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Ministry of Finance Regulation No. 29/PMK.04/2018 on the Acceleration of Custom-and-Excise Licensing for Ease-of-Doing-Business Purposes

by Alexander Josua Hutagalung

For the purpose of acceleration of business operations, and in order to support the implementation of Regulation of the President No. 91 of 2017 on the Acceleration of Business Operations, the government has found it necessary to regulate provisions on the acceleration of licensing in the sector of customs and excise. It has thus promulgated Regulation of the Minister of Finance No. 29/PMK.04/2018 on the Acceleration of Customs and Excise Licensing for Ease-of-Doing-Business Purposes ("**Regulation No. 29/2018**").

The following procedures are to be followed in the registration of customs: (i) a customs registration is undertaken by filing an application to the director, submitted electronically through the Indonesia National Single Window Portal under the framework of Online Single Submission; (ii) documents submitted as part of an application will be subject to a process of administrative review through custom registration application system. If an application is deemed to be complete, then the application system will issue relevant customs-access approval within 3 hours; (iii) customs and excise officials will undertake a verification process of any data and/or documents relating to custom registrations which have been approved and granted custom access. Data and/or documents above-mentioned should address: a) existence of users; b) executives of users; c) financial aspects; and d) users line of business. (iv) data which is obtained via customs registrations may be exchanged with the Directorate General of Tax or vice versa for the purpose of customs registrations. The Directorate General of Customs and Excise may also obtain data from other governmental institutions.

Regulation No. 29/2018 also stipulates that the Bonded Storage Area (Tempat Penimbunan Berikat) from this point onward is referred to as TPB, which means any building, place or area which satisfies certain requirements to store goods for a certain purpose by obtaining an import duty suspension.

TBP's are comprised of: (i) bonded zone; (ii) bonded warehouse; (iii) duty-free shop; (iv) bonded exhibition organizing area; (v) bonded auction area; (vi) bonded recycling area; and (vii) central bonded logistic facility.

Procedures for obtaining the relevant licences for TPB areas are as follows: (i) Application for obtaining licences for TPB areas must be submitted to the Ministry via INSW portal; (ii) the relevant customs and excise officials will implement administrative and field examinations relating to applicants before drawing up minutes of field examination within 3 (three) business days of the statement of readiness for field examinations stated under the relevant application; (iii) within 3 (three) business days of the minutes of field examination being published, representatives of the applicant's board of directors are required to deliver a presentation relating to their business processes and the fulfillment of TPB Criteria to the relevant customs and excise officials. Based on the above-mentioned presentation, the relevant officials will either approve or reject the issuance of TPB licences within an hour of the presentation being completed.

Article 21 on Regulation No. 29/2018 states that any person who implements activities such as: (i) Factory Business Practitioner; (ii) Storage Area Business Practitioner; (iii) Importer of excisable goods; (iv) Distributor; and/or (v) Retail Sales Area Business Practitioner, must have an Excisable Goods Business Identification Number ("**NPPBKC**"). NPPBKC is a licence to carry out these afore-mentioned activities within the excise sector.

New Financial Services Authority Regulation concerning Report E-Filing by Issuers or Public Companies

by Melisa Kristian

In 2018, the Financial Services Authority promulgated Regulation No. 7/POJK/04/2018 concerning report filing through an electronic filing system for issuers or public companies (hereinafter referred as "**Regulation**"). The aim of this regulation is to improve the preceding regulation (Circular Letter No. 6/SEOJK.04/2014) in regard to report filing and information disclosure by enhancing the effectivity and efficiency in electronic report filing and information disclosure by issuers or public companies to Financial Services Authorities.

The Regulation stipulates an obligation for issuers and public companies to file reports to the Financial Services Authority through the electronic reporting system or *sistem pelaporan elektronik* ("SPE") by accessing https://spe.ojk.go.id or other web addresses that the Financial Services Authority may set up for this purpose. Referring to Article 1 of this Regulation, "reports" herein is defined as any reports, information disclosure, or documents which must be conveyed by issuers or public companies to the Financial Services Authority as stipulated in laws and regulations in the capital market sector. Article 2 of the Regulation sets out further the laws and regulations that may require such report filing, namely those concerning:

a. realization report on the use of funds gained from an initial public offering;
b. material transaction and the change of main business activities;
c. the plan and implementation of a general meeting of shareholders;
d. the obligation to convey periodic financial reports by issuers or public companies;
e. annual report delivery by issuers or public companies; and
f. the ownership of or each share ownership change in public companies.

Issuers or public companies are obliged to keep the reports that they have delivered through the SPE. They are under the obligation to keep the reports for a certain period, depending on the relevant laws and regulations, the issuers and public companies will have to provide all reports anytime the Financial Services Authority demands the reports. The reports kept by the issuers and public companies have to contain the same information as the reports filed through the SPE; in the event of any differences, the reports on the SPE shall be used as reference.

The issuers or public companies shall have a right to access these through SPE in order to be able to deliver the necessary reports. They must provide adequate hardware, software, and internet connection with computer specifications and applications in accordance with the SPE guidelines. The issuers or public companies have to read and comply with the procedures for use of SPE by referring to the user guidelines provided on the Financial Services Authority website.

The reports are deemed to have been delivered through SPE to the Financial Services Authority if the issuers or public companies have obtained an electronic receipt in the form of an e-mail notifying that the reports have been received by the Financial Services Authority.

Issuers or public companies are exempted from the obligation of report e-filing:

a. if Financial Services Authority states that the SPE is under any interference; and/or
b. in the event of *force majeure*, such as natural disasters, wars, or other events which may significantly affect the issuers or public companies' ability to file the reports through SPE.

The abovementioned events shall entitle the issuers or public companies to deliver the reports:

a. directly to the correspondence address of the headquarters of the Financial Services Authority in the form of an electronic document; or
b. via e-mail to spe@ojk.go.id.

If the issuers or public companies are no longer affected by the events, they must provide reports that have been delivered directly or to spe@ojk.go.id through SPE.

Administrative sanctions shall be imposed on the violating parties, which include warning letters, fines, limitations imposed on business activities, freezing of business activities, revocation of business licences, cancellation of approvals, and/or cancellation of registrations. The sanctions may be imposed without being preceded by warning letters, and fines can be imposed separately or jointly with the other sanctions. Other than the aforementioned sanctions, the Financial Services Authority may impose certain other measures on the violating parties. The institution may announce the imposition of sanctions or other measures to the public.

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Recent Central Bank of Indonesia's Regulation on Electronic Money (e-Money)

by Dennis Abel Panjaitan

On May 4th 2018, the Central Bank of Indonesia (Bank Indonesia) published the recent regulation on Electronic Money (abbreviated as 'e-Money'). The new regulation emerges as Peraturan Bank Indonesia Nomor 20/6/PBI/2018 concerning Electronic Money. With publication of the Regulation of The Central Bank of Indonesia (*Peraturan Bank Indonesia*/PBI), all Bank Indonesia's former regulations concerning electronic money, such as PBI No. 11/12/PBI/2009, PBI No. 16/8/PBI/2014, and PBI No. 18/17/PBI/2016, are officially revoked.

The regulations were published due to the need for an adjustment between the regulation of current electronic moneY and recent developments in information technology. Since we face the fact that electronic money (e-Money) has become the new and preferred method of financial transaction, it is the role of the government to guarantee the safety of Indonesian citizens in using such technology, through developing proper and up-to-date legislation. Therefore, the Government aims with this new enhanced PBI to provide a sufficient and appropriate regulation on electronic money activities in Indonesia, while also giving space for the information technology to develop, particularly in the banking industry.

The regulation in this PBI covers several areas, including authorization and agreement electronic money, general specifications and liabilities, controlling shareholders, implementation of risk management, information system security standards, interconnection and interoperability, and Digital Finance Sevices (*Layanan Keuangan Digital*/LGD). The PBI itself also expands its regulations into the implementation of anti- money laundering, prevention of terrorism funding, and pro- tection for consumers. It is also suggested that the practice of electronic money shall fulfill several principles-which includes the avoidance of systematic risk based on secure financial conditions - and will be profitable for the Indonesian economic environment.

The PBI concerning Electronic Money classifies electronic money into 3 (three) categories, as follows:

a. Based on practice scopes, divided into closed loop and open loop;
b. Based on Fund Value recording media, divided into server based and chip based;
c. Based on customers data record, divided into unregistered and registered.

Any parties that are willing to perform as the organizers require authorization from Bank Indonesia. The provisions do not apply to those who act as arranger for the closed loop Electronic Money Publisher with an amount of total 'Float Fund' (Dana Float) less than 1 billion Rupiah (satu miliar Rupiah). Those who ask for authorization to be arranger must comply with the general requirements and feasibility aspects. Authorization requests to be an Electronic Money Arranger will be held according to the grouping of the Payment System Service Arranger (*Penyelenggara Jasa Sistem Pembayaran*/PJSP), which consists of:

a. Front End arranger group, including authorization as a publisher, acquirer, payment gateway arranger, electronic deposit arranger, and fund transfer arranger;
b. Back End arranger group, including authorization as a principal, switching arranger, clearing arranger, and final completion arranger.

It is to be noted that each party can only be an electronic money arranger within the same Payment System Service Arranger (*Penyelenggara Jasa Sistem Keuangan*/PJSP) group.

Those who wish also to be a server must take the form of a bank, or if it is another institutional form, then it must be a limited liability company (*Perseroan Terbatas*/PT). Furthermore, for a non-bank institution that requests such authorization, 51% of its stock must be owned by an Indonesian citizen and/or Indonesian legal entity.

There will be some costs that may be applied to the Electronic Money Arranger, which includes:

a. Cost of buying Electronic Money media for the first usage, or to replace Electronic Money media which is broken or lost;
b. Cost of 'Top Up' process;
c. Cost of cash withdrawals via other parties (off us);
d. Cost of fund transfer between Electronic Money customers from different Electronic Money Publishers.

In order for related parties to effectively implement this PBI on Electronic Money, there are some transitional provisions for:

a. Authorized Electronic Money Arranger;
b. Those who are still in the authorization stages to be an Electronic Money Arranger;
c. Those who are already controlling shareholders of the Electronic Money Arranger.

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Secondary Mortgage Facility Company

by Pratiwi Widyastuti

On 29 March 2018, the Financial Service Authority (***Otoritas Jasa Keuangan*** / **OJK**) issued a new regulation: No. 4/POJK.05/2018 concerning the Secondary Mortgage Facility (SMF) Company (***Perusahaan Pembiayaan Sekunder Perumahan*** / **PPSP**). The government has done this in order to support their program to supply the appropriate housing to meet the needs of the people. It aims to optimize the financial facility offered by the SMF and to support the role of the PPSP in developing the SMF by not ruling out its prudential aspect, thus requiring clear and comprehensive regulation of the PPSP. This regulation mainly governs nine aspects: its institution, business operation, health level, good governance, risk management, reporting, ban, checking, and administrative sanctions.

The shareholding of the PPSP is fully owned by the Government of the Republic of Indonesia. The PPSP has a national operational area which located in the capital city of Indonesia, Jakarta. The PPSP shall have an organization structure which consists of, at least, administration and bookkeeping, marketing, Securitization, feasibility analysis of Loan Disbursement, financial management, and risk management.

The PPSP has four main business activities. First, Securitization, which is performed by buying a collection of Financial Assets from the Original Creditor and the issuance of Asset-Backed Securities (***Efek Beragun Aset*** / **EBA**). In performing Securitization, the PPSP has certain obligations, namely: (i) acts as global coordinator, guarantor, arranger, and / or credit enchancer; (ii) has procedures which contain requirements for Financial Assets that can be Securitized; (iii) manages and supervises the EBA that has been issued. Second, Loan Disbursement: in performing this activity, the PPSP must have a policy and procedures which are alert to risk mitigation. Third, the execution of special tasks from government. Fourth, other business activities supporting development in the field of housing loans with Shareholder approval.

There are four things that should be maintained by the PPSP: these are the liquidity ratio, equity ratio, assets quality, allowance for assets losses and allowance for impairment losses. The PPSP must also perform the Good Governance principle including transparency accountability, responsibility, independence, and fairness. The PPSP must apply risk management effectively, which includes at least credit risk, market risk, liquidity risk, operational risk, law risk, reputation risk, strategic risk, and compliance risk.

The PPSP has obligation to submit report periodically. The aspects that must be reported are the audited financial statement, monthly report, the application of Good Governance, the assessment of the risk level, the annual business plan, the amendment of the Articles of Association, and changes of company data. All these reports must be delivered to the FSA.

The PPSP is prohibited from performing the sale purchase through capital markets, withdrawing funds from the community directly in the form of demand deposits and saving accounts, issuing promissory notes, and performing unlawful actions in breach of FSA regulations. The FSA undertakes a supervisory role for the PPSP. Failure to fulfil the provisions in this regulation will result an administrative sanction in the form of a written warning. It will be addressed to the shareholders three times, each with a two month validity period.

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