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Briefing note

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Bank Indonesia mandates the use of Rupiah in financial transactions in Indonesia

On 31 March 2015, Bank Indonesia (BI) issued Regulation No. 17/3/PBI/2015 on the Mandatory Use of Rupiah within the Indonesian Territory (the Regulation). The Regulation has been issued as part of BI's efforts to (i) clarify and implement Law No.7 of 2011 on Currency, which required the use of Rupiah as the currency for domestic financial transactions in Indonesia, (ii) control onshore demand for dollars, and (iii) ease pressure on a depreciating Rupiah.

Key provisions of the Regulation

Mandatory use of Rupiah

Under the Regulation, all corporations and individuals are required to use Rupiah as the currency for all transactions, cash and non-cash, in Indonesia (with limited specific exceptions as detailed below). The transactions to which the Regulation apply include payment transactions; other settlements of obligations that must be fulfilled using money; and/or other financial transactions.

The requirement to use Rupiah will apply to non-cash transactions within the Indonesian territory (eg payments by way of cheques, credit/debit cards or bank transfers) as of 1 July 2015.

Written agreements on non-cash payments or settlement of obligations in foreign currency entered into before 1 July 2015 will continue to be valid until their expiry. Any extensions or amendments to such written agreements (in relation to the parties and the object of the agreement) will be subject to the Regulation.

Exceptions

Not all transactions are subject to the requirement to use Rupiah. The Regulation specifically exempts certain specific types of transactions, including:

- Transactions for the purpose of implementing the State Budget (eg payment of foreign or domestic debt, and state income from government securities);
- Acceptance or disbursement of grants from or to overseas, where the payer or recipient is located outside Indonesia;
- International trade transactions, which comprise:
  - export or import of goods to or from Indonesia (but the exemption does not apply to ancillary activities occurring within the Indonesian territory such as berthing, container loading/unloading, temporary storage, airport/plane parking/holding fees, etc);
  - cross border supply of goods or services by a party outside Indonesia to a party in Indonesia, or vice versa (eg online purchase of goods); and
  - consumption by an Indonesian consumer of goods or services outside Indonesia;
- Bank savings in a foreign currency;
- International financing transactions, where the borrower or the lender is located outside Indonesia;
- Foreign currency transactions conducted under the prevailing laws and regulations, such as foreign exchange activities conducted by banks under the banking and Sharia banking laws; commercial paper transactions issued by the Government in foreign currency in the primary and secondary markets; other

transactions in foreign currency which are conducted under the investment law (among others).

Price quotations must be made in Rupiah

The Regulation provides that all price quotations for goods or services issued by an Indonesian business operator, other than in respect of the exempted transactions described above, must be made in Rupiah**.**

Parties cannot refuse payment in Rupiah

The Regulation also prohibits parties from refusing to accept payments for transactions within Indonesia (other than the exempted transactions described above) in Rupiah, unless:

- it is a cash transaction where the authenticity of the Rupiah used is in question; or
- there is a written agreement requiring payment in foreign currency in relation to the exempted transactions or a strategic infrastructure project approved by BI.

Sanctions for breach of the Regulation

The Regulation sets out clear penalties for non-compliance.

A party (whether payer and payee) who breaches the obligation to use Rupiah in cash transactions could upon conviction be liable to a fine of up to Rupiah 200 million or to imprisonment of up to one year.

A party (whether payer and payee) who breaches the obligation to use Rupiah in non-cash transactions may be subject to penalties which vary from a written warning, a fine up to Rupiah 1 billion and/or a ban from conducting any further payment transactions.

A party who fails to provide a price quotation in Rupiah is subject to a written warning.

Practical impact and implementation of the Regulation

While the Regulation makes it clear that Rupiah must be used in cash and non-cash transactions in Indonesia other than the specifically exempted transactions, a number of questions remain. For example:

- Are Indonesian banks allowed to lend to Indonesian borrowers in foreign currency?
- Do the salaries of expatriate employees need to be paid in Rupiah?
- Can payments be calculated in a foreign currency, and then converted into (and paid in) Rupiah at an agreed exchange rate?

The practical impact of the Regulation is yet to be determined. Indonesian companies which largely deal with foreign parties may not be unduly impacted by the Regulation if most of their transactions (eg imports and exports) are exempted under the Regulation. However, Indonesian companies who have foreign currency borrowings or payment commitments (under the exempt transactions), but trade locally, will be subject to greater foreign exchange risk. There is likely to be an increase in the uptake in hedging instruments to mitigate this risk. In addition, we see some transactions being moved to offshore group companies so as to take advantage of the exemption for payments to or from a recipient or payer located outside Indonesia.

Finally, while BI has a right to coordinate and cooperate with other government authorities to enforce the implementation of the Regulation, it is unclear how BI will police and enforce the Regulation in practice, given the number of payment transactions that take place in Indonesia every day.

Concluding remarks

BI has confirmed that it will issue a circular letter in the near future, which we hope will provide further guidance on the implementation of the Regulation.

In the meantime, we would also advise businesses to consider their options for minimizing foreign exchange risk by entering into hedging arrangements and/or revisiting their commercial activities (particularly providers of goods and services that use foreign currency).

For further information, please contact one of our key contacts below. This article has been prepared by Linda Widyati & Partners in association with Clifford Chance.

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