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By: THE MINISTER OF ENERGY AND MINERAL RESOURCES OF THE
REPUBLIC OF INDONESIA (MESDM)

Number: 37 YEAR 2016

Date: NOVEMBER 25 2016 (JAKARTA)

Title: PROVISIONS ON THE OFFERING OF 10% (TEN PERCENT)
PARTICIPATING INTEREST IN OIL AND GAS WORK AREAS

BY THE GARCE OF THE ONE ALMIGHTY GOD

THE MINISTER OF ENERGY AND MINERAL RESOURCES OF THE REPUBLIC OF
INDONESIA,

Considering:

Whereas in the context of improving the regional and national participation through the ownership of participating interest in Production Sharing Contracts and in implementing the provisions of Article 34 of Government Regulation Number 35 Year 2004 regarding Upstream Oil and Gas Business Activities as amended several time most recently by Government regulation Number 55 Year 2009 regarding the Second Amendment to Government Regulation Number 35 Year 2004 regarding Upstream Oil and Gas Business Activities, it is necessary to stipulate a Regulation of the Minister of Energy and Mineral Resources regarding Provisions on the Offering of 10% (Ten Percent) Participating Interest in Oil and Gas Working Areas;

In view of:

1. Law Number 22 Year 2001 regarding Oil and Natural Gas (State Gazette of the Republic of Indonesia Year 2001 Number 136, Supplement to State Gazette of the Republic of Indonesia Number 4152);
2. Government Regulation Number 35 Year 2004 regarding Upstream Oil and Gas Business Activities (State Gazette of the Republic of Indonesia Year 2004 Number 123, Supplement to State Gazette of the Republic of Indonesia Number 4435) as s amended several time most recently by Government regulation Number 55 Year 2009 regarding the Second Amendment to Government Regulation Number 35 Year 2004 regarding Upstream Oil and Gas Business Activities (State Gazette of the Republic of Indonesia Year 2009 Number 128, Supplement to State Gazette of the Republic of Indonesia Number 5047);
3. Presidential Regulation Number 9 Year 2013 regarding Administration of Upstream Oil and Gas Business Activities Management (State Gazette of the Republic of Indonesia Year 2013 Number 24);
4. Regulation of the Minister of Energy and Mineral Resources Number 9 Year 2013 regarding Organization and Work Procedures of Special Taskforce for Upstream Oil and Gas Business Activities (Official Gazette of the Republic of Indonesia Year 2013 Number 194);

5. Regulation of the Minister of Energy and Mineral Resources Number 15 Year 2015 regarding Management of Oil and Gas Work Areas Which Production Sharing Contracts Are Expiring (Official Gazette of the Republic of Indonesia Year 2015 Number 714) as amended by Regulation of the Minister of Energy and Mineral Resources Number 30 Year 2016 regarding Amendment to Regulation of the Minister of Energy and Mineral Resources Number 15 Year 2015 regarding Management of Oil and Gas Work Areas Which Production Sharing Contracts Are Expiring (Official Gazette of the Republic of Indonesia Year 2016 Number 1578);
6. Regulation of the Minister of Energy and Mineral Resources Number 13 Year 2016 regarding Organization and Work Procedures of the Ministry of Energy and Mineral Resources (Official Gazette of the Republic of Indonesia Year 2016 Number 782);

HAS DECIDED:

Tro stipulate: REGULATION OF THE MINISTER OF ENERGY AND MINERAL RESOURCES REGARDING PROVISIONS ON THE OFFERING OF 10% (TEN PERCENT) PARTICIPATING INTEREST IN OIL AND GAS WORK AREAS.

CHAPTER I KETENTUAN UMUM

Article 1

Referred to herein as:

1. Work Area shall be a certain area within Indonesian Mining Jurisdiction for the implementation of exploration and exploitation.
2. Contractor shall be business entity or permanent establishment designated for conducting exploration and exploitation in a Work Area based on a production sharing contract with the Special Taskforce for Upstream Oil and Gas Business Activities.
3. Production Sharing Contract shall be a Production Sharing Contract or other cooperation contract in exploration and exploitation activities which is more beneficial to the State and the proceeds thereof shall be used for the greatest welfare of the people.
4. 10% (Ten Percent) Participating Interest hereinafter briefly referred to as 10% PI shall be the maximum amount of ten percent of participating interest in a Production Sharing Contract that must be offered by a Contractor to a Regional Government-Owned Enterprise or a State-Owned Enterprise.
5. State-Owned Enterprise hereinafter briefly referred to as BUMN shall be a business entity whose capital is entirely owned by the State through direct participation originating from separated State assets and engaging in oil and gas business.

6. Regional Government-Owned Limited Liability Company shall be a business entity in the form of limited liability company established by a Regional Government-Owned Enterprise whose capital is divided into shares owned entirely by a regional government either directly or indirectly.
7. Minister shall be the minister administering government affairs in the Energy and Mineral Resources sector.
8. Directorate General shall be the directorate general having the duty of administering the formulation and implementation of policies in the development, control and supervision of oil and gas activities.
9. Director General shall be the director general having the duty of administering the formulation and implementation of policies in the development, control and supervision of oil and gas activities.
10. Special Taskforce for Upstream Oil and Gas Business Activities hereinafter briefly referred to as SKK Migas shall be a taskforce administering the management of upstream oil and gas business activities under the guidance, coordination and supervision of the Minister.

CHAPTER II OFFERING OF 10% PI

Article 2

As of the approval of development plan for the field to be rendered in production for the first time located onshore or offshore up to 12 (twelve) nautical miles in a Work Area, the Contractor must offer 10% PI to a Regional Government-Owned Enterprise.

Article 3

The Regional Government-Owned Enterprise as intended in Article 2 must meet the following conditions:

- a. the Regional Government-Owned Enterprise may be in the form of:
 1. regional government owned enterprise the entire shares of which are owned by the relevant regional government; or
 2. limited liability company in which at least 99% (ninety-nine percent) of its shares are owned by the relevant regional government and the remaining shareholding is entirely affiliated to the regional government;
- b. its status has been legalized by a regional regulation; and
- c. it does not conduct any business activity other than managing participating interest.

Article 4

The offering of 10% PI to a Regional Government-Owned Enterprise as intended in Article 2 shall be conducted with the following provisions:

- a. for fields located onshore in 1 (one) province or offshore in a maximum distance of up to 4 (four) nautical miles, the offering of 10% PI shall be made to 1 (one) Regional Government-Owned Enterprise the establishment of which shall be coordinated by the governor by involving regents/mayors of the administrative regions where the fields which development plans have been approved are located;
- b. for fields located offshore in a distance of more than 4 (four) nautical miles up to 12 (twelve) nautical miles measured from the shoreline to the open sea, the offering of 10% PI shall be made to a Provincial Government-Owned Enterprise which implementation shall be coordinated by the governor;
- c. for fields located onshore and/or offshore within the administrative regions of more than 1 (one) province, the offering of 10% PI shall be conducted as follows:
 1. it shall be based on an agreement among the relevant governors under the coordination of the governor whose administrative region covers most of the field to be developed; or
 2. in the event that no agreement among the governors as intended in point 1 can be reached within a maximum period of 3 (three) months following the date of request for the appointment of Regional Government-Owned Enterprise, the Minister shall determine the amount of participating interest to be offered to each of the provinces.

Article 5

- (1) The distribution of share participation percentage of provinces and/or regencies/cities in a Regional Government-Owned Enterprise as intended in Article 4 point a and the determination of the amount of participating interest to be offered to each of the provinces as intended in Article 4 point c, shall be based on the distribution of the oil and gas reserve reservoir in each of the provinces/regencies/cities to be rendered in production.
- (2) In the event that the distribution of oil and gas reserve reservoir as intended in Article 4 point a is entirely located in 1 (one) regency/city, the distribution of share participation percentage of the provinces or regencies/cities shall be set at 50% (fifty) percent respectively.
- (3) In the event that the distribution of oil and gas reserve reservoir as intended in Article 4 point a is entirely located in more than 1 (one) regency/city, the distribution of share participation percentage of the province and regencies/cities shall be coordinated by the governor by involving the regents/mayors whose administrative regions are covered by the location of the fields which development plans have been approved.

Article 6

The determination of the distribution of oil and gas reserve reservoir as intended in Article 5 shall be based on the results of the certification by an independent agency appointed by the parties.

CHAPTER III PROCEDURES FOR THE OFFERING OF 10% PI

Part One
Preparation and Appointment of Regional Government-Owned Enterprise

Article 7

- (1) Each Regional Government-Owned Enterprise shall only be granted the management of 10% PI for 1 (one) Work Area.
- (2) In the event that a Regional Government-Owned Enterprise has already been managing 10% PI in a Work Area or has already been administering another Work Area or conducting other business activities in addition to upstream oil and gas business, the 10% PI shall be offered to a new Regional Government-Owned Enterprise.
- (3) In the event that the 10% PI as intended in paragraph (2) is not managed by a new Regional Government-Owned Enterprise, the Regional Government-Owned Enterprise receiving the offer of 10% PI may appoint a Regional Government-Owned Limited Liability Company.
- (4) The Regional Government-Owned Limited Liability Company as intended in paragraph (3) shall be established by the Regional Government-Owned Enterprise that does not manage participating interest in a Work Area.
- (5) In the event that the management of 10% PI is conducted by establishing a new Regional Government-Owned Enterprise as intended in paragraph (2), it must comply with the provisions as intended in Article 3 and shall not conduct any other business activity in addition to the management of participating interest in a Work Area.
- (6) In the event that the management of 10% PI is conducted by establishing a separate Regional Government-Owned Limited Liability Company as intended in paragraph (3), it must comply with the following provisions:
 - a. the basis of authority for its establishment is set out in a regional regulation;
 - b. the shares shall be owned by a Regional Government-Owned Enterprise meeting the criteria as intended in Article 3 point a and point b, and at least 99% (ninety-nine percent) of its shares are owned by a Regional Government-Owned Enterprise while the remaining shareholding shall be affiliated entirely to the regional government;
 - c. there shall be no element of private party in the share ownership; and
 - d. it shall not manage participating interest in other Work Areas.

Article 8

- (1) Within a maximum period of 10 (ten) business days following the receipt of approval of the first field development plan, the Chairperson of SKK Migas must send a letter to the governor for the preparation of Regional Government-Owned Enterprise to receive the offer of 10% PI.

- (2) The maximum period of time for the preparation of Regional Government-Owned Enterprise to receive the offer of 10% PI as intended in paragraph (1) shall be 1 (one) calendar year as of the receipt of the letter of the Chairperson of SKK Migas to the governor.
- (3) Within a maximum period of 1 (one) year as intended in paragraph (2), the governor shall send a letter of appointment of Regional Government-Owned Enterprise to receive the offer of 10% PI to the Chairperson of SKK Migas with carbon copy to the Minister.
- (4) Within a maximum period of 10 (ten) business days as of the receipt of the letter of the governor as intended in paragraph (3), the Chairperson of SKK Migas must send a letter to the Contractor to immediately start the offering of 10% PI to the Regional Government-Owned Enterprise having complied with the provisions of Article 3, Article 4, and Article 5.
- (5) In the event that the governor does not send any letter of appointment of Regional Government-Owned Enterprise as intended in paragraph (3), the regional government shall be deemed as not interested and the offering of 10% PI shall be declared closed.

Part Two
Offering to Regional Government-Owned Enterprise

Article 9

- (1) Contractor must send a written offer of 10% PI to the Regional Government-Owned Enterprise that has been appointed by the governor as intended in Article 8 paragraph (3) with carbon copies to the Director General, Chairperson of SKK Migas, and the governor.
- (2) The sending of the written offer of 10% PI to the Regional Government-Owned Enterprise as intended in paragraph (1) shall be conducted within a maximum period of 60 (sixty) calendar days as of the receipt of the letter of Chairperson of SKK Migas as intended in Article 8 paragraph (4).
- (3) In the event that the Regional Government-Owned Enterprise is interested in the offer as intended in paragraph (2), the Regional Government-Owned Enterprise must send a written letter of intent and agreement to the Contractor with carbon copies to the Director General, the Chairperson of SKK Migas, and the governor within a maximum period of 60 (sixty) calendar days as of the receipt of the offer from the Contractor as intended in paragraph (1).
- (4) In the event that the Regional Government-Owned Enterprise conveys its intent and agreement as intended in paragraph (3), the Regional Government-Owned Enterprise may undergo a due diligence and access the relevant data related to the Qork Area and the Production Sharing Contract in accordance with the laws and regulations within a maximum period of 180 (one hundred and eighty) calendar days as of the conveyance of the letter of intent and agreement as intended in paragraph (3).
- (5) In the event that the Regional Government-Owned Enterprise conducts the due diligence and access the data related to the Work Area and Production Sharing Contract as intended in paragraph (4), the Regional Government-Owned Enterprise must submit a letter stating that it will continue or discontinue its intent

and agreement as intended in paragraph (3) to the Contractor with carbon copies to the Minister and the Chairperson of SKK Migas by no later than 180 (one hundred and eighty) calendar days as of the implementation of the due diligence and access to the data.

- (6) In the event that the Regional Government-Owned Enterprise continues its letter of intent and agreement as intended in paragraph (5), the Contractor and the Regional Government-Owned Enterprise shall follow it up with the process for the transfer of 10% PI in accordance with the Production Sharing Contract.

Article 10

Provisions on the procedures for the offering of 10% PI to a new Regional Government-Owned Enterprise and Regional Government-Owned Limited Liability Company applicable shall be the provisions on the procedures for the offering of 10% PI as set out in Article 3 up to Article 9.

Part Three Offering to SOE

Article 11

- (1) In the event that the Regional Government-Owned Enterprise does not send any letter of intent within the timeframe as intended in Article 8 paragraph (5) of the Regional Government-Owned Enterprise discontinues the letter of intent as intended in Article 9 paragraph (5), the offering of 10% PI to the Regional Government-Owned Enterprise shall be declared closed.
- (2) In the event that the offering of 10% PI to the Regional Government-Owned Enterprise is declared closed as intended in paragraph (1), the Contractor must offer the same to an SOE.
- (3) In the event that the SOE sends a letter of intent, the Contractor and the SOE shall follow up the process for the transfer of 10% PI in accordance with laws and regulations as well as the Production Sharing Contract.
- (4) In the event that the SOE does not send any letter of intent within a maximum period of 60 (sixty) days as of the offering of 10% PI by the Contractor to the SOE, the offering shall be declared closed.

Article 12

- (1) The offering of 10% PI to Regional Government-Owned Enterprise or Regional Government-Owned Limited Liability Company shall be conducted by applying cooperation scheme between Regional Government-Owned Enterprise or Regional Government-Owned Limited Liability Company and Contractor.
- (2) Cooperation scheme with Contractor as intended in paragraph (1) shall be implemented by way of the provision of bridging finance by the Contractor for the amount of the liability of the Regional Government-Owned Enterprise or Regional Government-Owned Limited Liability Company.
- (3) The amount of liability of Regional Government-Owned Enterprise or Regional Government-Owned Limited Liability Company as intended in paragraph (2)

shall be calculated proportionately to the operational costs incurred during the exploration and exploitation phases based on the work plan and budget.

- (4) Upon the payment of the liability as intended in paragraph (3), the Regional Government-Owned Enterprise or Regional Government-Owned Limited Liability Company shall be entitled to receive reimbursement for costs incurred by the Contractor during the exploration and exploitation phases.
- (5) The repayment of the bridging finance as intended in paragraph (3) shall be taken from the share of the Regional Government-Owned Enterprise or Regional Government-Owned Limited Liability Company from the proceeds obtained from the oil and gas production in accordance with the Production Sharing Contract without any charging of interest.
- (6) The repayment as intended in paragraph (5) in each year shall be conducted in accordance with the common business practices from the amount of liability as intended in paragraph (3) by ensuring the existence of production sharing revenues from the oil and gas production in certain amount to Regional Government-Owned Enterprise or Regional Government-Owned Limited Liability Company.
- (7) The timeframe for repayment as intended in paragraph (6) shall start at the time of the commencement of production up to the fulfillment of the liability of the Regional Government-Owned Enterprise or Regional Government-Owned Limited Liability Company as intended in paragraph (3) during the term of the Production Sharing Contract.

Article 13

In the event that the offering of 10% PI to an SOE is conducted in common business practices, it shall be conducted by proportionately taking into account the operational costs incurred during the exploration and exploitation phases based on the work plan and budget and the provisions on cooperation scheme as intended in Article 12 shall not be applicable.

Part Four Access to Data

Article 14

The access to data in relation to a Work Area and Production Sharing Contract as intended in Article 9 paragraph (4) shall be conducted in accordance with laws and regulations.

CHAPTER IV PROCEDURES FOR THE TRANSFER OF 10% PI

Article 15

- (1) The transfer of 10% PI from a Contractor to a Regional Government-Owned Enterprise or Regional Government-Owned Limited Liability Company as intended in Article 9 paragraph (6), and/or to an SOE as intended in Article 11 paragraph (3) must be approved by the Minister based on the considerations of the Chairperson of SKK Migas.

- (2) In order to obtain approval of the transfer of 10% PI as intended in paragraph (1), a Contractor must submit an application to the Minister through the Chairperson of SKK Migas by attaching the following documents:
- a. copy of a data confidentiality agreement signed by the parties;
 - b. copy of minutes of data opening signed between the Contractor and the recipient of data/information and a representative of the Directorate General as the witness;
 - c. company profile of the company receiving the transfer of 10% PI;
 - d. copy of the deed of establishment and its amendments of the company receiving 10% PI certified as true copy by a notary;
 - e. agreement on the transfer of 10% PI drawn up before a notary; and
 - f. guarantee from the shareholders of the company receiving 10% PI for supporting and bearing responsibility for uninterrupted implementation of oil operation activity in accordance with the participating interest.
- (3) Within a maximum period of 30 (thirty) calendar days following the receipt of a complete application as intended in paragraph (2), the Chairperson of SKK Migas must send the application for approval of the transfer of 10% PI to the Minister c.q. Director General along with considerations.
- (4) The Director General shall examine and evaluate the application for approval of the transfer of 10% PI and if it is deemed necessary the Director General may ask the Contractor, Regional Government-Owned Enterprise or Regional Government-Owned Limited Liability Company as intended in Article 9 paragraph (6) and/or SOE as intended in Article 11 paragraph (3) to make presentation for the purpose of clarification.
- (5) The Minister shall issue approval of the transfer of 10% PI by no later than 30 (thirty) calendar days after the examination and evaluation of the application for approval of the transfer of 10% PI as intended in paragraph (4).

Article 16

Following the approval of the transfer of 10% PI as intended in Article 15 paragraph (5), during the validity period of the Production Sharing Contract the following provisions shall be applicable:

- a. the shareholders of the Regional Government-Owned Enterprise or Regional Government-Owned Limited Liability Company and/or SOE receiving the 10% PI shall be prohibited from transferring their shares to other parties; and/or
- b. the Regional Government-Owned Enterprise or Regional Government-Owned Limited Liability Company and/or SOE receiving the 10% PI shall be prohibited from transferring its interest to other parties.

CHAPTER V OTHER PROVISIONS

Article 17

With due observance of the national interest, the Minister may issue policies on the offering of 10% PI for fields put into production for the first time located offshore more than 12 (twelve) nautical miles in a Work Area to a Regional Government-Owned Enterprise or SOE.

Article 18

- (1) Regional Government-Owned Enterprises that have not received any offer of 10% PI following the approval of the relevant field development plan may be given offer of 10% PI at the time of the renewal of the Production Sharing Contract and the management of work areas the Production Sharing Contracts of which have expired.
- (2) With regard to the offering of 10% PI to Regional Government-Owned Enterprises that have not received any offer of 10% PI as intended in paragraph (1) the provisions on offering to Regional Government-Owned Enterprises as intended in Article 9 shall be applicable.

Article 19

Regional Governments the Regional Government-Owned Enterprise or Regional Government-Owned Limited Liability Company of which has received the management of 10% PI shall be responsible in accordance with their authorities for:

- a. facilitating and accelerating the licensing process in the implementation of Production Sharing Contracts in regions; and
- b. assisting in the settlement of issues arising in relation to the implementation of Production Sharing Contracts in regions.

CHAPTER VI TRANSITIONAL PROVISIONS

Article 20

The transfer of 10% PI to Regional Government-Owned Enterprises that are still in the process for obtaining approval prior to the coming into effect of this Ministerial Regulation must be adjusted to the provisions in this Ministerial Regulation.

Article 21

Provisions in Production Sharing Contracts regarding the offering of 10% PI to Regional Government-Owned Enterprises existing prior to the coming into effect of this Ministerial Regulation and not having been offered must be adjusted to the provisions in this Ministerial Regulations.

CHAPTER VII SANCTIONS

Article 22

- (1) The Minister shall issue written warning to Regional Government-Owned Enterprises or Regional Government-Owned Limited Liability Companies or regional governments as intended in Article 19, that fail to comply with the provisions in this Ministerial Regulation.
- (2) In the event that the Regional Government-Owned Enterprise or Regional Government-Owned Limited Liability Company or regional government as intended in Article 19, upon having been given a written warning but still failing to comply with the provisions in this Ministerial Regulation within a maximum period of 60 (sixty) days after the issuance of the written warning as intended in paragraph (1), the Minister may suspend or freeze the 10% PI.
- (3) In the event that the Minister freezes the 10% PI as intended in paragraph (2), the rights of the Regional Government-Owned Enterprise or Regional Government-Owned Limited Liability Company under Production Sharing Contract shall not be given during the freezing period.
- (4) In the event that the Minister suspends or freezes the 10% PI as intended in paragraph (2), the Regional Government-Owned Enterprise or Regional Government-Owned Limited Liability Company or regional government as intended in Article 19, shall be given the opportunity to comply with the provisions in this Ministerial Regulation within a maximum period of 60 (sixty) days after the stipulation of the suspension or freezing.
- (5) In the event that upon the end of the 60 (sixty) days period as intended in paragraph (4), the Regional Government-Owned Enterprise or Regional Government-Owned Limited Liability Company or regional government as intended in Article 19, still fails to comply with the provisions in this Ministerial Regulation, the Minister may revoke the 10% PI.

CHAPTER VIII CLOSING PROVISIONS

Article 23

This Ministerial Regulation shall come into effect as of the date of its promulgation.

For the purpose of public cognizance, this Ministerial Regulation shall be promulgated by placing it in the Official Gazette of the Republic of Indonesia.

Stipulated in Jakarta
On 25 November 2016
THE MINISTER OF ENERGY AND MINERAL RESOURCES OF
THE REPUBLIC OF INDONESIA,
Signed
IGNASIUS JONAN

Promulgated In Jakarta
On 29 November 2016
THE DIRECTOR GENERAL OF LEGISLATION OF
THE MINISTRY OF LAW AND HUMAN RIGHTS
REPUBLIK INDONESIA,

Signed
WIDODO EKATJAHJANA

OFFICIAL GAZETTE OF THE REPUBLIC OF INDONESIA YEAR 2016 NUMBER 1795

Issued as true copy
THE MINISTRY OF ENERGY AND MINERAL RESOURCES
Head of the Legal Affairs Bureau
Signed and stamped
Hufron Asrofi

NOTE

Source: LOOSE LEAF OF REGULATIONS OF THE MINISTER OF ENERGY AND
MINERAL RESOURCES YEAR 2016