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**PRESIDENTIAL REGULATION ON THE
TRANSPARENCY OF STATE AND REGIONAL
INCOME GENERATED FROM EXTRACTIVE
INDUSTRIES**

SUMMARY AND ANALYSIS

OF

KEY ARTICLES

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INTRODUCTORY NOTES

This Summary & Analysis is intended as an overview of the **Presidential Regulation** re Transparency of State and Regional Income Derived from Extractive Industries, which was enacted on 23 April 2010 (“**EI Income Transparency Regulation**”).

This Summary & Analysis reflects our current understanding only of the EI Income Transparency Regulation and is subject to change as that understanding develops and evolves.

Many of the points made in this Summary & Analysis are necessarily speculative in nature and subject to further clarification and confirmation. Accordingly, it would be prudent not to rely solely on this Summary & Analysis but, rather, to seek specific legal advice with respect to any issue concerning the EI Income Transparency Regulation before making a material business decision regarding the same. **CHRISTIAN TEO & Associates** would be pleased to assist you in this regard. Our contact details are set out below.

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EXECUTIVE SUMMARY

1. The EI Income Transparency Regulation has been introduced by Indonesia as a result of the Extractive Industry Transparency Initiative, a global initiative announced at the World Summit on Sustainable Development in Johannesburg, South Africa in 2002.
2. The main objectives of the EI Income Transparency Regulation are as follows:
 - (a) to provide certainty and accountability in terms of the business operations of companies engaged in Indonesia's mining, oil and gas industries ("**Extractive Industries**");
 - (b) to reduce corruption in the Extractive Industries; and
 - (c) to improve the investment climate for the Extractive Industries by encouraging transparent management of natural resources.
3. The Government will establish an Extractive Industries Transparency Working Committee ("**Transparency Committee**"), under the supervision of and having direct responsibility to the President, for the purpose of implementing the EI Income Transparency Regulation.
4. The primary role of the Transparency Committee is to ensure that disclosure of State and Regional income generated from Extractive Industries is made in a transparent manner.
5. The Transparency Committee consists of (i) a Supervisory Committee and (ii) an Implementation Committee, with each Committee having specific duties and roles.
6. The Central, Provincial and Regional Governments, BP MIGAS and Extractive Industry companies ("**Parties**") are obliged to submit reports, on payments made and income received from Extractive Industry activities, in a form that will be determined by the Implementation Committee ("**Reporting Obligation**").
7. The EI Income Transparency Regulation, however, does not provide:
 - (i) any details on the format and substance of the Reporting Obligation; or
 - (ii) any sanctions if a Party fails to fulfill the Reporting Obligation.
8. In its current form, the practical application of the EI Income Transparency Regulation is uncertain.

SUMMARY AND ANALYSIS

1. KEY DEFINITIONS	
Legal Basis	Remarks
Article 1	<p>A. “Extractive Industries” means all industries involving activities related to the direct extraction of natural resources from the earth such as minerals, coal, oil (petroleum) and natural gas.</p> <p>B. “State Income” means all Extractive Industry revenue derived by the Central Government from tax and non-tax sources, which revenue is to be classified as an additional net asset of the State generated from Extractive Industries.</p> <p>C. “Regional Income” means the Extractive Industry income rights of the Provincial and Regional Governments, which rights are to be classified as additional net assets generated from Extractive Industries.</p>

2. TRANSPARENCY IN EXTRACTIVE INDUSTRIES	
Legal Basis	Remarks
Articles 2 - 16	<p>1. <u>Extractive Industries Transparency Committee</u></p> <p>A. The promotion of greater transparency for State Income and Regional Income is to be carried out by an Extractive Industries Transparency Working Committee (“Transparency Committee”) under the supervision of and directly responsible to the President.</p> <p>B. The Transparency Committee is to ensure that there is disclosure of State Income and Regional Income in accordance with transparency principles. In carrying out its duty, the Transparency Committee is authorized, if necessary, to request (i) information, (ii) additional data and (iii) input from and/or consultation with Central Government institutions, Provincial and Regional Governments, Extractive Industry companies and other parties.</p> <p>C. The Transparency Committee will consist of:</p> <p>(i) A Supervisory Committee responsible for:</p> <ul style="list-style-type: none"> - formulating general policies on the transparent disclosure of State Income and Regional Income, - providing input and guidance to the Implementation Committee on the principles to be utilized in ensuring transparent disclosure of State Income and Regional Income; - determining the work plan of the Transparency Committee; and - evaluating the implementation of the State Income and Regional Income

Legal Basis	Remarks
	<p>transparency initiative.</p> <p>The Supervisory Committee will convene a meeting, at least, once each year.</p> <p>The Head of the Supervisory Committee will submit a report to the President once a year and at any other time as required by the President.</p> <p>(ii) An Implementation Committee responsible for:</p> <ul style="list-style-type: none"> - implementing the work plan determined by the Transparency Committee for successive 3 year periods; - determining the format of the reports required from Extractive Industry parties; - determining the composition of the Reconciliation Team; - distributing the reports produced by the Reconciliation Team; - formulating the Supervisory Committee’s report to the President; and - carrying out such other activities as may be assigned to it by the Supervisory Committee. <p>The Implementation Committee is responsible to the Supervisory Committee.</p> <p>The Head of the Implementation Committee must, periodically or as necessary, report to the Head of the Supervisory Committee.</p> <p>D. There will also be a Reconciliation Team responsible for reconciling the reported disclosures of payments made by and income received from Extractive Industry participants.</p> <p>2. <u>Transparency Mechanism</u></p> <p>A. The Central, Provincial and Regional Governments, Upstream Business Activities Implementation Board for Oil and Gas (<i>Badan Pelaksana Kegiatan Usaha Hulu Minyak dan Gas Bumi</i> or “BPMIGAS”) and Extractive Industries companies must submit reports to the Transparency Committee, through the Implementation Committee, and in a format determined by the Implementation Committee (“Reports”).</p> <p>B. The Reports will be reconciled by the Reconciliation Team.</p> <p>C. The Head of the Implementation Committee will:</p> <ul style="list-style-type: none"> (i) report the results of the reconciliation to the Head of the Supervisory Committee; and (ii) publish the results of the reconciliation through: <ul style="list-style-type: none"> - an internet website;

Legal Basis	Remarks
	<ul style="list-style-type: none"> - seminars at strategic venues and in the major Extractive Industry locations in Indonesia; and - other publications and communications media. <p>D. The data and information stated in the Reports must:</p> <ul style="list-style-type: none"> (i) in the case of the Central Government and BPMIGAS, be in accordance with the Central Government’s financial reports which have been audited by the Financial and Development Supervisory Board (<i>Badan Pengawasan Keuangan dan Pembangunan</i> or “BPKP”); (ii) in the case of the Provincial and Regional Governments, be in accordance with each Provincial and Regional Government’s financial reports which have been audited by BPKP; and (iii) in the case of Extractive Industry companies, be in accordance with each company’s financial reports which have been audited by an independent auditor.

3. CLOSING PROVISIONS

Legal Basis	Remarks
Article 18	Not later than 3 months from the date of the EI Income Transparency Regulation, candidates for membership of the Implementation Committee must be proposed to the Head of the Supervisory Committee, who shall then make a formal decision on the membership.