UNIVERSITAS GADJAH MADA

Looking into Challenges and Opportunities of Indonesia's Environmental, Social and Governance Legislations and Lessons-learned from Asian Collaboration

Laurensia Andrini, S.H., LL.M., Ph.D.
Irna Nurhayati, S.H., M.Hum., LL.M., Ph.D.
Dina W. Kariodimedjo, S.H., LL.M., Ph.D.

Introduction

The concept of corporate social responsibility (CSR) emerged after the 1987 Brundtland Report, which emphasized sustainable development and inspired businesses to adopt social and environmental responsibilities. In 2006, the UN Principles for Responsible Investment (PRI) introduced the term "environmental, social, and governance" (ESG), highlighting its dual benefits for society and businesses. ESG practices are now linked to global efforts like the Paris Agreement, focusing on reducing risks and leveraging opportunities in environmental, social, and governance areas.

This study examines Indonesia’s ESG framework, given its significant carbon emissions from land-use changes and deforestation, its rich natural resources, and its unique mandatory CSR approach for natural resource-based industries. A comparative analysis with Singapore and Japan—countries aligned with international ESG standards—further evaluates Indonesia’s regulatory framework for fostering sustainability.

The Sustainable Development Goals, distinguished into their respective ESG dimensions:

Sustainable Development Goals	Economic	Social	Environmental
SDG 1: No poverty	v		
SDG 2: Zero hunger		v	
SDG 3: Good health and well-being		v	
SDG 4: Quality Education		v	
SDG 5: Gender Equality		v	
SDG 6: Clean water and sanitation			v
SDG 7: Affordable and clean energy		v	v
SDG 8: Decent work and economic growth	v	v	
SDG 9: Industry, innovation, and infrastructure	v		
SDG 10: Reduced inequality	v	v	
SDG 11: Sustainable cities and communities		v	v
SDG 12: Responsible consumption and production		v	v
SDG 13: Climate action			v
SDG 14: Life below water			v
SDG 15: Life on land	v	v	v
SDG 16: Peace justice and strong institutions		v	
SDG 17: Partnership for the goals	v	v	v

Following the ratification of the Paris Agreement through Law Number 16 of 2016, the Indonesian government, as a key stakeholder, needs to prioritize sustainable development. In line with such commitment, the Indonesian government continues to pursue greenhouse gas reduction targets through various initiatives.

Indonesia's ESG Regulatory Framework:

- **General Regulations Related to Sustainable Development**
  - Presidential Regulation No. 59 of 2017 on the Implementation of Sustainable Development Goals (SDGs), amended by Presidential Regulation No. 111 of 2022

- **Laws Aligning with ESG Principles**
  - Law No. 32 of 2009: Protection and Management of the Environment
  - Law No. 40 of 2007: Limited Liability Company ('Company Act')
  - Law No. 1 of 2025: State-Owned Enterprises
  - Law No. 13 of 2003: Labor
  - Government Regulation (GR) No. 47 of 2012: Social and Environmental Responsibilities for LLCs

- **Specific Regulations on ESG Reporting and Sustainable Finance**
  - Financial Services Authority Regulation (POJK) No. 51/POJK.03/2017
  - Circular Letter No. 16/SEOJK.04/2021

Specific Regulations on ESG Reporting (Cont.)

POJK No. 51/POJK.03/2017

- Mandates sustainable finance practices for financial services institutions, issuers, and public companies
- Requires submissions of sustainable finance action plans to the OJK
- Aims to balance ESG interests while fostering a stable and inclusive economy
- Prevents funding or investment practices that neglect resource sustainability, exacerbate social inequalities, or cause environmental degradation

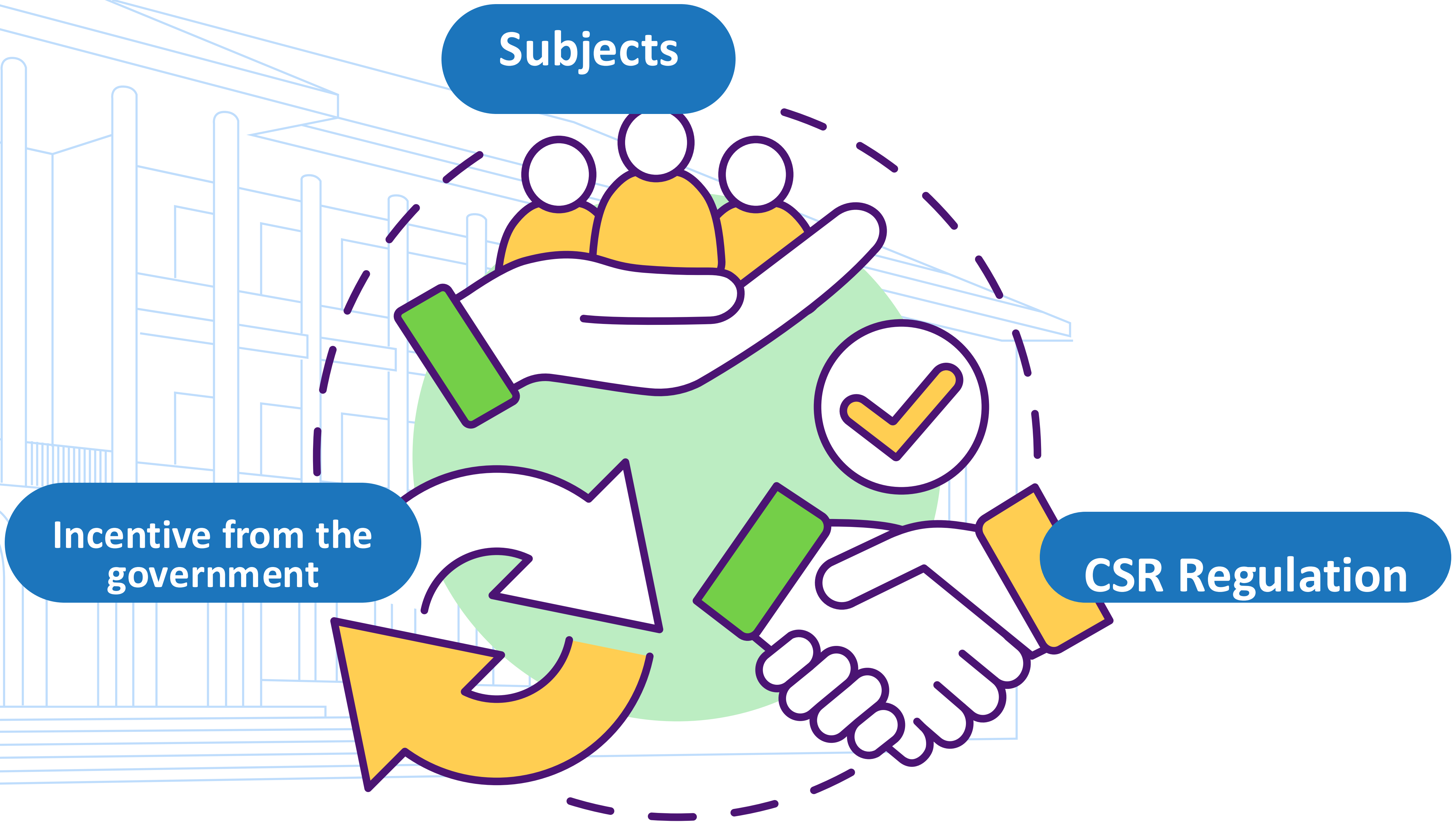
Circular Letter No. 16/SEOJK.04/2021

- Provides guidelines for ESG disclosure in companies' annual reports
- Details companies' actions in fulfilling social and environmental responsibilities

The subjects regulated in the POJK are **only financial services institutions, issuers, and public companies**. While this aligns with the OJK's authority to perform an integrated regulatory and supervisory function for all activities in the financial services sector, it covers only a small portion of the total number of business entities in Indonesia.

This calls for the Indonesian government's attention to create regulation that can reach a wider range of business entities in Indonesia. Furthermore, Article 8 of the POJK allows financial services to allocate a portion of their CSR fund to implement ESG. This stipulation indicates a failure in understanding that CSR and ESG are different.

Singapore and Japan’s regulatory frameworks on ESG



Singapore

Legal Bases

Art. 711A: all listed companies are to disclose and publish their sustainability report

Art. 711B: Reports should cover at least five primary components

ESG Frameworks in Singapore

1. Subjects

- Reporting obligation is set to apply gradually;
- By 2025: All listed issuers are obliged to report their annual climate-related disclosure
- Future plan: mandating non-listed companies with revenue of at least SGD 1 Billion and total assets of SGD 500 million to report

2. Incentive

- Sustainability Reporting Grant by The Monethary Authority of Singapore (MAS)

3. CSR Fund and ESG

- Voluntary CSR, no regulation on allocating CSR fund to ESG initiatives

Japan

Legal Bases

Stewardship Code	Investors’ ’stewardship responsibility’
Corporate Governance Code	The importance of ‘giving back’ to stakeholders
Financial Instruments and Exchange Act (FIEA)	January 2023 (amendment): **all listed companies** to report their sustainability-related information
Sustainability Standards Board of Japan (SSBJ) Standards	Sustainability disclosure General disclosure Climate-related disclosure

ESG Frameworks in Japan

Subjects

- All listed-companies: sustainability-related information

(dis)Incentive

- Administrative fines and penalties if a company violates FIEA's provisions

CSR

- No regulations pertaining the use of CSR fund to support ESG

CSR regulation in Indonesia compared to Singapore and Japan:

	CSR	ESG
Indonesia	Mandatory for businesses in the sector of natural resources, which must be budgeted and accounted for as the company's expenses. CSR and ESG are often used interchangeably.	ESG disclosure is mandatory for financial service institutions, issuers, and public companies. Such disclosure is to be included within the company's annual report.
Singapore	Not mandatory. CSR and ESG are regulated separately.	ESG reports are mandatory for SGX-listed companies in the sector of finance, agriculture, energy, food, forest products, building materials, and transportation industries.
Japan	Not mandatory. CSR and ESG are regulated separately.	ESG Reports are mandatory for companies listed under the Tokyo Stock Exchange (TSE).

Critique of Indonesia's ESG Legislation

- **Lack of Unified Regulation**
  - No unified, integrated ESG regulation exists. The ESG is governed sporadically by a number of regulations: the Company Act, GR 47 of 2012, Law 13 of 2003, POJK 51/POJK.03/2017, and SEOJK, creating legal uncertainty.

- **Incomprehensive Framework**
  - For example, under Article 74 of the Company Act, the environmental aspect of ESG is found in the provisions regarding CSR. The article lacks detailed and comprehensive requirements regarding the CSR obligations of limited liability companies, as it only mandates CSR implementation for businesses engaged in natural resource-related activities.

- **Regulatory Disharmony**
  - Inconsistencies between the Company Act and GR 47/2012, particularly in regards to the requirement of the report on implementation of the ESG.
    - Article 4 of GR 47/2012: the budgets allocated for the ESG implementation shall be included in the companies' annual work plan approved by the board of commissioners, and general meeting of shareholders.
    - Whereas there is no such requirement with regard to the approval for the budgets allocated for the ESG in the Company Act

Critique of Indonesia’s ESG Legislation (Cont.)

- **Limited Scope**
  - POJK and SEOJK only mandate disclosure for public companies and financial institutions, leaving other businesses unregulated.
- **CSR Implementation**
  - The new SOEs Act (2025) offers a more comprehensive CSR framework, mandating activities like community cultivation and collaboration with MSMEs, funded by SOEs' profits or budgets. The cultivation might be undertaken by both the SOEs themselves, and by collaborating with other parties. The SOEs might use funding sources from SOEs’ net profits allocation in the previous fiscal year, activity budget allocated as costs, and/or other sources.

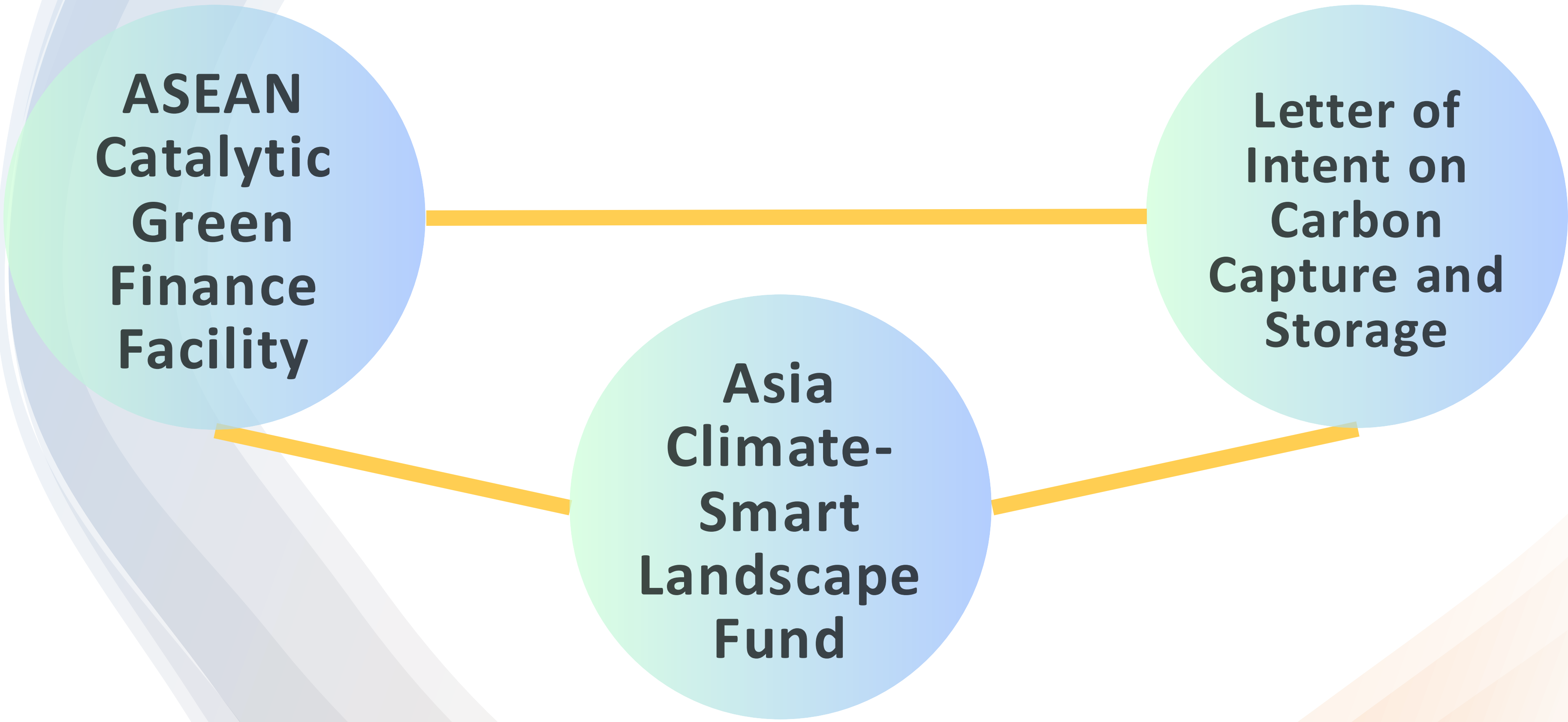
Comparative Analysis: Indonesia vs. Singapore and Japan

Factors	Comparison
Unified Regulation	Singapore and Japan lack specific ESG laws but have unified frameworks, providing legal clarity. In contrast, Indonesia's fragmented regulations create uncertainty.
International Standards	Singapore and Japan align its policies with international standards (e.g., ISSB), while Indonesia has yet to adopt such standards.
CSR Nature	CSR is voluntary in Singapore and Japan but mandatory in Indonesia for natural resources-related business activities. Mandatory CSR contradicts the global philosophy of voluntary CSR.
Broader Commitment	Singapore has a schedules plan to expand its ESG obligations to wider industries over time, unlike Indonesia's stagnant approach.

Indonesia's International Cooperation on Sustainability:

- Commitment to Emission Reduction Goals
    - Indonesia's Enhanced Nationally Determined Contribution (NDC) targets:
        - September 2022: unconditional reduction of 31.89% by 2030; and
        - Conditional reduction with international support to 43.20% by 2060.

- Indonesia needs to establish collaboration with other countries on bilateral and regional levels, and enact laws and regulations grounded in sustainable principles.



Conclusion

While existing ESG frameworks provide a potential foundation, they lack comprehensiveness as they are mere policies, and not legislation. Furthermore, it is important to recognize that Indonesia still confuses ESG with CSR, and that the existing ESG policy is only applicable to financial institutions. In light of this, four recommendations are proposed:

1. Indonesia needs to improve its ESG regulatory framework by enacting an integrated and comprehensive ESG regulation;
2. The subjects of ESG reporting should be expanded to include businesses governed under the Company Act and the State-Owned Company Act;
3. Indonesia needs to enhance its ESG reporting standards by aligning them with internationally recognized standards; and
4. Indonesia should incorporate elements from regional agreements into its ESG legislation to strengthen the framework and further foster regional coherence.

Thank You