

Client Update: Indonesia

2 JANUARY 2018

Banking & Finance

BI introduces FinTech ‘sandbox’ to support innovation

Indonesia’s Central Bank – Bank Indonesia (“BI”) recently issued new rules governing the (“FinTech”) sector, designed to support innovation while maintaining customer protections and financial stability. The new regime introduces a regulatory sandbox that allows FinTech start-ups to test new products under controlled BI supervision. It includes detailed registration and monitoring procedures. The developments are relevant to all providers, businesses and investors with interests in FinTech innovation and online payment systems.

Against the backdrop of a rapidly evolving financial technology (“**FinTech**”) landscape, Indonesia’s central bank – Bank Indonesia (“**BI**”) recently updated its regulations governing the sector.

The regulation’s primary development is the introduction of a regulatory ‘sandbox’ – a controlled program to test innovative FinTech services under the supervision of Bank Indonesia (“**sandbox**”). By providing FinTech innovators some scope to test their products in a live environment, the new rules respond to challenges that FinTech start-ups face to determine whether their products comply with existing regulations. BI will assess whether providers that participate in the sandbox scheme can be rolled out commercially after a defined period.

The latest guidelines fall under Regulation No. 19/12/PBI 2017 on the Organization of Financial Technologies (“**Reg 19/12 2017**”), and its implementing regulation, Regulation No. 19/12/PADG/2017 (“**PADG 19/15 2017**”), which sets out the procedures for registration, submission of information, and monitoring of financial technology organisers. Also relevant will be the Financial Services Authority (“**OJK**”)’s rules concerning Peer-to-Peer lending service providers (“**P2P Providers**”).

In this Client Alert, we bring you the key implications of BI’s latest regulations, and highlights specific details relevant to P2P Providers.

Key components of Reg 19/12 2017 and PADG 19/15 2017 are:

1. Clarification over the scope and characteristics of FinTech activities to which the new rules apply
2. Regulatory Sandbox
3. Registration with BI
 - i) Procedures for registration (PADG 19/15/2017)
 - ii) Publication and removal of registered Fintech organizers
 - iii) Procedures for the submission of information by payment system organizers
 - iv) Monitoring
4. Sanctions

Banking & Finance

1. **Scope**

Reg 19/12 2017 and PADG 19/15 2017 may apply to FinTech providers with interests in the management and organization of financial technologies, which include providers involved in developing: (i) payment systems – such as blockchains or distributed ledgers; (ii) market support – ie: aggregators; (iii) investment management and risk management services – such as online investment products and online insurance; (iv) loans, financing and capital allocation; and/or (v) other financial services.¹

To make use of the sandbox, FinTech activities must also meet the following criteria:

- i) development of innovative technology;
- ii) potential to disrupt/affect existing financial products, services, technologies and/or financial business models;
- iii) offers a benefit to customers;
- iv) capacity for widespread use; and
- v) Other criteria that BI may set.

2. **Regulatory Sandbox**

The introduction of the FinTech sandbox is Reg 19/12/2017's principal feature, designed to allow FinTech Providers to test their products and services in a live environment for a defined period.² The rationale behind this policy is that as technologies become more complex and it is less clear whether a new financial product or service complies with legal and regulatory requirements, some FinTech Providers may be reluctant to implement their innovations for fear of being stunted by regulatory constraints. Recognising the desirability of promoting technological innovation in this space – and the potential benefits to consumers and financial system that could result – the BI sandbox scheme aims to facilitate FinTech business development in a controlled manner.

The sandbox scheme requires FinTech Providers to register with BI following the procedures set out below (although some providers are exempted from registering, namely those engaged in Peer-to-Peer lending and under OJK supervision – see the following section).

Reg 19/12/2017 states that BI will set a defined period in which the sandbox will remain live – although the regulation itself does not elaborate further.

Once the period ends, BI will assess the capabilities that participating FinTech providers have developed and determine whether to grant an official business license/approval based on that recommendation.³ Providers must not market their FinTech products/services to the public until they have secured a license/approval.

All (unlicensed) FinTech providers that intend to participate in this scheme must register as below.

¹ Art.3(1) Reg 19/2017; Art.1(1),(2),(4) PADG 19/15 2017.

² Art.11 Reg 19/12/2017.

³ Business licenses will be granted following existing procedures set under BI Regulation NO. 18/40/PBI/2016, which applies not only to FinTech providers but also more broadly to any company providing payment services/products that do not fall within the FinTech category – Reg 19/12/2017 Art. 15(3).

Client Update: Indonesia

2 JANUARY 2018

Banking & Finance

3. **Registration with BI**

Reg 19/12 2017 requires all eligible FinTech providers to register with BI from 30 December 2017,⁴ other than providers that have already secured a BI license, or providers that fall under OJK supervision or that of another relevant authority.

i) **Registration Procedures (PADG 19/15/2017)**

FinTech providers that are not exempted must apply for registration through BI's official website (or manually if the website is not yet functioning) using the format provided under PADG 19/15/2017 – Appendix I, in Bahasa Indonesia. Providers must include the following supporting documents with their application:

- Copy of an official deed of establishment
- Ownership structure
- Names of management
- Corporate overview
- Brief description of the company's FinTech products/services/technologies and/or business models; and
- Any other information relevant to the company's FinTech product/s.⁵

ii) **Publication and removal of registered Fintech organizers**

BI will assess all applications and documents, and publish a list on its official website (<http://www.bi.go.id>) of those providers that have been granted registration ("**Registration List**").

BI reserves the right to de-register, and remove FinTech providers from this list where any of the following circumstances apply:

- The company is subject to sanctions by BI, OJK, or another relevant company
- The company has been convicted of a crime or declared bankrupt
- OJK or other relevant authority issues a written recommendation/request the company be de-registered
- The FinTech company requests de-registration

iii) **Procedures for the submission of information by payment system organizers**

As discussed above, FinTech providers that have already secured a BI license need not submit a registration application. However, such providers must provide BI with the same documents and information that are required under the registration process, using a submission form provided under the appendix to PADG 19/17/2017. These providers will also submit their documents through the BI website.

⁴ Art 27 Reg 19/12/2017.

⁵ Art.5 (1)-(3)(5), 6(1) Reg 19/12/2017.

Client Update: Indonesia

2 JANUARY 2018

Banking & Finance

iv) Monitoring

BI will monitor all FinTech providers on the Registration List – for which they must submit details on relevant transactions, products/services, the company’s financial status, and management/ownership following a prescribed schedule:

Data type:

Transactions involving FinTech activity

FinTech Product / Services / technologies and/or business model updates;
Company Financial Status; and
Management and Ownership

Other relevant data/information

Information must be provided:

Monthly - first week of the month

1. Annually – in January
2. Providers must submit details of any changes to these details within ten days of the change occurring.

To be determined. BI may at its discretion issue further guidelines on other types of information that Fintech providers must provide, and how often.

4. **Sanctions**

BI will impose sanctions on FinTech providers that fail to comply with Regulation 19/12/2017, which may include: written warning, suspension of business activities; removal from the BI registration list; or - for: companies under OJK or another institution’s supervision – a recommendation their business license be revoked; or – for payment-system providers, any of the above and/or fines.

Regulation 19/12/2017 came into force 30 November 2017, and requires all FinTech providers eligible to participate in the sandbox to submit their registration from 30 December 2017.

Contacts



Indira Yustikania
Partner

D +62 21 2555 7829
F +62 21 2555 7899
indira.yustikania@ahp.id



Zacky Zainal Husein
Partner

D +62 21 2555 9956
F +62 21 2555 7899
zacky.husein@ahp.id

Our Regional Contacts

RAJAH & TANN | *Singapore*

Rajah & Tann Singapore LLP

T +65 6535 3600
F +65 6225 9630
sg.rajahtannasia.com

CHRISTOPHER & LEE ONG | *Malaysia*

Christopher & Lee Ong

T +60 3 2273 1919
F +60 3 2273 8310
www.christopherleeong.com

R&T SOK & HENG | *Cambodia*

R&T Sok & Heng Law Office

T +855 23 963 112 / 113
F +855 23 963 116
kh.rajahtannasia.com

RAJAH & TANN NK LEGAL | *Myanmar*

Rajah & Tann NK Legal Myanmar Company Limited

T +95 9 7304 0763 / +95 1 9345 343 / +95 1 9345 346
F +95 1 9345 348
mm.rajahtannasia.com

RAJAH & TANN 立杰上海
SHANGHAI REPRESENTATIVE OFFICE | *China*

**Rajah & Tann Singapore LLP
Shanghai Representative Office**

T +86 21 6120 8818
F +86 21 6120 8820
cn.rajahtannasia.com

GATMAYTAN YAP PATACSIL
GUTIERREZ & PROTACIO (C&G LAW) | *Philippines*

Gatmaytan Yap Patacsil Gutierrez & Protacio (C&G Law)

T +632 894 0377 to 79 / +632 894 4931 to 32 / +632 552 1977
F +632 552 1978
www.cagatlaw.com

ASSEGAF HAMZAH & PARTNERS | *Indonesia*

Assegaf Hamzah & Partners

Jakarta Office

T +62 21 2555 7800
F +62 21 2555 7899

Surabaya Office

T +62 31 5116 4550
F +62 31 5116 4560
www.ahp.co.id

RAJAH & TANN | *Thailand*

R&T Asia (Thailand) Limited

T +66 2 656 1991
F +66 2 656 0833
th.rajahtannasia.com

RAJAH & TANN LCT LAWYERS | *Vietnam*

Rajah & Tann LCT Lawyers

Ho Chi Minh City Office

T +84 28 3821 2382 / +84 28 3821 2673
F +84 28 3520 8206

RAJAH & TANN | *Lao PDR*

Rajah & Tann (Laos) Sole Co., Ltd.

T +856 21 454 239
F +856 21 285 261
la.rajahtannasia.com

Hanoi Office

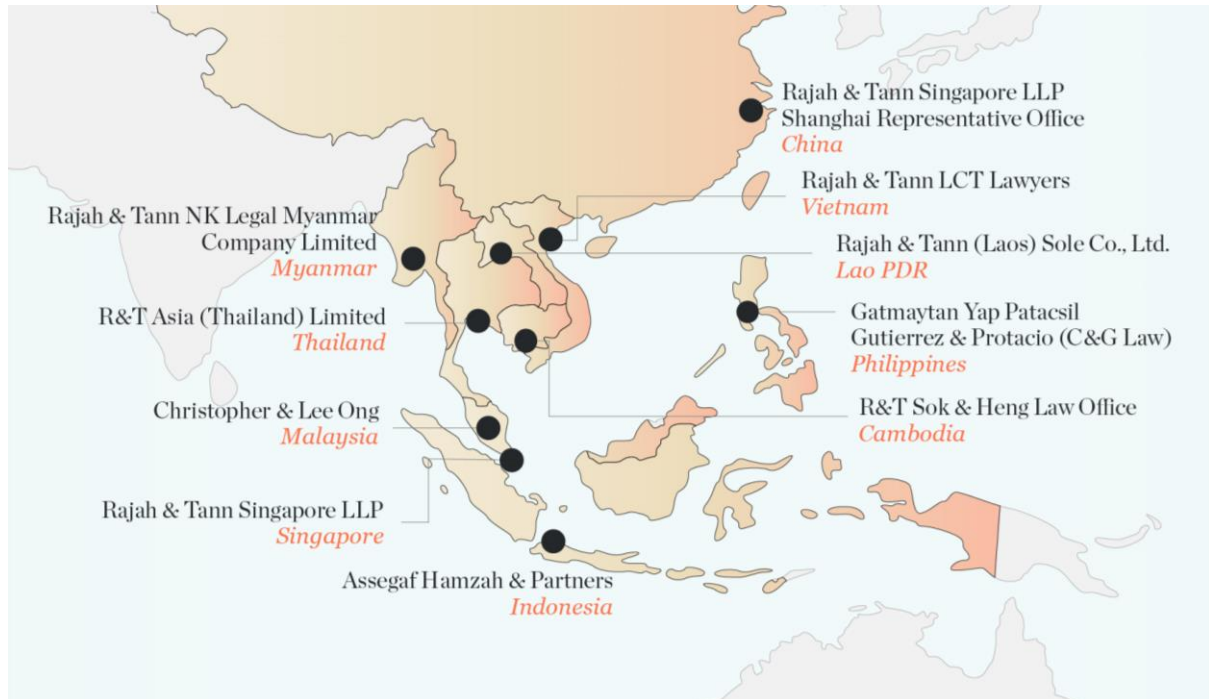
T +84 24 3267 6127
F +84 24 3267 6128
www.rajahtannlct.com

Client Update: Indonesia

2 JANUARY 2018

LAWYERS
WHO
KNOW
ASIA

Member firms are constituted and regulated in accordance with local legal requirements and where regulations require, are independently owned and managed. Services are provided independently by each Member firm pursuant to the applicable terms of engagement between the Member firm and the client.



Our Regional Presence

Based in Indonesia, and consistently gaining recognition from independent observers, Assegaf Hamzah & Partners has established itself as a major force locally and regionally, and is ranked as a top-tier firm in many practice areas. Founded in 2001, it has a reputation for providing advice of the highest quality to a wide variety of blue-chip corporate clients, high net worth individuals, and government institutions.

Assegaf Hamzah & Partners is part of Rajah & Tann Asia, a network of local law firms in Singapore, Cambodia, China, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Thailand and Vietnam. Our Asian network also includes regional desks focused on Japan and South Asia.

The contents of this Update are owned by Assegaf Hamzah & Partners and subject to copyright protection under the laws of Indonesia and, through international treaties, other countries. No part of this Update may be reproduced, licensed, sold, published, transmitted, modified, adapted, publicly displayed, broadcast (including storage in any medium by electronic means whether or not transiently for any purpose save as permitted herein) without the prior written permission of Assegaf Hamzah & Partners.

Please note also that whilst the information in this Update is correct to the best of our knowledge and belief at the time of writing, it is only intended to provide a general guide to the subject matter and should not be treated as a substitute for specific professional advice for any particular course of action as such information may not suit your specific business and operational requirements. It is to your advantage to seek legal advice for your specific situation. In this regard, you may call the lawyer you normally deal with in Assegaf Hamzah & Partners.