



# Administration of Financial Technology

by Mega Septiandara



While other technology-based services such as e-commerce and ride-hailing have been regulated by the government of Indonesia, there is barely any regulation that specifically regulates financial technology (“**FinTech**”) services. At the end of November 2017, the Central Bank of Indonesia (BI) issued Bank Indonesia Regulation No. 19/12/PBI/2017 regarding the Administration of Financial Technology (“**FinTech PBI**”). FinTech itself refers to financial products, services and/or business models that use technology to provide the utmost convenience, safety and efficiency for customers.

In this FinTech PBI, the definitive set of criteria for a product, service or business model to be considered a FinTech is as follows:

- a. Is innovative;
- b. Creates an impact on the existing financial products, services, technology and/or business models;
- c. Can provide convenience for society;
- d. Can be utilized universally;
- e. Other criteria that BI deems fit.

Further, FinTech is categorized into payment system, market support, investment and risk management, loan and financing, or other financial services.

The scope of this FinTech PBI includes:

- a. Procedure for Registration;
- b. Regulatory Sandbox;

- c. Licenses and Approvals;
- d. Monitoring and Supervision.

The FinTech that fulfills the criteria as set out above must register themselves to BI, by submitting a written application and other supporting documents. The detail of the registration procedure is further set out in the Board of Governors’ Regulations.

FinTech that has been registered in BI must adhere to certain guidelines in the regulations, such as applying consumer protection, risk management, and anti money-laundering principles, as well as using Rupiah for transactions. Aside from that, the registered FinTech must not conduct transactions with virtual currency and must report its compliance within 3 (three) months since its registration date.

BI provides the Regulatory Sandbox as a trial period for FinTech before tapping into the market ; essentially this is for BI to monitor the performance of FinTech in respect of whether or not they have fulfilled the regulatory guidelines. FinTech that has successfully passed the Regulatory Sandbox may continue to market their products and/or services, while those that have not are not allowed to do so.

Licenses and approvals are specifically regulated for FinTech that provides a payment system, as they may disrupt the existing payment system such as banks, which also have to apply a series of required licenses before operating. This will also allow BI to supervise their activities at all time.

The FinTech that does not comply with this regulation, specifically regarding registration, license application, report and regulatory sandbox will face various sanctions, from written reproof, fine, termination or suspension of business, to revocation of business license.



# Bank Indonesia Policy on Registration Procedure, Information Disclosure, and Monitoring of Financial Technology Providers

by Yustinus PE Prasetyo

Bank Indonesia (“BI”) has established a policy on the operation of Financial Technology (“Fintech”) through the Board of Governors’ Regulation Number 19/15/PADG/2017 (“GBMR 19/15/PADG/2017”). The purpose of GBMR 19/15/PADG/2017 is to support the implementation of BI’s tasks in the monetary field, financial system stability and payment systems. Fintech is explained as the use of technology in the financial system which can produce a product, service, technology, and new business model and may affect monetary stability, financial system stability and payment systems. The GBMR 19/15/PADG/2017 serves as guidance for the parties involved in Fintech, especially for the provider. Enacted on 30 December 2017, the GBMR 19/15/PADG/2017 regulates the registration procedures, information reporting and monitoring of Fintech providers.

In general, not all providers are required to register its operation to BI. A provider is imposed with an obligation to register if in conducting its operation it meets several criteria, such as, (i) it is innovative; (ii) it affects the product, service, technology and/or business model; (iii) it provides benefit for the community; (iv) it can be widely utilized, and (v) other criteria set out by the BI. Importantly, all providers operating in Indonesia must be a business entity. The Fintech provider shall apply for registration to BI in written form using the Indonesian language and shall be signed by the provider’s representative. The registration may be done through an online application or an application letter depending on the availability of internet access. The registered provider will be recorded on the List of Fintech Providers. A Payment Service Provider that already has a permit from BI and a Fintech Provider who is under other government authority, are exempt from registration with BI.

Apart from the obligation to register, the provider is required to disclose all information concerning the product, service, technology and/or new model business to BI. Identical with the requirement for registration, the information must be de-



livered in the Indonesian language. In reporting the information, the provider may submit through online reporting to [www.bi.go.id](http://www.bi.go.id) or via a letter to the Department of Payment System Policy. BI would then conduct research on the document’s conformity, and whether such document represents the real condition of Fintech operated by the provider. In the event that the document submitted by the provider is incomplete, BI will give notification to the provider who will need to complete the document at the latest 10 working days from the date of notification. This process is applied similarly for the registration process of the Fintech provider.

BI has an urgency to monitor the operation of Fintech in Indonesia. Although, to some extent the operation of Fintech increases transactions between the provider and its consumer due to its simplicity, e.g. GO-PAY in Gojek application, it has a potential to develop into a shadow economy, i.e. undetected and illicit financial transactions which are mostly not declared for tax. This certainly affects the country’s economic stability and may infringe on consumer rights in the process if the transaction is not monitored by the authority. In order to mitigate such risks, BI will supervise all providers that are listed in the List of Fintech Providers. For that purpose, BI requires that all listed providers shall report data or information on (i) transactions related to the operation of Fintech; (ii) products, services, technology, and/or business model; (iii) financial condition; (iv) management and ownership, and (v) other data and/or information required by BI. This information needs to be reported to BI annually.

# Implementation of Tax Amnesty Under Amended Ministry of Finance Regulation

by Kevin Partogi



Ministry of Finance Regulation No. 165/PMK.03/2017 (“**MFR No. 165/2017**”) serves as the second amendment of Ministry of Finance Regulation No. 118/PMK.03/2016 (“**MFR No. 118/2016**”) regarding the Implementation of Law No. 11 of 2016 regarding Tax Amnesty.

First, the amendment from MFR No. 165/2017 is in regard to tax amnesty on the transfer of land/building rights. Previously, before the transfer of land and/or building rights could be amnestied, a taxpayer had to obtain an income tax exemption certificate from a tax amnesty facility. Now, for such transfer to be amnestied, a taxpayer has to submit a copy of the tax amnesty certificate issued by the Ministry of Finance to the notary and/or land titles registrar.

Second, MFR No. 165/2017 stipulates that if a taxpayer does not submit a report pertaining to the placement of additional assets and disobeys the provisions under Article 13(2) a and/or Article (5) a of MFR No. 118/2016, the relevant taxpayer can be subjected to administrative sanction in the form of interest. Previously, the failure to submit the report is the only requirement for the sanction to be subjected to the relevant taxpayer.

Third, a taxpayer can disclose its undisclosed or unreported assets by submitting the final income tax return notification along with the receipt of income tax on assets payment. However, such assets can only be disclosed if the Directorate General of Tax has not yet found the data and/or information regarding such assets. Moreover, those assets would be subjected to income tax, which would be calculated by way of multiplying the tariff in accordance with statutory provisions per-

taining to the imposition of income tax on certain income in the form of net assets treated or regarded as income.

The values used as a guideline to calculate the value of the abovementioned assets are:

- nominal value for asset in the form of cash;
- tax object sale value (NJOP) for land and/or buildings;
- motor vehicle sale value (NJKB) for motor vehicles;
- value which was published by PT. Aneka Tambang Tbk. for gold and silver;
- value which was published by PT Bursa Efek Indonesia for shares and warranties traded in PT Bursa Efek Indonesia; and/or
- value which was published by PT Penilai Harga Efek Indonesia for bonds issued by the Republic of Indonesia and companies.

In the absence of values that can be used as a guideline, the asset’s value is determined by:

- value appraised by public appraiser office (KJPP); or
- value appraised by Directorate General of Tax if requested by the taxpayer.

Fourth, MFR No. 165/2017 made several changes on type deposit code (“**Kode Jenis Setoran**”) for the purpose of tax payment, these changes are:

- Kode Jenis Setoran 514 for the payment of income tax and administrative sanction;
- Kode Jenis Setoran 515 for the payment of accrued tax calculated from the taxpayer’s undisclosed asset that is discovered after such taxpayer obtained a tax amnesty certificate; and
- Kode Jenis Setoran 516 for the payment of accrued tax calculated from the taxpayer’s undisclosed asset obtained from 1 January 1985 until 31 December 2015 and has not yet been reported through annual income tax notice

Finally, MFR No. 165/2017 provides that any legal remedy in regard to the issuance of tax underpayment letter shall be exercised in accordance with the statutory provisions regarding the general provisions and tax procedures.