

Financial Services NewsFlash

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PSAK 50/55: The complex issues entities face

The Institute of Accountants has issued Statement of Financial Accounting Standards ("PSAK") 50: Financial Instruments – Presentation and Disclosure (revised 2006) and PSAK 55: Financial Instruments – Recognition and Measurement (Revised 2006).

These PSAK's are based on International Accounting Standards ("IAS") 32 and 39 of the same title and will be effective for periods beginning on or after 1 January 2009. These two standards will have a significant impact on almost all organizations.

Areas of significant impact

Provision for loan losses

Currently provisions for loan losses for banks in Indonesia are set based upon, at a minimum, the requirements of Bank Indonesia. These are prescriptive in detailing the minimum provisions to be held against certain classes and ratings of lending assets.

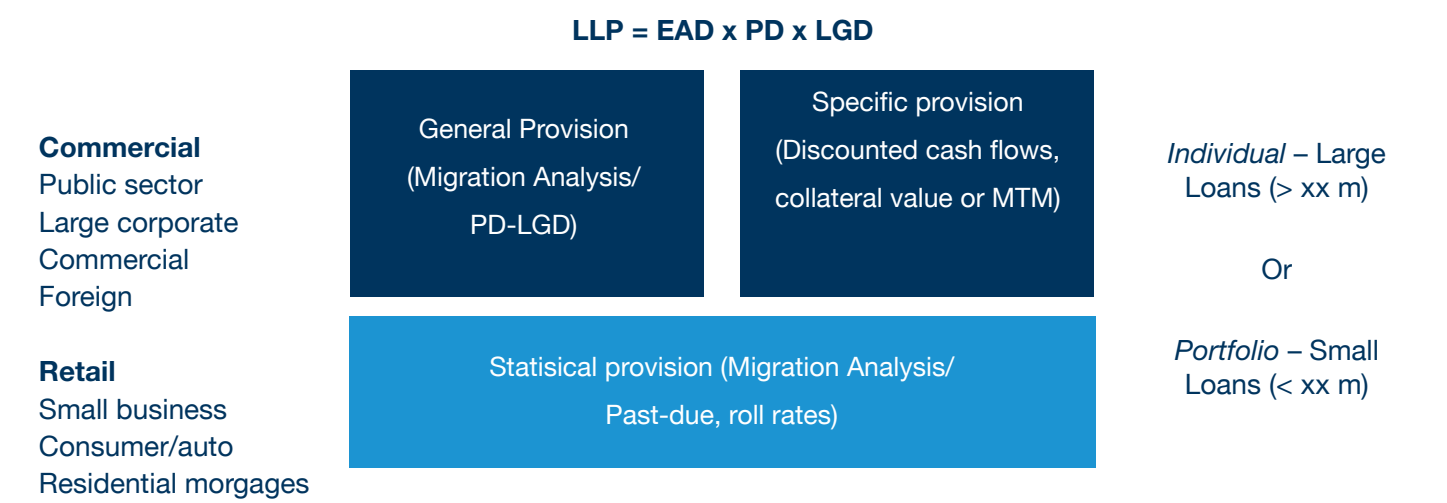
PSAK 55 (Revised 2006) mandates the use of an 'incurred loss' methodology for provisioning for loan losses. This approach means that a provision can only be recognised when there is objective evidence of impairment such as: the deterioration in the creditworthiness of counterparty, an actual breach of contract, or a high probability of a bankruptcy; and the impact of the event on estimated cash flows can be reliably measured. This requirement means that losses cannot be recognised when a loan is initially originated and provisions cannot be recognised for future losses. The measurement of individually significant assets is based upon discounting expected future cash flows using the original effective interest rate taking into consideration any proceeds from collateral. Non-individually significant impaired loans are evaluated collectively for impairment. 'Buffer' provisions are not permissible.

Under the standard, for loans that have previously been treated as non-accrual, there is a requirement to continue to recognise interest income on the impaired assets using the original effective interest rate inherent in the loan. Given the high and growing level of impaired assets in Indonesia, this will result in a significant increase in the interest income recognised in the Income Statement. This will be offset by a higher loan loss expense.

Our experience in other jurisdictions has indicated that PSAK 55 (Revised 2006) generally results in a reduction in the provision for loan losses. However, for those banks that have a high level of non-performing loans, there is a possibility that the requirements of this standard will increase the level of provisions required.

The modelling required under PSAK 55 (Revised 2006) can be complex. To recognise a provision, the onus is on management to demonstrate that based on recent loss experience, using objective evidence of impairment, that there are losses inherent in the portfolio at balance date. While the standard does permit additional provisions for certain economic risks, these provisions also need to be supported with objective evidence. General overlay provisions are not permissible.

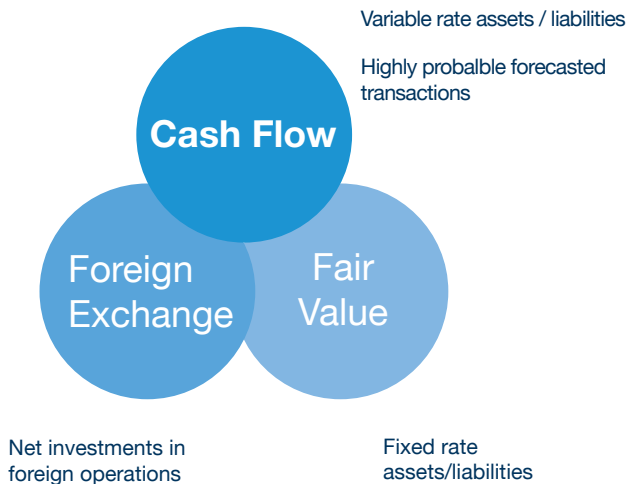
The diagram below demonstrates the common methodologies used to calculation the Loan Loss Provision (LLP) using the Exposure at Default (EAD), Probability of Default (PD) and Loss Given Default (LGD).



Accounting for derivatives

PSAK 55 (Revised 1999) Accounting for Derivative Instruments and Hedging Activities details the accounting for derivatives in Indonesia. The requirements of this standard are similar to the United States standard FAS 133. In summary, there are three different types of hedges: fair value, cash flow and hedges of foreign exchange hedges relating to net investments in foreign operations.

Different types of hedges under PSAK 55 (Revised 2006)



For example, under PSAK 55 (revised 1999) the short-cut method can be used where the terms and conditions of the hedged item and hedge match. This allows for organisations to assume the hedge is effective without being required to undertake the hedge effectiveness tests or to separately account for any ineffectiveness. Under PSAK 55 (Revised 2006), this approach is not permissible. The hedge effectiveness test needs to be performed and any ineffectiveness taken to the Income Statement.

Most entities in Indonesia have elected not to hedge account derivatives due to the complexities of PSAK 55 (Revised 1999). The consequences are that companies in Indonesia have Income Statement volatility arising from the requirement to carry these derivatives at fair value. We believe that as the Indonesian banks increase their complexity through writing more fixed rate business, and they start to access the global capital markets for long term wholesale funding, they will need fees that are integral to the loan or that directly attributable external costs to the loan are identified, then these to enter into more derivatives to hedge the economic risks that arise. As a result, to avoid significant Income

Welcome to our first edition of the Financial Services NewsFlash, a quarterly publication we plan to issue on topical issues in the Indonesian financial services industry.

We are clearly living in interesting times for the financial services sector with unprecedented developments and volatility in the global market place. Until recently, the Indonesian sector has been somewhat protected from these developments. However, it is likely that the longer the global turmoil continues, the more probable that we will feel the impacts in Indonesia - either through direct or indirect exposures or through continued tightening of liquidity conditions.

Irrespective of these developments, we are continuing to see Indonesia move ahead with regulatory reform that will impact the sector. In this edition of the Financial Services NewsFlash, we cover those developments that will have a direct impact on the sector from now through 2009. We have included articles on:

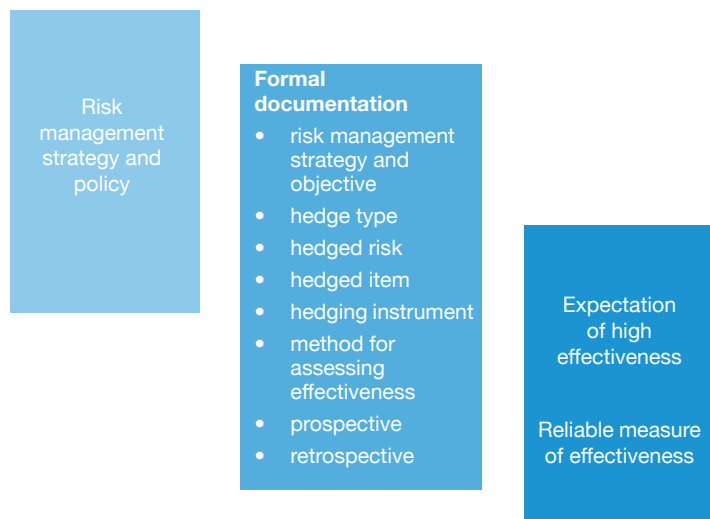
- **PSAK 50/55.** These accounting standards are applicable for periods commencing on or after 1 January 2009. This will fundamentally change the accounting for financial instruments affecting banks, insurance companies, securities companies and multifinance companies. In some cases, these standards will have a significant impact on your customers.
- **IT Risk Management Implementation for Commercial Banks.** This Bank Indonesia regulation was issued in December 2007 and has the potential to significantly impact how banks manage their IT resources both locally and offshore. In this article, Kees Poelman provides a summary of the actions that need to be taken now.
- **Incentives on the merger or consolidation of banks.** This article explores the relief Bank Indonesia will provide for banks that plan to merge or consolidate under the Indonesian Banking Architecture framework. To obtain some of the incentives, applications need to be made within certain timeframes. Those organisations that are looking at non-organic growth in the banking sector should familiarise themselves with the requirements of this regulation.
- **Taxation developments.** Here we have explored some of the recent tax developments including the amended income tax law and the requirements that need to be met for tax-neutral business mergers, consolidations or expansions.

We hope that you find this publication of interest. Please do continue to provide us with feedback on both the content and topics you would like to see in future editions.

Stuart Scoular
Financial Services Leader



Hedge criteria under PSAK 55 (revised 2006)



Statement volatility, it will be necessary to meet the requirements of PSAK 55 (Revised 2006) to achieve hedge accounting.

Our global experience is that to implement an effective hedging solution under similar standards to PSAK 55 (Revised 2006) is complex. Usually a system based solution is required and there is often extensive changes required to existing processes both prior to, and after, executing hedging contracts. Not only are the documentation and effectiveness tests operationally difficult to implement, the associated accounting entries are complex.

Derecognition of financial assets and liabilities

PSAK 55 (Revised 2006) has a series of detailed 'rules' regarding derecognition for financial assets.

In our experience, the rules can be difficult to navigate. They often require certain assets that may have previously been derecognised to be treated as a collateralised borrowing (i.e. on-balance sheet). The area most impacted is securitisation transactions. In many countries, assets that may have been 'sold' through a securitisation are required to be re-recognised

under PSAK 55 (Revised 2006). This means that not only are the assets on-balance sheet, but a gain or loss upon securitisation is not recognised when the assets are 'sold'.

The financial asset derecognition rules often require an asset to only be recognised to the extent of an organisations on-going involvement. For example, if an entity retains control of a financial asset, but does not retain or transfer substantially all the risks and rewards, the asset is recognised only to the extent of the entities continuing involvement.

The derecognition rules for liabilities can also be difficult to apply. Under PSAK 55 (Revised 2006), a liability can only be derecognised when it is extinguished, that is when the obligation is discharged, cancelled or expired. We have seen examples where prima facie, liability derecognition makes logical sense, but the requirements of the standard have not been met. An example relates dormant deposit accounts which cannot be derecognised unless they are extinguished.

In transitioning towards adopting PSAK 55 (Revised 2006), a detailed analysis needs to be taken of financial assets and liabilities to ensure they continue to achieve derecognition.

Do act now

This article only highlights some of the issues arising from the implementation of PSAK 50 (Revised 2006) and PSAK 55 (Revised 2006). There are many other potential areas that need to be considered such as recognition and classification, valuation of financial instruments using bid / offer rates and reclassification of financial instruments between debt and equity.

The changes are substantial and the devil is in the detail. Given that the standards are effective from 1 January 2009, it is critical that banks take action now to ensure they comply with the requirements of these standards.

IT Risk Management Implementation for Commercial Banks

Kees Poelman

In December 2007, Bank Indonesia issued a regulation regarding the implementation of IT risk management for commercial banks. Under this regulation banks are required to implement proper IT risk management tailored to their business operations, and to report on the actual status of IT risk management to Bank Indonesia. The regulation became effective on 31 March 2008, and the implementation guide is more than 100 pages long. This regulation is proving to be a key challenge for all banks operating in Indonesia to implement the requirements in time.

The regulation

Bank Indonesia regulation 9/15/PBI/2007 addresses the risk management implementation for the use of information technology by commercial banks. All commercial banks with operations in Indonesia, including subsidiaries and branches of foreign banks, must comply with this regulation, and report on their actual usage of IT no later than 30 September 2008.

Scope

The IT Risk Management Regulation applies to the bank's IT systems, whether implemented internally or by a third party. For such IT systems, the bank's IT risk management system needs to cover all aspects of the IT cycle, with particular rules for business continuity planning and electronic banking. Furthermore, supervision and audit requirements are specified for third party IT service providers.

Banks having an IT risk management system in place before this regulation became effective need to assess whether the criteria of the regulation are fully met. If necessary, adjustments need to be made.

Third party IT service providers

The use of a third party IT service provider does not release the bank from any responsibility related to IT risk management. Contractual arrangements with the service provider have to be in place relating to agreed service levels, the bank's supervisory role, and access for audit purposes by an external auditor and by Bank Indonesia.

Foreign banks

Specific rules apply for foreign banks operating in Indonesia. If IT processing or data storage is performed

overseas, the bank needs to ensure access to these overseas IT facilities in case Bank Indonesia requires an audit of these facilities. Furthermore, Bank Indonesia requires confirmation from the overseas authorities that the bank is under their supervision.

Reporting

Banks have an obligation to submit a set of reports in the format set out by Bank Indonesia. Areas which must be covered in these reports are: usage of IT, IT amendment plans, IT realization plans and mandatory reporting of any events that may significantly affect core banking operations or financial reporting.

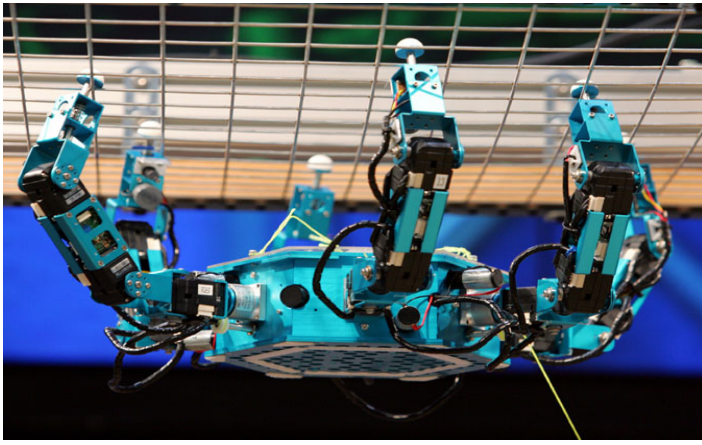
Potential challenges

The effort involved in developing and/or fine-tuning the IT risk management system may be easily overlooked by banks. The complexity of the regulation is demonstrated by its length.

Potential constraints are:

- unfamiliarity with the detailed requirements established by Bank Indonesia;
- a lack of specialists able to enhance the current IT risk management system to the standards required;
- insufficient internal resources to ensure timely realization of Bank Indonesia's requirements.

The regulation also requires banks to reassess their contractual arrangements with third party IT service providers, in particular if these activities are offshore. Careful planning will be required to assess whether these activities meet Bank Indonesia's requirements, and there is a possibility that activities that were previously approved may be disallowed. In these circumstances, banks will need to prepare and submit contingency plans to address this outcome.



Current IT disaster recovery plans need to be reassessed in terms of whether they are able to support timely recovery from events that affect the continuity of the bank's core business operations. There is an explicit requirement to test the operational effectiveness of these plans.

Action list

Banks need to take action on the following points:

1. Ensure that your IT strategic plan is up to date and aligned with your strategic business plan.
2. Re-evaluate your risk management policies and procedures to ensure that they meet the standards of the new regulation.
3. (Re-)identify all critical areas for Indonesian core banking operations, including any overseas processing, and ensure that these are included in the IT risk management system.
4. Review and amend your contracts with third party service providers to ensure that they are in compliance with these requirements.
5. For processing and storage of Indonesian data by the overseas parent company and any other overseas branches:
 - obtain a supervision statement from the overseas authorities;
 - arrange that Bank Indonesia has access for IT audit purposes;
 - perform and submit periodic IT risk assessment.
6. Report any planned implementations for electronic banking activities, including an audit report.
7. Prepare and submit your report on the use of IT before 30 September 2008.
8. Prepare and submit reports on any planned key changes in IT.
9. Obtain audit results of outsourced IT two months after audit completion.

10. Prepare and submit reports of any events of crisis, misuse, and/or fraud related to IT immediately such events arise.

Action needs to be taken now

Parts of this regulation are effective immediately. Examples include requirements to seek approval from Bank Indonesia for new offshored activities and changes in existing activities, and to obtain approval from Bank Indonesia for system changes.

Based on PricewaterhouseCoopers' observations during the last months, there are a number of areas where banks are facing problems:

- For several banks, IT risk management has not yet been performed as an integrated part of the bank's overall risk management.
- Overseas banks have performed IT risk management at global or at regional level. This risk management exercise, however, does not (or not sufficiently) address the Indonesian business operations.
- Overseas IT processing and data storage have not yet been approved by Bank Indonesia.
- Banks have their IT outsourced to a third party, but don't have agreed arrangements such as an annual independent audit with regards to these third party services.
- Banks don't have a specialised IT Audit group within their Internal Audit function.
- Banks are struggling to obtain timely approval of system changes from Bank Indonesia.

It will be a big challenge for a number of banks, to realise full compliance with the regulations of Bank Indonesia, before the required compliance date of 31 March 2009.

PricewaterhouseCoopers: how can we help you?

PwC is increasingly working in partnership with Indonesian banks with respect to IT solutions. Globally, PwC has extensive experience in working with banking organisations to improve their responsiveness and quality of service.

At an early stage of development of the new Bank Indonesia regulation we familiarised ourselves with the requirements and with its implication for Indonesian commercial banks. Based on our experience with a variety of Indonesian banks, we understand your potential issues and are well placed to assist you in ensuring compliance with the new requirements.

Incentives on merger or consolidation for banks

In 2006, Bank Indonesia (“BI”) introduced BI Regulation No.8/17/PBI/2006, that was later amended by BI Regulation No.9/12/PBI/2007. The regulation was issued to encourage Indonesian banks to merge or consolidate within BI’s Indonesian Banking Architecture framework.

The incentives outlined in the regulation include:

Rupiah Minimum Reserve Requirement

According to BI’s regulation on the Rupiah Minimum Reserve Requirement (‘RMMR’) stipulated in BI Regulation No.7/29/PBI/2005, banks are required to meet the RMMR by providing to BI a sufficient percentage of their current account. With the merger or consolidation incentive, the percentage of the current account in BI will be temporarily reduced by 1%. This temporary relaxation is valid for one year from the effective legal merger date.

BI’s Circular Letter No.9/20/DPNP dated 24 September 2007, states that the 1% reduction is based upon the combined financial report of the merged or consolidated banks. If there is no combined financial report, then the basis used is the standalone financial report of each participating bank.

Legal Lending Limit

An extension of the time period to settle the excess amount of Legal Lending Limit (“LLL”) arising from the merger or consolidation is also granted. The LLL regulation (BI Regulation No.8/13/PBI/2006) is the maximum permitted provision of funds stated as a percentage of the bank’s capital. The period of extension shall be no longer than 24 months from the effective legal date of the merger or consolidation. This is to include the time required to submit the bank’s action plan to comply with BI’s regulations regarding LLL.

Good Corporate Governance

BI is aware that the merger or consolidation will require a lengthy period of time in order to comply with Good Corporate Governance (GCG) regulation. Therefore, BI will grant temporary relaxation of the implementation of several requirements regarding GCG. This relaxation covers an extension of six months for (i) the fulfilment of the composition of the Independent Commissioners, (ii) the relaxation of the Independent Commissioners to hold a chairmanship position in three committees and (iii) the fulfilment of the composition of Independent Commissioners in the Audit Committee and the Risk Monitoring Committee.





Other incentives

BI also grants partial reimbursement of consultants' fees for due diligence work performed (50% of the due diligence cost or maximum Rp 1 billion). In addition, there is an easing of the process of obtaining licenses to open other branches and the process of obtaining a license to change the bank's status as a foreign exchange bank.

Do the incentives apply to you?

The incentives are applicable to a bank that has acquired another bank(s) and plans to merge or consolidate with another bank(s). The plan to utilise the incentives shall be submitted prior to the effective legal merger or consolidation date. The incentives will come into effect once the legal merger or consolidation approval has been obtained.

How banks can apply

To apply for the incentives, one of the participating banks is required to submit, in writing, their plan to utilise the incentives, to the respective Directorate of Bank Supervision of BI before the merger or consolidation is effective. The format for the incentive plan letter can be found in the appendix of the BI's Circular Letter No.9/20/DPNP dated 24 September 2007. The incentive plan letter must be signed by all the members of the Board of Directors of the participating banks. Also, the draft merger or consolidation deed which has been approved by the respective Extraordinary General Meeting of

Shareholders must be attached. After the submission of the incentive plan letter, the application to utilise the incentives must be submitted.

When do banks submit the incentive application?

In general, the application can only be submitted after the merger or consolidation is effective. However, for the RMMR incentive, the application can be submitted either before or after the effective legal merger or consolidation date. If the submission is before the effective legal merger or consolidation date, the application can be submitted by any of the participating banks. If not, the application must be submitted by the surviving bank.

Issues and recommendations

From several merger and consolidation process that we have assisted, we noted some common issues faced by banks regarding obtaining the incentives on merger or consolidation. The issues include lack of knowledge on the merger incentives, weak relationship with BI and omission of a letter to BI indicating their plan to utilize the incentives, which has to be submitted prior to the effective merger or consolidation date.

Hence, we recommend banks to gain better understanding on the prevailing regulations regarding the incentives and build a strong relationship with BI to smoothen the application process.

Taxation developments

There have been some important taxation developments recently, particularly on the amended Income Tax Law and further implementing regulations on tax-neutral business mergers, consolidations, or expansions.

I. Amended Income Tax Law

Effective from 1 January 2009, here is the list of key impacts on the Financial Services Industry. Implementation regulations are expected to be issued at a later stage.

a. Corporate income tax rate

The income tax rate for corporations will be 28% (flat) starting 1 January 2009. The highest tax rate may be reduced to 25% (flat) with a government regulation as of 2010. All companies with a tax book year ended after 30 June 2009 shall calculate their income tax based on the new Income Tax Law. In addition, corporations will need to prepare for the impact on the deferred income tax calculation starting 2008.

b. Individual income tax rates

The income tax rate for employees and individuals will be reduced to 30% and the top marginal bracket will be increased to IDR 500 million. Below are the details of the proposed new tax rates:

- 5%: up to IDR 50 million (approximately USD 5,500) per annum
- 15%: above IDR 50 million up to IDR 250 million (approximately from USD 5,500 - USD 27,000) per annum
- 25%: above IDR 250 million up to IDR 500 million (approximately from USD 27,000 - 55,555) per annum
- 30%: above IDR 500 million (approximately USD 55,555) per annum.

For employees with no individual tax ID number, the tax rate shall increase by 20% higher than the tax due if the employees had a tax ID number. This means the highest rate would be 36%.

c. Dividends

A dividend paid to Indonesian individual shareholders will be subject to final tax of 10%. As such, individual shareholders may no longer need a limited liability company for shareholding purposes. Furthermore, an active holding company will no longer be required for obtaining an income tax exemption. The result of this is



that payments of dividends from a limited company to another limited company will not be taxable provided there is a minimum shareholding of 25% of paid up capital.

d. Mutual funds

Interest on bonds received by mutual funds will be subject to tax in the hands of mutual funds. This ends the era of tax incentives to mutual funds in the first five years. At this stage, we observe that discussions are taking place regarding an acceptable tax rate.

e. Exchange-traded securities

Currently only listed shares and bonds are subject to final tax. Under the amended Income Tax Law all exchange-traded securities could be subject to final tax. Included in the exchange-traded securities are derivative transactions, although implementation regulations are not yet in place concerning how the derivative transaction will be taxed, i.e., on premium/margin or contract value.

f. Hedging activities

Swap premiums and other hedging transactions paid to non-residents (other than Permanent Establishments in Indonesia) will be subject to withholding tax (Article 26) or tax treaty provisions. The provision on this matter gives a broader basis for the domestic tax imposition. It is unclear at this stage how the tax shall be due and on what elements.

g. Syariah activities

Syariah activities will be subject to income tax. Businesses that are Syariah compliant will be governed under separate government regulations.

h. Scholarships

Scholarships which meet certain requirements will not

be subject to income tax. A further implementation regulation will be issued by the Minister of Finance.

i. Beneficial ownership

In the context of a cross-border transaction, in addition to the certificate of residence, the Indonesian Tax Authority will consider beneficial ownership based on corporate domicile, i.e. the country in which the owner of the corporate taxpayers resides or holds “effective management”. Included as the “company owner” is/are holder(s) of more than 50% of the enterprise’s shares either individually or collectively. The meaning of this section is confusing as the interpretation could be the effective management of the shareholders or the company itself.

j. Transactions with related parties

For transactions with related parties, in determining if transactions are at arm’s length the Directorate General of Taxes may use:

- comparable uncontrolled price method;
- resale price method;
- cost-plus method; or
- any other method (profit split method and transactional net margin method)



In cases where there is a special relationship and the price is not set at arm’s length:

- if a tax payer uses a Special Purpose Company (SPC) in acquiring shares or assets, the tax payer can be considered as the acquirer;
- the sale or transfer of shares of an Indonesian corporation or Private Equity’s between a conduit company or SPC established or residing in a tax haven country which has a special relationship with an Indonesian corporation or PE, can be deemed a sale or transfer of shares of the Indonesian corporation or the PE respectively;
- the income of an employee can be recalculated by the ITA if the employer transfers the compensation partially or entirely in the form of other expenditure or expense to an offshore entity which has a special relationship with the Indonesian employer.

k. Withholding tax to domestic tax provider

Withholding tax for payments to domestic tax service providers and any dividend / interest / royalty / gift etc (art. 23) will be 100% higher if no tax ID number is provided by the service provider or income recipient. Thus, it is important to ensure that all of your service providers have tax ID numbers. Otherwise, the risk of a 100% penalty rests with the income payer.

In addition, we observe that one local tax office informed a taxpayer that the 100% penalty shall also be applicable for time deposit customers. We understand that no such provision exists under Article 4(2) for withholding tax on time deposits. Further clarification from the Director General of Tax is needed.

I. Loan write-off

Under the amended Income Tax Law, criteria for loan write off for tax purposes is more lenient, i.e., in addition to requirements to commercially claim the loan write-off in the income statement and attach a nominative list to the annual corporate income tax return, for the 3rd criteria, the taxpayer may choose either to announce the loan write-off or file the collection case with the district court or government body who handles country receivables or agreements for the loan write-off and acknowledgement of the loan write-off from the debtors. This provision gives more flexibility for taxpayers to choose the method of fulfilling the criteria.

II. Tax-neutral business mergers, consolidations, or expansions

a. New circular letter (August 2008)

The Director General of Tax (DGT) issued a circular letter to address additional requirements and concerns regarding tax-neutral mergers. They are as follows:

- there will be tax audits for both surviving and dissolving entities;
- if there is an offset of inter-company loans between the surviving and dissolving entities, for debtors, the loan offset is not a taxable income while for creditors, the receivable offset is not tax deductible;
- after obtaining approval for the use of book value, within 5 years, the DGT could revoke the approval for the use of book value if there is evidence that:
 - the business purpose test has not been met;
 - the taxpayer transferring assets which were owned by a previous company has not informed the ITA (in writing) or the information is not line with the facts;
 - in the future it comes to the DGT's attention, there is information regarding outstanding tax liabilities as of the date of the approval for the use of book value.

Unfortunately the circular letter did not address the tax implications of mergers at the shareholders level.

b. Use of book value for bank mergers

One of our banking clients has recently obtained approval to use book value on assets transferred for a business merger. This is the first bank that has obtained approval from the Indonesian Tax Authority under the new merger regulation.

As highlighted in earlier FS newsflash, you may be aware that for obtaining an approval to use book value for tax purpose, the Indonesia Tax Authority requires the surviving company shall be the taxpayer that does not have a remaining loss or which has a lesser remaining loss compared to the transferor company based on the remaining fiscal and commercial loss.

We observe that this requirement may not in line with the commercial and/or business considerations and/or facts. As such, for tax purposes, it is crucial to further analyse the possible implications entirely and how to meet the requirement (if still possible).

In addition, for tax purpose, if an approval for the use of book value is obtained, the surviving company shall book the assets based on book value. Please consider the accounting treatment as well.

c. VAT on transfer of fixed assets

Under the draft VAT Law, there may no longer be 10% VAT on the transfer of fixed assets from a dissolving company to a surviving company. Therefore, for bank mergers, no VAT will be due on the transfer of assets.

If the proposed change is approved by Parliament,

the amended VAT Law is likely to be effective from 1 January 2009.

III. Other developments

a. Loan write off

In June 2008 a bank recently won in the tax court with regards to claiming loans written-off. We have also observed that another bank had lost a similar case in the tax court in February 2006.

In these cases, the banks have taken a tax deduction for loans that have not necessarily met the 4 four criteria set out in the Tax Law. Instead, it is argued that for tax purposes, the loans should continue to be classified as Collectibility 5 ('loss') and therefore a full provision will be held.

From a technical perspective, this approach could be considered appropriate if, at the very least, a bank has sufficient evidence to demonstrate its genuine intention and effort to fulfil the documentation for written-off loans for tax purposes. If there is no intention to fulfil the four criteria, then in our view it would be an aggressive tax practice to adopt the above approach.

b. Tax disputes

We observe that the new regulation on tax payment based on what taxpayers agree at (under the new General Provision Law effective in 2008) would only be applicable for the 2008 tax year onwards. This means the concept of paying first and arguing later would still be applied for the fiscal years prior to 2007.

In the case of providing documents within a month during tax audit, we can share that such requirements may be applied for the past years case (e.g. tax audit of 2006 and assessment was issued in 2007). A taxpayer experienced that their case has been rejected in objection level considering the data has not been submitted in tax audit process (within a month). In this case, the tax auditors at the objection level applied the new General Provision Law not only for the 2008 tax year.

It is worth to share one of the senior officers in the DGT view of the application of tax audit provision during the transitional period under the new General Provision Law although this view should not bind taxpayers in the absence of the implementing regulation on this matter.

He views that month deadline as an administrative requirement and therefore it shall be applied to past tax years (not only for the case of the 2008 tax year onwards which are in dispute from 2008 onwards). However, for tax payment, he considers it as a non-administrative requirement.

Your PricewaterhouseCoopers Indonesia contacts



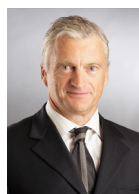
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We achieve excellence through **innovation, learning and agility.**

Teamwork

The best solutions come from working together with colleagues and clients.

Effective teamwork requires **relationships, respects and sharing.**

Leadership

Leading with clients, leading with people and thought leadership.

Leadership demands **courage, vision and integrity.**

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