

INDONESIA ISSUES NEW REGULATION ON THE REPATRIATION OF FOREIGN EXCHANGE EXPORT PROCEEDS

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Government Regulation No. 36 of 2023 regarding Foreign Exchange Export Proceeds from the Business, Management and/or Processing of Natural Resources (“**GR 36/2023**”) requires certain exporters of natural resources (exporters in the mining, plantation, forestry and fisheries sectors with an export value of goods of at least USD 250,000 or its equivalent) to remit/repatriate their foreign exchange export proceeds into the Indonesian financial system through deposits in Export Earnings from Natural Resources (“**DHE SDA**”) special holding accounts with (i) Indonesia Eximbank (Lembaga Pembiayaan Ekspor Indonesia or “**LPEI**”) (for debtors of LPEI) and/or (ii) banks which are licensed by the Financial Services Authority (*Otoritas Jasa Keuangan*) (the “**OJK**”) to engage in foreign exchange operations. The DHE SDA should be deposited no later than the end of the quarter following the month of registration of the relevant export notice. At least 30% (thirty percent) of the DHE SDA should be maintained in the special account for at least 3 (three) months after the deposit of the DHE SDA.

The DHE SDA deposited in the special account may be used for the purposes of (i) payment of export duties and other levies relating to exports (ii) payments related to loans (ii) payments for imports (iv) distribution of profits/dividends and (v) other needs of investors pursuant to Article 8 of Law No. 25 of 2007 regarding Investments. If the payments are made through an escrow account, then exporters must open escrow accounts with LPEI or Indonesian foreign exchange banks (foreign escrow accounts which were opened prior to the enactment of GR 36/2023 must be transferred to LPEI or to Indonesian foreign exchange banks within 90 (ninety) days of the enactment of GR 36/2023).

Based on the results of supervision by Bank Indonesia and the OJK, exporters who (i) do not deposit DHE SDA into special holding accounts (ii) do not maintain DHE SDA amounting to at least 30% (thirty percent) for a period of at least 3 (three) months and/ or (iii) do not create or transfer an escrow account, shall be subject to administrative sanctions in the form of suspension of export services.

GR 36/2023 came into effect on 1 August 2023 and revoked Government Regulation No. 1 of 2019 regarding Foreign Exchange Export Proceeds from the Business, Management and/or Processing of Natural Resources. GR 36/2023 stipulates that implementing regulations will be issued by the Ministry of Finance, Bank Indonesia and the OJK (as at today’s date, implementing regulations have been issued by the Ministry of Finance and Bank Indonesia).