

Indonesia Regulatory Update

May 2017



Regulatory Highlights

This publication sets out to highlight at summary level, some of the key current regulatory changes in Indonesia. These important changes have implications for industry, covering a wide range of industries and within these, specific and complex business processes. For further details on any of the items covered, a listing of KPMG Contact Points for further discussion is included at the end of the document. Hyperlinks to the source documentation (Bahasa Indonesia for most items) are provided as appropriate.

Regulatory updates covered in this publication are as follows:

- New Licensing Provisions for Oil-and-Gas Business Activity
- New Licensing Provisions for Coal and Mining Industry
- Regulation on Carrying Foreign Banknotes Across Indonesia Customs Area (Incoming and Outgoing)
- Information-Technology Governance and Risk Management for Information-Technology-Based Credit Services
- The Use of Book Value for The Transfer of Assets in The Context of Business Merger, Consolidation or Expansion
- Financial Information Access for Tax Purposes

Energy and Natural Resources

New Licensing Provisions for Oil-and-Gas Business Activity

Ministry of Energy and Mineral Resources ("MEMR") issued regulation No. 29 year 2017 on the Licensing for Oil-and-Gas Business Activity which revokes [MEMR Regulation No. 7 year 2005](#) on Requirements

and Guidelines for the Implementation of Business Licenses for Downstream Oil-and-Gas Business Activity, [MEMR Regulation No. 27 year 2006](#) on The Management and Utilization of Data Received from General Surveys, Exploration and Exploitation of Oil-and-Gas and [MEMR Regulation No. 28 year 2006](#) on Guidelines and Procedures for the Undertaking of General Survey for Upstream Oil-and-Gas Business Activity. This regulation has come into effect as of 12 May 2017.

This regulation is aimed to escalate Indonesia's oil-and-gas sector in terms of productivity and profitability by decreasing a significant amount of requirements related to the issuance of mandatory license for both upstream and downstream oil-and-gas business activities.

This regulation sets out six license types for engaging in both upstream and downstream oil-and-gas business activities, namely: Survey License, Oil-and-Gas Data Utilization License, Oil-and-Gas Processing License, Oil-and-Gas Storage License, Oil-and-Gas Transportation License and Oil-and-Gas Commercial License.

Both administrative and technical requirements are compulsory for entities or contractors in order to secure the relevant licenses. These requirements must be submitted to the Ministry through Directorate General of Oil-and-Gas ("Directorate"). Validity period for each license varies from 1 year up to 30 years, which also include the temporary license. Temporary license will be issued if entities or contractors have yet to establish the required facilities and infrastructures and/or secure relevant licenses from other institutions. Survey License for conventional and non-conventional oil-and-gas is valid up to one year, while Oil-and-Gas Processing License is valid up to 30 years.

(Issued regulation in Bahasa: [MEMR Regulation no. 29 year 2017](#))

New Licensing Provisions for Coal and Mining Industry

MEMR issued regulation No. 34 year 2017 regarding New Licensing Provisions for Coal and Mining Industry which repeals [MEMR Regulation No. 18 year 2009](#) on the Amendment of Procedures for Capital Investment in Work Contract and Coal Mining Business Work Agreement, [MEMR Regulation no. 28 year 2009](#) on Organization of Coal and Mineral Mining Business, [MEMR Regulation no. 27 year 2013](#) on Procedures for Divestment and Share Pricing and Changes to Investment in Mineral and Coal Mining Business, and [MEMR Regulation 32 year 2013](#) on Procedures for Granting Special Licenses for the Mineral and Coal Mining Sector. This regulation is effective as of 9 May 2017.

This regulation sets out six types of business licenses in the mineral and coal mining sector, namely: Mining Business License for Exploration; Special Mining Business License for Exploration; Special Mining Business License for Production Operation; Mining Business License for Production Operation on Processing and/or Purification and Mining Services Business License. These business licenses are applicable to individuals, corporates and cooperatives.

The new regulation allows issuance of Mining Business License for Production Operation to any public companies that either own more than one Mining Business License for metal, mineral and coal or to those who own more than one Mining Business License Area (*"Wilayah Izin Usaha Pertambangan"* – *"WIUP"*). The issuance of this regulation allows online submission and registration through the website which will be published within 2 working days by Directorate General of Mineral and Coal after the submission.

Under this regulation, Contract of Work (*"Kontrak Karya"*) and Coal Mining Business Work Agreement (*"Perjanjian Karya Pengusahaan Pertambangan Batubara"* – *"PKP2B"*) are simplified into two stages: exploration and production operation, which will be effective within 6 months after the enactment date.

Registration Certificate (*"Surat Keterangan Terdaftar"* – *"SKT"*) is now replaced with Registration Letter (*"Tanda Registrasi"*) which is issued within 8 working days after the request submission. After obtaining this certificate, Mining Business License and Special Mining Business License owner may engage in supporting activities such as consultation, planning and/or execution related to exploration, processing and purification process.

(Issued regulation in Bahasa: [MEMR Regulation no. 34 year 2017](#))

Financial Services

Regulation on Carrying Foreign Banknotes Across Indonesia Customs Area (Incoming and Outgoing)

Bank Indonesia ("BI") issued Regulation No. 19/7/PBI/2017 on Carrying Foreign Banknotes Across Indonesia Custom. This regulation will come into effect as of 5 March 2018.

Issuance of this regulation is related to the high traffic of foreign paper banknotes, incoming to and outgoing from Indonesia. The monetary authority does not have sufficient data and information of the activities, the underlying transactions, and absence of instruments to monitor the foreign banknotes traffic. This condition may bring risks to the Rupiah stability.

With the issuance of this regulation, carrying of paper banknotes across Indonesian customs area within the limit of IDR1,000,000,000 (one billion Rupiah) or its equivalent may only be carried by Permitted Bodies, namely to Banks and Non-Bank Money Changers, which have obtained permit and approval from BI to carry paper banknotes, as well as Rupiah Processing Service Companies registered with BI.

Non-Bank Money Changers are required to have paid-in-capital at a minimum of IDR 2,000,000,000 (two billion Rupiah) while fulfilling all the operational requirements regulated by BI.

Penalty ranging from administrative sanctions to revocation of permit will be imposed on parties who failed to comply with this regulation.

(Issued regulation in Bahasa: [BI Regulation no. 19/7/PBI/2017](#))

Information-Technology Governance and Risk Management for Information-Technology-Based Lending Services

OJK issued Circular Letter No. 18/SEOJK.02/2017 on the Information-Technology Governance and Risk Management for Information-Technology-Based Lending Services, which is the implementation of [OJK regulation No. 77/POJK.01/2016](#) on Technology-Based Lending Services. This circular letter has come into effect as of 18 April 2017.

This circular letter discussed various role and responsibilities of the Board of Directors ("BOD") which include supervision and management of the information technology ("IT") services. BOD is also required to formulate an IT risk management framework.

This circular letter stipulates requirements for the providers of IT-based lending services ("providers") to:

- Place data center and disaster recovery center within Indonesian territory.
- Prepare electronic system strategic plan which supports the company's business plan.
- Prepare disaster-recovery plans, which must be reassessed minimum once a year, and submit the plan to OJK.

- d. Implement proper procedures for the management of changes in the business process and electronic system.
- e. Employ human resources which possess sufficient IT knowledge.
- f. If using outsourcing services, providers should apply prudence principles, sustainability, and appropriate risk management.
- g. Maintain the confidentiality and availability of all personal data, transaction data, and financial data.

(Issued regulation in Bahasa: [Circular Letter No. 18/SEOJK.02/2017](#))

Taxation

The Use of Book Value for the Transfer and Acquisition of Assets in the Context of Merger, Consolidation, Expansion, or Acquisition.

Ministry of Finance ("MoF") issued regulation No. 52/PMK.10/2017 ("MoF 52") regarding The Use of Book Value for the Transfer and Acquisition of Assets in the Context of Merger, Consolidation, Expansion, or Acquisition. This regulation repeals [MOF Regulation No. 43/PMK.03/2008 \("MoF 43"\)](#) on the same topic, and has come into effect as of 17 April 2017.

MoF 52 allows business acquisition to use book value in the transfer and acquisition of asset. Merger and consolidation between Permanent Establishment ("PE") in banking sector and domestic corporate taxpayer whose capital is divided in the form of shares, will require the transfer of all assets and liabilities owned by PE to the domestic corporate taxpayer and dissolution of PE. Similarly, merger and consolidation of domestic corporate taxpayer with offshore corporate taxpayer will result in transferring of the entire assets and liabilities to the domestic corporate taxpayer whilst dissolving the offshore taxpayer.

As stated in MoF 52, asset transferred using the tax book value is not allowed to be transferred to another party for at least 2 years after the effective date of the merger, consolidation, expansion, or acquisition transaction, unless the transfer of assets is related to improvement of company's efficiency.

(Issued regulation in Bahasa: [MOF Regulation No. 52/PMK.10/2017](#))

Financial Information Access for Tax Purposes

Government Regulation In Lieu of Law ("Peraturan Pemerintah Penganti Undang-Undang" - "Perppu") no. 1 year 2017 on Financial Information Access for

Tax Purposes repeals [article 35\(2\) and 35A of Law no 6 year 1983](#) on General Tax Provision; [article 40 and article 41 of Law no 7 year 1992](#) on Banking; [article 40 and article 41 of Law no 21 year 2008](#) on Sharia Banking; [article 47 of Law no 8 year 1995](#) on Capital Markets, and [article 17, article 27 and article 55 of Law no. 32 year 1997](#) on Commodity Futures Trading.

This regulation is issued to support Indonesia's commitment through Automatic Exchange of Financial Account Information ("AEOI") which implement the use of Common Reporting Standard ("CRS"). According to this regulation, Directorate General of Taxation ("DGT") is authorized to obtain transparent access to financial information stored in financial service institutions such as banking, capital market, insurance, or other financial service institutions for the purpose of taxation.

Some of the noteworthy provisions covered in this regulation are as follow:

- Financial service institutions are required to undergo a number of identification processes in order to:
 1. Verify the domicile countries of the account's owner;
 2. Verify the account's owner;
 3. Verify the account owned;
 4. Verify the account's controller;
 All procedures regarding the identification process are required to be documented.
- Financial service institutions are responsible to report to DGT regarding:
 1. Financial information in accordance with CRS for every identified reportable financial account.
 2. Financial information required to be reported for tax purpose within one calendar year.

Reports should be submitted to DGT using Indonesian language. Translated version need to be prepared for report submitted using other language.

Submission of electronic report to OJK must be at least 60 days prior to the deadline of AEOI reporting (September 2018). OJK shall pass the report to DGT at least 30 days prior to the same deadline. In case electronic report is not available, manual report will need to be submitted to DGT within four months after the end of calendar year.

Non-compliance acts ranging from late submission, improper documentation of evidence or information, and faux statement will be subjected to jail sentence and/or fine of maximum IDR 1,000,000,000.

(Issued regulation in Bahasa: [Perppu No. 1/2017](#))

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