

# BLP NEWSLETTER

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## INSIDE THE ISSUE

- Credit Information Management Agencies: New Regulations
- New Taxes on Crypto Asset Trading
- New Taxes for Fintech
- Electronic General Shareholders' Meetings: New Procedures for Authorisation
- Apostille Regulation Update
- Mining: New Guidelines
- Delegation of Mining Licensing Authority: New Regulations

May sees a host of new regulations that will affect many of our clients. Many of these regulations deal with the imposition of technology on business transactions. In particular, income tax and VAT have been imposed in new areas including fintech transactions as well as crypto asset trading. The Financial Services Authority has opened out the opportunity for businesses to provide electronic general shareholders' meeting services.

Various administrative changes have been introduced including the delegation of certain mining licencing authorities to provincial government, new rules on the apostille of documents, as well as the expansion of the scope of data that credit Agencies may collect. Our newsletter articles give a high level overview, however, your usual BLP lawyer will be more than happy to discuss any of the new changes with you in detail.

## Credit Information Management Agencies: New Regulations

by Aldy Kurniawan



In 2019, Indonesia's Financial Services Authority reintroduced Credit Information Management Agencies, in Indonesian, *Lembaga Pengelola Informasi Perkreditan* (the **Agencies**). These Agencies collect and process credit data and other related data from financial institutions, that is useful for describing customers' behavior patterns and their ability to fulfill financial obligations in order to provide credit information. In late March 2022, the Financial Services Authority introduced new Regulations\* that require the Agencies to expand the scope of the data that they collect, including credit data, financing data, and other related data that they gather from financial and nonfinancial institutions to provide more varied and comprehensive credit information.

\*OJK Regulation No. 5/POJK.03/2022 on Credit Information Management Agencies

## New Taxes on Crypto Asset Trading

by Faudzan Eka Putra

The Ministry for Finance has issued Regulation of the Minister for Finance No. 68/PMK.03/2022 introducing Value Added Tax and Income Tax on certain crypto asset trading transactions, which has been in force since May 1, 2022. The calculation of the Value Added Tax payable, as referred to in Article 2 letter (a) is,:

1. 1% (one percent) of the Value Added Tax rate, multiplied by the transaction value of physical trading of crypto assets; or
2. 2% (two percent) of the Value Added Tax rate, multiplied by the transaction value of crypto assets where the crypto assets are not physically traded.\*

Income Tax is calculated at the rate of 0.1% of the transaction value of the crypto asset transaction.

If the organiser of trading is not a physical trader, then the income tax rate is 0.2% of the transaction value. \*\*

Income tax on income from crypto asset transactions must be reported and deposited online by the organiser of the trading.

\*Article 5 of Regulation of the Minister for Finance No. 68/PMK.03/2022

\*\*Article 21 section 4 of Regulation of the Minister for Finance No. 68/PMK.03/2022

## New Taxes for Fintech

by Luisa Srihandayani

On 1 May 2022, the Minister for Finance's new tax regulation took effect (the **New Regulation**).<sup>\*</sup> The New Regulation applies to financial technology companies and impose income tax for peer-to-peer lending services (**P2P Lending**) and value-added tax (**VAT**).

The New Regulation requires any P2P lending organisations, that receive income through loan interest or similar Sharia-based income, to report that income in their annual tax return and pay the following interest percentage of the gross interest amount:

- 15% if they are domestic taxpayers with a permanent establishment in Indonesia; or
- 20% if they are foreign taxpayers with no permanent establishment in Indonesia.

The New Regulation also imposes VAT on certain fintech services. If you believe that these new taxes may affect your organisation, please contact your usual BLP lawyer to discuss.

<sup>\*</sup>Ministry of Finance Regulation No. 69/PMK.03/2022 of 2022 concerning Income Tax and Value-Added Tax on The Organization of Financial Technology.

## Electronic General Shareholders' Meetings: New Procedures for Authorisation

by Louise Ayu Cecilia



Indonesia's Financial Services Authority, in Indonesian, *Otoritas Jasa Keuangan*, or the *OJK* has issued new authorisation procedures for those wishing to become providers of services to run electronic general shareholders' meetings – in Indonesia, the acronym *e-RUPS* is used for this service.

The OJK Regulation<sup>\*</sup> sets out the application details – which your usual BLP lawyer would be happy to assist you with. Any organisations that intend to apply for e-RUPS accreditation, must register with the Ministry for Communications and Information Technology.

<sup>\*</sup>Circular of the Financial Services Authority No.1/SEOJK.04/2022 on the Submission Procedure for the Authorisation of System Providers for the Organisation of Electronic General Meetings of Shareholders.

## Apostille Regulation Update

by Hans Thioso

Last year, the government ratified the Convention Abolishing the Requirement of Legalisation for Foreign Public Documents (the **Convention**)\*, and as a follow-up, the government has recently issued New Regulations\*\* regarding the apostille legalisation service on public documents.



Image source: <https://www.freemages.com/photo/diploma-1240401>

Apostille legalisation usually takes the form of a government certificate, attached to a document, to certify that the document is genuine and allows the document to be recognised as genuine in another country. The New Regulations set out the detail on which documents may be apostilled.

Applications for apostille may be made online, through the Directorate General of Public Law Administration website. Generally, apostille takes 3 days. Successful applicants must pay a fee to pick up their certificate.

This New Regulation will take effect on 4 June 2022.

\*Regulation of the President No. 2 of 2021 on the Ratification of the Convention Abolishing the Requirement of Legalisation for Foreign Public Documents.

\*\*Regulation of the Minister for Law and Human Rights No. 6 of 2022 on Apostille Legalization Services for Public Documents.

## Mining: New Guidelines

by Melisa Kristian



Image source: <https://shabby.com/photos/industry-dumper-minerals-coal-2022597>

On 14 April 2022, the Minister for Energy and Mineral Resources of the Republic of Indonesia (the **Minister**) issued a New Decree\* that applies to certain mining companies. The New Decree requires applicable companies to submit further documentation and evidence for Ministerial approval, prior to carrying out certain mining exploration, operation or production activities. The New Decree also requires applicable companies to record changes in shareholders, directors and/or commissioners via a new application, called the Minerba One Data Indonesia (**MODI**). Administrative sanctions are applicable for non-compliance. For further information, please contact your usual BLP lawyer.

\*Decree of the Minister for Energy and Mineral Resources of the Republic of Indonesia No. 78.K/MB.01/Mem.B/2022 of 2022

## Delegation of Mining Licensing Authority: New Regulations

by: Rahmi Intan Jeyhan

The Indonesian government has issued Presidential Regulation 55 (PR 55)\* that regulates the delegation of authority to grant certain business licenses in the mineral and coal mining sector as an implementing regulation of Government Regulation (GR 96).\*\* Based on PR 55, the central government has delegated the issuance of certain mineral and coal mining Standard Certificates (*Sertifikat Standar*) and Licences (*izin*) to the provincial government.

This new regulation stipulates that the provincial government will issue the Standard Certificates for consulting and planning activities for mining services businesses in the fields of general investigation, exploration, feasibility studies, mining construction, transportation, environment, reclamation and post-mining activities, mining safety, and/or mining.

Meanwhile, the Licenses that can be issued by the provincial government based on PR 55 are limited to the following:

- a. mining business licenses in the context of domestic investment for the commodities of non-metal mineral, certain types of non-metal mineral, or rock, that are located in 1 provincial area or up to 12 nautical miles from the coastline;
- b. rock mining licenses;
- c. community mining licenses;
- d. licenses for transportation and sale of non-metal mineral, certain types of non-metal mineral, or rock commodities;



Image source: <https://www.pexels.com/photo/front-end-loader-461789/>

- e. mining services business license for 1 provincial area; and
- f. mining business license for the sale of non-metal mineral, certain types of non-metal mineral, or rock commodities.

The delegation of certain supervisory and guidance authorities is also included in PR 55. This new regulation does not allow any further delegation from provincial government to local government.

PR 55 does not affect the issuance of Business Identification Numbers (*Nomor Induk Berusaha/NIB*) for mineral and coal mining activities, which are still issued by the central government.

\*Presidential Regulation Number 55 of 2022 concerning the Delegation of the Granting of Business Licensing in the Field of Mineral and Coal Mining.

\*\*Government Regulation Number 96 of 2021 concerning the Implementation of Mineral and Coal-Mining Business Activities.

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