



Fiscal Support for Renewable Energy Transition by Power Producers under Minister of Finance Regulation No. 103 of 2023: Early Termination of Coal-Fired Power Plants

As Indonesian cities continue to grapple with severe air pollution and the government struggles to cut carbon emissions, the Minister of Finance has introduced a regulation that offers fiscal incentives to power producers, encouraging their transition to cleaner energy sources.

Ostensibly, this regulation means that State Budget funds can be used for expediting the early termination of Coal-Fired Power Plants ("**CFPPs**"); however, legislators have cautioned that the process may not be so simple and straightforward.

Minister of Finance Regulation No. 103 of 2023 on the Provision of Fiscal Support through Funding and Financing Frameworks for the Acceleration of Energy Transition in the Electricity Sector ("**MOF Reg 103/2023**") came into effect on 13 October 2023.

This regulation reinforces Indonesia's commitment to facilitate the transition to renewable energy, as outlined in Presidential Regulation No. 112 of 2022 on the Acceleration of Renewable Energy Development for the Supply of Power ("**PR on Renewable Energy**"), which mandates fiscal support through a blended finance mechanism to be governed further under a ministerial regulation.

As an implementing regulation, MOF Reg 103/2023 sets out provisions on fiscal support, financing, and an integrated blended finance mechanism through an Energy Transition Platform with the aim of facilitating the transition from CFPPs to renewable energy power plants.

The fiscal support provided by MOF Reg 103/2023 will be in the form of loans, alternative financing mechanisms and collaborative schemes. The regulation does not specify precise

monetary values or detailed application guidelines for accessing the support. However, it does outline a basic procedure for the assessment of applications and subsequent recommendations.

Below, we explain these processes and highlight the key provisions of MOF Reg 103/2023.

Funding Sources of the Energy Transition Platform

As mandated by the PR on Renewable Energy, fiscal support is given through a blended finance mechanism, which derives from the State Budget and other sources to accelerate energy transition. MOF Reg 103/2023 specifies two sources for financing the facilities to be offered by the Energy Transition Platform (“**ETP**”). The two sources are:

1. The State Budget, contingent upon the state’s financial condition; and/or
2. Other eligible sources under the applicable laws and regulations.

MOF Reg 103/2023 elaborates on the other eligible sources of funding, which are:

1. Financing agreements with international financial institutions and other entities focused on energy transition, taking into account relevant criteria for ETP’s facility utilization; and
2. Alternative agreements in addition to financing arrangements.

Criteria for Utilization of the ETP’s Facilities

Under MOF Reg 103/2023, the ETP’s facilities can be utilized under the following schemes:

ETP Schemes

1. Early termination of a **CFPP** operation
2. Early termination of a Power Purchase Agreement (“**PPA**”) for CFPPs

Criteria

1. The CFPP is owned by state electricity company PLN, a PLN subsidiary, or a private independent power producer;
2. The project is in compliance with the roadmap devised by the Ministry of Energy and Mineral Resources (“**MEMR**”) to expedite the conclusion of CFPP operations; and
3. The project is in accordance with other MOF policies.

ETP Schemes

1. Renewable energy plant development projects, in exchange for early termination of CFPP operations or PPAs, which cover:

Development of a renewable energy plant, either as part of or separately from the early terminated CFPP operation or early termination of a PPA for CFPPs; and/or development of a power grid as part of a renewable energy plant, by considering electricity demand and supply.

Criteria

1. The project is included in the electricity supply business plan, whether located within or outside PLN's business area.
2. The project has ample technology capacity, verified through successful domestic and international testing, to develop a renewable energy plant.
3. It is included in projects categorized as “green projects” or “yellow projects” based on the Indonesia Green Taxonomy published by the Financial Services Authority.
4. The applicant is committed to implementing Environmental, Social, and Corporate Governance (“**ESG**”) principles in conducting its business activities.
5. Adherence to other policies of relevant ministries responsible for energy and resources governance.

ETP Management Authorities

In order to support and facilitate the management of the ETP to accelerate the energy transition, the Minister of Finance has outlined the following actions:

1. The establishment of a **Steering Committee**, which will consist of officials from the MEMR, Ministry of State-Owned Enterprises, Ministry of Environment and Forestry, Coordinating Ministry for Maritime and Investment Affairs, and Coordinating Ministry for the Economy.
2. The assignment of PT Sarana Multi Infrastruktur (“**SMI**”) as the Platform Manager.

MOF Reg 103/2023 also introduces provisions on eligible parties who may apply for ETP facilities, the types of facilities offered, the amount of return for the government, and the assessment process conducted by the Platform Manager and Steering Committee, which are elaborated below.

Types of ETP Facilities and Application Procedures

Parties

Eligible parties who may apply for ETP facilities are:

1. PLN
2. Subsidiaries of PLN
3. **Independent Power Producers**
4. **Shareholders of Independent Power Producers**
5. Sponsors of Independent Power Producers
6. Investors
7. Other potential recipients of ETP facilities

Types of Facilities

The Platform Manager may offer the following types of facilities:

1. Loans or other financing schemes; and/or
2. Facilities through **public-private partnerships**.

The loan facilities mentioned above may be supported by the government through:

1. Government investment, as prescribed by the laws and regulations on government support funds, with the government's return capped at a maximum equal to the Government Securities Series Benchmark amount.
2. Government guarantees as prescribed by the laws and regulations on central government guarantees on infrastructure financing through direct loans from international financial institutions to state-owned enterprises.
3. Other forms of support defined under laws and regulations on fiscal matters.

Assessment by the Platform Manager and Steering Committee

The assessment process for ETP facility applications follows these steps:

1. Eligible parties submit their application for ETP facilities, and the Platform Manager then examines and verifies the application.
2. If an application is deemed eligible for further consideration, the Platform Manager

assesses the registered application.

3. The Platform Manager conveys its assessment result and recommendation to the Steering Committee.
4. The Steering Committee reviews and discusses the assessment result and recommendation from the Platform Manager.
5. In order to facilitate the review and discussion of the assessment result, the Steering Committee may invite the Platform Manager, PLN, and other related parties.

Applications approved by the Platform Manager and the Steering Committee are forwarded to the head of the Finance Ministry's Fiscal Policy Agency, who will then convey the recommendation to the Minister of Finance for a final decision on the issuance of EPT facilities.

Financing cooperation between the Platform Manager and financial institutions

The Platform Manager may conduct financing cooperation with (i) international financial institutions and (ii) other entities (e.g., public service agencies, funds, organizations). The aim of these collaborations is to establish a coordinated and integrated blended finance mechanism or increase the Platform Manager's capacity to expedite a just and affordable renewable energy transition.

These financing arrangements are to be formalized in a Financing Cooperation Agreement (*Perjanjian Kerja Sama Pendanaan*), signed by the Platform Manager and the relevant authorities representing international financial institutions or other entities.

Implementation of MOF Reg 103/2023 from an IPP Perspective

As elaborated above, the ETP facilities can be given to Independent Power Producers engaged in Power Purchase Agreements with PLN. We anticipate that PLN and IPPs will collaborate to amend the terms and relevant provisions of their existing PPAs to accommodate the early termination of CFPPs. It is worth reiterating that the shareholders or sponsors of an IPP may seek ETP facilities for renewable energy development in exchange for terminating a PPA. These ETP facilities could serve as an incentive for IPPs to explore the potential for early termination of CFPP operations. Approvals from the lenders and other stakeholders may also be required to implement the early termination of CFPPs.

We also anticipate that state financial provisions and regulations may apply to the facilities granted by the Platform Manager to applicants, ensuring the appropriate utilization of the facilities without causing any financial losses to the state.

Conclusion

The issuance of MOF Reg 103/2023 underscores Indonesia's commitment to accelerating the transition from CFPPs to renewable energy power plants. This commitment is evident through the fiscal support mechanism provided by the Minister of Finance to IPPs and investors. Therefore, with the regulation having come into effect on 13 October 2023, private entities eager to shift from CFPP to renewable energy power plants may consider this new financing scheme.

However, private entities should be aware of the requirements for utilizing and applying for ETP facilities. These requirements include commitment to ESG standards, fulfilling technical standards to establish a renewable energy plant, and the Indonesia Green Taxonomy categories specified by the Financial Services Authority. Despite these existing requirements, we will likely have to wait for a complementary regulation on the technicalities of applying for ETP facilities, as well as the criteria for feasible early termination of CFPPs, such as those with high greenhouse gas emissions or older CFPPs.

While MOF Reg 103/2023 essentially allows State Budget funds to be used for the termination of CFPPs, the national parliament's commission on energy has expressed concerns over budgetary pressures and the complexities of ending CFPP contracts prematurely. It therefore remains to be seen how long it will take for this latest regulatory shift to result in cleaner energy and brighter skies in Indonesia.

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~~CFPPs will be replaced by renewable energy power plants, and the government is committed to supporting the transition to a greener economy. We are pleased to be part of this journey and will continue to provide legal support to our clients in this regard.~~