

Issuance of New Bank Indonesia Regulation on Foreign Exchange Reporting Obligations

Earlier this year on 7 January 2019, Bank Indonesia issued Bank Indonesia Regulation No. 21/2/PBI/2019 on Reporting of Foreign Exchange Activities ("BI Regulation 21/2/2019"), which became effective on 1 March 2019. BI Regulation 21/2/2019 introduces a new obligation for parties involved in risk participation transactions ("RPTs") to disclose information on RPTs as part of their foreign exchange activities reports. RPTs mean transactions between the parties, whereby one party transfer the risk of financing facilities or credit to another party by means of a risk participation agreement.



Prior to the issuance of BI Regulation 21/2/2019, the obligation to report foreign exchange activities by was governed by Bank Indonesia Regulation No. 16/22/PBI/2014 on Reports of Foreign Exchange Activities and Reports on Implementation of Prudential Principal in Foreign Debt Management for Nonbank Corporations ("**BI Regulation 16/22/2014**"). Under BI Regulation 16/22/2014 there was no obligation to report loan information on RPTs. Following the issuance of BI Regulation 21/2/2019, Bank Indonesia issued an implementing regulation under Regulation of Members of Governor's Council No. 21/4/PADG/2019 regarding Reports on Foreign Exchange Activities in the Form of Offshore Loans and Risk Participation Transactions ("**PADG 21/4/2019**") which also became effective on 1 March 2019. With the issuance of BI Regulation 21/2/2019 and PADG 21/4/2019, Bank Indonesia hopes to achieve improvements in the database on foreign exchange activities as it is very much needed in order to allow better preparation of statistics specifically in Indonesia's payment book statistics, Indonesia's international investment position statistics, and also Indonesia's foreign loan statistics.

Further to the foregoing, there are further important matters introduced in BI Regulation 21/2/2019 juncto PADG 21/4/2019, among other things (i) there is additional information foreign exchange activities reports are required to be disclosed, (ii) a new sanction for non-compliance in the form of written notice to the bank, non bank financial institution, non financial institution corporation, other corporate body, or individual as the party (-ies) which has the obligation to submit foreign exchange reports pursuant to BI Regulation 21/2/2019 juncto PADG 21/4/2019 ("Reporting Party"), and (iii) a submission deadline for amendments to offshore loan plans.

Comparison of Implications for Parties Conducting Foreign Exchange Activities

Please find below a table comparing the differences in the key provisions between BI Regulation 16/22/2014 and BI Regulation 21/2/2019 juncto PADG 21/4/2019:

Provisions	Bank Indonesia Regulation No. 16/22/PBI/2014	Bank Indonesia Regulation No. 21/2/PBI/2019 juncto PADG 21/4/2019
Information required to be disclosed in foreign exchange activities report	<ul style="list-style-type: none"> • trade transactions of goods and services, and other transactions between residents and non-residents. • position and change of offshore financial assets and offshore financial obligations. • report plans and realization of offshore loan. 	<ul style="list-style-type: none"> • trade transactions of goods, services, and other transactions between residents and non-residents. • main details of the offshore loan and RPTs and the supporting documents. • withdrawal and payment plan of offshore loans and RPTs. • withdrawal and payment realization of offshore loans and/or RPTs. • position and change of offshore financial assets, offshore financial obligations and RPTs. • new offshore loan plan and/or its amendment. • profile and/or information regarding the Reporting Party and any of its amendments.
Information which required to be disclosed in foreign exchange activities report (for Indonesian banks as Reporting Partys)	<ul style="list-style-type: none"> • report of plan and realization of offshore loan. 	<ul style="list-style-type: none"> • main details of the offshore loan and RPTs and the supporting documents • withdrawal and payment plan of offshore loan and risk participation agreement • withdrawal and payment realization of offshore loan and RPT • current position and changes in offshore financial obligations, offshore financial assets and/or RPT related agreements.
Sanctions	<ul style="list-style-type: none"> • written warning and fine. • written notice to authorities with respect to the written warning given to the Reporting Party. 	<ul style="list-style-type: none"> • written warning • written notice to authorities, offshore lenders and the parent of the Reporting Party with respect to the written warning given to the Reporting Party.
Submission deadline for amendments to the offshore loan plan	<ul style="list-style-type: none"> • at the latest 1 July of the relevant year. 	<ul style="list-style-type: none"> • at the latest 15 June of the relevant year.

Pursuant to the above comparison, a Reporting Party who conducts RPTs is required to disclose the following information through the Bank Indonesia online system on the Bank Indonesia website (<https://www.bi.go.id/lkpbuy2>) (“**BI Website**”) each month on the 15th of the following month at the latest:

- main details of the RPTs, which include information on the relationship between the party and the creditor based on a loan agreement or other supporting documents;
- payment or withdrawal plan of the RPTs; and
- the outstanding participation amount and changes made in relation to the RPTs.

The first report of the main details of the offshore loan and RPT must be submitted for the first time at no later than during business hours on the 15th day after the month of the execution, issuance, or acknowledgement of such offshore loan and RPT, including any amendment to the offshore loan and RPT due to reorganization.

Mechanism of Submission and Correction of Foreign Exchange Activity Reports

All foreign exchange activity reports, whether a regular submission or correction, must be submitted through the BI Website each month. The deadline to submit such foreign exchange activity reports is no later than the 15th of the following month. A new offshore plan must be submitted on 15 March of that year at the latest.

In the event of any amendment being made to the offshore plan, the offshore plan amendment must be submitted on 15th June of the relevant year at the latest. As stated in the comparison table above, the submission deadline for offshore plan amendments as stated in BI Regulation 16/22/2014 was 1st of July of the relevant year. Pursuant to the foregoing, please note that the submission period provided under the new regulation is shorter than in the previous regulation.

What Happens When the Reporting Party is Late or Fails to Submit Foreign Exchange Activities Reports

In the event a Reporting Party submits a foreign exchange activity report after the deadline given but still before the end of the relevant month, such Reporting Party will be deemed to have submitted the report late. However, if after the end of that month no submission has been made by the Reporting Party, the Reporting Party will be deemed to have failed to submit a foreign exchange activity report. A Reporting Party's failure to submit a foreign exchange report does not dispense with its obligation to submit a foreign exchange activity report which is consistent with BI Regulation 16/22/2014.

Supervision of the Implementation of Foreign Exchange Activity Reporting Obligation

Pursuant to BI Regulation 21/2/2019, Bank Indonesia is authorized to supervise foreign exchange activity reporting by conducting indirect supervision and/or examination by way of, among other actions, requesting explanations, evidence, records, and/or supporting documents, with or without involving the relevant institutions.

When requested by Bank Indonesia, a Reporting Party must provide the requested documents, failing which the foreign exchange activity report submitted will be declared incorrect and not submitted.

Changes to Sanctions Pursuant to of BI Regulation 21/2/2019

Previously, under BI Regulation 16/22/2014, written warnings and fines were the sanctions for noncompliance with the Reporting Party's obligation to submit foreign exchange activity reports. In BI Regulation 21/2/2019, fines have been omitted as a sanction, but aside from giving written warning to noncompliant Reporting Parties, Bank Indonesia will also send written notice with respect to the non-compliance of the Reporting Party to the relevant authorities, offshore lenders and the parent company of the Reporting Party.

Pursuant to BI Regulation 21/2/2019, the written warning for the Reporting Party's noncompliance will only be given in the event of the following:

1. no additional corrections were made following the submission of an inaccurate foreign exchange activities report;
2. The Reporting Party was late submitting or failed to submit a foreign exchange activity report;
3. Only applicable to (i) a Reporting Party who has never submitted a foreign exchange activity reports before ("**New Reporting Party**") and (ii) a Reporting Party that has not submitted foreign exchange activity reports following 3 (three) reporting periods;
4. Only applicable to a New Reporting Party whose foreign exchange report includes new offshore plans following one reporting period after the first submission of foreign exchange activity report.
5. Please be informed that a Reporting Party who is the subject of bankruptcy proceedings may request an exemption from written warning sanction. Further, a Reporting Party that is late or failed to submit a foreign exchange activity report due to a technical error will be exempted from the sanction.

Further Actions to Keep in Mind

Further to the foregoing, we suggest that any parties conducting foreign exchange activities or any parties having obligations as a Reporting Party to comply with BI Regulation 21/2/2019 juncto PADG 21/4/2019, take into consideration and fulfill the following obligations:

- Submitting their foreign exchange activities report to Bank Indonesia through the BI Website, by disclosing all data and supporting documents each month as required under BI Regulation 21/2/2019 juncto PADG 21/4/2019 at the latest by the 15th day of the following month.

- For new offshore loan plans, submit information to Bank Indonesia through its online system at the latest on 15 March of that year.
- For amendments to a new offshore loan plan, to submit information to Bank Indonesia through its online system, at the latest on 15 June of that year.

As newly introduced in BI Regulation 21/2/2019 juncto PADG 21/4/2019 the steps above will now also include reporting RPT related agreements.

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