



# Industrial Business Licences: New Procedures

by Pratiwi Widyastuti



Since the government of Indonesia launched its new online single submission (OSS) system in mid-2018, all legislation and procedures relating to licensing are being amended to ensure that applications are made through the new system. The Ministry for Industry has recently issued amended regulations<sup>1</sup> in relation to business licensing (the Regulations).

The Regulations state that business licences must now be applied for via the OSS system. In order to submit an application, however, an applicant must have a business number, or NIB.<sup>2</sup> In addition, the Regulations require that an applicant must have a National Industrial Information System account prior to submitting a business licence application.

The Regulations revoked the previous regulation.<sup>3</sup> The Regulations now divide Industrial Business Licences (*Izin Usaha Industri*) into three categories; small, medium and large. These measurements are based on the size of the company with reference to the number of employees and the amount of money invested in the company.

The Regulations sets out a list of industries and states that, other than in exceptional circumstances, all business licences

are to be issued for companies that operate within the listed industries. The Regulations also stipulates that business licences will only be issued to Indonesians for certain small to medium industries and those that are culturally specific to Indonesia.

The Regulations introduce the requirement that business licences will be valid as soon as the holder fulfills all the regulatory requirements. The previous regulations stated that business licences were valid as soon as they had been issued.

The Regulations stipulates that the supervisory role in relation to the business licences will depend on the location of the industry but will often be carried out by the relevant ministry or regional head.

The Regulations specifies that a number of issues will be checked when determining whether to issue an applicant with a business licence. These issues include whether the application accurately describes the business. Once issued, the Regulations set out a number of obligations that the licence holder must comply with including reporting obligations and complying with certain procedures designed to ensure transparency of operation.

Unlike the previous regulations, the Regulations do not include imprisonment as a sanction for breach of the licence obligations. The penalties for breach in the Regulations include a range of administrative sanctions.

<sup>1</sup> Regulations of the Ministry for Industry No. 15 of 2019 regarding the Issuance of Industry Business Licences and Extension Licenses in the Scope of Electronic Integrated Business Licenses.

<sup>2</sup> Single Business Number (Nomor Induk Berusaha).

<sup>3</sup> Regulation of Ministry of Industry No. 41/M-Ind/Per/6/2008 Tahun 2008 regarding Provisions and the Procedures for Granting Industry Business Licenses, Extension Licenses and Industry Registration Marks.

# Money and Foreign-Exchange Markets: New Regulations

by A. A. A. Reditha Saras

The Central Bank of Indonesia (**Bank Indonesia**) has issued a new regulations\* (**Regulation No. 21**), replacing the previous regulations\*, which regulates operators of money and foreign exchange markets.

Regulation No. 21 aims to create money markets that operate on the basis of fairness, integrity, transparency, efficiency and with sufficient liquidity.

Under Regulation No. 21 an ETP provider:

- must obtain principle approval from the Bank of Indonesia;
- must obtain a business licence;
- must be a limited liability company with a paid-up capital of Rp 30 billion; and
- may be up to 49% foreign owned.

Under Regulation No. 21 a Broker company:

- obtain principle approval from the Bank of Indonesia;
- obtain a business licence;
- be a limited liability company with a paid-up capital of Rp 12 billion; and
- may be up to 49% foreign owned.

Under Regulation No. 21, a systematic internaliser must:

- obtain an operational licence;
- comply with OJK regulations; and
- obtain approval OJK approval for its transactions.

Under Regulation No. 21, an Exchange Operator must:

- obtain an operational licence;
- be a limited liability company;
- comply with all regulations relating to commodities futures trading; and
- comply with the good governance principles set out in Commodity Futures Trading Regulatory Agency's regulations.



Image source: <https://encrypted-tbn0.gstatic.com>

Under Regulation No. 21 a Transaction Operator must;

- obtain a business licence;
- operate its business in accordance with principle of prudence and responsible risk management;
- protect data confidentiality; and
- submit reports to the Bank of Indonesia.

Regulation No. 21 includes administrative sanctions for breach including the termination of the licence. Licences granted prior to the introduction of Regulation No. 21 continue to be valid so long as the business complies with any minimum equity requirements set out in Regulation No. 21.

Regulation No. 21 will come into force on 31 July 2019. However, provisions relating to ETP Providers and Systematic Internalisers will come into force on 31 October 2019 while provisions relating to Exchange Operators will come into force on 31 January 2020.

*\*Regulation No. 21/5/PBI/2019 regarding Operators of Transaction Performance Facilities for Money Markets and Foreign-Exchange Markets.*

*\*\*Regulation No. 5/5/PBI/2003 and its amendments.*

# New Regulatory Regime for Foreign Exchange Activities

by Melisa Kristian



On 12 April 2019, Bank Indonesia enacted a new Regulation<sup>1</sup> relating to the reporting of foreign exchange activities by financial institutions that are not banks.<sup>2</sup> The Regulation replaces the provisions of Bank Indonesia's Circular Letter.<sup>3</sup>

The Regulation applies to non-bank institutions including non-bank financial institutions, non-enterprise financial institutions, and other entities (the **Reporting Parties**). The Regulation expands the scope of the number and types of entities that must report their foreign exchange activities in comparison to the provisions in the Bank Indonesia Circular Letter.

The Regulation requires Reporting Parties to submit the following monthly reports on:

- (a) services, goods, and other transactions between Indonesian citizens and/or entities and non-Indonesians;
- (b) the position of, and any change in, Offshore Financial Assets;
- (c) the position of, and any change in, the equities owned by non-Indonesians;

- (d) the position of, and any change in, offshore derivative obligations;
- (e) the position of offshore commitments and contingencies; and
- (f) the position of negotiable papers owned by custodian customers.

The monthly reports may be submitted online via <http://www.bi.go.id/lkpbuiv2> no later than the 15<sup>th</sup> working day of the next calendar month. Reports submitted online may be corrected online. Monthly reports may also be submitted in hard copy to the branch of the Bank of Indonesia where the Reporting Parties are situated.

Reporting Parties that fail to submit the reports correctly, punctually, or at all, are subject to an administrative sanction in the form of a written warning. It is notable that Bank Indonesia's Circular Letter stipulated more severe sanctions, such as fines.

<sup>1</sup> Board of Governor Members Regulation No. 21/7/PDAG/2019.

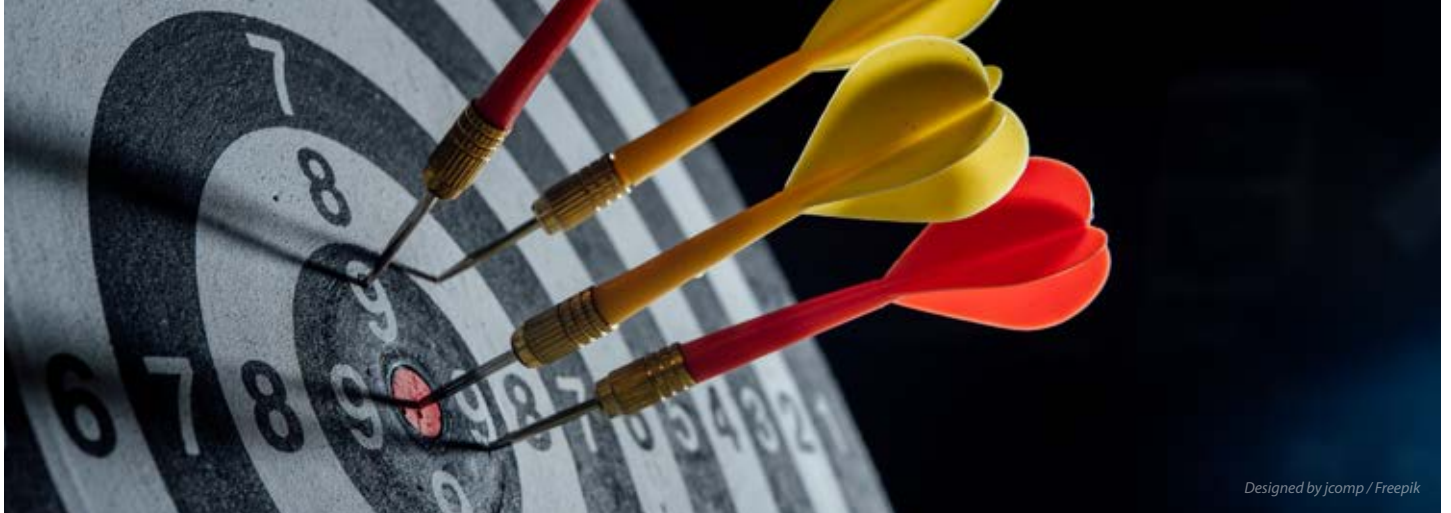
<sup>2</sup> Bank Indonesia Regulation No. 21/2/PBI/2019.

<sup>3</sup> Bank Indonesia Circular Letter No. 17/26/Dsta dated 15 October 2015.



# Competition Disputes: New Regulations

by Shaskia Putri Ramadhani



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The competition supervision authority in Indonesia is called the Komisi Pengawas Persaingan Usaha (*the Commission*). While the Commission encourages competition in business, it does prohibit unfair business competition and monopolies.

The Commission has issued regulations relating to the settlement of competition disputes (**Regulation No.1**) \* by revoking the previous relevant regulations.\*\* Regulation No. 1 allows for two types of disputes to be initiated. First, via a report from a person who suspects a competition violation has occurred. Second, via an investigation initiated by the Commission. A full investigation will not proceed until the source of the report has been verified as legitimate and credible.

Subsequently, an investigation will be undertaken, often with the assistance of the police or the civil service. The results of the investigation will be written up into a report, which will form the basis for a Commission examination.

Once the report has been finished, but before an examination takes place, Regulation No. 1 allows, for the first time, the party in question the opportunity to formally commit to changing the behaviour in question. If the party does this, the party shall make a behaviour integrity pact and the issue will not proceed to an examination.

If the issue proceeds to an examination, the Commission will conduct an examination of evidence, including hearing representations from the party in question, deliberate and come to a decision. If the Commission decides that the party's behaviour is anti-competitive, then the written decision will include practical steps and obligations that the party in question must comply with to rectify their behaviour.

The entire process will produce a Commission decision. If the party does not comply with the decision, then the Commission may refer the case for investigation for criminal prosecution. Other sanctions for failure to comply includes seizure of goods, billing through third party, persuasive action, public announcement of the sanction via newspapers or online, written warnings or being blacklisted.

Any cases that are currently being examined under the previous regulations will continue to use the previous regulations as a basis for examination.

\* Regulation of the Commission No. 1 Year 2019 concerning Procedures for the Settlement of Monopolistic Practices and Unfair Business Competition Cases.

\*\* Regulation of the Commission No. 1 Year 2010 concerning Procedures for the Settlement of Cases.