

UPDATE ON THE OBLIGATION TO USE RUPIAH AND EXEMPTIONS

As an update to our previous Newsletter regarding Regulation No. 17/3/PBI/2015 regarding the Obligation to Use Rupiah in the Territory of the Republic of Indonesia (“**BI Regulation**”), Bank Indonesia (“**BI**”) has issued an implementing regulation regarding the mandatory use of Rupiah under BI Circular Letter No. 17/11/DKSP (“**Circular 17**”).

Circular 17 further describes the details on payments in foreign exchange agreed to by the parties under a written agreement for strategic infrastructure projects which are exempted from the obligation to use Rupiah. These strategic infrastructure projects cover among others, transportation, power plants, roads, and oil and gas. In order to be exempted from the use of Rupiah for these infrastructure projects, Circular 17 sets out the following requirements:

1. the project must be declared by the central or regional government as a strategic infrastructure project as evidenced by a statement from the relevant institution to the project owner; and
2. the project must obtain an approval from BI.

The approval from BI may cover:

1. transactions for development of the strategic infrastructure project until completion of the project; and/or
2. transactions for the sale of products or services produced by the strategic infrastructure project for a certain period, provided that the terms of the sale of the products or services have been agreed since the beginning of the project’s development.

The detailed procedures for obtaining BI approval are provided in Circular 17 and BI will grant the approval or refusal in writing at the latest 30 days after the complete application is received by BI. BI will inform the applicant in writing if it requires more than 30 days to process the application.

Recently, the Special Task Force for Upstream Oil and Gas Business Activities (“**SKK Migas**”) sent a letter to BI requesting an exemption from the obligation to use Rupiah for transactions in the oil and gas sector.

From the letter from BI to SKK Migas, we understand the following:

1. BI will cooperate on the road map for the fulfilment of the obligation to use Rupiah in the following categories:
 - Category 1: transactions which should immediately comply with BI Regulation and Circular 17;
 - Category 2: transactions which need longer to comply with BI Regulation and Circular 17, and will need further understanding to be considered a category for which transactions may be made in foreign currency or only Rupiah;
 - Category 3: transactions for which payment may be made in foreign currency;

2. for transactions in Category 1 above, a transitional period until 30 September 2015 was given to comply with BI Regulation and Circular 17. This means that from 1 October 2015, payment for all transactions in Category 1 must be made in Rupiah;
 3. for transactions in Category 2 above, to give sufficient time to, among other things, re-examine other agreements and documents, BI has agreed to give additional time until 31 December 2015. Therefore, no later than 1 January 2016, SKK Migas will have to report to BI on the results of its examination of those agreements and documents;
 4. for transactions in Category 3 above, the relevant laws and regulations issued by the authorized institutions or authorities can be referred to;
 5. SKK Migas and BI will cooperate on the implementation of the BI Regulation and Circular 17. This cooperation will facilitate and ensure coordination between the two institutions; and
 6. SKK Migas is expected to inform all relevant stakeholders and business actors.
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