



PwC Indonesia Legal Alert

May 2024 / No. 25

OJK broaden its supervision of the public company shares ownership through OJKR 4/2024 ^{P1}

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Introduction

The Financial Services Authority (Otoritas Jasa Keuangan/**OJK**) has recently implemented a more stringent framework for reporting shares ownership in public companies through the introduction of OJK Regulation Number 4 of 2024 (**OJKR 4/2024**). This new regulation aims to strengthen the reporting obligations of relevant parties and broaden the scope of information provided to the OJK.

Under OJKR 4/2024, several key changes have been introduced. Firstly, there is a greater emphasis on reporting any encumbrances of shares, such as fiduciary arrangements or pledges. This ensures that a comprehensive overview of shares ownership is maintained.

Secondly, the regulation provides further clarity on the parties that are required to report. This helps to streamline the reporting process and ensures that all relevant stakeholders are accounted for.

Additionally, OJKR 4/2024 has shortened the timeframe for submitting reports, in line with the provisions of Law Number 4 of 2023 on the Development and Strengthening of the Financial Sector. This ensures that information on shares ownership or any changes to shares ownership are promptly reported.

Effective from 28 August 2024, OJKR 4/2024 replaces the previous OJK Regulation Number 11/POJK.04/2017 (**OJKR 11/2017**) on the Report of Ownership or any Change to Shares Ownership of a Public Company. This signifies a significant shift in the regulatory landscape and highlights the OJK's commitment to enhancing transparency in the financial sector.

In summary, OJKR 4/2024 introduces key amendments to the previous regulation and establishes new provisions to strengthen the reporting obligations of public companies. By promoting transparency and accountability, this regulation aims to foster a more robust and secure financial environment.

I. Amendments to OJKR 11/2017

No.	Matter	OJKR 11/2017	OJKR 4/2024
1.	Parties to report on the ownership of shares (whether direct or indirect) including any changes	<p>Shall include:</p> <ul style="list-style-type: none"> a. the Company's member(s) of Board of Directors (BOD) and Board of Commissioners (BOC); and b. the Company's shareholder(s) with at least 5% of the Company's paid-up capital. 	<p>Shall include:</p> <ul style="list-style-type: none"> a. the Company's member(s) of BOD and BOC, who also holds the Company's shares with voting rights; b. the Company's shareholder(s) with at least 5% of the Company's paid-up shares with voting rights, either directly or indirectly (including the shareholder(s) and/or beneficiary owner, who holds multiple voting rights); c. the Company's controlling shareholder(s) whether it owns more or less than 5% of the Company's paid-up shares, either directly or indirectly; and d. party(ies) who has inherited the shares of the Company. <p>(The above parties shall be collectively referred to as the "Reporting Parties", and individually as the "Reporting Party").</p>
2.	Changes of share ownership required to be reported to OJK	<p>Any change/new shares ownership of at least 0.5% of the Company's paid-up capital in one or more transactions, <u>shall be reported to OJK within at the latest 10 days</u> after the occurrence of such event.</p>	<ul style="list-style-type: none"> a. any decrease of shares ownership resulting in the voting shares becoming less than 5%; b. any change of shares ownership percentage per unit (with voting rights), which in the event of such change resulting in fractional numbers of units, the ownership percentage is rounded down to determine whether or not there is a change of percentage.
3.	Reporting period	<p>Ten calendar days after the occurrence of shares ownership or change in shares ownership</p>	<p>Five business days (BD) after the occurrence of shares ownership with voting rights or change in shares ownership with voting rights.</p> <p>However, if OJK's electronic reporting system is available, the reporting shall be done immediately within three BD (please see our further explanation in point II.4 below).</p>

No.	Matter	OJKR 11/2017	OJKR 4/2024
4.	Obligation to have a policy stating the obligation of BOD and BOC members to report any change of share ownership to the Company	<p>Such a report must be delivered to the Company by the relevant member within three BD after any change of shares ownership, or by another designated party by way of written Power of Attorney ("POA") within five BD after such a change.</p> <p>Further, the implementation of such a policy must be disclosed under the Company's annual report or official website.</p>	No longer regulated.
5.	Contents of the report	<p>Shall include, at least:</p> <ol style="list-style-type: none"> name, address, and citizenship of the Reporting Party; name of the relevant Company's shares; number of shares and shares ownership percentage prior to and after the transaction; purchase and sale price per share; date of the transaction; purpose of the transaction; status of shares ownership (direct or indirect); and in terms of indirect share ownership, disclosure of the name of which shareholder is being registered under the Company's shareholder register for beneficial ownership purposes. 	<p>Shall include, at least:</p> <ol style="list-style-type: none"> name, address, and citizenship of the Reporting Party; name of the relevant Company's shares; number of shares and shares ownership percentage with valid voting rights of the Company, prior to and after the transaction; type of transaction (e.g. purchase, sale, exercise of shares equity, grant (<i>hibah</i>), inheritance, or execution of encumbered shares); number of shares being purchased, sold, or transferred; purchase and sale price per share, if the change of ownership results from any payment transaction; date of the transaction; purpose of the transaction; status of share ownership, whether direct or indirect; in terms of indirect share ownership, disclosure of the name of which shareholder being registered under the Company's shareholder register for beneficial ownership purposes; name of the shareholders who give a POA to report and

No.	Matter	OJKR 11/2017	OJKR 4/2024
			<p>explanation regarding it, only if such an obligation to report is assigned;</p> <p>l. information on the member details of an organised group, only if such a change of shares ownership is done by an organised group; and</p> <p>m. information on whether the controlling shareholder of the Company would keep its control or not, only if the change of shares ownership is done by a controlling shareholder of the Company.</p>

II. New provisions under OJKR 4/2024

1. Exemption from reporting obligations for share ownership

Under the newly implemented OJKR 4/2024, certain parties are exempted from the reporting obligations for changes in share ownership with voting rights. This exemption applies when the change in ownership is a result of the Company's corporate actions, such as additional capital without granting pre-emptive rights or shares buyback. It also applies to corporate actions that do not involve shareholder transactions.

2. Reporting of share ownership by an organised group

In the case where the Reporting Party is an organised group, as defined by OJKR 4/2024, the report on share ownership or any changes in share ownership is to be conducted by one of the shareholders appointed to represent the organised group. This streamlines the reporting process for organised groups and ensures compliance with the regulation.

3. Obligation to report shares encumbrance of the Company to OJK

Conditions for reporting

Any shareholder who places an encumbrance on shares is required to submit a report to OJK if the encumbered shares represent at least 5% of the voting rights. This calculation takes into account one or multiple encumbrances and considers any changes in the percentage of shares ownership per unit with voting rights. In the case of fractional numbers of units resulting from changes, the ownership percentage is rounded down to determine the reporting requirement.

Timing for reporting

The report must be submitted to OJK immediately, within a maximum of five business days from the signing of the relevant Encumbrance Agreement. However, if OJK's electronic reporting system is available, the reporting should be done immediately, within three business days. Further details on electronic reporting are explained in point 4 below.

Contents of the report

The report should include essential information such as the name, address, and citizenship of the Reporting Party, the name of the relevant Company's encumbered shares, the number and ownership percentage of the encumbered shares, the nominal value of the loan guaranteed by the encumbered shares, details of any transaction or event causing changes in the number of encumbered shares, the effective date and tenure of the Encumbrance Agreement, and any relevant nature of affiliation within the Reporting Parties involved in the encumbrance.

4. Electronic reporting to OJK

All reports required under OJKR 4/2024 should be submitted through OJK's electronic reporting system, if available. The electronic reporting must be done immediately, within a maximum of ~~3~~ (three) business days from the change or new shares ownership of the Company, or from the signing of the Encumbrance Agreement.

In cases where OJK's electronic reporting system is not yet available, the report can be submitted in the form of a hardcopy or softcopy to OJK.

III. Things to note

In addition to the report templates provided in OJKR 4/2024, it is important to note that the calculation of changes in share ownership now considers shares with valid voting rights. This adjustment is due to OJK's allowance for public companies to issue multiple voting shares, which impacts the calculation methodology.

Furthermore, the reporting obligations now extend to the activities involving encumbered shares of public companies, including the pledging of shares in financing transactions. Parties involved must anticipate and fulfil these reporting requirements to avoid potential administrative sanctions imposed by OJK under OJKR 4/2024.

By tightening the reporting requirements, OJK aims to enhance its monitoring capabilities over public company share ownership and uphold the principle of full disclosure to public shareholders. It is crucial for public shareholders to be aware of any changes in controlling shareholders that may significantly impact the company's operations.

This Legal Alert provides an overview of the new regulatory framework for mandatory reporting of changes in share ownership in public companies under OJKR 4/2024. It may not cover all aspects related to the topic. For more detailed advice or specific questions, please feel free to contact us.

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