



EXTENDING THE REACH OF DEMOCRACY

2004 GENERAL ELECTIONS IN THE REPUBLIC OF INDONESIA

**Campaign Finance
Regulation & Public Disclosure:
CHALLENGES & OPPORTUNITIES**

September 2003

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The General Elections Commission of the Republic of Indonesia (KPU) is preparing decrees to govern regulation of funding and financial reporting by electoral participants during 2004 general elections in Indonesia. These regulations will implement ‘campaign finance’ provisions in Law No. 31 of 2002 on Political Parties, Law No. 12 of 2003 on General Elections, and Law No. 23 of 2003 on Elections for President/Vice-President.

This brief report focuses attention upon key aspects of legal restrictions and requirements for campaign finance activity of electoral participants (political parties, DPD candidates, and ‘candidate pairs’ for President/Vice-President) that may deserve further elaboration through KPU decrees. This analysis – *Challenges and Opportunities* – follows up extensive discussion of political finance issues in Indonesia in IFES’ prior four-part series of *Money Politics* reports (see: www.ifes.org).

Improvements in the regulatory framework are a necessary precondition for promoting integrity and transparency in political finance in Indonesia. However, rules and procedures are ineffective without political and social commitment to implementation. To encourage compliance with the law, financial activity of political parties and other electoral participants must be effectively monitored by news media and civil society, and laws must be strongly enforced through KPU, *Panwas*, prosecutors and the courts.

For narrative purposes, three political laws will be abbreviated as follows:

- ⇒ **Law No. 31 of 2002 on Political Parties** = *Parties*
- ⇒ **Law No. 12 of 2003 on General Elections (DPR/DPRD)** = *Legislative*
- ⇒ **Law No. 23 of 2003 on Elections for President/Vice-President** = *Presidential*

CHALLENGES

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Synchronizing Regulation and Timelines

Provisions in *Parties*, *Legislative*, and *Presidential* regarding campaign finance regulation and public disclosure are not synchronized. These three laws appear to require political parties and candidates to use different funds ('accounts') – with different funding rules and reporting schedules – for different political purposes. However, key aspects are not clearly stipulated, and these accounts are not sufficiently differentiated or coordinated.

1. **CHALLENGE:** How can different types of political funds of political parties and/or electoral participants – money raised and spent for different purposes pursuant to different legal regulation – be separated for purposes of regulation and public disclosure?

OPPORTUNITY: Political parties could be required to separately establish, maintain, and publicly report financial accounts that are used for different political purposes. Such regulation could be as follows –

Political Party Administrative Account

- Each political party that is registered with the Ministry of Justice and Human Rights shall open and/or designate a bank account to serve as the Political Party Administrative Account. A Political Party Administrative Account shall be: 1) opened within seven days of the political party being notified of successful registration (or, for parties already registered, within seven days of KPU regulation being issued), and 2) registered with KPU.
- The Political Party Administrative Account shall be used by the political party for all routine operational expenses, including:
 - Administration, facilities and personnel (secretariat/ overhead);
 - Party development, cadre recruitment and political research;
 - Fundraising and legal compliance; and
 - Communications to the public outside of the election campaign period.
- Any financial assistance received by a political party from state subsidies shall be deposited in the Political Party Administrative Account and used only for costs of administration and/or secretariat of the political party. (*See: Elucidation for Parties: Article 17*).

Political Party Election Campaign Fund Account

- Each political party that meets qualifications to compete in general elections for DPR/DPRD, as determined by KPU, shall open a special bank account to serve as the political party's Political Party Election Campaign Fund Account. Political Party Election Campaign Fund Accounts shall be: 1) maintained separately from any other accounts of the political party, and 2) registered with KPU. (*See: Parties: Article 9(j) & Legislative: Article 78(1)*)

- All monetary contributions received by a political party that are used to pay for general election (DPR/DPRD) campaign expenses shall be deposited in the Political Party Election Campaign Fund Account.
- The Political Party Election Campaign Fund Account shall be opened within seven days of the political party being notified by KPU that it has qualified to compete in general elections, and shall be closed one day after end of election campaign period (*Compare: Elucidation for **Presidential: Article 43(2)***).
 - Contributions may be received into the Political Party Election Campaign Fund Account from opening of the account until the end of the election campaign period (three days before voting day).
 - Any funds remaining in the Political Party Election Campaign Fund Account at the time the account is closed shall be transferred to the Political Party Administrative Account, and such funds shall be used to pay outstanding bills and remaining debts for general election (DPR/DPRD) campaign expenses of the party.
- The Political Party Election Campaign Fund Account shall be used by the political party for all expenditures for general election campaign expenses, including:
 - All campaign expenditures during the official election campaign period; and
 - Any expenditures made prior to the election campaign period that are advance payments for goods, services, or facilities to be provided or used during the election campaign period (such as for newspaper advertising space, television or radio broadcast time, transportation, or temporary campaign personnel or offices).
 - ⇒ Any payments for election campaign expenses that are made prior to the opening of the Political Party Election Campaign Fund Account (including advance payments for goods, services or facilities to be provided or used during the election campaign period) shall be treated as a contribution to and expenditure by the Political Party Election Campaign Fund Account and fully reported pursuant to **Legislative: Article 79**.

DPD Candidate Election Campaign Fund Account

- Each person that meets qualifications to compete as a candidate for DPD in general elections, as determined by the KPU, shall open a special bank account to serve as the DPD Candidate Election Campaign Fund Account. The DPD Candidate Election Campaign Fund Account shall be: 1) maintained separately from any other accounts of the candidate or any other person or legal entity, and 2) registered with the KPU.
- All monetary contributions received by a candidate for DPD that are used to pay for general election campaign expenses shall be deposited in the DPD Candidate Election Campaign Fund Account.
- A DPD Candidate Election Campaign Fund Account shall be opened within seven days of announcement by the KPU of persons certified to be DPD candidates and shall be closed one day after end of election campaign period (*Compare: Elucidation for **Presidential: Article 43(2)***).

- Contributions may be received into the DPD Candidate Election Campaign Fund Account from opening of the account until the end of the election campaign period (three days before voting day).
- Any funds remaining in the DPD Candidate Election Campaign Fund Account at the time it is closed shall be retained by the DPD candidate and used to pay outstanding bills and remaining debts for general election campaign expenses.
- The DPD Candidate Election Campaign Fund Account shall be used by the DPD candidate for all expenditures for election campaign expenses, including:
 - All campaign expenditures during the official election campaign period; and
 - Any expenditures made prior to the election campaign period that are advance payments for goods, services, or facilities to be provided or used during the election campaign period (such as for newspaper advertising space, television or radio broadcast time, transportation, or temporary campaign personnel or offices).
 - ⇒ Any payments for election campaign expenses that are made prior to the opening of the DPD Candidate Election Campaign Fund Account (including advance payments for goods, services or facilities to be provided or used during the election campaign period) shall be treated as a contribution to and expenditure by the DPD Candidate Election Campaign Fund Account and fully reported pursuant to ***Legislative: Article 79.***

*Presidential Election Campaign Fund Account**

- Each ‘Candidate Pair’ of a political party or coalition of political parties that meets qualifications to compete in elections for President/Vice-President, as determined by the KPU, shall open a special bank account to serve as the Presidential Election Campaign Fund Account. The Presidential Election Campaign Fund Account shall be: 1) maintained separately from any other accounts of the political party or coalition of political parties that nominate the ‘Candidate Pair’, and 2) registered with KPU (*see: Presidential: Article 43(2)*).
- All monetary contributions received by a ‘Candidate Pair’ (or by a political party or coalition of political parties that nominated a ‘Candidate Pair’) that are used to pay for presidential election campaign expenses shall be deposited in the Presidential Election Campaign Fund Account of the ‘Candidate Pair.’
- A Presidential Election Campaign Fund Account shall be opened within seven days of announcement by the KPU that the ‘Candidate Pair’ is eligible and shall be closed one day after end of election campaign period (*See: Elucidation for Presidential: Article 43(2)*).
 - Contributions may be received into the Presidential Election Campaign Fund Account from opening of the account until the end of the election campaign period (three days before voting day).

* This section and subsequent discussion in this report are focused on campaign finance regulation for ‘first round’ presidential elections in Indonesia. ***Law No. 23 of 2003 on Elections for President/Vice-President*** is largely silent about procedures for potential ‘second round’ elections, and KPU will need to adopt separate and specific decrees to implement a second round presidential election.

- Any funds remaining in the Presidential Election Campaign Fund Account of a ‘Candidate Pair’ at the time it is closed shall be transferred to the Administrative Account of the political party, or Administrative Accounts of each party within the coalition of political parties, that nominated the ‘Candidate Pair’, and such funds shall be used to pay outstanding bills and remaining debts for presidential election campaign expenses of the ‘Candidate Pair’.
- The Presidential Election Campaign Fund Account shall be used by the ‘Candidate Pair’ (and by the political party or coalition of political parties that nominated the ‘Candidate Pair’) for all expenditures for presidential election campaign expenses, including:
 - All campaign expenditures during the official election campaign period; and
 - Any expenditures made prior to the election campaign period that are advance payments for goods, services, or facilities to be provided or used during the election campaign period (such as for newspaper advertising space, television or radio broadcast time, transportation, or temporary campaign personnel or offices).
 - ⇒ Any payments for election campaign expenses that are made prior to the opening of the Presidential Election Campaign Fund Account (including advance payments for goods, services or facilities to be provided or used during the election campaign period) shall be treated as a contribution to and expenditure by the Presidential Election Campaign Fund Account and fully reported pursuant to ***Presidential: Article 44***.

Facilitating Regulation for Separate Accounts

- All monetary contributions received by a political party and/or electoral participant for any political purpose must be deposited in an official bank account, and must be included in a financial report submitted to KPU pursuant to legal requirements (for non-monetary contributions, *see*: **CHALLENGE #8**, below).
- Political parties and/or electoral participants (and any person acting as an agent or representative of a political party and/or electoral participant) –
 - Shall not use any other funds or accounts, or receive support from outside resources, to finance their political activity (including election campaign activity), apart from or outside those accounts that are designated and reported pursuant to the law;
 - Shall not request, suggest or encourage, or coordinate or cooperate with, other persons or entities to spend funds or use resources outside the party’s or participant’s designated bank accounts to support political activity (including election campaign activity), unless such spending is acknowledged and reported as a contribution to the political party or electoral participant that is benefited.

2. **CHALLENGE:** When should regulatory authority of these three political laws ‘begin and end’ for financial regulation and public disclosure? What should be the ‘time frames’ for campaign finance rules?

OPPORTUNITY: For purposes of prohibitions or limitations upon sources of funds, and for reporting requirements, the period of time for application of each law’s jurisdiction could be as follows –

Law No. 31 of 2002 on Political Parties

- Prohibitions and limitations upon sources of funds stipulated in *Parties* – including limitations upon the amount of contributions to political parties from individuals and legal entities pursuant to *Parties: Article 18(1-2)* – shall apply to funds received by a Political Party Administrative Account.
- The one-year time period applying to limitations upon contributions to political parties from individuals and legal entities pursuant to *Parties: Article 18(1-2)* shall be the calendar year (1 January to 31 December) –
 - All contributions to the Political Party Administrative Account received from the same individual or legal entity within the same calendar year – whether in monetary or non-monetary form – shall be ‘aggregated’ (added together) for purposes of determining whether a donor has stayed within the limitation upon contribution amount stipulated by law.
- Each political party registered with the Ministry of Justice and Human Rights shall submit to the KPU an Annual Financial Report (pursuant to *Parties: Article 9(i)*) that discloses all income to, and expenditures from, the Political Party Administrative Account in a calendar year (1 January to 31 December). The Annual Financial Report shall be submitted to the KPU by each political party no later than 15 February of each year, covering the financial activity of the prior calendar year (for the Annual Financial Report covering 2003, *see also: CHALLENGE #4*, below).
- During the calendar year in which general elections are held, each political party that meets qualifications to compete in general elections for DPR/DPRD, as determined by the KPU, shall submit an Interim Financial Report (IFR-1) that discloses all income to, and expenditures from, the Political Party Administrative Account during the period from 1 January until one day after end of election campaign period for general elections, including any transfers of funds from the Political Party Administrative Account to the Political Party Election Campaign Fund Account.
 - The Interim Financial Report (IFR-1) shall be submitted by the political party to the KPU at the same time as, and together with, the financial report for the Political Party Election Campaign Fund Account that is submitted pursuant to *Legislative: Article 79*.
- During the calendar year in which elections for President/Vice-President are held, each political party that – individually or as part of a coalition of political parties – meets qualifications to nominate candidates in elections for President/Vice-President, as determined by the KPU, shall submit to the KPU an Interim Financial Report (IFR-2) that discloses all income to, and

expenditures from, the Political Party Administrative Account since the period covered by IRF-1 until one day after end of election campaign period for elections for President/Vice-President, including any transfers of funds from a Political Party Administrative Account to a Presidential Election Campaign Fund Account.

- The Interim Financial Report (IRF-2) shall be submitted by the political party to the KPU at the same time as, and together with, the financial report for the Presidential Election Campaign Fund Account that is submitted by the ‘Candidate Pair’ pursuant to ***Presidential: Article 44***.

Law No. 12 of 2003 on General Elections – Political Parties

- Prohibitions and limitations upon sources of funds stipulated in ***Legislative*** – including limitations upon the amount of contributions to political parties from individuals and legal entities pursuant to ***Legislative: Article 78(2)*** – shall apply to funds received by the Political Party Election Campaign Fund Account. (*See also: CHALLENGE #5, below*)
- The time period applying to limitations upon contributions to political parties from individuals and legal entities pursuant to ***Legislative: Article 78(2)*** shall be from opening of the Political Party Election Campaign Fund Account until three days before voting day.
 - All contributions to the Political Party Election Campaign Fund Account received from the same individual or legal entity – whether in monetary or non-monetary form – shall be ‘aggregated’ (added together) for purposes of determining whether a donor has stayed within the limitation upon contribution amount stipulated by law.
- Each political party that meets qualifications to compete in general elections for DPR/DPRD, as determined by KPU, shall submit to the KPU a Political Party Election Campaign Fund Account Financial Report that discloses all income to, and expenditures from, the Political Party General Election Campaign Fund Account from the opening of the account until closing of the account. (*See: Legislative: Article 79*)

Law No. 12 of 2003 on General Elections – DPD Candidates

- Prohibitions and limitations upon sources of funds stipulated in ***Legislative*** – including limitations upon the amount of contributions to individual candidates for DPD from individuals and legal entities pursuant to ***Legislative: Article 78(2)*** – shall apply to funds received by the DPD Candidate Election Campaign Fund Account for the individual candidate.
- The time period applying to limitations upon contributions to individual candidates for DPD from individuals and legal entities pursuant to ***Legislative: Article 78(2)*** shall be from opening of the DPD Candidate Election Campaign Fund Account until three days before voting day.
 - All contributions to the DPD Candidate Election Campaign Fund Account received from the same individual or legal entity – whether in monetary or non-monetary form – shall be ‘aggregated’ (added together) for purposes of

determining whether a donor has stayed within the limitation upon contribution amount stipulated by law.

- Each person that meets qualifications to compete as a candidate for DPD in general elections, as determined by the KPU, shall submit to the KPU a DPD Candidate Election Campaign Fund Account Financial Report that discloses all income to, and expenditures from, the DPD Candidate Election Campaign Fund Account from the opening of the account until closing of the account. (*See: Legislative: Article 79*)

Law No. 23 of 2003 on Elections of President/Vice-President

- Prohibitions and limitations upon sources of funds stipulated in *Presidential* – including limitations upon the amount of contributions from individuals and legal entities pursuant to *Presidential: Article 43(3)* – shall apply to funds received by and spent from the Presidential Election Campaign Fund Account of the ‘Candidate Pair’.
- The time period applying to limitations upon contributions to ‘Candidate Pairs’ from individuals and legal entities pursuant to *Presidential: Article 43(3)* shall be from opening of the Presidential Election Campaign Fund Account until three days before voting day.
 - All contributions to the Presidential Election Campaign Fund Account of a ‘Candidate Pair’ received from the same individual or legal entity – whether in monetary or non-monetary form – shall be ‘aggregated’ (added together) for purposes of determining whether a donor has stayed within the limitation upon contribution amount stipulated by law.
- Each ‘Candidate Pair’ that meets qualifications to compete in elections for President/Vice-President, as determined by the KPU, shall submit to the KPU a Presidential Election Campaign Fund Account Financial Report that discloses all income to, and expenditures from, the Presidential Election Campaign Fund Account from the opening of the account until closing of the account. (*See: Presidential: Article 44*)

Encouraging Financial Accountability

⇒ *Parties* changes institutional responsibility for receiving Annual Financial Reports of political Parties from the Supreme Court of the Republic of Indonesia (under Law No. 2 of 1999 on Political Parties) to the KPU. Beginning in calendar year 2003, political parties will submit Annual Financial Reports to KPU. Political parties will also submit financial reports of campaign funds to KPU for DPR/DPRD elections under *Legislative*; ‘Candidate Pairs’ (nominated by political parties or coalitions of political parties) will submit financial reports of campaign funds to KPU for presidential elections under *Presidential*.

Unfortunately – as IFES’ prior *Money Politics* reports have noted – many political parties in Indonesia have failed to submit Annual Financial Reports to the Supreme Court during the past four years. Also, annual reports that have been submitted by political parties are often of questionable accuracy and completeness.

Although political parties are legally obligated to report their finances, the laws do not impose legal liability for complying with the law upon any particular person within the political party. *Parties* and *Legislative* do not adequately assign responsibility for political parties (and candidates) to follow campaign finance regulations, to maintain proper financial records, and to submit disclosure requirements. *Presidential* does a better job of promoting accountability through requirements for ‘candidate pairs’ to appoint ‘campaign teams’ to take responsibility for managing electoral campaigns. However, political parties and electoral participants should assign responsibility for financial matters to a particular person.

⇒ As required by *Parties*, Annual Financial Reports of political parties only show financial activity of the political party during the previous year – transactions of income and expenditure. However – without a ‘baseline’ understanding of financial assets and liabilities of political parties (balance sheet) – the KPU will have difficulty assessing the legitimacy or significance of reports of annual financial transactions of parties, and election monitoring organizations will lack ability to fully monitor ‘campaign finance’.

3. CHALLENGE: How can political parties and/or electoral participants be made accountable for complying with financial regulations and financial reporting obligations? Who should be held legally responsible?

OPPORTUNITY: Political parties and/or electoral participants could be required to appoint a financial officer, with authority and duties as follows –

Political Parties

- Each political party that is registered with the Ministry of Justice and Human Rights shall appoint a Financial Officer of the party. The Financial Officer shall be –
 - Professionally qualified to work as an accountant, and knowledgeable in accepted accounting procedures for record-keeping and reporting;
 - Accountable on behalf of the political party for compliance with all legal regulation regarding political party financial activity;
 - Personally responsible for keeping complete and accurate records of all financial activity of the political party (receipts/disbursements; assets/liabilities), for integrating and reconciling all financial accounts of the party, and for submitting true and accurate reports of this activity in accordance with requirements and schedule for reporting stated in applicable laws and regulations;
 - Provided unrestricted access to all political party financial records and receive full cooperation from all party officials;
 - Obligated to cooperate with and facilitate all audits or any official investigations of political party accounts and party financial activity.

- All financial reports and statements submitted to KPU pursuant to applicable laws and KPU decrees shall be signed by the Financial Officer and Political Party Chairman, who shall both affirm under oath that such report or statement is accurate and complete to the best of his/her knowledge.

DPD Candidates

- Each person that meets qualifications to compete as a candidate for DPD in general elections, as determined by the KPU, shall appoint a Financial Officer who is responsible for the candidate's DPD Candidate Election Campaign Fund. The Financial Officer shall be –
 - Professionally qualified to work as an accountant, and knowledgeable in accepted accounting procedures for record-keeping and reporting;
 - Accountable on behalf of the DPD candidate for compliance with all legal regulation regarding the DPD Candidate Election Campaign Fund;
 - Personally responsible for keeping complete and accurate records of all financial activity of the DPD Candidate Election Campaign Fund (receipts/disbursements), and for submitting true and accurate reports of the Fund's activity in accordance with requirements and schedule for reporting stated in applicable laws and regulations;
 - Provided unrestricted access to all records of the DPD Candidate Election Campaign Fund, and receive full cooperation from the DPD candidate and his/her representatives or agents;
 - Obligated to cooperate with and facilitate all audits or any official investigations of the DPD Candidate Election Campaign Fund.

- All financial reports and statements submitted to KPU pursuant to applicable laws and KPU decrees regarding the DPD Candidate Election Campaign Fund shall be signed by the Financial Officer and DPD Candidate, who shall both affirm under oath that such report or statement is accurate and complete to the best of his/her knowledge.

Candidates for President/Vice-President

- Each 'Candidate Pair' of a political party or coalition of political parties that meets qualifications to compete in elections for President/Vice-President, as determined by the KPU, shall appoint a Financial Officer who is responsible for the Presidential Election Campaign Fund. The Financial Officer shall be –
 - Professionally qualified to work as an accountant, and knowledgeable in accepted accounting procedures for record-keeping and reporting;
 - Accountable on behalf of the 'Candidate Pair' for compliance with all legal regulation regarding the Presidential Election Campaign Fund;
 - Registered as a member of the 'Campaign Team' of the 'Candidate Pair' (*see: **Presidential: Article 35***);
 - Personally responsible for keeping complete and accurate records of all financial activity of the Presidential Election Campaign Fund (receipts/disbursements), and for submitting true and accurate reports of the Fund's activity in accordance with requirements and schedule for reporting stated in applicable laws and regulations;
 - Provided unrestricted access to all records of the Presidential Election Campaign Fund, and receive full cooperation from the 'Candidate Pair', the 'Campaign Team', and their representatives or agents;
 - Obligated to cooperate with and facilitate all audits or any official investigations of the Presidential Election Campaign Fund.

- All financial reports and statements submitted to KPU pursuant to applicable laws and KPU decrees regarding the Presidential Election Campaign Fund shall be signed by the Financial Officer and another member of the ‘Campaign Team’, who shall both affirm under oath that such report or statement is accurate and complete to the best of his/her knowledge.

4. CHALLENGE: How can KPU and election monitors obtain financial data about assets and liabilities of political parties to permit scrutinizing of parties’ annual financial reports and parties’ financial reports of campaign funds?

OPPORTUNITY: To fulfill its responsibility for reviewing financial reports of political parties, and to permit election monitoring organizations and the media to evaluate these reports, KPU could impose a ‘one-time’ requirement that Annual Financial Reports covering calendar year 2003 (submitted by political parties pursuant to Law No. 31 of 2002) should be accompanied by a Financial Statement of Assets and Liabilities for the political party. Such regulation could be as follows:

- The Financial Statement of Assets and Liabilities should fully and accurately include all assets and liabilities of the political party as of 31 December 2003:
 - Assets shall include all funds, property and everything of value owned by the political party, including: all cash or cash equivalents; all bank accounts or financial investments; real estate, buildings, equipment, vehicles, or other tangible property (whether owned, leased or used without charge); accounts receivable or prepaid expenses.
 - Liabilities shall include debts, accounts payable, loans or other obligations, or commitments payable in the future.
 - Assets or liabilities that individually exceed [### rupiah] in value shall be individually itemized and described in a supporting note to the Statement.

Regulating Financial Activity of Candidates for DPR/DPRD

Legislative: Article 5 identifies electoral participants for 2004 general elections as political parties for DPR/DPRD elections and individual persons for DPD elections. Unfortunately, *Legislative: Article 78(1)* is ambiguous regarding the capacity and responsibility of DPR/DPRD candidates to raise, spend and – importantly – report election campaign funds:

Election campaign funds may be obtained by the electoral participants from:

- a. members of the relevant Participating Political Party including candidates for the DPR, DPD, Provincial DPRD and Regency/City DPRD;*
- b. other non-binding sources including private entities, or persons, whether given to the Participating Political Party or to the candidates for the DPR, DPD, Provincial DPRD and Regency/City DPRD.*

The language in *Legislative: Article 78(1)*, cited above, strongly suggests that campaign funds may *only* be obtained by electoral participants, and subparagraph (b) refers to these funds as including donations ‘whether given to the Participating Political Party or to the candidates ...’. That reference implies that candidates serve as ‘agents’ of their political party by raising campaign funds on behalf of their political party.

Regulations regarding fundraising and spending by political parties, and requirements for financial reporting of parties' election campaign funds, are undermined if funds received and spent by parties' candidates are not subject to the same prohibitions, limitations and reporting requirements of the election law. Also, the importance of this potential 'loophole' is increased because of the 'open-list' voting system to be used in Indonesia's 2004 general elections, which will encourage DPR/DPRD candidates on political party candidate lists to conduct separate campaign activity.

Contributions received by DPR/DPRD candidates should be subject to contribution limitations under *Legislative*, and all contributions to candidates of the same political party should 'aggregated' (combined) for purposes of contribution limits. Limitations upon contributions to political parties are meaningless if donors can give numerous or unlimited (and undisclosed amounts) to parties' candidates. Campaign funds raised and spent by candidates should be properly documented, and integrated into audited financial reports of the political parties that nominated such candidates.

5. CHALLENGE: How can raising and spending of campaign funds by candidates for DPR/DPRD be brought within the legal regulation and financial reporting requirements of the election law?

OPPORTUNITY: KPU implementing regulations could be formulated to specify the 'agent' relationship between DPR/DPRD candidates and their political parties for campaign fundraising, and to obligate such candidates to report contributions received, as follows –

- Candidates for DPR/DPRD are responsible as representatives/agents of the political parties that nominated them for purposes of campaign finance regulation and reporting. All contributions provided to DPR/DPRD candidates (including non-monetary donations) shall be considered as contributions to the Political Party Election Campaign Fund Account of their respective political party, and shall be subject to the same prohibitions, limitations and reporting requirements as contributions to political parties under *Legislative: Articles 78 – 80*.
- Candidates for DPR/DPRD shall finance and/or report all campaign activity in support of their candidacy through the Political Party Election Campaign Fund of the party committee that nominated such candidates –
 - Contributions received by candidates shall be forwarded to their political party for deposit in party election campaign fund accounts; and/or
 - Candidates who separately raise and spend any funds for political purposes must notify the party that nominated them of all funds received and spent for election campaign purposes so that their financial activity may be reported by their political party.
- All funds raised and spent for election campaign purposes by candidates for DPR/DPRD shall be fully and accurately reported by the political party committee at the level that nominated such candidates, and incorporated within the Political Party General Election Campaign Fund Financial Report, pursuant to *Legislative: Article 79*.

Facilitating Special Reporting and Disclosure of Larger Contributions

Both *Legislative* and *Presidential* contain provisions that require electoral participants to specially report contributions to campaign funds that exceed five million rupiah. These provisions intend ‘mid-campaign’ reports by electoral participants about these larger contributions, and require election commissions at appropriate levels to publicize these contribution reports. Procedures for reporting and publicizing these contributions will require elaboration by the KPU in implementing regulations. (*Presidential* provides more detail than *Legislative* as to time frames for implementation, and provides some guidance for clearer regulation.)

6. **CHALLENGE:** What procedures should be stipulated to implement provisions in *Legislative* and *Presidential* which require special reporting and public disclosure of contributions exceeding 500 million rupiah?

OPPORTUNITY: Additional stipulation in KPU implementing regulations could be formulated to clarify record-keeping and reporting obligations of political parties and/or electoral participants with regard to ‘large’ contributions, and responsibilities of election commissions to publicize these contribution reports, as follows –

Political Parties Nominating Candidates for DPR/DPD

- For political parties that meet qualifications to compete in general elections for DPR/DPD, as determined by KPU, such parties’ Financial Officers shall maintain a separate record of all contributions from a single donor that exceed five million rupiah that are received to the party’s Political Party Election Campaign Fund Account.
 - All contributions to the Political Party Election Campaign Fund Account of a political party received from the same individual or legal entity – whether in monetary or non-monetary form – shall be ‘aggregated’ (added together) for purposes of determining whether the contribution from such donor shall be specially reported.
 - Separate records shall be maintained for (and special reporting shall cover) contributions exceeding five million rupiah that are received from time of opening of the Political Party Election Campaign Fund Account until three days before voting day.
- Each political party committee at national, provincial, and kabupaten/kota levels (by Financial Officer) shall submit special reports of contributions exceeding five million rupiah at two intervals: 1) one day prior to the commencement of the election campaign period, and 2) one day after the end of the election campaign period. (*Compare: Presidential: Article 43(6)*)
 - Any party committee that claims to have received no contributions exceeding five million rupiah during the applicable time period shall submit a brief statement to the appropriate election commission stating it has not received any contributions exceeding five million rupiah; such statement shall be signed by the party’s Finance Officer and Chairman.

- Contributions to campaign funds exceeding five million rupiah should be specially reported at each level of election commission (KPU) by corresponding levels of political party committees (and DPR/DPRD candidates) –
 - Contributions exceeding five million rupiah given to national political party committees or to DPR candidates should be reported to KPU-National;
 - Contributions exceeding five million rupiah given to provincial political party committees or to DPRD-Province candidates should be reported to their respective KPU-Province;
 - Contributions exceeding five million rupiah given to regency/municipality political party committees or to DPRD-Regency/Municipality candidates should be reported to their respective KPU-Regency/Municipality.
- Election commissions receiving special reports of contributions exceeding five million rupiah from political party committees shall publicize such reports through the news media one day after receiving such reports. (*Compare: Presidential: Article 43(7)*)

DPD Candidates

- DPD candidates (by Financial Officer for DPD Election Campaign Fund) shall maintain a separate record of all contributions from a single donor that exceed five million rupiah.
 - All contributions to the DPD Election Campaign Fund Account received from the same individual or legal entity – whether in monetary or non-monetary form – shall be ‘aggregated’ (added together) for purposes of determining whether the contribution from such donor shall be specially reported.
 - Separate records shall be maintained for (and special reporting shall cover) contributions exceeding five million rupiah that are received from time of opening of the DPD Election Campaign Fund Account until three days before voting day.
- Each candidate for DPD (by Financial Officer for DPD Election Campaign Fund) shall submit special reports of contributions exceeding five million rupiah at two intervals: 1) one day prior to the commencement of the election campaign period, and 2) one day after the end of the election campaign period.
 - Contributions to candidates for DPD exceeding five million rupiah should be specially reported to their respective KPU-Province;
 - Any candidate that claims to have received no contributions exceeding five million rupiah during the applicable time period shall submit a brief statement to their respective KPU-Province stating it has not received any contributions exceeding five million rupiah; such statement shall be signed by the candidate and candidate’s Finance Officer.
- KPU-Provincial receiving special reports of contributions exceeding five million rupiah from candidates for DPD shall publicize such reports through the news media one day after receiving such reports. (*Compare: Presidential: Article 43(7)*)

Political Parties and Coalitions Nominating Candidates for President/Vice-President

- Financial Officers for Presidential Election Campaign Fund for candidates for President/Vice-President ('Candidate Pairs') shall maintain a separate record of all contributions from a single donor that exceed five million rupiah.
 - All contributions to the DPD Election Campaign Fund Account received from the same individual or legal entity – whether in monetary or non-monetary form – shall be 'aggregated' (added together) for purposes of determining whether the contribution from such donor shall be specially reported.
 - Separate records shall be maintained for (and special reporting shall cover) contributions exceeding five million rupiah that are received from time of opening of the DPD Election Campaign Fund Account until three days before voting day.
- Each 'Candidate Pair' shall submit special reports of contributions exceeding five million rupiah at two intervals: 1) one day prior to the commencement of the election campaign period, and 2) one day after the end of the election campaign period.
 - Contributions to 'Candidate Pairs' exceeding five million rupiah should be specially reported to their national KPU;
 - A 'Candidate Pair' that claims to have received no contributions exceeding five million rupiah during the applicable time period shall submit a brief statement to national KPU stating they have not received any contributions exceeding five million rupiah; such statement shall be signed by the Finance Officer and another member of the 'Campaign Team'.
- KPU receiving special reports of contributions exceeding five million rupiah from 'Candidate Pairs' shall publicize such reports through the news media one day after receiving such reports. (*Compare: Presidential: Article 43(7)*)

Improving Campaign Finance Rules

Indonesia's political laws establish several basic restrictions upon fund-raising, and impose requirements for reporting contributions, regarding 'campaign finance' activity of political parties and electoral participants. To prevent misunderstanding or evasion, three of these provisions particularly deserve clarification, strengthening and emphasis through implementing regulations of the KPU:

- Use of state resources for political purposes (*See, generally: Parties: Article 17(2), Legislative: Articles 74(g) & 78(1) and Presidential: Articles 38(g) & 43(1)*);
- Acceptance of non-monetary contributions (*See, generally: Parties: Article 17(2), Legislative: Article 78(1) and Presidential: Article 43(4)*).
- Reporting true identity of contribution donors (*See, generally: Parties: Article 19((3)(b), Legislative: Article 80(1)(b), and Presidential: Article 45(1)(b)*);

7. CHALLENGE: How can regulatory controls be clarified to prevent political parties and/or electoral participants from using state resources for political purposes?

OPPORTUNITY: KPU implementing regulations could be formulated to more clearly describe prohibited resources and identify applicable sanctions for violations, as follows –

- Political parties and/or electoral participants may not use any government (state) funds, facilities, personnel, supplies, materiel, equipment or any other government (state) resources, as defined by KPU, for election campaign or other political purposes, except as specifically provided or authorized by law.
- Political parties and/or electoral participants who violate provisions prohibiting use of state resources for political purposes are subject to sanctions under *Legislative: Article 76(2)* or *Presidential: Article 41(2)*, including termination of election campaign activities..

8. CHALLENGE: How can regulatory controls be clarified regarding the legal status and valuation of non-monetary contributions to political parties and/or electoral participants?

OPPORTUNITY: KPU implementing regulations could be formulated to more clearly define non-monetary contribution and explain how they are valued, as follows –

- All donations received by political parties and/or electoral participants in non-monetary form are legally equivalent to contributions of money, and are subject to the same source restrictions, limitations upon amount, and reporting requirements as monetary contributions –
 - Non-monetary contributions include donations of goods, services, or use of personnel, facilities or equipment;
 - Amount of non-monetary contributions shall be determined by KPU at fair market value (fair market value = what it would cost for political party and/or electoral participant to purchase same or equivalent goods, services, or obtain use of personnel, facilities or equipment, through regular commercial means);
 - Discounts in prices on sales of goods or services, or leases of property, which are provided to a political party and/or electoral participant, but which are not routinely given to other customers, are considered non-monetary donations to the political party and/or electoral participant for the full amount of the unusual or excessive part of the discount.

9. CHALLENGE: How can regulatory controls be clarified to insure that all donors to political parties and/or electoral participants are fully identified and disclosed in financial reports?

OPPORTUNITY: KPU implementing regulations could be formulated to more clearly describe how contributors must be identified and to prohibit evasion of identification requirements, as follows –

- Political parties and/or electoral participants may not accept contributions from ‘anonymous’ sources or contributions for which the identity of the donor is unclear. A political party and/or electoral recipient must report the true identity

of the donor for each contribution received, including each donor's full name, address, and 'ID' number ('KTP' identity card number [individual] or notarial number for articles of association [legal entity]).

- Political parties and/or electoral participants may not accept contributions that have been given through an intermediary (contributions given 'in the name of another').
- Individual persons or legal entities identified on political finance disclosure reports as making contributions to electoral participants may not receive advance payments or reimbursements for such contributions from other persons or legal entities, nor act as an intermediary for a donor whose identity is not disclosed.