



# The Government's New Regulation on Oil and Gas Working Areas

by Robin Setiawan

The Minister of Energy and Mineral Resources (“ESDM”) has issued a new regulation for a transition period for the handover of the operation of an oil and gas block from the existing operator to the new operator. It is contained in the Minister of Energy and Mineral Resources Regulation No. 15 of 2015 (“ESDM Regulation No. 15/2015”) entitled the Management of Oil and Gas Working Areas during the Final Contract Cooperation Period.

The new provisions came after the state-owned oil and gas company Pertamina sought to enter Block Mahakam before Total E&P Indonesia’s contract to operate the block expires in 2017. Total has supported the transition period to smooth the transition from the old operator to the new operator and maintain production. In addition, the regulation sets out the requirements for a party to obtain a recommendation from the Director General of Oil and Gas before being able to utilize an oil and gas working area. To that extent, the Director General may also evaluate the contract extension recommendation from the Special Works Unit for Upstream Oil and Gas Activities, known as SKK Migas, as well as the application from Pertamina.

According to ESDM, one of the most important points of the ESDM Regulation No. 15/2015 is that the share of profit in oil and gas should benefit the state. The government will decide on the profit sharing scheme between Production Sharing Contract (“PSC”) contractors and the state after completing an evaluation. The percentage share of the PSC will depend on the evaluation results. If Pertamina is the sole holder of an extended PSC then Pertamina should retain the majority of the participating interest (“PI”)

Where the existing PSC contractor wishes to extend the PSC an application should be made between 2 and 10 years before expiry, and the maximum length of contract extension for each extension is 20 years. The new regulation would also set a time limit for the authorities to decide whether to extend or terminate a contract. Under the current regulation, oil and gas companies are allowed to submit proposals for contract extension 10 years before expiry. However, there is no deadline for the decision over the proposal. The ESDM should approve or reject the application at least one year before the PSC expires. If no decision is made the application is deemed to be rejected. Expiring working areas can be managed by the current



PSC contractor through contract extension, or jointly managed by the PSC contractor and Pertamina. The maximum allocation of PI to local government enterprise for each working area is 10% (ten percent).

The ESDM said that there are about 17 PSCs that will expire by 2019. Of these, 2 PSCs were extended on 23 December 2014, namely Gebang Block and Offshore North West Java (ONWJ).

The 17 PSCs are as follows:

1. Gebang Block (expires in 2015)
2. Offshore North West Java (expires in 2017)
3. Lematang Block (expires in 2017)
4. Warim (expires in 2017)
5. Mahakam Block (expires in 2017)
6. Attaka (expires in 2017)
7. Tuban (expires in 2018)
8. Ogan Komering expires in 2018)
9. Sanga-Sanga Block (expires in 2018)
10. Southeast Sumatra (expires in 2018)
11. B Block (expires in 2018)
12. NSO/NSO Ext (expires in 2018)
13. Tengah Block (expires in 2018)
14. East Kalimantan (expires in 2018)
15. Pendopo and Raja (expires in 2019)
16. Bula Block (expires in 2019)
17. Seram Non Bula (expires in 2019)

# The Implementation of Risk Management for Non-Bank Financial Services Institutions

by Sandra Indriani



Concerned with the increasing complexity of risk faced by institutions of non-bank financial services, the Indonesian Financial Services Authority (“**OJK**”) has issued OJK Regulation Number 1/POJK.05/2015 entitled Implementation of Risk Management for Non-Bank Financial Services Institutions (“**OJK Regulation 1/2015**”). The implementation of risk management - covering identification, measurement, monitoring, and control of risks - is considered necessary in order to counterbalance their complexity.

The non-bank financial services institutions must effectively implement risk management in accordance with their objectives, business policies, and the size and complexity of the institutions. The implementation of risk management must include at least: (a) active surveillance of directors, commissioners, or equivalent; (b) the adequacy of policies, procedures, and risk limits; (c) the adequacy of the process of risk identifying, measuring, monitoring and controlling; (d) risk management information systems; and (e) a comprehensive system of internal control.

Furthermore, each type of non-bank financial services institution is obliged to implement risk management of several categories of risk classified as follows:

Type of Non-Bank Financial Services Institutions	R I S K							
	STRATEGY	OPERATIONAL	ASSETS AND LIABILITIES	MANAGEMENT	GOVERNANCE	SUPPORT FUND	INSURANCE	FINANCING
General insurance companies, life insurance companies and reinsurance companies, including those who implement Sharia principles in all or part of their business	✓	✓	✓	✓	✓	✓	✓	
Insurance brokerage companies, reinsurance brokerage companies, and insurance loss appraisal companies	✓	✓		✓	✓			
Retirement fund companies, including those who implement Sharia principles in all or part of their business	✓	✓	✓	✓	✓	✓		
Financing companies, including those who implement Sharia principles in all or part of their business	✓	✓	✓	✓	✓	✓		✓

OJK Regulation 1/2015 also stipulates the obligation of the non-bank financial services institutions to create ‘self-assessment’ reports regarding their performance of risk management implementation annually ending 31 December and submit the report to the OJK no later than 28 February of the following year. The report will be used subsequently as a basis for the preparation of risk level assessment of the institutions concerned.

The final assessment of risk management implementation will

continue being conducted by the OJK. Therefore, every non-bank financial services institution is required to provide the OJK with any data and information related to their implementation of risk management. Administrative sanctions will be imposed on any institution who violates this regulation.

OJK Regulation 1/2015 will come into force on 1 January 2016 and any specific detail will be further regulated by OJK circular letter.

# Amendment of Foreign Exchange Transactions Toward Rupiah

by Athalia Devina



Bank Indonesia (“**BI**”) has enacted Regulation of BI No. 17/6/PBI/2015 entitled Amendment of Regulation of BI No. 16/16/PBI/2014 entitled Foreign Exchange Transactions Toward Rupiah between Banks and Domestic Parties (“**PBI No. 17/6/PBI/2015**”) on May 29, 2015. PBI No. 17/6/PBI/2015 is issued in order to support the acceleration of deepening the domestic foreign exchange market. It is required to increase liquidity and variety of instruments in the financial market. The attempt of this acceleration is also conducted with respect to the impact on exchange rate stability and the financial system, so that the market condition is conducive for economic agents to hedge.

In outline, changes are made in 6 (six) articles.

1. Adjustments to the definition of derivative transactions in foreign currency toward Rupiah as stipulated in Article 1. Therefore derivative transactions in foreign currency toward Rupiah are not only in the form of forward, swap, and option, but also in the form of cross currency swap;
2. Banks are required to mitigate risks during conducting transaction, such as (i) have internal written guidelines as stipulated in regulations of banking authority that regulate derivative transactions and the implementation of risk management, (ii) comply with regulations of banking authority that regulate the categorization of banks which can conduct foreign exchange transactions, (iii) implement risk management effectively as stipulated in regulations of banking authority that regulate the implementation of risk management, (iv) conduct self assessment regarding readiness of risk management of the bank as stipulated in regulations of banking authority that regulate derivative transactions and the soundness of commercial banks, (v) conduct mark-to-market for derivative foreign exchange

transaction toward Rupiah as stipulated in regulations of banking authority that regulate derivative transactions and the implementation of risk management, and (vi) provide education about derivative foreign exchange transaction toward Rupiah to clients for the implementation of derivative foreign exchange transaction toward Rupiah;

3. It is mandatory for foreign exchange transaction toward Rupiah above a certain amount that is conducted between the bank and the client to have underlying transaction as stipulated in article 3. The underlying transaction will include following activities (i) trade of goods and services in domestic and overseas and/or (ii) investment such as direct investment, portfolio investment, loan, capital, and other forms of investment in domestic and overseas. The underlying transaction of trade of good and services and/or investment will also include income and expense estimation;
4. Granting of credit or financing in foreign exchange and/or Rupiah by bank for trading and investment, can be underlying transaction from derivative foreign exchange transaction toward Rupiah in order to hedge as stipulated in article 17;
5. Amendment of article 20.3, hereinafter shall write as follow: “Calculation of the violated nominal transaction value for article 17.1 and article 18 is set as follow (a) the violation of prohibition to granting credit or financing as stipulated in article 17.1 is calculated from the approval credit value or financing that is used for derivative foreign exchange transaction toward Rupiah and (b) the violation of prohibition to grant overdraft and/or any other facility equivalent to overdraft as stipulated in article 18 is calculated from overdraft value and/or any other facility equivalent to overdraft given by the bank to the client.”;
6. Addition of article 22A in between article 22 and 23, article 22A stipulated that all terms regarding derivative transactions listed in Regulation of BI No. 16/16/PBI/2014 entitled Foreign Exchange Transactions Toward Rupiah between Banks and Domestic Parties and its implementing regulations shall read as derivative foreign exchange transaction toward Rupiah that is defined in PBI No. 17/6/PBI/2015.

PBI No. 17/6/PBI/2015 came into force on June 1, 2015. The enactment of PBI No. 17/6/PBI/2015 is expected to encourage market players to be better in managing risks, especially market risks, through hedging transaction in order to reach efficiency of foreign exchange market in domestic level and high resistance to disturbances.

# Presidential Instruction Regarding the Suspension of New Forestry License Applications

by Vinton Rasil Taris



The President of Republic of Indonesia, Joko Widodo, has enacted Presidential Instruction No. 8/2015 ("**Presidential Instruction No. 8/2015**") regarding the suspension of new license applications and improvement in the management of natural primary forests and peat lands. This presidential instruction is a bid to reduce emissions from activities causing deforestation and forest degradation.

President Joko Widodo has instructed several ministers and state agencies to deploy various efforts in relation to improving the management of natural primary forests and peat lands. There are 3 major points of instruction in Presidential Instruction No. 8/2015.

1. to instruct the Ministry of Environmental Affairs and Forestry to maintain the suspension of new license applications in regard to natural primary forest and peat land which is located in conservation forest, production forest (limited production forest, regular/permanent production forest, convertible production forest) and other forest areas as defined in the indicative map of suspended new licenses;
2. the suspension of issued licenses described in point 1. is excepted for:
  - a. any application that has obtained principal approval from the Ministry of Environmental Affairs and Forestry;
  - b. the implementation of vital national development which falls under: geothermal, oil and gas, electric power, land for paddy and sugar cane;
  - c. forest utilization license renewal and/or the utilization of forest areas for which there is a valid business license; and
  - d. ecosystem restoration.
3. the suspension of licenses, recommendations, and issuance of location permits governed under Presidential Instruction No. 8/2015 will be in place for 2 (two) years from the effective date.

The Presidential Instruction No. 8/2015 has been issued and was effective from 13 May 2015. By implementing the instruction, President Joko Widodo requires the related ministries and state agencies to coordinate in reducing emissions due to deforestation and forest degradation.