



# Natural Resource Export Proceeds: New Regulations

by Shaskia Putri Ramadhani



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Image source: [https://thescienceinfo.com/wp-content/uploads/2018/07/naturalresources580\\_1.jpg](https://thescienceinfo.com/wp-content/uploads/2018/07/naturalresources580_1.jpg)

Proceeds from the foreign export of natural resources are relatively stable in Indonesia. If those proceeds are held in Indonesian banks, they can be used to maintain the stability of the Rupiah. In January 2019, the Bank of Indonesia issued Regulation No. 21\* to implement the government's Economic Policy Package XVI\*\* and Government Regulation No. 1 of 2019.

Regulation No. 21 governs proceeds from the foreign export of natural resources such as commodities derived from mining, plantations, forestry and fisheries (**Export Proceeds**).

Regulation No. 21 requires all Export Proceeds to be processed through the Indonesian financial system via special

bank accounts specifically created for the holding of Export Proceeds. The exception to this requirement is if the Export Proceeds are owned by the Government, received through the Bank of Indonesia or paid in cash.

Generally, the amount of the Export Proceeds should be equal of the export value of the commodity. However, differences may be acceptable if the exporter is able to submit the following documents, which must clearly explain the discrepancy:

- export customs notification documents;
- export licenses from all relevant institutions;
- export contracts; and
- export declarations.

Export Proceeds must be deposited into a qualifying bank account within 3 months after the registration of the export customs notification unless the exporter has received alternative methods of payment such as letters of credit, consignment, delayed payment, or collection.

Banks in receipt of Export Proceeds must submit information relating to those proceeds to the Government. The Bank of Indonesia will supervise and administer Regulation No. 21 and report back to the Ministry of Finance and any other relevant ministries. Regulation No. 21 provides for administrative sanctions for breach of its provisions.

*\*Bank of Indonesia Regulation No. 21/3/PBI/2019 of 2019 concerning Receipt for Foreign-Exchange Export Proceeds Deriving from Business, Management and/or Processing of Natural Resources.*

*\*\*Issued on 16 November 2018.*

# Oil and Gas Exploration: New Regulations

by Pratiwi Widyastuti



Image source: <https://www.conseiller.ca/nouvelles/industrie/moins-dhydrocarbures-a-la-caisse-de-depot/>

Generally, the terms and conditions for exploration and exploitation of oil and gas are governed by a contract between the relevant business entity and the Government (the **Contract**). In 2018, the Minister for Energy and Mineral Resources issued a Regulation<sup>1</sup> to govern what happens in relation to Contracts that have almost expired. These regulations were updated in 2019.<sup>2</sup>

The Regulation sets out, among other things, the manner in which the counterparties to a Contract may apply for an extension. The Regulation states that any counterparty that is part of the Special Task Force for Upstream Oil and Gas Business Activities (**SKK Migas**) may apply directly to the Minister for a 20-year extension. The application must include a letter and a report on the contractual activities of the counterparty. The time period during which an SKK Migas counterparty may apply for an extension is between 2-10 years prior to the expiration of the Contract. The 2019 update to the Regula-

tions provides that the counterparty may also apply for an amendment to a Contract, specifically to certain provisions (Komitmen Kerja Pasti) relating to the investment level the counterparty must commit to in the first 5 years of the Contract's term.

PT Pertamina (Persero) may apply for an extension to its Contracts directly to the Minister, between 2-10 years prior to its expiration. The 2019 update to the Regulations allow for PT Pertamina (Persero) to partner with foreign entities to carry out its contractual obligations.

To help assess any extension request, the Minister may create a Management of Oil and Gas Mining Area Team (the Team) to go through the application. In coming to a decision, the Minister may decide on a number of different courses, including granting the extension or auctioning the rights once the contract has come to an end.

<sup>1</sup> The Minister Regulation No. 23 of 2018

<sup>2</sup> The Minister Regulation No. 3 of 2018

# Import and Export Recommendations for Alternative Fuel: New Regulations

by A. A. A. Reditha Saras



Image source: <https://unsplash.com>

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On 20 May 2019, the Minister of Industry issued new Regulations governing Procedures for the Issuance of Import Recommendation and Export Recommendation for Other Fuels as Industrial Raw Materials and Auxiliary Materials (**Regulation 20**).\*

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Regulation 20 requires that any company intending to import/export certain types of fuel must apply to the Minister for Trade for approval. An approval application must include an import/export recommendation, which may be obtained from the authorized general directorate (**General Directorate**) through the Public Service Unit (*Unit Pelayanan Publik*). An import/export recommendation is valid for one year. An application for an import/export recommendation may be submitted online through the website of the Ministry of Industry.

Regulation 20 lists all the relevant documentation required for an import/export approval. Different documentation is required for different types of applicants.

In order for an importer/exporter to obtain an exemption for sample and/or research goods, the importer/exporter must obtain an exemption recommendation, which will apply to one specific import or export.

Importers/exporters must submit reports to the Government. If any reports are found to be inaccurate, then the importer/exporter will be barred from obtaining any further import/export recommendations.

*\*Regulation No. 20 of 2019 concerning Procedures for the Issuance of Import Recommendations and Export Recommendations for Other Fuels such as Industrial Raw Materials and Auxiliary Materials.*

# Interest Rate Derivative Transactions: New Regulations

by Melisa Kristian



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On 31 May 2019, Bank Indonesia issued new Regulations\* governing Rupiah interest rate derivative transactions. Regulations define Rupiah interest rate derivative transactions as contracts between 2 parties to exchange interest rate flows in Rupiah, periodically, during the contractual term or at the completion of the contract (**IRD Transactions**).

The Regulations state that an IRD Transaction with a bank must:

- include the exchange of fixed rate flows with floating rate flows; or
- include the exchange of floating rate flows with other floating rate flows; and
- have a value of at least Rp1,000,000,000.

The Regulations state that the parties to an IRD Transaction may determine the floating interest rates based on JIBOR, indONIA or any other reliable interest rates.

Under the Regulation, an IRD Transaction may be conducted by a bank with:

- a legal entity;
- individual customers who meet certain criteria;
- foreign parties; and/or
- other banks.

An IRD Transaction contract must be based on a standard form commonly used by market participants and/or issued by the relevant associations (e.g. International Swaps and Derivatives Association (ISDA) Master Agreement) and written confirmations proving the conduct of the transaction (e.g. confirmations exchanged by the parties in the IRD Transaction via Society of Worldwide Interbank Financial Telecommunication (SWIFT)).

The bank must comply with market conventions such as specifying decimal amounts of interest rates and the mechanisms of interest payments at maturity .

Banks which conduct IRD Transactions must also comply with industry applicable codes of conduct, standard transparency, information disclosure, and consumer protection policies, and standard mechanisms for resolving disputes.

The IRD Transaction contract will be managed by the relevant bank.

Prior to carrying out an IRD Transaction, the bank counterparty must analyse the transaction in accordance with its internal guidelines.

IRD Transaction will be completed by the full transfer of funds.

Any party that breaches the provisions of the Regulations may be subject to administrative sanctions including a written warning and a suspension of the right to carry out IRD Transactions for 6 months.

*\*Members of the Board of Governors Regulation No. 21/13/PADG/2019.*