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MINERAL AND STRATEGIC COMMODITIES EXCHANGE: LEGAL IMPLICATIONS FOR MINING CONTRACTS AND BUSINESS LICENSES

Advancing Legal Certainty in Mining Contracts and Business Licensing

A NEW MINERAL AND STRATEGIC COMMODITIES EXCHANGE TAKES SHAPE IN INDONESIA

President Prabowo Subianto officially announced the strategic plan to establish this exchange on 14 August 2026, with the goal of beginning operations on 1 January 2027, under the supervision of the Financial Services Authority ("**OJK**"). Mineral and Strategic Commodities Exchange ("**MSCE**") is an organized and integrated market system that facilitates trading in mineral and strategic commodities , including their derivatives, supported by a funding ecosystem and digital-based financial instruments with mechanisms for pricing, quality control, transaction settlement, and risk management.

These changes are based on Law No. 4 of 2026 Amending Law No. 4 of 2023 on the Development and Strengthening of the Financial Sector ("**Law No. 4/2026**"), thereby prompting the OJK to issue two regulations as the basis for the regulation and supervision of the MSCE, Financial Services Authority Regulation No. 15 of 2026 on the Phased Transfer of Duties and Authorities for the Regulation and Supervision of Transactions ("**POJK No. 15/2026**") and Financial Services Authority Regulation No. 16 of 2026 concerning the Operation of the Mineral and Strategic Commodities Exchange ("**POJK 16/2026**")



INSTITUTIONAL ORGANIZER OF THE MINERAL AND STRATEGIC COMMODITIES EXCHANGE

The MSCE is an organized and integrated market system that facilitates trading in minerals and strategic commodities, including their derivatives. which is intended to establish a market infrastructure capable of facilitating the trading of MSCE in a regular, fair, transparent, efficient, and ethical manner, as well as providing certainty regarding price formation, clearing, transaction settlement, and risk management.

As provided in Article 2, paragraph (1) of POJK 16/2026, the operators of MSCE consist of:

Exchange	a limited liability company that has obtained a business license from the OJK to conduct trading in Minerals and Strategic Commodities, including their derivatives.
Clearing Institution	an entity licensed by the OJK to perform clearing functions, guarantee transaction settlement, and settle transactions within the MSCE.
Electronic Custodian Institution	an entity that has obtained a business license from the OJK to conduct the recording, storage, safeguarding, and administration of transactions in the MSCE.
Exchange Member	• Service Users; • Trade Intermediaries; and • Other parties as provided by applicable laws and regulations
Warehouse Manager	a business entity that manages the warehouse used in the MSCE.
Conformity Assessment Body	an entity that has obtained the Exchange's approval and is responsible for ensuring that the quality and quantity of MSCE traded comply with applicable global standards

TRANSFER OF AUTHORITY:
FROM BAPPEBTI TO OJK

Under Article 132A(2) of Law No. 4/2026, MSCE are required to obtain a business license from the OJK. Pursuant to Articles 2 and 3 of POJK 15/2026, the OJK's regulatory and supervisory authority over such exchanges will take effect on 1 January 2027.

Pursuant to Articles 3 and 4 of POJK 15/2026, the OJK began carrying out its regulatory and supervisory duties over the MSCE on January 1, 2027. As of that date, trading and transaction settlement activities on the MSCE , as well as the infrastructure supporting MSCE activities, must comply with the provisions established by the OJK.

In regards with preparation for transition, Article 5 of POJK 15/2026 governs coordination between the OJK and Bappebti, including the mapping and review of licenses and regulations related to MSCE, the evaluation of business operators' readiness and capabilities, the identification of data and information regarding transactions and business operators, and the submission of documents and data necessary for the OJK to carry out its regulatory and supervisory functions

THE IMPACT OF THE MINERAL AND STRATEGIC COMMODITIES EXCHANGE ON EXISTING CONTRACTS



EXISTING CONTRACTS

Law No. 4 of 2026, POJK 15/2026, and POJK 16/2026 do not expressly invalidate or require amendments to existing commercial contracts following the establishment of the MSCE. Accordingly, existing contractual rights and obligations remain valid, provided that their performance complies with the MSCE requirements where applicable.

NO EXPLICIT GRANDFATHER PROVISIONS FOR CONTRACTS

A grandfather clause allows existing rules to remain applicable despite subsequent regulatory changes. However, OJK regulations do not expressly provide for such a clause. Accordingly, existing contracts may remain legally binding, but their performance may require adjustments to comply with applicable MSCE requirements, consistent with Articles 1338 and 1339 of the Indonesian Civil Code.



CONTRACT ADJUSTMENT

Business entities with existing long-term contracts, including offtake and mineral sale and purchase agreements, must assess whether transactions conducted after the MSCE takes effect are subject to its requirements. If applicable, the execution of such contracts must comply with the MSCE mechanism without affecting the validity of existing legally binding agreements

BUSINESS LICENSING FOLLOWING THE ENFORCEMENT OF POJK 15/2026 AND POJK 16/2026

PERMITS ISSUED BEFORE JANUARY 1, 2027

Article 8 (1) of POJK 15/2026 is the key provision regarding the continuation of existing licenses. Essentially, this article stipulates that **licenses related to MSCE that have been issued in accordance with laws and regulations in the commodity futures trading sector through 31 December 2026, shall remain valid**.

EXCEPTION

The continuation of licensing under Article 8 paragraph (1) **does not apply** to all participants in the MSCE ecosystem.

Article 8 paragraph (2) of POJK 15/2026 provides exemptions for: exchange operators; institutions that perform clearing and guarantee functions; institutions that perform electronic custody functions; and institutions that perform compliance assessment functions.

LICENSING APPLICATIONS STILL IN PROCESS

As stipulated in Article 7 of POJK 15/2026, **the licensing, approval, and registration processes related to MSCE that are still pending at Bappebti will be completed by the OJK in accordance with the POJK**. Thus, there are two distinct scenarios. Licenses issued through 31 December 2026, are subject to Article 8, while applications still in process at the time of the transition are subject to Article 7.

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