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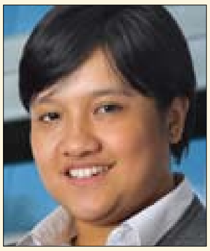
New rules for Indonesia's banking industry




By Lasmaroha Simbolon and Bezaliel Basuki Erlan

Bank Indonesia, the central bank, has issued a flurry of recent regulations aimed at strengthening the country's banking system and giving local banks a competitive lift.

New ownership rules for banks

Bank Indonesia Regulation No. 14/24/PBI/2012 addresses what is known as the Single Presence Policy (SPP) and is seen as a tool to improve the competitiveness of the banking system by streamlining bank ownership and improving supervision. SPP in essence requires parties with controlling stakes in more than one bank to merge their banks, establish a bank holding company to hold the bank shares they own, or set up a 'holding function,' where a bank or the Indonesian Government consolidates all the activities of its subsidiary banks under a single controlling entity.

All three options have their advantages. In the merger alternative, for example, the merged banks enjoy a temporary exemption from satisfying the minimum statutory reserve stipulated by the central bank and additional time to comply with the regulated legal lending limit and the maximum permitted provision of funds stated as a percentage of bank capital. Another privilege for controlling shareholders is the possibility of owning more than 40 percent of the capital in the bank resulting from the merger.

A major benefit of the bank holding company alternative is that once Bank Indonesia approves the establishment of the bank holding company it is exempt from having to obtain prior approval from the central bank for the acquisition of banks owned by the controlling shareholders. The bank holding company can also receive an exemption from the 40 percent bank ownership limit.

If the carrot approach to bank consolidation fails the regulation has a few sticks it can employ. A controlling shareholder who fails to comply with the SPP faces not being allowed to exercise any controlling function over the relevant bank and being prohibited from owning more than 10 percent of the bank's voting shares. Failure to comply could result in the controlling shareholder being prohibited from owning a controlling stake in any Indonesian bank for 20 years.

Export proceeds regulation

Bank Indonesia issued a regulation that places new demands on exporters in terms of where they park their incoming funds and how they report income. While the regulation affects all exporters, much of the opposition to its provisions has come from some of the biggest companies in Indonesia's upstream oil and gas industry.

BI Regulation No. 14/25/PBI/2012 principally imposes three obligations. First, foreign exchange from export proceeds must be received through a foreign exchange bank in Indonesia within three months of the registration of the related export declaration, with certain exceptions. Second, exporters must report export declarations involving more than US$10,000 to the foreign exchange bank, with that information then to be forwarded to Bank Indonesia. And finally, foreign exchange from certain offshore loans must be withdrawn through a foreign exchange bank in Indonesia and reported to Bank Indonesia.

Many companies in the oil and gas industry are reluctant to comply with the requirement that they deposit all of their export proceeds in a foreign exchange bank in Indonesia.

Trust services

In what can be seen as a complement to the regulation on export proceeds, Bank Indonesia issued new rules designed to improve the competitiveness of local banks in providing 'trust' services, basically the management of assets. This regulation is addressed in particular to oil and gas companies operating in Indonesia, to encourage them to keep their foreign exchange proceeds in Indonesia instead of utilising the trust services of foreign banks.

Trust services under this regulation are limited to cash, receivables and/or commercial papers. However, the regulation does not define the currencies of the trust activities, implying that the trust services are open for financial assets denominated in Indonesian rupiah or foreign currencies. Bank Indonesia has drawn up a lengthy list of requirements an Indonesian bank or an Indonesian branch office of a foreign bank must fulfill to ensure its financial soundness and capacity to provide trust services.

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