

authority, subject to conditions, to revoke the approval and order an insurance company to move the offshore data centre and disaster recovery centre back to Indonesia.

- Use of personal data

POJK No.38/2020 is silent on whether the personal data of the insurance company's customers and policyholders regulated under Clause 50 of POJK No.69/2016 (eg, citizenship information) can be stored in the offshore data centre and disaster data centre. This topic requires further guidance from the OJK, as it creates legal uncertainty.

The European (re)insurance industry therefore calls on the OJK to eliminate the threat that the approval to operate offshore data and disaster recovery centres may be revoked and to clearly state that personal data can be stored in such centres.

Tax treatment of paid claims for life insurance companies

There are increasing and significant concerns regarding recent developments in the taxation area, which deny recognition of claims as expenses. This is contrary to commonly accepted practice and has a significant negative impact on European insurers in Indonesia.

Specifically, in 2018, the Indonesian tax authority reinterpreted the 2009 Ministry of Finance regulation with the intention of denying the tax deduction of paid claims for all (domestic and foreign) life insurers. Under the new interpretation, those insurers not accepting the Indonesian tax assessment are allowed to file an objection and, if rejected, can appeal to the Tax Court. However, insurers would be subject to potentially 50% penalties at the objection level and 100% penalties in the event of losing at the Tax Court. Recently, a group of life insurance companies were subjected to higher taxes for 2018 and this remains a risk for all market players.

Recommendations and preferred outcomes

In addition to encouraging progress in the EU-Indonesia trade negotiations, Insurance Europe supports the removal of all market access barriers for foreign (re)insurers. In particular, the new regulation removing retention limits should be applied to all foreign (re)insurers to allow domestic insurers to choose from a diverse range of competitive, globally diversified reinsurers for risk mitigation and the tax deduction of paid claims for all life insurers should be authorised again

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