



Revision on Sale and Purchase on Electricity

by Pratiwi Widyastuti



Ministry of Energy and Mineral Resources (MEMR) decided to revise the regulations in electricity sector. One of the regulation is the MEMR Regulation No. 12 of 2017 on Utilization of Renewable Energy Resources for Power Supply ("**Permen ESDM No 12/2017**"). This regulation lastly amended twice by MEMR Regulation No. 50 of 2017 ("**Permen ESDM No. 50/2017**").

The purpose of the third amendment of Permen ESDM No 12/2017 was based on the government's effort to create better business climate while keep supporting efficiency. Moreover, the government also continue to pursue reasonable price of electricity and affordable electricity to be used by the community.

This revision will give the threshold for sale and purchase electricity which health, efficient and transparent based on rights and obligations of each.

Permen ESDM No. 50/2017 also provide an additional provision on hydroelectric power station and the changes of provi-

sion of power purchase from power plant utilizes renewal energy sources that only can be done through direct election mechanism.

This regulation regulated the changes of price formula of electricity supply from Fotovoltaik solar power, plant ("**PLTS**"), wind power plant ("**PLTB**"), Biomass power plant ("**PLTBm**"), and biogas power plant ("**PLTBg**"). In terms of the cost of supply ("**BPP**") of the generation in the local electricity system, such prices shall be identical or under average of national BPP of generation or it may be determined by agreement of the parties.

Furthermore, for geothermal power plant ("**PLTB**"), water power plant ("**MPLTA**") and waste power plant ("**PLTS**"), price formula done by way of B to B for Java, Bali, and Sumatera area and the maximum local BPP for other areas.

Furthermore, it also stipulated additional provisions concerning price approval, where all the electricity purchase from power plant utilizes renewal energy sources must obtain approval from Minister of EMR by using Build, Own, Operate, and Transfer (BOOT) cooperation pattern, except PLTSA.

Amendment to Ministry of Trade Regulation on Import Provisions for Iron or Steel, Alloy Steel, and Their Derivative Products

by Eduardy Armandana Eddin

On 31st August 2017, the Ministry of Trade (“**MoT**”) has issued MoT Regulation No. 63/M-DAG/PER/8/2017 (“**MoT Regulation No. 63/2017**”) on the Amendment to MoT Regulation No. 82/M-DAG/PER/12/2016 (“**MoT Regulation 82/2016**”) on Import Provision for Iron or Steel, Alloy Steel, and Their Derivative Products (“**Products**”). This amendment aims to introduce stricter import provision for Products.

Essentially, MoT Regulation No. 63/2017 amends several matters related to import provisions for Products. All Products should go through a verification process or technical inquiry. Verification or technical inquiry is a research and inspection on imported goods, which is undertaken by authorized surveyor. On MoT Regulation No. 63/2017, the result of Verification or Technical Inquiry shall be set forth in the form of Survey Report, which is no longer consider as complimentary to customs document. Previously, under MoT Regulation No. 82/2016 stated that Survey Report are classified as additional customs document for import process.

Inspection of the fulfilment of import requirement of Products is performed upon passing the Customs and Excise Area, the Inspection can only be performed if the importer has obtained the Goods Unloading Order from the Directorate General of Customs and Excise of Ministry of Finance. Import specification inspections are to be undertake at importers’ warehouse or at storage places by (i) the Directorate General of Foreign Trade of Ministry of Trade; (ii) Directorate General of Consumer Protection and Trade Compliance of Ministry of Trade: and/ or (iii) Independent Surveyor which is stipulated by the Minister.

Pursuant to Article 12B (2), the importer should file a written Inspection application of the Products to the Director of Import along with the document, as follow:

- a. proof of possession of warehouses or storage facilities;
- b. notice of Import of Goods (*Pemberitahuan Impor Barang*) for Products;



- c. import approval;
- d. surveyor’s report;
- e. release order issued by the Director General.

The Director of Import issued the Agreement on the Use of Products which have been imported no later than 3 (three) working days since the application received completely and correctly. Previously, MoT Regulation No. 82//2016 was silent regarding the import specification inspections aforementioned.

The Ministry has added various new types of imported Products which are exempted from import on Article 22 MoT Regulation No. 63/2017, that not stated on previous Regulation as follow:

- a. shipped products with total Freight on Board (FOB) values of USD 1,500 which are imported through postal services which use airfreight;
- b. Imported products weighing less than one ton;
- c. Imported products weighing less than one ton;
- d. Imported Products and materials which will be processed, assembled or installed on other goods intended for export purposes.

In addition, based on Article 23A MoT Regulation 63/2017, if the company which is in possession of *Angka Pengenal Importir – Producers* (“**API-P**”) which imports Products as complementary goods, goods for market test, and/or goods for after sale services, are exempt from the obligation to possess the Import Approval.

Amendment of OJK Regulation on Investment of State Securities for Non-Bank Financial Service Institutions

by Fakhry Aziz



On August 28, 2017, the Financial Services Authority ("OJK") issued OJK Regulation No. 56/POJK.05/2017 ("POJK No. 56/2017") on Second Amendment to OJK Regulation No. 1/POJK.05/2016 ("POJK No. 1/2016") on Investment in a State Securities by Non-Bank Financial Service Institutions ("LKNB"). POJK No. 56/2017 is introduced as the result of lack of investment in state securities ("SBN") by LKNB.

Under the revised regulation, LKNB shall comply with the minimum limit for SBN investment placement by investing in conventional and/or sharia instruments issued by state-owned enterprises ("BUMN"), regionally owned enterprises ("BUMD"), and/or a subsidiary of a BUMN which use their funds for infrastructure financing. Such investment shall be completed through in conventional and/or sharia instruments which are listed on IDX or on an electronic-trading-platform (ETP) system within Indonesia and should be in possession of at least the lowest investment grade for a securities rating agency, as recognized by OJK.

In addition, LKNB may also investing in asset-backed securities and/or limited mutual fund, that uses funds for infrastructure financing by same institutions as mentioned above. For investment in asset-backed securities, LKNB must: (i) obtain an

effective statement from OJK; (ii) be possession of at least has the lowest investment grade rating from a securities rating agency recognized by the OJK and; (iii) be completed through a public offering as stipulated in the capital market regulation.

Whereas, investment in limited mutual fund shall be completed through limited mutual funds which have been registered by the OJK. Fulfillment of the investment grade requirement for investment in asset-backed securities and/or limited mutual funds, shall be made at the time of the investment placement.

The investment instruments aside from the three investment instruments above, could also be used by LKNBs, as long as the use of funds is for the financing of government infrastructure projects. The use of other investment instruments by LKNB for this purpose, shall be stipulated in an OJK Circular.

Furthermore, the placement of the LKNB investment in the three aforementioned investment instruments above, should be calculated as meeting the minimum SBN-investment threshold. Placement shall be completed up to a maximum of 50% (fifty percent) of the minimum requirements, as stipulated in Article 2 and Article 3 of this regulation, and may exceed the investment limits stipulated in the provisions on LKNBs investments, except for Healthcare and Social Security Agency (known as "BPJS Kesehatan") and Workers Social Security Agency (known as "BPJS Ketenagakerjaan").

Third Amendment to Government Regulation regarding Toll Road

by Vincent Yap



On 15 August 2017, the President issued the Government Regulation No. 30 of 2017 regarding Third Amendment to Government Regulation No. 15 of 2005 regarding Toll Road (“**GR No. 30/2017**”). The GR No. 30/2017 was promulgated on 16 August 2017. It is the third amendment to Government Regulation No. 15 of 2005 regarding Toll Road (“**GR No. 15/2005**”). Previously, GR No. 15/2005 has been severally amended by (i) Government Regulation No. 44 of 2009 and (ii) Government Regulation No. 43 of 2013.

The amendment is mostly in regard to the toll road concessions by the Government. Toll road concession, which shall be carried out by Government and/or business entities that satisfy the requirements, covers financing activities, technical planning, construction, operation, and/or maintenance. However, the toll road concession by the Government is primarily intended for economically viable toll road, but has yet to be financially feasible.

In the event that Government funding for toll road concessions, in order to accelerate regional development is limited, the Government may assign a state-owned business entity (“**SOE**”) to: (i) carry out all toll road concessions; or (b) continue toll road concession which has yet been settled by the Government, including operation and maintenance of toll road.

The SOE as abovementioned must be owned by the state in terms of shares amounting to 100% (hundred percent) shares. Such assignment by the Government to the SOE must be done through a Government Regulation.

In addition to the above, toll road revenue during concession and/or additional concession period can be used to support Government funding for the acceleration of development of a toll road that is economically viable but has yet to be financially feasible.

Lastly, in regard to the toll road status. Toll road concession period which has been expired, in addition to being defined as a public road without tolls, they can remain be functioned as toll road by the Minister upon the recommendation from the Indonesia Toll Road Authority (locally known as Badan Pengatur Jalan Tol or BPJT) in terms of (i) consideration of the state financial for operation and maintenance; (ii) for increasing the capacities and the development of the toll road concerned; and/or (c) supporting other concessions specifically for the economically viable toll road, but has yet to financially feasible assigned by the Government to the other SOE.

The tariff for the toll road shall be based on cost requirements operation and maintenance, increasing the existing capacities, as well as the development of the concerned toll road.