

Deposit requirement for natural resources export proceeds

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On 10 January 2019 the Government of Indonesia issued a new regulation that further tightens control over the proceeds from the export of Indonesian natural resources. As a result, such proceeds must be retained in Indonesia, and can only be sent offshore for specific purposes. These requirements are set out in Government Regulation No. 1 of 2019 on Export Proceeds Deriving from the Business, Management, and/or Processing Activities of Natural Resources (GR 1/2019).

On 18 January 2019 shortly after the introduction of this new requirement, Bank Indonesia issued Bank Indonesia Regulation No. 21/3/PBI/2019 of 2019 on the Acceptance of Foreign-Exchange Exports Deriving from the Business, Management, and/or Processing of Natural Resources (PBI 21/3) requiring an exporter to deposit and hold with Indonesian banks the proceeds from exports deriving from the business, management, and/or processing of natural resources, which includes mining, plantations, forestry, and fisheries (Export Proceeds). On 19 July 2019 Bank Indonesia issued an implementing regulation of PBI 21/3 - Regulation of the Bank Indonesia Board of Governors No.21/15/PADG/2019 on the Recovery of Foreign-Exchange Exports Deriving from the Business, Management, and/or Processing of Natural Resources (PADG 21/2019) (together with PBI 21/3, the Export Proceeds Regulation).

The Export Proceeds Regulation aims to support the stability of the Indonesian Rupiah and the larger macroeconomics of Indonesia by requiring an exporter to deposit the Export Proceeds in a special bank account (either in foreign exchange or Rupiah) opened at a bank within three months of the date that the exporter submits an export customs declaration (or "Pemberitahuan Pabean Ekspor" (PPE)) to the relevant authorities. If the Export Proceeds are received in cash, exporters are required to submit relevant supporting documents to Bank Indonesia. Export Proceeds due to the Government are exempted from the requirements of the Export Proceeds Regulation.

Payment instruments for Export Proceeds

The Export Proceeds Regulation stipulates that a longer period, in excess of three months as of the submission of the PPE, is allowed for the receipt of Export Proceeds that are sourced from usance L/Cs or term L/Cs, consignments (konsinyasi), outward bills (pembayaran kemudian), and/or collection accounts. Please note that the Export Proceeds from these sources must be received no later than 14 calendar days after the payment due date indicated in the relevant payment instrument.

The amount of the Export Proceeds

In principle, the amount of the Export Proceeds should be equal to the export value of the relevant commodity being exported, Freight on Board (FOB) export value. If the Export Proceeds are less than the export value, subject to a threshold, the exporter will be required to provide supporting documents evidencing such difference to the banks, to be forwarded to Bank Indonesia.

The Export Proceeds Regulation provides that supporting documents are not required if the difference in value does not exceed IDR50 million (equivalent to US\$ 3,500) or 10 percent of the relevant export value. If the difference exceeds IDR50 million or 10 percent of the relevant export value, then supporting documents are required.

The value may exceed the threshold for a number of reasons, including exchange-rate differences, discounts, and differences in the price, quantity, quality, and composition of the goods.

Eligible transfers in special bank account

PADG 21/2019 only allows the following types of deposits to and debits from the Export Proceeds special bank account.

Transfers to the account may only originate from:

- (i) direct or indirect transfers from other exporters' accounts;
- (ii) disbursements from term deposits and/or ancillary interest; and
- (iii) funds from other special bank accounts.

Outgoing transfers may be made for:

- (i) export-related levies;
- (ii) loan repayments;
- (iii) acquiring imported goods;
- (iv) paying dividends; and/or

- (v) other investment purposes, as regulated under Article 8(3) of Law No. 25 of 2007 on Investments¹.

Both account credits and debits are required to be reported by exporters to the relevant banks, including the transaction value, purpose, and the identity of and financial relationship between parties.

Opening a special bank account

When opening the Export Proceeds special bank account, the exporter must submit supporting documents describing their export activities, such as an export customs declaration, an export licence from the relevant government institution, the export sale contract, and a statement letter declaring its status as an exporter. Banks are also required to flag the special bank account in their internal system. The Export Proceeds Regulation allows the exporter to transfer the Export Proceeds deposited in the special bank account into a term deposit for Export Proceeds to enjoy tax incentives on term deposit interest, as provided in Ministry of Finance Regulation No. 212/PMK.03/2018 dated 31 December 2018. These tax incentives operate to reduce income tax for interest earned on US\$-denominated term deposits, with tax rates of 10 percent, 7.5 percent, 2.5 percent, and zero percent for deposit terms of one month, three months, six months, and more than six months, respectively. For interest earned on IDR-denominated term deposits, the tax rates are 7.5 percent, 5 percent, and zero percent for terms of one month, three months, and more than six months, respectively.

In addition, the Export Proceeds Regulation provides that exporters have an obligation to inform banks regarding the receipt of Export Proceeds equal to or greater than US\$ 10,000 no later than the fifth day of the month following the relevant transaction. The report should set out the value, purpose and parties to the transaction, as well as the relationship between the parties.

Exporters may use an existing bank account as a special bank account, provided that the balance of the existing account is first cleared to zero.

Supervision and sanctions

Bank Indonesia is responsible for ensuring compliance with the requirements, and is entitled to appoint third parties to investigate any alleged violation. Failure to comply (either by exporters or banks) is subject to administrative sanctions, including written warnings, fines, export prohibitions, and/or the revocation of business licences (as applicable).

Conclusion

As one of Indonesia's main sources of foreign receipts, Export Proceeds play an important role in supporting the stability of the Indonesian Rupiah and the overall macroeconomics of the country. The Export Proceeds Regulation gives Bank Indonesia overall authority to monitor and supervise exporters and any banks holding Export Proceeds. The regulations also set out administrative sanctions imposed by Bank Indonesia for breach by either the bank or the exporter. It remains to

¹ Article 8(3) of Law No. 25 of 2007 on Investment affords investors the right to transfer and repatriate foreign currencies overseas for, among others, the following purposes: (a) capital; (b) profits, bank interest, dividends and other income; (c) purchases of raw and auxiliary materials, semi-finished and finished products; and replacement of capital goods required to maintain the investment; (d) investment financing; (e) loan repayment; (f) payment of royalties or other expenses; (g) employee salaries; (h) proceeds of sales or liquidation of an investment; (i) loss compensation; (j) nationalization compensation; (k) payments for technical assistance; technical and management services; project contracts; and intellectual-property rights; and (l) the proceeds of asset sales.

be seen how the regulations are enforced and what impact this may have on export-led industries in Indonesia.

Contacts



Anthony Woolley
Counsel, Jakarta
T+62 21 2788 7921
anthony.woolley@hoganlovells.com



Roland Sunardi
Associate, Jakarta
T +62 21 2788 7930
roland.sunardi@hoganlovells.com

www.hoganlovells.com

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