

Bank Indonesia Regulates the FinTech Business

What Payment by Card and e-Money Businesses Must Know about The New Rules

On 14 November 2016, Bank Indonesia officially launched its Financial Technology (or FinTech) Office. The event was followed by the issuance of Bank Indonesia Regulation No. 18/40/PBI/2016 on the Organization of Payment Transaction Processing ("**PBI 18/40**") that is available through Bank Indonesia's official website (even though the regulation came into effect on 9 November 2016).

In general, in its effort to regulate FinTech, PBI 18/40 is aimed at complementing the existing regulations on payment services, ie Bank Indonesia Regulation No. 11/11/PBI/2009 (as amended, Payment by Card) and No. 11/12/PBI/2009 (as amended, e-Money), as well as those related to funds transfer activities. Unless stated otherwise in PBI 18/40, the relevant existing regulations, i.e. the Payment by Card and e-Money regulations, remain in effect.

The following are the general features of PBI 18/40.

Payment Services Processing Players

Under PBI 18/40, Payment Services Processing may be conducted by: (i) providers of payment system services (*penyelenggara jasa sistem pembayaran* – "**PJSP**"); and (ii) providers of payment system support services (*penyelenggara penunjang transaksi pembayaran* – "**PPTP**"). PJSP means parties engaged in the activities and/or responsible for authorization, clearing or settlement in transaction processing. PPTP means parties providing services to PJSPs to support their payment settlement activities.

PJSPs are Payment by Card and e-Money business players (ie Principals, Issuers, Acquirers, Clearing/End-Settlement Processors) and funds transfer services providers, plus (i) Payment Gateways¹; (ii) e-Wallets²; and; (iii) Switching³. Acquirers and Payment Gateway providers in this definition are those who adopt a four-parties business model.

PPTPs are, among others, parties that provide such services as card printing, data centers/disaster recovery centers, terminals, security features, contactless technology support, routing, etc.

Licenses and Approvals

To provide payment system services, a party requires a license for its specific activities from Bank Indonesia. A PJSP can be either an Indonesian licensed bank or a non-bank in the form of a legal entity established under Indonesian laws. A company that has obtained a license and plans to:

- a. expand its business (eg an e-Money issuer wishing to provide e-Wallet services, an Issuer and/or Acquirer wishing to provide Payment Gateway services);

- 1 A Payment Gateway is an electronic service that allows a merchant to process payment transactions using cards, e-money and/or proprietary channels.
- 2 An e-Wallet is an electronic service that maintains payment instrument data, such as payment by cards and/or e-money, and funds for payment purposes.
- 3 Switching means infrastructure, the function of which is to centralize and/or connect all payment transaction data through a network using payment by card, e-money and/or fund transfers.

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- b. develop its products and activities (eg develop its feature, services, or facilities); or
- c. cooperate with third parties (eg with fellow payment system services or payment system support services providers),

requires approval from Bank Indonesia for the proposed activities.

Principals, Issuers, Acquirers, and Clearing/End-Settlement Processors must satisfy the Bank Indonesia regulations on payment by card and e-money, and funds transfer services companies must satisfy the Bank Indonesia regulations on transferring funds.

Parties engaged in Switching and Payment Gateway and e-Wallet providers existing before the issuance of PBI 18/40 but which have not yet obtained a license from Bank Indonesia, must apply for a license from Bank Indonesia within 6 months of 9 November 2016.

e-Wallets and Payment Gateways

Indonesian limited liability companies may provide e-Wallet services. A license from Bank Indonesia is only required if the number of active users has reached 300,000 or the company plans to have at least 300,000 active users. Otherwise, only reports on the e-Wallet activities need to be submitted to Bank Indonesia.

Indonesian limited liability companies engaged in Information Technology or payment system business activities may provide Payment Gateway services. In settling payments to the merchants, a Payment Gateway must have a merchant acquisition and settlement mechanism, and evaluate the security of payment transactions conducted through the merchants. A Payment Gateway business must also ensure that the goods/services paid for in the online transaction have been duly received/provided upon payment.

The requirements under PBI 18/40 for parties wishing to engage in Switching, or as Payment Gateway and/or e-Wallet providers, cover the legal, security, business feasibility, risk management and consumer protection aspects.

Payment System Services and Prohibited Activities

In their processing of payment settlement, all PPJPs must, among other things, apply risk management consistently, apply information system security standards, protect customer data, and process transactions domestically.

PPJPs must submit regular reports (monthly, quarterly, annual) and incidental reports to Bank Indonesia. The forms and procedures for the reports for Principals, Issuers, Acquirers, Clearing/End-Settlement Processors are provided in the Bank Indonesia regulations on payment by card and e-money, whilst funds transfer services companies are subject to Bank Indonesia regulations on funds transferring. For Switching, Payment Gateway and e-Wallet providers, the forms and procedures will be issued in a circular letter of Bank Indonesia.

PPJPs may not (i) process payment transactions using virtual currencies (or crypto-currencies, including Bitcoin, for example); (ii) misuse customer or transaction data and information (eg doubleswipe); or (iii) own or manage values equal to money values that may be used outside the scope of the relevant payment system services provided (eg phone credit, bonuses, vouchers etc.). Specifically for e-Wallet providers, they must have a refund feature and deposit all funds deposited in the e-Wallet with commercial banks in saving accounts.

Foreign Ownership Restriction

Foreign ownership of shares in Principals and Clearing/End-Settlement Processors (Payment by Card and e-Money), and Payment Gateway providers is limited to 20%, and covers both direct and indirect ownership. This applies to new players. Existing players must adjust their foreign shareholdings if they change after the effective date of PBI 18/40. For information, before PBI 18/40 was issued, there was no foreign ownership limitation of shares in Principals or Clearing/End-Settlement Processors (Payment by Card and e-Money), or Payment Gateway providers. This change will have a significant impact on existing players. It is not clear yet whether 'change to the shareholding composition' here includes any increase in the company's capital. This may be discussed further in a Bank Indonesia circular letter.

Foreign Parties' Obligations

Foreign parties providing payment system services in Indonesia and/or cooperating with PPJPs, must comply with PBI 18/40 and the prevailing laws and regulations of the Republic of Indonesia.

Domestic Processing

Payment transactions must be processed domestically. For the Payment by Card business, the procedure for complying with this domestic processing requirement depends on the relevant Payment by Card regulations (eg the time limit for compliance). e-Money and other payment system services will be regulated by Bank Indonesia separately.

Further detail of the above will be provided in a Bank Indonesia circular letter to be issued as an implementing regulation for PBI 18/40.

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