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# ATD LAW in association with MHM Legal Insights

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## Revamping Public Housing Savings: New Regulatory Changes Unveiled

Nearly a decade ago, in 2016, the Indonesian government introduced Law No. 4 of 2016 on Public-Housing Savings (*Tabungan Perumahan Rakyat*, “**Tapera**”) (“**Tapera Law**”) to compile and procure long term funds for the purpose of ensuring access to decent and affordable housing for Indonesian citizens. Through various strategic measures and transparent and efficient fund management, Tapera is expected to become a long-term solution to address housing issues in Indonesia.

The Tapera Law was followed by its implementing regulation in 2020 through Government Regulation No. 25 of 2020 on the Organization of Public-Housing Savings (“**GR 25/2020**”). On 24 May 2024, an amendment to GR 25/2020 was enacted and came into force through the issuance of Government Regulation No. 21 of 2024 on the Amendment to GR 25/2020 (“**GR 21/2024**”).

### A. General Overview on Tapera

Before discussing the amendments introduced by GR 21/2024, below we highlight the general provisions of Tapera as established by GR 25/2020:

Tapera is mandatory for workers and self-employed individuals who meet specific criteria. Mandatory participants include those earning at least the minimum wage (or below the minimum wage for self-employed individuals), aged 20 years or older, or married at the time of Tapera registration.<sup>1</sup> The categories of mandatory workers include, among others:

- a. prospective Civil Servants (*Pegawai Negeri Sipil*);
- b. State Civil Apparatus (*Aparatur Sipil Negara*);
- c. members of the Indonesian National Armed Forces;
- d. cadets of the Indonesian National Armed Forces;
- e. members of the National Police Force of the Republic of Indonesia;
- f. state officials;
- g. employees/workers of state/regionally owned enterprises;
- h. employees/workers of village-owned enterprises;
- i. private sector employees/workers; and
- j. other employees who receive salaries/wages, including and foreign workers working in Indonesia for a minimum of six months).<sup>2</sup>

<sup>1</sup>Article 5 of GR 25/2020.

<sup>2</sup>Article 7 of GR 25/2020 and its elucidation.

The Tapera Management Agency (*Badan Pengelola Tapera* – “**BP Tapera**”), serves as the governing body, and is responsible for managing the Tapera funds. This includes appointing both an investment manager and a custodian bank.

The mechanism for processing the Tapera funds may be segmented into different stages, as follows:

#### 1. Collection of Tapera Funds

At this stage, participants are required to allocate a portion of their income to their Tapera accounts. Registration and deposits are handled by employers, while self-employed individuals manage their own registration and deposits.<sup>3</sup> Participation becomes effective once BP Tapera issues an identification number, entitling those who make savings contributions to receive investment units.<sup>4</sup>

#### 2. Cultivation of Tapera Funds

This stage involves adding value to the collected funds through investments in various instruments such as bank deposits/syariah bank deposits, central/regional government bonds/sukuk, property securities/sharia securities, and other safe investment forms.<sup>5</sup>

#### 3. Utilization of Tapera Funds

At this stage, the accumulated funds are used to help participants finance home ownership or housing. This can include financing for ownership, construction, or home improvement.<sup>6</sup> Conditions for utilizing Tapera include a minimum participation period of 12 months, being classified as low-income, not owning a home, and/or using the funds for financing first-time home ownership, construction, or home improvement.<sup>7</sup>

#### 4. Termination of Tapera

Tapera participation ends when a participant retires (for employees), reaches the age of 58 (for self-employed individuals), passes away, or fails to meet the participant criteria for five consecutive years.<sup>8</sup> Upon termination of their Tapera participation, participants are entitled to receive a refund of their savings and the investment returns, which are paid out by BP Tapera through the custodian bank.<sup>9</sup>

### B. Key Issues under GR 21/2024

GR 21/2024 introduces several significant changes, ranging from the basis for calculating the amount of Tapera savings to the allocation and management of housing financing liquidity facility (*Fasilitas Likuiditas Pembiayaan Perumahan*, “**FLPP**”) funds. Below are some of the key issues addressed in GR 21/2024.

<sup>3</sup>Article 14(1) and (2) of GR 25/2020.

<sup>4</sup>Article 9(2) and 19(1) of GR 25/2020.

<sup>5</sup>Article 27(2) and (3) of GR 25/2020.

<sup>6</sup>Article 37(2) of GR 25/2020.

<sup>7</sup>Article 38(1) of GR 25/2020.

<sup>8</sup>Article 23 of GR 25/2020.

<sup>9</sup>Article 24(1) of GR 25/2020.

### 1. New Calculation Basis for Tapera Savings Amount

The amount that employees and self-employed workers must contribute to Tapera savings is 3% of their respective incomes.<sup>10</sup> Specifically for employees, this contribution is shared between the employee and the employer. Therefore, the employer covers 0.5% of the total contribution, leaving the employee to contribute only 2.5% of their salary.<sup>11</sup>

While there are no amendments made to the contribution percentage, the calculation basis for determining the contribution multiplier for participants has been amended.

Certain types of employees may have different contribution amounts, as determined by the relevant authority.

GR 21/2024 also provides further clarification regarding the calculation basis for self-employed workers, specifying that income reports will be used to determine the multiplier for the reported income of self-employed individuals.<sup>12</sup>

### 2. Appointment of Custodian Banks by BP Tapera

In managing the cultivation of the Tapera funds, BP Tapera will designate both an investment manager and a custodian bank. According to GR 25/2020, while the appointment of the custodian bank is limited to one, BP Tapera has the flexibility to appoint multiple investment managers.<sup>13</sup>

Key changes introduced under GR 21/2024 include provisions for appointing a custodian bank that operates according to sharia principles. As a result, BP Tapera is now required to appoint two custodian banks, one conventional bank and one sharia bank.<sup>14</sup> If no suitable sharia bank is available, a conventional bank with sharia certification may be appointed.<sup>15</sup>

### 3. Allocation and Management of FLPP Funds

The FLPP is a government program that allocates funds from the state budget to support affordable housing for low-income communities (for the purpose of Tapera). The recent amendments introduced by GR 21/2024 aim to bring greater clarity and accountability to the management of FLPP funds.

The amendments clarify the ownership status of FLPP funds and restrict government withdrawal of these funds. FLPP funds are now managed separately from the Tapera funds.

## C. Applicability to Foreign Workers and Sanctions for Non-Compliance: Unchanged

### 1. Applicability to Foreign Workers

GR 21/2024 does not alter the applicability of Tapera to foreign workers. Consequently, foreign workers working in Indonesia for a minimum of six months remain mandatory participants of Tapera.

<sup>10</sup>Article 15(1) of GR 25/2020.

<sup>11</sup>Article 15(2) of GR 25/2020.

<sup>12</sup>Article 15(5a) of GR 25/2020 (as newly added under GR 21/2024)

<sup>13</sup>Article 31(2) and (3) of GR 25/2020.

<sup>14</sup>Article 31(3) of GR 25/2020 (as amended by GR 21/2024).

<sup>15</sup>Article 31(3a) and (3b) of GR 25/2020 (as newly added under GR 21/2024).

As a note, although foreign workers (as Tapera's participants) are excluded from utilizing the Tapera funds for housing financing,<sup>16</sup> according to Tapera regulations, their contributions/funds from foreign workers can be used as savings

## 2. Obligation and Sanctions for Non-Compliance by Employers

GR 21/2024 does not change (i) the obligation of employers to register and/or pay and collect Tapera fund contributions for/from their employees/workers<sup>17</sup> ; and (ii) sanctions for non-compliance by employers. Thus, non-compliance by employers (e.g., failing to register their employees as Tapera's participants by 2027) may result in the following administrative sanctions:<sup>18</sup>

- a. written warnings;
- b. administrative fines;
- c. publication of the employer's non-compliance;
- d. suspension of business licenses; and/or
- e. revocation of business licenses.

Therefore, to adhere to the requirements of both GR 25/2020 and GR 21/2024, it is imperative for employers and workers to complete registration by 2027.

## Conclusion

Indonesia's Tapera program is designed to offer a promising solution to the nation's housing challenges. The amendments outlined in GR 21/2024, while not extensively overhauling Tapera's implementation mechanisms, aim to enhance fund management by simplifying contribution calculations and introducing sharia-based custodian banks.

However, following the enactment of GR 21/2024, various reactions and concerns have emerged from the public and social groups, including companies and workers who have expressed concern about a potential increase in financial burden. Nonetheless, the government appears to be carefully addressing these concerns before moving forward with further implementation, whether through additional regulations or policy adjustments. It remains to be seen how the government will navigate these issues and whether there will be any changes in the future implementation of the Tapera program.

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<sup>16</sup>Article 24(2) of Law 4/2016.

<sup>17</sup>Article 20 of GR 25/2020.

<sup>18</sup>Article 56 of GR 25/2020.