

NEWSLETTER

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BANK INDONESIA ISSUES NEW REGULATION ON ELECTRONIC MONEY

Bank Indonesia (“**BI**”) has issued the newest regulation on Electronic Money (“**E-Money**”), i.e. Bank Indonesia Regulation No. 20/6/PBI/2018 on Electronic Money (“**PBI 20/2018**”).

PBI 20/2018 fully replaced the previous regulations on E-money, which are Bank Indonesia Regulation No.11/12/PBI/2009 and its amendments (“**Previous Regulations**”). By issuing PBI 20/2018, BI aims to adjust the technological developments related to financial matters by regulating several additional requirements and obligations which were not regulated in the Previous Regulations.

Regulation No. 20/2018 introduces several key changes by setting up the provisions mentioned as below:

1. Classifications of E-Money;
2. E-Money Operators;
3. E-Money Issuers;
4. Organization of E-Money;
5. Unification, merging, segregation and takeover of E-Money administrators;
6. Reporting and supervision; and
7. Sanctions.

Due to the wide scope of PBI 20/2018, this newsletter will only briefly explain point (1), (2), and (3) above.

Classification of E-Money (Closed Loop and Open Loop)

PBI 20/2018 defines E-Money as a medium of exchange which has to meet the following characteristics:

1. Its value is equivalent to any cash which is deposited with the relevant E-Money issuer (“**Issuer**”);
2. The value is stored electronically on a server or chip; and
3. The deposited E-Money value managed by Issuer is not the same as bank savings.

One of the key changes sets out in PBI 20/2018 is the classifications of E-Money that is no longer limited to Open Loop arrangements, which defines as a payment instrument being used to make payments to a merchant that is not the same entity as the E-Money Issuer. The scope of the Previous Regulations did not regulate E-Money issued under a Closed Loop arrangement. However, PBI 20/2018 defines the Closed Loop arrangement as an E-Money which is utilized for the purchase of products from the Issuer of the relevant E-Money.

E-Money Operators

According to Article 1 (11) of PBI 20/2018, E-Money operators are classified as Issuer, Acquirer and Principal, as well as the organizer of Switching, Clearing and Final Settlement of transactions involving E-Money (“**Operators**”).

Furthermore, Operators mentioned above are divided into two classifications, which are: (i) front-end Operators and (ii) back-end Operators, with the specifications set out:

1. Front-end Operators consist of the Issuer, Acquirer, Payment Gateway Operator, E-Wallet Operator and Transfer of Fund Operator; and
2. Back-end Operators consist of the Principal, Switching, Clearing and Final Settlement.

As an addition, each party can only become an Operator in one classification of Operators as mentioned above .

To start the business as the Operators, the party shall obtain a permit from BI. The obligation to obtain the permit from BI is excluded for any party who acts as the Issuer of the closed loop arrangement with the value of E-Money less than 1 Million. Any party who has conducted the business activity as the open loop E-Money Issuer with the value of E-Money less than 1 Million and as the closed loop E-Money Issuer with the value of E-Money more than 1 Million, shall submit an application to obtain the permit from BI within 6 (six) months as from the enactment of PBI 20/2018.

Furthermore, PBI 20/2018 regulates several important provisions and obligations that shall be fulfilled by Operators, which are as follows:

Representations and Warranties

Bank or non-Bank Institution intends to apply license as an E-Money operator is required to submit representations and warranties documents (including certain undertakings) to BI. These representations and warranties shall at least cover the following aspects:

1. that the company has been validly established in Indonesia;
2. that they are not in default, subject to any sanctions and/or involved in any criminal or civil case, which may materially impact its business continuity; and
3. at the time of submission, there are no petitions for bankruptcy or suspension of debt payment obligation (*penundaan kewajiban pembayaran utang*) against the company at any relevant commercial court in Indonesia.

Banks or non-Bank Institutions are also required to undertake several provisions included in the representation and warranties, which are as follows:

1. comply with the prevailing laws and regulations for the activities undertaken individually or together with its affiliated parties;
2. maintaining financial matters as indicated by good liquidity conditions, profitability, and good solvency;
3. conduct the E-Money activities with a business model that will give benefit to the Indonesian economy;
4. not relocate the head office in Indonesia to other country and shall ensure the head office has full authority to make decisions over their E-Money business in Indonesia; and
5. ensure to fulfill the representations and warranties throughout the performance of E-Money activities.

Representations and warranties letter mentioned above shall be submitted and signed by the Board of Directors (“**BOD**”) authorized to represent the company, which includes a statement from an independent and professional legal consultant (external to the company) according to the result of the legal due diligence conducted by them.

Controlling Shareholders

Individuals and non-Bank Institutions are prohibited to become controlling shareholders/majority shareholders in: (i) more than one non-Bank Institution, if the entities own the same payment-services system operators license; and/or (ii) more than one non-Bank Institution, in terms where each entity is in a different-payment system services group.

However, this prohibition does not apply to state-owned, non-Bank Institution or to ownership in providers conducting their activities based on different principles (i.e., sharia businesses and conventional businesses).

E-Money Issuers

Non-Bank Institution intends to apply license as an E-Money Issuer are required to fulfill both paid-up capital and share ownership requirements. Detailed provisions of those requirements are set out as below:

Paid-Up Capital Requirement

The capital requirement for non-Bank E-Money Issuer shall be paid-up capital amounting to IDR 3 billion (in possession) with a further tiered minimum amount of paid up capital according to the relevant floating funds. Detail of the float funds are as follows:

No.	Float Fund Average	Minimum Increase of Paid Up Capital
1.	Between IDR 3-5 billion	IDR 6 billion
2.	Between IDR 5-9 billion	IDR 10 billion
3.	Exceeds IDR 10 billion	IDR 10 billion plus 3% of the relevant float funds

Under the Previous Regulation, these requirements were not regulated, therefore, the existing non-Bank Institutions, which do not have the capital requirement in possession, shall adjust the PBI 20/2018 provisions by no later than 4 November 2018 and the abovementioned paid up capital increase obligation shall be fulfilled by no later than June 2019.

Share Ownership Requirement/Foreign Shareholding Restriction

Non-Bank E-Money Issuers are now subject to a direct and indirect foreign shareholding limit of 49%. The remaining 51% of the shareholders of an E-Money Issuer shall be Indonesian entities or individuals. However, BI has the discretion to impose a lower limit for foreign shareholding in an E-Money Issuer based on certain considerations, such as the track record of the E-Money Issuer or its shareholders, the technology used and scope of E-Money use. However, for non-Bank Institutions that is a Public Listed Company, the calculation of share ownership composition is only required for shares that is equivalent to 5% or more. Existing Non-Bank E-Money Issuers are required to maintain a percentage of shareholding ownership as regulated in PBI 20/2018.

PBI 20/2018 has been in force since 4 May 2018 and replaces the Previous Regulation.

If you have any queries or would like us to assist you with any aspects of compliance with PBI 20/2018, please feel free to contact our office.