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The New Indonesian Umbrella Regulation on Payment Systems: Key Points that Foreign Investors Should be Aware of

On 30 December 2020, Bank Indonesia issued Bank Indonesia Regulation No. 22/23/PBI/2020 of 2020 on Payment Systems (“**Payment Systems Regulation**”). The Payment Systems Regulation is intended to serve as an “umbrella” regulation that provides a regulatory framework for the Indonesian payment systems industry. This regulation will come into force on 1 July 2021.

With the increasing complexity of activities and variations in business models of payment system services providers in the market, there is a need to reform the payment systems regulations in order to optimize innovation opportunities as well as efforts to maintain financial system stability in Indonesia. This regulation changes the regulatory approach to the organization of payment systems from an institutional-based approach to an activity and risk-based approach in order to protect customers while keeping up with the rapid development of digitalization and innovation in the payment systems industry. It is expected that following the

issuance of this new regulation, Bank Indonesia will issue implementing regulations of this Payment Systems Regulation which may amend the existing regulations related to payment system activities such as e-money, e-wallets, payment gateways, fund transfers, clearing, switching, credit cards, etc.

This Payment Systems Regulation has 122 Articles in 12 chapters covering various topics, including, among others, the (re)classification of payment system services providers, the licensing requirements of payment system services providers, the organization of payment systems, the sandbox for the

development of payment systems technology innovation, the management of data and information, and the termination of the organization of payment system services providers. Given the broad scope of the Payment Systems Regulation, this advisory only focuses on the licensing requirements that apply to payment system services providers, particularly the new requirements regarding share ownership and control by foreign investors in the payment systems industry.

The Classification of Payment System Services Providers

The Payment Systems Regulation introduces a new classification system which applies to payment system services providers which classifies them into two main categories:

1. Payment Services Providers (“*Penyedia Jasa Pembayaran – PJP*”), which are banks or non-bank entities that provide services to facilitate payment transactions to service users; and
2. Payment System Infrastructure Providers (“*Penyelenggara Infrastruktur Sistem Pembayaran – PIP*”), which are banks or non-bank entities that operate infrastructure as a means that can be used for moving funds for the benefit of their members.

PJP may engage in activities which include:

1. providing sources of funds information, including for initiating payments with the users’ approval;
2. initiating payments or acquiring services, including forwarding payment transactions;
3. administering sources of funds, including executing payment transaction authorization; and/or
4. remittance services, including accepting and executing fund transfer instructions where the sources of funds do not originate from accounts administered by the remittance services providers.

Three categories of PJP licenses will be issued depending on the activities of the PJP:

License Category One	License Category Two	License Category Three
Providing source of funds information	Providing source of funds information	Remittance services
Initiating payments and/or acquiring services	Initiating payments and/or acquiring services	Other activities determined by Bank Indonesia
Administering sources of funds		
Remittance services		

This means that one PJP license can be used to engage in several activities, as long as the activities are in the same category.

Meanwhile, PIP may engage in activities which include:

1. clearing for the benefit of PIP members, which includes reconciling, confirming and calculating the financial rights and obligations of PIP members before the execution of the end-settlement; and/or
2. end-settlement for the benefit of PIP members, which includes final and binding settlement through debiting and crediting parties' accounts for the financial rights and obligations of PIP members based on the clearing results.

Subject to Bank Indonesia’s clarification in the implementing regulations, it seems that existing licensed payment system services providers can be categorized as follows:

PJP	PIP
Payment Gateway Providers	Switching Providers
E-Wallet Providers	Clearing Providers
E-Money Issuers	End-Settlement Providers
Fund Transfer Operators	Principal Debit Card and Credit Card Providers
Issuers and Acquirers of Debit Cards and Credit Cards	

To engage in business as a PJP, a license from Bank Indonesia is required. Meanwhile, to engage in business as a PIP, a decree of the determination (*penetapan*) from Bank Indonesia is required. The license and decree can be obtained by complying with the requirements under this regulation and its implementing regulation. One party may only apply for a license as a PJP or a decree as a PIP. Bank Indonesia will determine the term of validity of the license or decree issued to a PJP or a PIP.

According to the Payment Systems Regulation, Bank Indonesia will conduct an assessment of the existing licensed payment system services providers to reclassify them as a PJP or PIP and to confirm their ability to comply with the new requirements for a PJP license or a PIP decree. Based on the results of the assessment, Bank Indonesia will convert the existing payment system services providers licenses to PJP licenses or PIP decrees. For licensed payment system services providers that declare their ability to comply with the new requirements, Bank Indonesia will provide up to two years to comply with the new requirements under the Payment Systems Regulation. Meanwhile, for licensed payment system services providers that declare that they are unable to comply with the new requirements, Bank Indonesia will provide up to two years to settle their rights and obligations as payment system services providers and subsequently, Bank Indonesia will revoke their PJP license or PIP decree.

Requirements regarding Share Ownership and Control in Non-Bank Entity PJP and PIP

One new key point of this Payment Systems Regulation is that it differentiates between the share ownership and control as part of the requirements that must be complied with in order for a non-bank entity to obtain a PJP license or PIP decree.

A. Share Ownership and Control in Non-Bank Entity PJP

Under this Payment Systems Regulation, at least 15% of all shares and 51% of all shares with voting rights of a non-bank entity PJP must be owned by:

1. Indonesian citizens; and/or
2. Indonesian legal entities.

The wording of the regulation indicates that foreign parties may hold up to 85% of all shares, subject to the control limitation explained in the following paragraph. For a non-bank entity PJP in the form of a listed company, the foreign ownership limitation only applies to shareholding percentages of 5% or more. Previously, all the activities which we believe could be classified as PJP activities were open to 100% foreign ownership (and without differentiating between share ownership and control), except for e-money issuer activities that are only opened to 49% foreign ownership.

With regard to the control in non-bank entity PJP, the Payment Systems Regulation now only allows foreign parties to hold up to 49% of shares with voting rights. In addition, if the shares of a non-bank entity PJP grants a shareholder a special right to:

1. nominate a majority of the members of the Board of Directors and/or Board of Commissioners; and/or
2. veto a decision or approval of the General Meeting of Shareholders that has a significant impact on the company, such as an amendment to the Articles of Association, a change to the capital structure, the appointment and termination of members of the Board of Directors and Commissioners, a merger, consolidation, acquisition, split-off and dissolution of the company,

the right must be held by the Indonesian shareholder(s). This means that even if a foreign shareholder holds 85% of the shares of company, the control of the company must remain with the Indonesian shareholders which includes a majority of the voting rights, a majority of the members of the Board of Directors and the Board of Commissioners and right to veto for certain decisions.

B. Share Ownership and Control in a Non-Bank Entity PIP

At least 80% of the shares of a non-bank entity PIP must be held by:

1. Indonesian citizens; or
2. Indonesian legal entities.

This means that foreign shareholders may only hold up to 20% of all shares, subject to the control limitation explained in the following paragraph. This limitation is the same as that under the previous regulation applies to switching, clearing, end settlement providers and the principals of debit and credit cards. The calculation of foreign share ownership for a non-bank entity PIP in the form of a listed company only applies to shareholdings percentages of 5% or more.

In addition to the above foreign shareholding limit, the Payment Systems Regulation only allows foreign shareholders to hold up to 20% of the shares with voting rights. Like for non-bank entity PJP, if the shares of a non-bank entity PIP grant the shareholder a special right to:

1. nominate a majority of the members of the Board of Directors and/or the Board of Commissioners; and/or
2. veto a decision or approval of the General Meeting of Shareholders that has a significant impact on the company, such as an amendment to the Articles of Association, a change to the capital structure, the appointment and termination of members of the Board of Directors and Commissioners, a merger, consolidation, acquisition, split-off and dissolution of the company,

the right must be held by the Indonesian shareholder(s).

C. Transitional Provisions regarding Share Ownership and Control

Payment system services providers that have obtained a business license before this Payment Systems Regulation comes into force (1 July 2021) must comply with the requirements regarding foreign share ownership and control, **if** after 1 July 2021 a change is made to the share ownership composition or shareholder control by the foreign parties, unless the change is based on the policy of or a follow-up to supervision by Bank Indonesia. Therefore, foreign ownership composition in current payment system services providers that exceed the current limit may still be maintained as long no change is made to the share ownership composition or shareholder control by the foreign parties after 1 July 2021. Any such change will trigger the requirement to comply with the limit under this Payment Systems Regulation, unless according to its policy, Bank Indonesia decides otherwise.



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