introduces three new divestment mechanisms: acquisition by other investors, dissolution or liquidation, and other corporate actions (Art. 18.1(e)). However, these must be carried out following the provisions of the Companies Act of Indonesia and other regulations.

(e) Operation of Venture Funds

To operate a venture fund, the Venture Capital Corporation is required to obtain a permit from OJK (Art. 19). The requirements to obtain this permit are: to have equity capital of at least IDR 50 billion; to maintain an organizational structure with teams dedicated to research, risk management, internal audit IT, anti-money laundering, terrorism, and weapons of mass destruction; and to have at least one manager who has not been declared bankrupt within the past five years who is Indonesian national that holds a representative license for investment manager and have a minimum of three-year experience. Finally, they must also have standard operating procedures for the management of the venture fund (Art. 21).

(3) <u>Regulations on Venture Debt Corporations</u>

Venture Debt Corporations are prohibited from lending to companies other than Small and Medium-sized Enterprises (SMEs) or companies in the early stages of commercialization (Art. 65). SMEs are defined here as those with a capital of IDR 10 billion (excluding land and buildings) or less, or with annual sales of IDR 50 billion or less (Art. 66).

Venture Debt Corporations may, through a forwarding financing scheme or joint financing, collaborate with another business entity (such as a bank) that is authorized to provide such financing (Art. 66).

Venture Debt Corporations are required to meet the following criteria when conducting business activities: (a) maintain gearing ratios, quality of loan receivables, and losses at appropriate levels following financial accounting standards, (b) maintain BMPP[5], and (c) maintain an equity ratio of at least 30% of paid-in capital (Art. 71).

(4) <u>Other Requirements</u>

Venture capital firms (including Islamic finance-based venture capital firms (PMVS, UUS)) must include business activities based on the business categories as stipulated in the Regulation of Art. 9 in their articles of incorporation (Art. 14) and must conduct a feasibility analysis, business scheme, and relevant business prospects of the relevant business partners (Art. 15).

3. <u>Conclusion</u>

Under the Regulations, a company related to venture capital is now classified as either a Venture Capital Corporation or a Venture Debt Corporation. Additionally, on January 30, 2024, the Indonesian government announced the "Roadmap for the Development and Enhancement of Venture Capital Companies 2024-2028[6]" to stimulate the activities of venture companies in a healthy manner. In the future, it is crucial to stay updated regarding the possible changes in relevant laws and regulations in this field to see whether the entities mentioned in this article will follow this roadmap or realize the vision shown in the roadmap.

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[4] Divestment refers to the sale of a counterparty's shares held by the Company or the Venture Fund (Art. 1(17) of Regulation).

[5] This refers to the financing limit stipulated in Art. 75 of Regulation 25/2023.

[6] Please refer to the OJK website (https://www.ojk.go.id/iru/publication/detailpublication/11891/roadmap-for-the-development-and-strengthening-of-venture-capital-companies-2024-2028).

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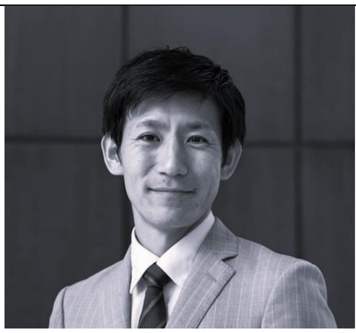

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