

CLIENT UPDATE

9 February 2026

From Draft to Enacted Regulation: POJK 38/2025 and the Practical Realities of OJK-Initiated Consumer Lawsuits

This Client Update follows our earlier publication, “*Draft OJK Regulation: A Step Toward Stronger Consumer Protection or an Unrealistic Framework to Implement?*” dated 21 November 2025. In this update, we highlight the latest developments following the enactment of Financial Services Authority Regulation Number 38 of 2025 on Lawsuits by the Financial Services Authority for Consumer Protection in the Financial Services Sector (“**POJK 38/2025**”).

POJK 38/2025, which was previously formulated in the form of a Draft OJK Regulation (*Rancangan Peraturan Otoritas Jasa Keuangan* or “**RPOJK Gugatan OJK**”), formally strengthens the authority of the Financial Services Authority (*Otoritas Jasa Keuangan* or “**OJK**”) to initiate civil lawsuits for the purpose of recovering consumer losses.

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Based on our review, the transition from the RPOJK Gugatan OJK to POJK 38/2025 does not alter the core substance of OJK's authority. Instead, it primarily focuses on editorial refinement, structural reorganization, and the strengthening of legal certainty in its implementation.

Accordingly, the analysis and conclusions set out in our previous article remain relevant, subject to certain technical adjustments as outlined below.

1. Status of OJK Lawsuits: Remains Based on Institutional Legal Standing

POJK 38/2025 affirms that lawsuits filed by OJK are based on legal standing granted by statute and do not constitute class actions. Although the term institutional legal standing explicitly used in the RPOJK Gugatan OJK is no longer expressly stated, there is no conceptual difference in substance. OJK continues to act as a state institution exercising attributive authority conferred by law, rather than as an attorney or representative of specific consumers. As a consequence, OJK remains entitled to initiate lawsuits without requiring powers of attorney from consumers, provided that indicators of violations and losses, as assessed by OJK, are satisfied.

2. Basis of the Lawsuit: Unlawful Acts as the Primary Focus

Under POJK 38/2025, the basis for filing a lawsuit is formulated more concisely, namely on the basis of an unlawful act. Unlike the RPOJK Gugatan OJK, which explicitly refers to consumer losses, this simplification does not eliminate the obligation to prove losses during court proceedings. The element of loss remains an inherent part of the claim's *petitum* and the ultimate objective of the lawsuit, namely the restoration of consumer rights. This streamlined drafting instead provides OJK with greater flexibility in structuring its legal claims without being constrained by cumulative formulations.

3. Reorganization of Authority to Request Documents and Impose Sanctions

One notable change is the removal of detailed provisions governing OJK's authority to request documents and information from third parties, along with the administrative sanctions for non-compliance. This removal should not be interpreted as a reduction of OJK's authority, but rather as an effort to avoid duplication with OJK's supervisory and administrative enforcement regimes already regulated under other OJK regulations. In practice, OJK continues to possess broad authority to obtain data and information through applicable sectoral supervisory mechanisms.

4. Announcement Procedures and Consumers' Opt-Out Rights

The mechanism for announcing lawsuits and facilitating consumer opt-out statements is streamlined under POJK 38/2025 through the simplification of procedural stages and the clarification of applicable timeframes. These changes are technical in nature and are intended to enhance procedural efficiency. Notably, POJK 38/2025 no longer expressly requires consumers to submit supporting documents at the initial stage, thereby reducing the administrative burden on consumers and expediting the lawsuit filing process.

5. Limitations on Lawsuits in Certain Banking Conditions

POJK 38/2025 introduces more specific provisions concerning limitations on the objects of lawsuits under certain circumstances, such as banks under resolution, restructuring, or liquidation administered by a guarantee institution. These provisions enhance legal certainty and prevent potential overlaps of authority between OJK and other relevant authorities.

6. Compensation Distribution and Accountability

From a post-judgment perspective, POJK 38/2025 clarifies OJK's obligations in distributing compensation and reporting to the court, including the obligation to publish a summary of the compensation distribution report. In addition, it is expressly stipulated that all litigation costs up to and including the execution of the court decision are borne by OJK's budget, ensuring that consumers do not bear any litigation expenses.

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We were named **'2023 In-House Counsel Choice – Most Recommended Law Firm'** by Hukum Online. These awards recognise our milestones as a recognised mid-size law firm. We were also rewarded the **'2023 Project Finance Deal of the Year'** and **'2023 Firm to Watch'** by Asian Legal Business (ALB), and a finalist of the **'2023 TMT Firm of the Year'**. In 2024, we proudly achieved recognition as **'2024 Best Midsize Full-Service Law Firms'** by Hukum Online.



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