

Client Alert

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New Bank Indonesia Regulation on Report of Foreign Exchange Activities Requires Additional Information on Risk Participation Transactions

Recent Development

Bank Indonesia recently issued Bank Indonesia Regulation No. 21/2/PBI/2019 on Reports of Foreign Exchange Activities dated 7 January 2019 ("**Regulation 21/2**"), which becomes effective this month. Regulation 21/2 requires parties involved in risk participation transactions ("**RPTs**") to disclose information on RPTs as part of their foreign exchange activities reports. RPTs refer to transactions which transfer the risk of credit or other facilities from one party to another based on a risk participation agreement. Regulation 21/2 is issued to improve Bank Indonesia's data on foreign exchange activities. Before this regulation, information on RPTs was not reported. The issuance of this regulation is also in line with the issuance of Bank Indonesia Regulation No. 21/1/PBI/2019 on Offshore Loans and Other Bank Obligations in Foreign Currencies dated 7 January 2019.

In addition to the above, Regulation 21/2 requires additional data to be disclosed in foreign exchange activities reports. It also introduces a new sanction for non-compliance in the form of written notice to creditors and the parent company, and a submission deadline for amendments to offshore loan plans.

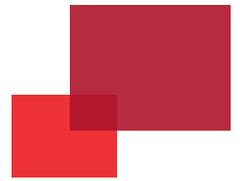
Implication for Parties Conducting Foreign Exchange Activities

Additional Data to be reported for Parties Conducting RPTs

Other than the data mentioned in the table below, parties involved in RPTs must also report the following information to Bank Indonesia through the online system each month:

- key 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
- the outstanding participation amount and changes made in relation to the RPTs

In relation to point No. 1, supporting documents are required (e.g., loan agreements for offshore loans). The regulation gives an example of a supporting document for offshore loans but is silent on the supporting documents to report the main details of the RPTs.



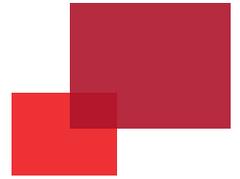
Changes to Sanctions

Parties who conduct foreign exchange activities and who submit incorrect data, are late in submitting the report or do not submit any report will be given a written notice from Bank Indonesia. This notice can be given via email and will also be sent to relevant authorities, offshore lenders and the parent company of the reporting party with respect to the non-compliance of the reporting party.

What Reg 21/2 Says

We set out in the following table the key differences between Regulation 21/2 and the previous regulation:

Provisions	Bank Indonesia Regulation No. 16/22/PBI/2014	Bank Indonesia Regulation No. 21/2/PBI/2019
Data 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 risk participation agreement and the supporting documents • withdrawal and payment plan of offshore loan and risk participation agreement • withdrawal and payment realization of offshore loan and/or risk participation agreement • position and change of offshore financial assets, offshore financial obligations and risk participation agreement • new offshore loan plan and/or its amendment
Data to be disclosed in foreign exchange activities report (for Indonesian banks as reporters)	<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 risk participation agreement and the supporting documents • withdrawal and payment plan of offshore loan and risk



		participation agreement <ul style="list-style-type: none"> • withdrawal and payment realization of offshore loan and risk participation agreement • current position and changes in offshore financial obligations, offshore financial assets and/or risk participation agreement
Sanctions	<ul style="list-style-type: none"> • written warning and fine • notice to authorities 	<ul style="list-style-type: none"> • written warning • notice to authorities, offshore lenders and the parent of the reporting party with respect to the non-compliance of 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

Actions to Consider

We suggest that parties conducting foreign exchange activities to comply with Regulation 21/2, by following these steps:

- Report their foreign exchange activities to Bank Indonesia through its online system, by disclosing all the required data and supporting documents each month and 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.

These steps will now also include reporting of risk participation agreements.

Please note that under Regulation 21/2, Bank Indonesia may adopt certain policies subject to the provisions of the regulation and other relevant Bank Indonesia regulations if any issues arise as a result of a foreign exchange activity report that has strategic impact. It is not clear what is meant by "strategic impact" as well as "certain policies" to be made by Bank Indonesia in response to any issues that arise. We will continue to consult with Bank Indonesia and we will advise you further on further on future developments on this matter.



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