



INDONESIAN CAPITAL MARKET AND
FINANCIAL INSTITUTION SUPERVISORY AGENCY
(BAPEPAM-LK)



MINISTRY OF FINANCE
SECRETARIAT GENERAL

OECD-Indonesia Policy Dialogue: Disclosure of Beneficial Ownership and Control

AGENDA

5 October 2011

Bali, Indonesia

In partnership with the Government of Japan

Background and Objectives of the OECD-Indonesia Policy Dialogue Meeting

The Bilateral programme aims to deepen policy dialogue between the OECD and decision-makers in Indonesia, to support policy design and implementation. Indonesia has been an active partner through the Asian Roundtable on Corporate Governance and in the OECD Corporate Governance Committee.

The immediate goal of the Policy Dialogue is to support policy-makers in their efforts to enhance disclosure of beneficial ownership and control as part of overall efforts to improve corporate governance standards and practices in Indonesia. The expected impact would be: to facilitate a comparative analysis of how disclosure of beneficial ownership is handled by other jurisdictions; highlight the costs, benefits and practicality of various approaches in the Indonesian context, to suggest options to better identify ultimate beneficial ownership and thereby to enhance the securities regulator's capacity to monitor related party transactions.

As stated in the OECD Methodology on Implementing the OECD Principles of Corporate Governance, empirical work indicates that in a number of jurisdictions a large number of firms fail to report ownership and control data, in particular equity ownership by management and members of the board. Also, enforcement can be weak and regulations unclear. The legal recourse for minority shareholders can be frustrating with complex cases requiring considerable resources to prove that a regulation has been violated. This is especially the case for company groups, where control of the listed company is very opaque. To monitor potential conflicts of interest, related party transactions and insider trading, information about formal ownership needs to be complemented with information about the beneficial or 'ultimate' owner.

Information disclosure, including on equity ownership, is regulated by Bapepam-LK according to strict rules. Nevertheless, in the context of Indonesia's concentrated ownership structure by groups or families, identifying the ultimate beneficial owner is difficult. This is particularly the case when the owner indirectly controls the company. This is a common problem for many countries with concentrated ownership. Therefore, the present project could serve as a model for other jurisdictions in Asia, OECD countries and beyond.

The programme will be launched with a comparative background paper on disclosure of beneficial ownership in several jurisdictions and this consultative meeting. Work in 2012 will focus on further analytical work and the development of policy options specific to Indonesia.

Guidance for chairs and speakers

Moderators are invited to encourage open discussion among all participants, to maintain the focus on the theme of their session and to be strict in managing time. The objective is to stimulate reflection and encourage the exchange of views and experience on these complex issues among all participants. Speakers are invited to highlight the main challenges related to the specific theme and illustrate with their country experience. These initial presentations should last no more than 20 minutes each. Please limit the use of slides to a maximum of 8 slides and circulate descriptive documentation in advance. All participants present will be expected to contribute to the discussions.

Wednesday, 5 October 2011

09:30 - 10:00 Opening Remarks

- **Mr. Ngalim SAWEGA**, Executive Secretary, Indonesia Capital Market and Financial Institutions Supervisory Agency (Bapepam-LK), Indonesia
- **Mr. Richard BOUCHER**, Deputy Secretary-General, OECD

10:00 - 11:00 Introduction: Monitoring beneficial ownership – The Indonesian context

- Ownership and control structure of the corporate sector in Indonesia
- The present regulatory structure for listed companies
- Issues and challenges

Keynote speakers:

- **Mr. Noor RAHMAN**, Director of Market Transaction and Institutions Bureau – Indonesia Capital Market and Financial Institutions Supervisory Agency (Bapepam-LK), Indonesia
- **Mrs Margaret TANG**, Director of Indonesia Central Securities Depository (KSEI)

Commentators: **Mr. David ROBINETT**, Private Sector Development Specialist, the World Bank

11:00 - 11:15 Coffee break

11:15 - 12:45 Session 1 – Legal and regulatory issues: a comparative overview

Moderator: **Dr. Marcello BIANCHI**, Chair, OECD Corporate Governance Committee, Head of Regulation Impact Analysis Office, Commissione Nazionale per le Società e la Borsa, Italy

Global overview by Prof. Erik VERMEULEN, Department of business law, Tilburg University, The Netherlands

Experience in specific jurisdictions

Speakers:

Mr. Liang LI, Deputy Director General, Department of Growth Enterprise Board Supervision, CSRC, People's Republic of China

Dr. Piman LIMPAPHAYOM, Professor, Sasin Graduate Institute of Business Administration of Chulalongkorn University & Portland State University, Thailand

Mr. Grant KIRKPATRICK, Deputy Head, Corporate Affairs Division, OECD

Open discussion

Background: In companies with controlling shareholders, the challenge is to ensure that the interests of minority shareholders are adequately protected. In order to detect and discipline possible conflicts of interest, such as related party transactions, it is important to understand the true picture of ownership and control structures and, more importantly, to know the identity of the persons who should be considered as the ultimate owner and/or controlling person. This picture is often blurred by the use of complex legal entities and chains of registered owners. After a global overview, the session will consider the different legal and regulatory approaches developed by selected jurisdictions and the experience gathered with implementation.

12:45 - 14:00 Lunch break

14:00 - 15:30 **Session 2 - Misuse of corporate vehicles for illicit purposes**

Moderator: Mr. Rainer GEIGER, Senior Advisor, Corporate Affairs and Development, Germany

Speakers:

- Prof. MAK Yuen Teen, Associate Professor, National University of Singapore
- Mr. Bill PALMER, Director Asia, Institute of Chartered Accountant, Australia
- Mr. Lin Che WEI, Indonesia Capital Market expert

Open discussion

Background: There have been increasing concerns about the degree to which Legal Corporate entities, including corporations, trusts and foundations, are used for tax evasion, money laundering and other illicit and abusive transactions. The disclosure of ownership and control information related to the establishment and operation of a particular domestic corporate entity or one located abroad is often also crucial to understand complex ownership structures and arrangements in listed companies. While misuse of corporate entities is difficult to discover, it is acknowledged that (potential) misuse can be limited by the maintenance and sharing of information on (beneficial) ownership and control through a number of legal and regulatory measures. These measures include: (1) an up-front disclosure of (beneficial) ownership and control structures to the authorities who may disclose the information to investors via the courts, (2) mandating corporate service providers to maintain (beneficial) ownership and control information and (3) primary reliance on an investigative system.¹ What are the relative costs and benefits of different approaches and are they transferrable to other jurisdictions?

15:30 -16:00 Coffee break

16:00 - 17:00 **Session 3 – Options for disclosure and enforcement**

Moderator: Mr. SARJITO, Director of Enforcement Bureau, Indonesia Capital Market and Financial Institutions Supervisory Agency (Bapepam-LK), Indonesia

Speaker:

- Ms. Fianna JESOVER, Senior Policy Analyst, OECD
- Dr. NIK Ramlah Mahmood, Managing Director, Securities Commission, Malaysia

¹ See OECD, Options for obtaining beneficial ownership and control information, 1 September 2002.

- **Mr. Biswajit CHOUDHURY**, Deputy General Manager and Division Chief, Securities and Exchange Board of India (SEBI), India

Open discussion

Background: *This session is to access the experience with implementation of disclosure rules and enforcement practices of different national systems, from an Indonesian perspective and provide a first discussion of possible options that could be developed by the Indonesian regulator. It will also discuss these next stages of work under the project.*

17h00

- **Closing Remarks by Ms. Etty Retno WULANDARY**, Director of Accounting Standard and Disclosure Bureau, Indonesia Capital market and Financial Institutions Supervisory Agency (Bapepam-LK), Indonesia and **Ms. Fianna JESOVER**, Senior Policy Analyst, OECD