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Presidential Regulation 112: Indonesia's Commitment to Renewable Energy

As the fourth most populous country in the world and the largest economy in Southeast Asia, Indonesia's energy demands are continuously growing. As of 2021, 87% of current energy are generated from fossil fuel, and only 13% are generated from renewable energy. This is still below the portion pledged by the government of 23% by the end of 2025 and 31% by end of 2050 under the 2007 Energy Law (Law No. 30 of 2007).

To fulfil the foregoing pledge, the government has issued, amended, and revoked several policies in the past 15 years to meet the renewable energy target. The latest of this measure is the issuance of Presidential Regulation No. 112 of 2022 on the Acceleration of Renewable Energy Development for Power Supply ("**PR 112**"), which the government hopes to be push that Indonesia requires to boost the development of renewable energy.

In a nutshell, the steps taken by the government to increase the renewable energy portion in Indonesia's energy mix consist of (1) a ban on the development of new coal power plants; (2) reducing the number of coal power plants by authorising the Ministry of Energy and Mineral Resources ("**Ministry**") to accelerate the termination of the operation of coal power plants operated by PLN and/or independent power producers ("**IPP**"); (3) replacing the basis of the renewable energy tariff from the average electricity generation basic cost (*biaya pokok penyediaan* or "**Generating BPP**") to ceiling price based on the type of energy sources and locations; (4) streamlining the procurement process of renewable energy projects through direct appointment and direct selection, and providing a time limit to conclude the entire process; and (5) providing incentives for geothermal energy power plant (*pembangkit listrik tenaga panasbumi* or "**PLTP**").

The following are the highlights and key takeaways from PR 112:

1. **The End is Near (for Coal-fired Power Plant)**

   Under PR 112, the government formally bans the development of new coal-fired power plants, with certain exceptions (including coal-fired plants that are already included in PLN's electricity development plan (RUPTL)) and require the Ministry to come up with a roadmap for the early termination of existing coal-fired power plants operated by PLN and IPPs.

   Pursuant to the terms of power purchase agreements between PLN and IPPs that are typically and generally applied in Indonesia, early termination due to government's policy would be considered as "*Government Force Majeure*" that would require PLN to pay a termination fee to the respective IPP.

   Now, under PR 112, the government can issue fiscal contribution in the form of blended financing from the State Budget or other source of financing to the IPP, to support the accelerated termination. For now, we have no clarity as to whether this fiscal contribution will be used to pay the termination fee or for other purposes. Instead, PR 112 mandates the Ministry of Finance to issue an implementing regulation to further detail the form of this fiscal contribution.

   Under the 2021 RUPTL, the government is planning to construct around 13,819 MW capacity of coal-fired power plants between 2021 and 2030. Due to this inclusion in the RUPTL, these new plants will be exempted from the ban. With the ban on new power plants (subject to limited exceptions), it is interesting to see how the government plans to replace the load peaker role that has been traditionally placed on coal-fired power plant. In addition, one wonders whether the ban will affect Indonesia's coal mining production and causes volatility to the commodity price that we have seen in other countries that introduced the same ban or whether there will be an increase in the electricity price paid by end consumers.

2. **New Tariff Structure**

   Despite the push to have feed-in tariff (FIT) for renewable energy power plant from industry players and investors, the government has decided to introduce new ceiling tariff that varies depending on the types of renewable energy power plants and its location.

   The concept of ceiling tariff is not much different from what is applied under PLN's Generating BPP scheme. Under the ceiling tariff scheme, the tariff offered and negotiated between an IPP and PLN must not be higher than the ceiling tariff for that particular type of renewable energy power plant, which is derived from the tariff set out in the appendices of PR 112 multiplied by the relevant location tariff. The difference with the Generating BPP's scheme is that the ceiling tariff for renewable energy power plant is no longer benchmarked against the Generating BPP for non-renewable energy such as coal, which is cheaper.

The basis for the tariffs set out under PR 112 is unclear, however, in our view, it does not deviate from the tariffs that were applied to successful renewable energy projects in Indonesia in general.

Under PR 112, the principles for the new renewable energy tariff are as follows:

a. The tariff and formula allow for tariff increment depending on the location of the plant, by applying a location factor ("**F**" factor) to the base tariff. Essentially, the government is providing incentive for the development of renewable power plants in frontier Indonesia.

b. The electricity transmission tariff (i.e., component E), which is the tariff to transmit the electricity downstream from the power plant's busbar to PLN's grid is capped at 30% of the base tariff. Exception to this cap is possible by obtaining the Ministry's approval.

c. Battery storage charges (if applicable) is capped at 60% of the base tariff. Exception to this cap is possible by obtaining the Ministry approval.

d. Payment of the tariff must be made in Rupiah but may be indexed against the fluctuation of exchange rates based on rates issued by Bank Indonesia (JISDOR).

e. The base tariff is not subject to escalation (except for geothermal power plant).

f. The ceiling tariffs are subject to annual review by the Ministry.

For the following renewable energy power plants, exception to the ceiling tariff may be applied if the parties (i.e., PLN and IPP), subject to the Ministry's approval, has commercially agreed on a tariff in excess of the ceiling tariff:

a. hydroelectric power plant – designated as load peaker;

b. tidal power plant; and

c. biofuel power plant.

3. Tender Process

PR 112 allows PLN to implement direct appointment or direct selection to streamline the purchase of electricity generated from renewable energy. The following table summarises the applicable tender process.

Procurement Method	Types of Power Plant	Remarks	Procurement Lead Time
Direct Appointment	a. Hydroelectric power plant – utilising dam/water reservoir or multipurpose irrigation stream constructed by the government; b. Geothermal power plant; c. Additional capacity of any renewable energy power plant (except for biofuel); and d. Excess power of geothermal power plant, hydroelectric plant, biomass, and biogas.	• Tariff is determined based on negotiation but must not exceed the ceiling tariff. • PLN is tasked to purchase electricity from hydroelectric power plant (utilising dam/water reservoir or multipurpose irrigation stream constructed by the government) and geothermal power plant.	90 days
Direct Selection	a. Hydroelectric power plant in general including those designated as load peaker; b. solar PV; c. wind power plant; d. biogas or biomass power plant; e. tidal power plant; and f. biofuel power plant.	• Based on the quota capacity stipulated by the Ministry. • Tariff is determined based on the lowest bid but must not exceed the ceiling tariff.	180 days

4. Incentives and Government Support

In addition to mandating the various ministries and government agencies to support and facilitate the ease of doing business in the development of renewable energy, under PR 112, the government now offers the following incentives and compensation in the renewable energy regime:

a. Fiscal incentives in the form of income tax facility, import duty, land and building tax facilities, geothermal development support, financing or project guarantees by Indonesian state-owned companies.

b. Non-fiscal incentives from the central and regional governments. The form of this incentives is unclear at this moment, and we expect further clarity after the enactment of the implementing regulations.

5. Specific Incentives and Support for Geothermal Energy

Surrounded by ring of active volcanos, Indonesia is estimated to have more than 29,544 MW of undeveloped geothermal resources. Hence, it is only fitting that under PR 112, the government provides support and incentives that are specific to the development of geothermal energy:

a. appointment of a public service agency (*badan layanan umum)* or a state-owned company to acquire additional geothermal data;

b. appointment of a developer to conduct preliminary survey and exploration in return for a right to match in the geothermal working area tender;

c. sharing exploration risk (known as '*derisking*' scheme), pursuant to which the developer and the government will share the exploration risk and cost;

d. financing facility;

e. possible escalation of the electricity or geothermal energy tariffs (note that escalation is not permitted for other types of renewable energy);

f. the ceiling tariff set out under PR 112 to be referenced in any tender of a geothermal working area; and

g. PLN is tasked by the government to purchase the electricity or geothermal energy produced by way of direct appointment.

In consideration of PLN being the only offtaker, the tariffs determination will be the most crucial part of the geothermal energy development under PR 112. The above approach is intended to ascertain PLN's role as standby buyer and remove uncertainty on the tariff that will be applied to a specific working area.

Notwithstanding the foregoing, the Ministry or the Ministry of Finance is expected to issue further implementing regulation on certain incentives and support that will be provided for the development of geothermal energy.

6. **Transition Period**

All power purchase agreements signed prior to the issuance of PR 112 remains valid until the expiry of its term. On the other hand, all power purchase agreements that have not been signed must comply with PR 112 (irrespective of whether the Ministry have approved the tariff or not). If the agreed tariff exceeds the tariff under PR 112, then the Ministry's approval will be required.

Specific to geothermal power plants that are in the process of renegotiation:

a. the renegotiation must be concluded within six months after the issuance of PR 112;

b. if the renegotiated tariff is equal to or less than the ceiling price under PR 112, then the parties may sign the power purchase agreement without the Ministry's approval; and

c. if the renegotiated tariff exceeds the ceiling price under PR 112, then the parties must first obtain the Ministry's approval.

Conclusion

Undoubtedly, there is a lot to unpack from PR 112. The highlights of PR 112 include the government's commitment to end the development of new coal-fired power plants and early retire existing coal-fired power plants, a new tariff structure for renewable energy, which will no longer be benchmarked against the Generating BPP, and is instead now subject to the new ceiling tariff that will be annually reviewed by the Ministry. In addition, we also see the introduction of several incentives by the government for the development of renewable energy, with specific emphasis on geothermal power plant.

On the other hand, contrary to the news that the government is seriously considering FIT for renewable energy plants, there is no mention of FIT anywhere in PR 112, which may disappoint industry players who have been pushing for FIT for renewable energy plants. But in fairness, the ceiling tariff are not far off from the FIT demanded by the industry.

For parties currently negotiating power purchase agreements, they must now ensure compliance of such agreements with PR 112 before signing, otherwise they would have to obtain the Ministry's approval.

Lastly, although PR 112 tries to address the tariff issue, which has long been touted to be the main hurdle in the development of renewable energy, there remains many questions whether PR 112 will boost the development of renewable energy in Indonesia. As Indonesia adopts a single offtaker scheme, the implementation of any renewable project will largely depend on PLN taking the proactive approach in implementing existing renewable energy project pipeline and adding new projects into their current RUPTL.

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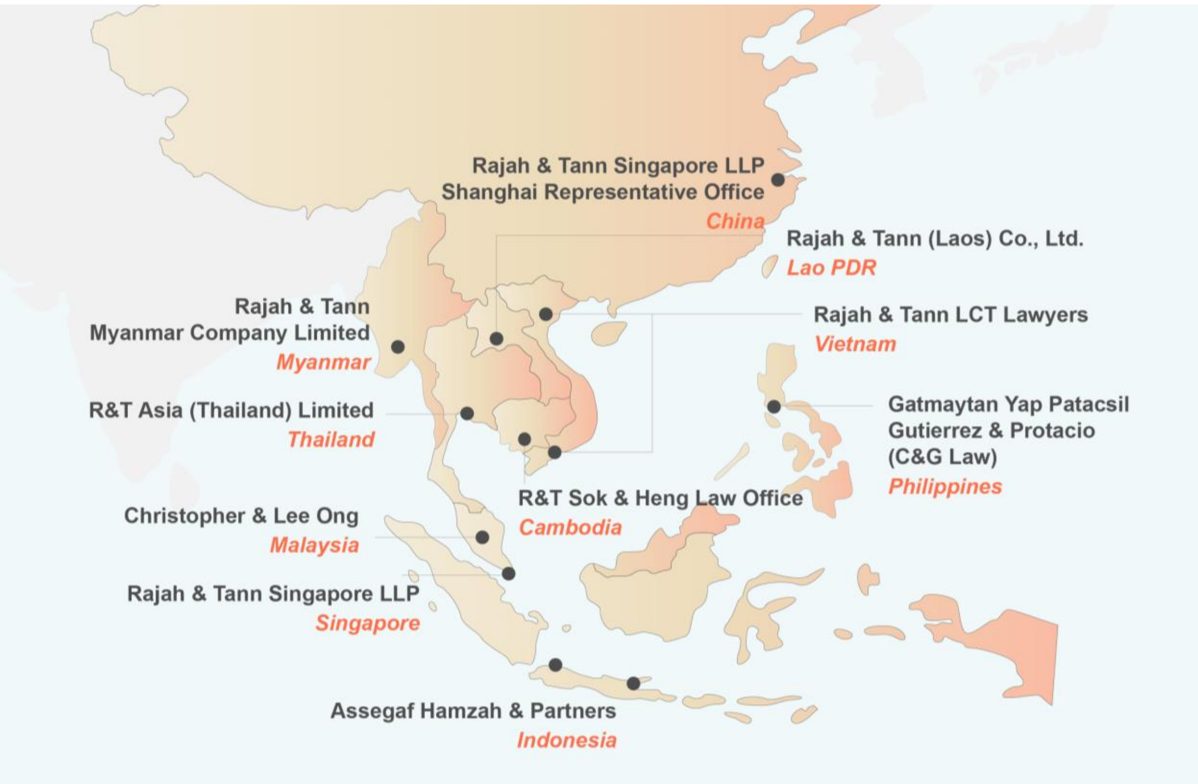

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