

LEGAL ALERT

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Issuance of New Bank Indonesia Regulation on the Reporting of Foreign Exchange Activities

Bank Indonesia (“BI”) issued a new regulation No. 21/2/PBI/2019 on the Reporting of Foreign Exchange Activities on 7 January 2019 (“PBI 2/2019”). PBI 2/2019 introduces among others new scope of foreign exchange activities report for parties involved in risk participation transactions.

Following the issuance of PBI 2/2019, the BI Board of Governors further issued the implementing regulation, i.e. Regulation of the Members of Board of Governors No. 21/4/PADG/2019 on the Reports on Foreign Exchange Activities in the Form of Offshore Loan and Risk Participation Transactions on 28 February 2019 (“PADG 4/2019”). Both PBI 2/2019 and PADG 4/2019 came into effect on 1 March 2019 and the reporting period shall be in force from March 2019.

PBI 2/2019 revokes all provisions relating to the foreign exchange reporting activities which were previously regulated under BI Regulation No. 16/22/PBI/2014 on the Reporting of Foreign Exchange and Reporting Activities of Implementation on Prudential Principles in Offshore Loans Management by Non-Bank Corporations (“PBI 22/2014”). While the PADG 4/2019 revokes the following regulations:

- Circular of BI Number 15/16/DInt on 29 April 2013 on Reports on Foreign Exchange Activities in the Form of Offshore Loan Realizations and Balances; and
- Circular of BI Number 17/4/DSta on 6 March 2015 on Reports on Foreign Exchange Activities in the Form of Offshore Loan Plans and Amendments to Offshore Loan Plans.

Foreign Exchange Activities Reports (“LLD Reports”)

LLD Reports consists of all foreign exchange activities that are carried out both for the interests of the reporting parties and other relevant parties, for example its customers.

A. Reporting Party

The reporting obligation applies to:

- financial institutions (i.e. banks and non-bank financial institutions);
- non-financial institution business entities, which include (i) state-owned enterprises, (ii) regional government-owned enterprises or (iii) private entities;
- other entities; and
- individuals.

In addition, Reporting Party in bankruptcy proceedings may request an exemption from reprimands to BI by submitting supporting evidence in the form of a copy of application letter for bankruptcy filing or license revocation letter from the relevant ministry.

B. Scope of LLD Reports

Both PBI 2/2019 and PADG 4/2019 have also introduced new scope of foreign exchange activities report that is risk-participation transactions (*transaksi partisipasi risiko* – “TPR”). TPR means transactions between parties whereby a party transfers the credit or facility risk to other party pursuant to a master risk participation agreement. The Reporting Party who participate in TPR transactions are required to disclose information in their LLD Reports.

The Reporting Party must submit a complete, correct, and timely LLD Reports electronically via online through the BI’s reporting page at [//www.bi.go.id/lkpbu2](http://www.bi.go.id/lkpbu2). The data and information to be disclosed in LLD Reports shall consist of:

- a. trade transactions of goods, services, and other transactions between residents and non-residents;
- b. main information on the offshore loan and/or TPR;
- c. plan for withdrawal and/or payment of the offshore loan and/or TPR
- d. realisation of withdrawal and/or payment of the offshore loan and/or TPR;
- e. position and changes to the offshore financial assets, offshore financial obligations and/or TPR; and/or
- f. a new offshore loan plan and/or its amendment.

Where the Reporting Party is an Indonesian bank then the LLD Reports will only contain the following:

- a. main information on the offshore loan and TPR’s and the supporting documents;
- b. plan for withdrawal and/or payment of the offshore loan and/or TPR;
- c. realisation of withdrawal and/or payment of the offshore loan and/or TPR; and
- d. position and changes to the offshore financial obligation and/or TPR.

Aside from the scope of LLD Reports mentioned above, the profile and/or information of the Reporting Party and any of its amendments shall also be included in the LLD Reports.

Based on the instruments, the offshore loan and/or TPR shall include:


- offshore loan and/or TPR based on loan agreement;
- offshore loan based on debt securities;
- offshore loan based on trade credit; and
- other offshore loan.

C. Submission of LLD Reports

Reporting Party in reporting the LLD Reports must take into an account the submission period set out in table below:

Time Period	Remarks
Monthly submission (no later than the 15th day of the following month)	Reporting Party are to submit the LLD Reports (set out in point (a) – (e) under part B above) and other supporting documents (i.e. loan agreements, relevant information of the creditor, etc.)
No later than the 15th day of March	For the new offshore loan plan (set out in point (f) under part B above)
No later than the 15th day June	For the amendments of the offshore loan plan (set out in point (f) under part B above)

Any corrections to the LLD Reports must be submitted no later than the 20th day of the relevant submission month. In the event that the submission and/or corrections to the LLD Reports falls on a Saturday, Sunday or public holiday, the submission shall be made on the following working day.



If the LLD Reports is submitted after the deadline but before the end of that particular month, it will be considered as a late submission. If the LLD Reports has not been submitted by the end of that particular month, the Reporting Party will be deemed to have failed to submit the LLD Reports and it will still be required to submit the LDD Reports nonetheless.

D. Supervision by BI

BI supervises the foreign exchange activities through indirect supervision and/or examination. In performing its supervisory activities, BI may (i) request for explanations, evidence, records, supporting documents with or without involving the relevant authorities and/or (ii) carry out other activities determined by BI. The LLP Reports will be considered as incorrect if the Reporting Party fails to submit the requested explanations, evidences, records or supporting documents.

E. Sanctions

Under PBI 2/2019, monetary sanctions in the form of fines are no longer applicable. BI may only impose administrative sanctions in the form of written warning for the non-compliance of the Reporting Party in the event of the following:

- a. no corrections were made following the submission of an incorrect LLD Reports;
- b. late submission of the LLD Reports; and
- c. failure to submit the LLD Reports.

In addition, the issuance of written warning is only applicable to new Reporting Party who (i) submit LLD Reports for the first time; (ii) resume foreign exchange activities after no longer carrying out such activities for one year; and (iii) are required to submit LLD Reports based on BI's examinations ("[New Reporting Parties](#)"). BI may only issue the reprimands to the New Reporting Parties, if three reporting periods has elapsed since the first submission.

The issuance of both PBI 2/2019 and PADG 4/2019 is to improve the reporting mechanism of foreign exchange activities and increase the quality of data and information submitted by the Reporting Party that is deemed necessary.

If you have any questions or require any additional information, please contact [Leoni Silitonga](#), [Sandro M. Panjaitan](#) or [Rahmatika Rasyiqqa](#) of the Roosdiono & Partners (a member of ZICO Law).

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