

## Obligation to Use Indonesian Currency

### Introduction

Indonesia's Currency Law came into effect on 28 June 2011 as Law No. 7 of 2011 on Currency ("**Currency Law**"). The Currency Law is the implementation of Article 23B of the 1945 Constitution which states that the types and value of the currency are to be further regulated under a law. Bank Indonesia issued on 31 March 2015 as an implementing regulation for the Currency Law, Bank Indonesia Regulation No. 17/3/PBI/2015 on the Obligation to Use Rupiah in the Indonesian Territory ("**PBI 17/3/2015**").

Whilst many of the provisions of the Currency Law relate to the denominational and physical aspects of Indonesia's currency (both in terms of banknotes and coins), it is the provisions on the mandatory use of Rupiah that will be of most interest and pressing concern to businesses making or charging foreign currency payments in Indonesia. It is primarily this aspect of the Law, and in particular PBI 17/3/2015, that is discussed in this Advisory.

Note that the "*Indonesian Territory*" is defined in the Currency Law as all territories of Indonesia including any Indonesian-flagged ships or planes, Indonesian Embassies and other representative offices of the Republic of Indonesia overseas. In the FAQ listed in the official website of Bank Indonesia, this regulation applies to anyone conducting a transaction within the Indonesian Territory.

### Use of Rupiah Currency

Under Article 21 of the Currency Law as further regulated under PBI 17/3/2015, Rupiah must be used for any payments or the settlement of obligations or "*other financial transactions*" in the Indonesian Territory. However, please note that the obligation to use Rupiah does not apply to the following:

#### 1. Certain payment transactions:

##### a. Certain transactions to implement the State Budget.

According to Article 6 of PBI 17/3/PBI/2015, this covers payments of offshore loan installments; payments of onshore loan installments in foreign currency; the offshore procurement of certain goods; offshore capital expenditures; state revenue from the sale of state bonds in foreign currency; and other transactions implementing the state budget.

##### b. The receipt or provision of grants from or to overseas.

Under Article 7 of PBI 17/3/2015, this type of transaction is only exempt if one of the parties to the transaction is domiciled overseas.

##### c. International trade transactions.

According to Article 8 of PBI 17/3/2015, international trade transactions include the export/import of goods out of or into the Indonesian Customs

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area and/or the cross border provision of services through: (i) cross border supply (such as online trading); and (ii) overseas consumption (such as an Indonesian citizen who is studying abroad).

Transactions other than those involving the export/import of goods out of or into the Indonesian Customs area, such as container unloading, temporary container warehousing in ports, airplane parking, are not deemed international trade transactions. Therefore, they require the use of Rupiah.

- d. Foreign currency deposits in banks in Indonesia (that include deposit and/or withdrawal of foreign currency activities in the relevant deposits).
- e. International financing transactions.

According to Article 9 of PBI 17/3/2015, these types of transaction are only exempt if one of the parties is domiciled overseas. If one of the parties is a bank under Indonesia's Banking Law, the bank must comply with the provisions on transactions involving the exchange of foreign currencies for Rupiah between banks and foreigners.

## 2. Foreign currency transactions conducted under the laws, which cover:

- a. foreign currency business transactions conducted by banks (including loans in foreign currency for exports, trading of commercial papers in foreign exchange etc.);
- b. the transaction of commercial papers issued by the Indonesian Government in foreign currency; and
- c. other transactions in foreign currency conducted under the prevailing laws (such as those regulated under the Investment Law).

## 3. The following specific activities:

- a. foreign exchange transactions conducted by money changers according to the prevailing laws; and
- b. carrying foreign banknotes (*uang kertas*) into or out of the Indonesian Customs area in accordance with the prevailing laws and regulations.

Moreover, Article 23(1) of the Currency Law prohibits anyone from refusing to accept Rupiah currency in payment or settlement of any obligation which must, under the Currency Law, be fulfilled using Rupiah and/or for other transactions which take place within Indonesia, unless (i) there is concern about the genuineness of the Rupiah and/or (ii) payment or settlement in foreign currency has been agreed to in writing. However, and very importantly, PBI 17/3/2015 now explains that written agreements referred to in (ii) above only apply to:

- a. the above explained transactions which are exempt from the obligation to use Rupiah; or
- b. strategic infrastructure projects with approval from Bank Indonesia.

From the above provision, we may conclude that parties may only use foreign currencies rather than Rupiah for their transactions within the Indonesian Territory provided that the transaction satisfies one of the limited exemptions set out above. It therefore now appears that transactions evidenced by a written agreement which does not fall under any of the exempted transactions must use Rupiah.

Other than the above requirements, and again of significant importance to many businesses operating in Indonesia, PBI 17/3/2015 also provides that business actors (who are conducting transactions within the Indonesian Territory) may only quote prices for goods/services in Rupiah.

## Sanctions

Under the Currency Law and PBI 17/3/2015, the following sanctions may be imposed for non-compliance:

- a. prison for up to 1 (one) year and a fine of up to IDR200 million (approximately USD15,500) for (i) failure to comply with the obligation to use Rupiah in cash transactions and/or (ii) rejecting payment in Rupiah, as explained above; and
- b. administrative sanctions ie (i) written warnings; (ii) payment of a fine; (iii) a prohibition against participating in payment transactions. The fine to be imposed is 1% of the transaction value limited to a maximum fine of IDR1 billion (approximately USD77,500). Written warnings may also be served for non-compliance in the pricing of goods/services in Rupiah and/or providing data/information to Bank Indonesia.

It is further explained that if the sanction is imposed on a company, the maximum fine will be 1/3 greater than that stated in item (a) above and additional sanctions may also be imposed, e.g. revocation of the company's business license and/or the seizure of certain goods owned by the guilty party. As the supervisor, Bank Indonesia is also entitled to receive reports, information and/or data from parties involved in the implementation of PBI 17/3/2015.

**Effectiveness of the Currency Law**

Under PBI 17/3/2015, written agreements which do not fall under any exemption entered into before 1 July 2015 remain valid until their date of expiry provided that such written agreements relate to non-cash transactions. Any extension and/or amendment to the agreements must be subject to the provisions of PBI 17/3/2015. For other non-cash transactions, the obligation to use Rupiah will apply as of 1 July 2015.

An implementing regulation of PBI 17/3/2015 in the form of a Bank Indonesia Circular Letter will be issued to explain the above provisions in more detail although there is no indication when this might be forthcoming.

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