



Trading Crypto-Assets: New Regulations

by Melisa Kristian



On 29 October 2021, the Commodity Futures Trading Regulatory Agency (in Indonesian, *Badan Pengawas Perdagangan Berjangka Komoditi*), enacted new Regulations on the trading of crypto assets as a future commodity.*

The previous regulations on the topic, recently introduced, were the first time the Indonesian government legislated for the trading of crypto assets in Indonesia. The initial regulatory framework was broad. While these new Regulations replace the previous ones - rather than introducing an entirely new regulatory framework, they introduce more detail into the framework established by the previous regulations.

Generally, the new Regulations introduce more detail to the way in which traders and markets

obtain approval from the Agency to trade crypto-assets. The new Regulations also introduce higher capital thresholds for markets as well as for traders. For example, traders must now maintain a minimum of Rp80 billion (approximately US\$5.5 million) paid-up capital. The general purpose of the new Regulations is to ensure the security and stability of the markets and to introduce and regularise standard best practice in trading.

Traders already registered prior to 29 October 2021 have until the end of April 2022 to comply with the new Regulations.

The Regulations do not apply to any initial coin or token offerings.

* Bappebti Regulations No. 8 of 2021 concerning the Guidelines on the Conduct of Crypto Assets Physical Market Trading in Futures Exchange.

Foreign Companies: Compulsory Divestment of Shares

by Keshia Eastera

In early April, the Capital Investment Coordinating Board issued new regulation that apply to foreign companies (the **Regulations**).*

The Regulations require foreign companies that operate in Indonesia to divest some of its shares to Indonesian citizens or to wholly owned Indonesian companies, within 15 years of first operating in Indonesia.

The Regulations specify that the minimum amount of direct ownership for Indonesian citizens or businesses is at least Rp10 million for each shareholder. Meanwhile, indirect ownership through the domestic capital market is further regulated in the provisions of the laws and regulations in the capital market sector.

Shares that have been divested to Indonesian citizens or businesses may then be resold to either individuals, Indonesian businesses, or foreign businesses after obtaining approval from the Minister of Law and Human Rights. There is some leeway in the Regulations. For further information, please reach out to your usual contact at our company who will be happy to help.

* Investment Coordinating Board Regulation Number 4 of 2021 concerning Guidelines and Procedures for Risk-based Business Licensing Services and Investment Facilities.

Value Added Tax: New Rules

by Hans Thioso



The Government's state revenue budget has been negatively affected by the Covid19 pandemic. Consequently, on 29 October 2021, the Government enacted Law No. 7 of 2021 to increase the state revenue budget through taxation, especially through value added tax (VAT), which will take effect from 1 April 2022 (**Law No. 7**).*

Law No. 7 expands the goods that are subject to VAT including food that was previously exempted from VAT such as rice, corn, soybeans, milk, eggs, fruit, and vegetables.

Similarly, Law No. 7 adds VAT to services that were previously not subject to VAT, such as medical health services, social services, education services, labour services and insurance services.

The government does provide some limited relief from the collection of VAT on these goods and services, which will be granted in rare cases if there is no significant impact on the government's revenue collection.

In addition, Law No. 7 increases VAT on 1 April 2022 from 10% to 11% and on 1 January 2025 from 11% to 12%.

* Law no. 7 of 2021 concerning Harmonisation of Tax Regulations.

New Import/Export Restrictions

by Louise Ayu Cecilia

From 19 November 2021, 424 goods will be banned from being imported to, or exported from, Indonesia (the New **Regulations**).*

These New Regulations add two categories of goods to the list of categories to which export restrictions apply. These categories are metal scraps (*skrap logam*) and subsidised fertilisers (*pupuk subsidi*).

The new categories added to the import ban list include certain food items such as rice, sugar, ozone-depleting substances, used bags, sacks and clothes, goods that incorporate refrigeration-based systems that use chlorofluorocarbon (CFC) and hydrochlorofluorocarbon 22 (HCFC-22) either empty or full, certain drugs, certain categories of waste, hand tools and medical devices containing mercury.

The new restrictions only apply to import and export activities in very specific circumstances. We would be happy to advise you as to whether the new restrictions apply to your import/export activities. Please reach out to your usual contact at our company who will be happy to help.

* Minister for Trade, Regulation No. 18 of 2021 on the Goods Restricted from Being Exported and Goods Prohibited from Being Imported.

Mining Services: New Provisions

by Jayalaksana Purnama

The Government has recently implemented new legislation that impacts on those carrying out mining services businesses (**New Regulations**).* The New Regulations specify that those with both a normal mining business licence (*Izin Usaha Pertambangan*) or a special mining business licence (*Izin Usaha Pertambangan Khusus*) must use local or national mining service companies to provide various services such as consultation, surveying, feasibility studies, construction, mining, etc.

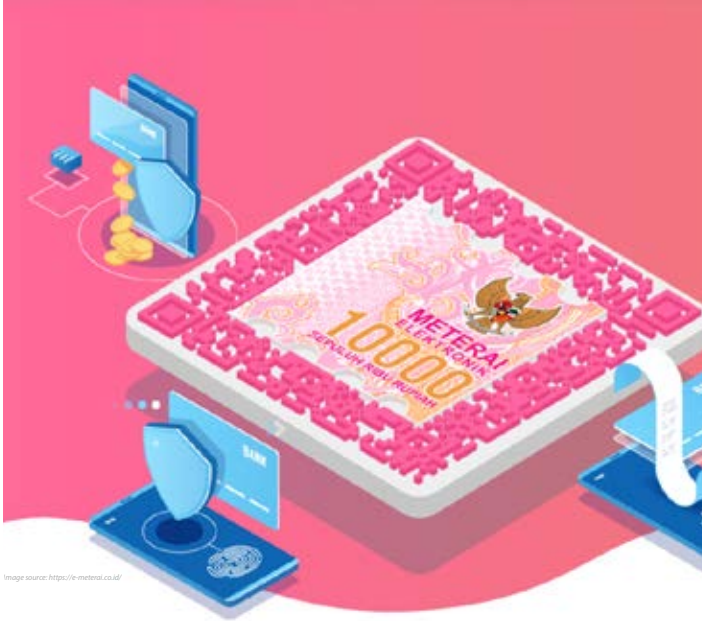


If there are no local or national mining companies that are able to provide the necessary services, then the New Regulations allow those with mining licences to employ foreign investment mining service companies (*perusahaan jasa pertambangan penanaman modal asing*), so long as certain conditions have been fulfilled including that the companies must have the relevant licences to operate in Indonesia.

* Government Regulation No. 96 of 2021 on the Implementation of Mineral and Coal Mining Business Activities. This new regulation revokes and replaces Government Regulation No. 23 of 2010 on the Implementation of Mineral and Coal Mining Business Activities.

New Regulations on the Electronic Stamp Duty

by: Rahmi Intan Jeyhan



The development of information and communication technology has resulted in an increase in electronic transactions in Indonesia. In response to this trend, the Indonesian government has broadened the scope of documents that are subject to stamp duty obligations to include certain electronic documents. After being generally regulated under the Stamp Duty Law*, the Minister of Finance of the Republic of Indonesia recently issued Regulation No.134** which provides further provisions regarding the use of electronic stamps for the payment of the stamp duty.

As background information, stamp duty is a tax that shall be imposed on certain documents at a rate of IDR 10,000. The stamp duty shall be paid by affixing a stamp to the document.

The electronic stamp is a stamp in the form of a label used by affixing it to a document through an

electronic stamp duty system. This system automates the entire electronic stamp duty process, from creating, distribution, to affixing the stamp to the documents. The system is currently available at <https://e-meterai.co.id/>.

Regulation 134 specifies two requirements that must be met to determine the validity of the payment of stamp duty using an electronic stamp. First, the stamp should be made through the electronic stamp duty system. Second, the stamp affixed to the document must have a unique code in the form of a 22-digit serial number generated by the system and must display the following details: (a). an image of the national symbol of Garuda Pancasila; (b) the inscription "METERAI ELEKTRONIK" (the Indonesian language of electronic stamp); and (c). numbers and writing indicating the stamp duty tariff.

The electronic stamp can also be used to pay the stamp duty through the post-dated stamp. As background information, the post-dated stamp shall be carried out for: (a). documents for which the relevant stamp duty has not been paid or underpaid; and/or (b). Documents that will be issued as evidence before the court.

* Law No. 10 of 2020 concerning the Stamp Duty.

** Minister of Finance Regulation No. 134/PMK.03/2021 concerning Payments of Stamp Duty, General Characteristics and Special Characteristics of Stamps, Unique Codes and Certain Information on Electronic Stamps, Stamps in Other Forms, Determinations of the Validity of Stamps and Paid Post-Dated Stamps.