

## Exporting Natural Resources: New Regulations

by Galih Adi Prasetya

Bank Indonesia has recently issued new regulations on dealing with the foreign currency proceeds earned from the exportation of natural resources including commodities derived from mining, plantations, forestry and fisheries (the **Regulations**<sup>1</sup>). The Regulation is intended to implement provisions in the Government's 16th Economic Package and its accompanying regulations.



Image source: <https://unsplash.com>

The Regulations aim to create further transparency in relation to exports to ensure that proceeds can be properly regulated. Prior to the Regulations, a party was not under any obligation to hold the proceeds of foreign export in the Indonesian banking system.

The Regulations require that:

- all proceeds from a qualifying export must be placed in a special bank account in the Indonesian banking system within 3 months after the issuance of an Export Custom Notification;
- an exporter must submit to the bank documents describing their export activities and a statement letter showing their status as an exporter; and
- the proceeds must equal the export value of the natural commodities or the exporter must provide specified documentation to explain the difference.

The Regulations gives Bank Indonesia overall authority to monitor and supervise the exporter and any bank holding

the proceeds from the export of natural commodities. The Regulations set out administrative sanctions for breach by either the bank or the exporter.

<sup>1</sup> Bank Indonesia Regulation No. 21/3/PBI/2019 on the Acceptance of Foreign-Exchange Exports Deriving from the Business, Management, and/or Processing of Natural Resources.

## Recent Amendment on Management of Oil and Gas Working Areas

by Galih Adi Prasetya

Currently, the law requires any company that conducts exploration for, and exploitation of, oil and gas, to do so in accordance with a contract with the Indonesian government (**Cooperation Contract**). In 2018, the Government enacted regulations to govern the Cooperation Contracts that are coming to the end of their terms. (**2018 Regulations**).<sup>1</sup>



Image source: [http://www.wplaws.com/wp-content/uploads/2018/06/img\\_news6.jpg](http://www.wplaws.com/wp-content/uploads/2018/06/img_news6.jpg)

One of the key changes set out in the 2018 Regulations and in further relevant Regulations enacted in 2019 (**Regulations**)<sup>2</sup> is a provision that allows PT Pertamina (Persero) (**Pertamina**), a state-owned oil and gas company, to take over geographic areas previously managed by other Cooperation Contract owners either in conjunction with a partner company or on its own.

The Regulations also include provisions that:

- allow a company to amend clauses in its Cooperation Contract's which sets out the minimum investment must be made by the Company within the first 5 years of the term of the Cooperation Contract;
- state that Pertamina must continue to maintain a 51% ownership interest in operators working under a new Cooperation Contract; and
- allow any costs incurred during the transition period into a new Cooper-

ation Contract to be treated as operational costs under the new Cooperation Contract.

The Regulations came into effect on 30 April 2019.

<sup>1</sup> The Minister for Energy and Mineral Resources Regulations No. 23 of 2018 on the Management of Oil and Gas Working Areas During Final Periods of Cooperation Contracts.

<sup>2</sup> The Minister for Energy and Mineral Resources Regulations No. 3 of 2019 on the Second Amendment to the Minister for Mineral Resources Regulations No. 23 of 2018.



## Import/Export of Alternative Fuels: New Regulations

by Stanley Patria Armando

The Minister for Industry has issued regulations governing import/export recommendations for alternative fuels such as liquids, gas and related processed products originating from sources other than from petroleum and natural gas (**Regulations**).



Image source: shoho

A company that intends to import/export alternative fuels must obtain a Ministry of Trade issued import/export approval. To obtain such an approval, the company must be recommended by the Minister for Industry. A company may apply for a recommendation via a letter to the Directorate General. The Directorate General will either issue a recommendation or a refusal within 5

working days after the request's submission. These recommendations are valid for one year from the date set out on the recommendation.

The Director General ensures that the import/export of alternative fuels is carried out in accordance with the terms set out in the recommendation. If the recommended party does not

comply with the terms set out in the recommendation, the Directorate General may revoke the recommendation.

\*Regulation No. 20/2019 regarding Procedures for the Issuance of Import Recommendations and Export Recommendations for Alternative Fuels as Industrial Raw Materials and Auxiliary Materials.

## New Regulation regarding Interest Rate Swap Transaction

by Stanley Patria Armando

The Bank of Indonesia has issued new regulations relating to interest rate swap transactions (**Regulations**)\*. The purpose of the Regulations is to encourage a liquid and efficient financial market, necessary to develop a robust rupiah interest rate derivative market, while taking into account the principles of transactional prudence.



Image source: <https://encrypted-tbn0.gstatic.com>

Interest rate swap transactions (**IRS Transactions**) are contracts between 2 parties to exchange the flow of Rupiah interest rates periodically during the contract period or at the end contract period based on a certain notional (principal) amount. IRS Transactions may be made between a bank and certain customers, other banks and foreigners.

Banks that wish to carry out IRS Transactions with certain corporate customers must ensure that the customer:

- is a legal entity;
- is a customer of the Bank;
- has submitted to the bank at least one financial report, which must be from the previous financial year, to show at least an equity ownership in IDR 5,000,000,000.00 (five billion rupiahs) or the foreign currency equivalent; and
- has carried out business activities for at least 12 months in a row.

Banks that wish to carry out IRS Transactions with customers who are individuals must ensure that the individual:

- is a customer of the Bank;
- submits proof of an asset portfolio, valid for the previous month, that equals at least IDR 5,000,000,000.00 (five billion rupiahs) or the foreign exchange equivalent.

All contracts governing IRS Transactions must be of the industry standard and include the requirement that all transactions will have written confirmation. IRS Transactions are completed when funds have been transferred to the relevant party either in full or in accordance with the contractual payment schedule.

\*Board of Governors' member regulation No. 21/13/PADG/2019 regarding Interest Rate Swap Transaction.

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