

RECENT DEVELOPMENTS

Pertamina to be majority shareholder in Mahakam

Jakarta (ANTARA News) - Deputy minister of energy and mineral resources Rudi Rubiandini assured here on Monday that Pertamina would hold a majority participating interest of between 51 and 70 percent in the Mahakam oil and gas field in East Kalimantan.

"Mahakam has always been for Pertamina. Later, Pertamina will participate in its management holding minimally 51 percent and maximally 70 percent shares," he said after a meeting with House of Representatives` Commission VII members.

He said the 70 percent shares include the shares to be allocated for regions.

"So, Pertamina will minimally hold 51 percent and along with regions will hold maximally 70 percent shares," he said.

The rest 30 percent participating interest meanwhile will remain to be held by Total E&P or along with other contractors, he added.

Total`s presence, he said, is still needed to provide funds and technology.

To assure production sustainability Total will still be the operator of Mahakam for the first five years, he said adding "later it will be operated by Pertamina."

Pertamina, the state-owned oil and gas company, has already formally applied to manage the Mahakam Block after Total E&P Indonesia`s contract expires in 2017.

Total first signed the contract for the management of Mahakam on March 31, 1967 for a 30 year period.

On March 31, 1997 the contract was extended for 20 years more and it would expire on March 30, 2017.

Besides Total that holds 50 percent shares and becomes its operator there is also Inpex Corporation in the Mahakam Block that holds the rest 50 percent shares.

Until October this year Total has produced 1,9156 million cubic feet of gas and 67,478 barrels of oil per day.

The Mahakam Block is estimated to hold 17 percent of proven national gas reserves or 12.7 trillion cubic feet.



New BI Regulation on Forex

by Sandi Adila

This paper will provide a summary of the requirements set out in PBI 13/20 in relation to the flow of foreign exchange resulting from export and offshore borrowing activities. PBI 13/20 became effective on January 2, 2012. PBI 13/20 requires an exporter to receive its Forex Earnings through an Indonesian foreign exchange bank (the “Forex Bank”), as opposed to a foreign bank. By this requirement, an exporter must ensure that all Forex Earnings to be received by the exporter from an importer should be remitted to a Forex Bank.

An exporter is defined as an individual or entity (whether incorporated or not) who carries out export activities from the Indonesian customs area. The definition of an exporter is broad enough to cover a non-Indonesian individual or entity who carries out export activities from the Indonesian customs area.

A Forex Bank is a bank which has obtained a license from Bank Indonesia to carry out banking activities in non-Indonesian currencies. The definition of a Forex Bank under PBI 13/20 not only covers an Indonesian-incorporated bank, but also covers a branch office of a foreign bank in Indonesia. Please note, however, that a foreign branch office of an Indonesian-incorporated bank is not included in the definition of a Forex Bank.

The following is a summary of the provisions set out in PBI 13/20 which must be observed by an exporter:

Deadline for the Receipt of Forex Earnings by a Forex Bank

PBI 13/20 requires that the Forex Earnings of an exporter must be received by a Forex Bank at the latest 90 (ninety) calendar days as of the registration date of the notification of exported goods (or in its Indonesian abbreviation, “PEB”) with the Indonesian customs office.¹ However, specifically for any export activities which will be carried out in 2012 (as will be evidenced by the registration date of the PEB), the deadline for the receipt of the Forex Earnings by the Forex Bank is extended to 6 (six) months as of the registration date of the PEB.

The abovementioned 90-day deadline is not applicable for export activities if the payment of the Forex Earnings by the importer will be done by way of issuance of a letter of credit, consignment, collection or deferred payment having a maturity date of more than 90 (ninety) calendar days as of the registration date of the PEB (the “Alternative Payment Methods”). In such cases, PBI 13/20 states that the Forex Earnings of an exporter must be received by a Forex Bank at the latest 14 (fourteen) calendar days as of the maturity date of the relevant payment.

Exporters’ Reporting Obligations

Exporters are required to submit information on the Forex Earnings² set out in the PEB (PEB must be submitted by an exporter with the customs office before any goods are exported out

of Indonesia) to a Forex Bank within 3 (three) working days after the Forex Earnings are received by the exporters through a Forex Bank. Upon receipt of the reports from the exporters, the Forex Bank will then forward such reports to Bank Indonesia.

If the payment of the Forex Earnings by the importer is done by way of any of the Alternative Payment Methods, the exporter is obligated to submit a written explanation on the Alternative Payment Method, together with supporting documents (such as copies of the PEB and letter of credit), to a Forex Bank at the latest 14 (fourteen) calendar days as of the registration date of the PEB. The Forex Bank will then forward the same to Bank Indonesia, failing which the exporter will be deemed to have received the Forex Earnings by way of a non-Alternative Payment Method.

Corresponding Amount

PBI 13/20 requires that the Forex Earnings to be received by the exporter must correspond to the amount stated in the PEB. If the Forex Earnings are less than the amount stated in the PEB, the exporter is obligated to submit a written explanation, together with supporting documents, to the Forex Bank at the latest on the fifth day of the following month after the Forex Earnings are received by the exporter through the Forex Bank. The foregoing is, however, not required if, among others, the amount of the discrepancy is Rp10,000,000 (or its equivalent) or less.

Failure to carry out the foregoing requirement means that the exporter will be deemed to have not received its full Forex Earnings through a Forex Bank

Export Agreements which pre-date PBI 13/20

In respect of any export agreement entered into prior to the effectiveness of PBI 13/20 (i.e. January 2, 2012), to the extent that such agreement requires the Export Earnings to be remitted to a non-Forex Bank, the relevant exporter is not required to receive its Forex Earnings through a Forex Bank. The receipt of Forex Earnings by the exporter through the non-Forex Bank, however, must be reported by the exporter to Bank Indonesia (together with a written explanation as well as supporting documents) at the latest 14 (fourteen) calendar days as of the registration date of the PEB.

This foregoing exception is, however, only valid until December 31, 2012. Thereafter, all exporters will be required to receive Forex Earnings through a Forex Bank in compliance with PBI 13/20.

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