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# Investing In... 2026

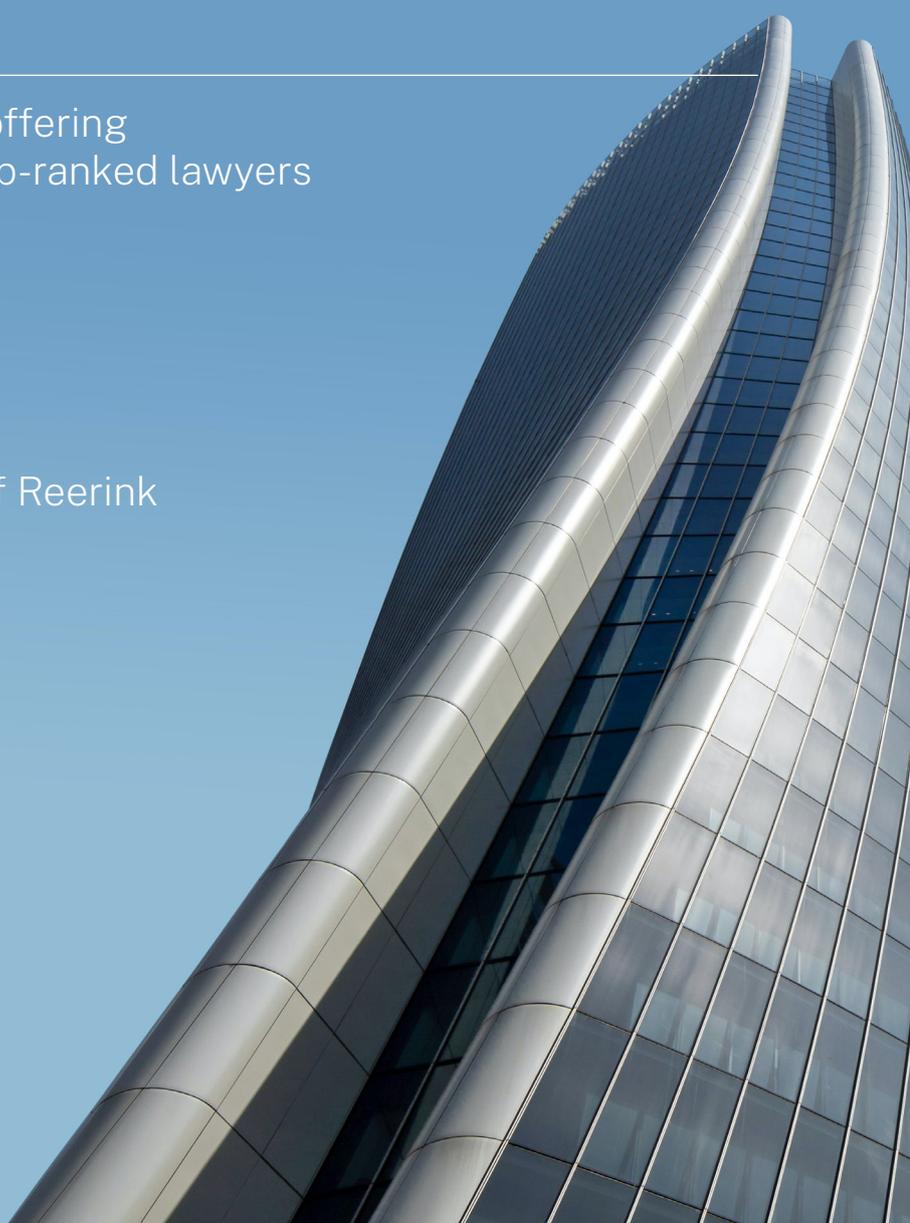
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**Indonesia: Law & Practice**

Agus Ahadi Deradjat, Gustaaf Reerink  
and Adri Dharma

ABNR Counsellors at Law



# INDONESIA



## Law and Practice

### Contributed by:

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**ABNR Counsellors at Law** was founded in 1967 and is Indonesia's longest-established law firm. ABNR has played a pivotal role in shaping the development of international commercial law in the country, particularly during its economic reopening to foreign investment in the 1960s. Today, with a team of around 120 legal professionals – including 20 partners and four foreign counsels – ABNR stands as Indonesia's largest independent full-service law firm. ABNR is proud to have female lawyers at the partnership lev-

el, reflecting the firm's commitment to diversity and inclusion. ABNR has consistently maintained its position as a top-tier law firm since its establishment. As the only Indonesian member of Lex Mundi since 1991 – the world's leading network of independent law firms with representation in over 100 countries – ABNR provides seamless global services for its clients. Further information about ABNR can be found at [www.abnrlaw.com](http://www.abnrlaw.com).

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## 1. Legal System and Regulatory Framework

### 1.1 Legal System

The Indonesian legal system adheres to a civil law system that is primarily based on statutory law. This mandates that judges in Indonesian courts adjudicate cases by interpreting and applying the prevailing law and regulations in Indonesia. Unlike common law jurisdictions, where judicial decisions are often guided by precedent, Indonesian judges are not obligated to follow case law. However, in practice, some judges may consider previous rulings in rendering their decisions.

Business operations are governed by a variety of laws and regulations, including:

- the “Company Law” (Law No 40 of 2007 on Limited Liability Companies, as amended), which sets out requirements for the lawful establishment and operation of an Indonesian entity;
- the “Investment Law” (Law No 25 of 2007 on Investment, as amended), which regulates foreign direct investment (FDI) in Indonesia;
- the “Capital Markets Law” (Law No 8 of 1995 on Capital Markets, as lastly amended by Law No 4 of 2023 on the Development and Strengthening of the Financial Sector);
- the “Job Creation Law” (Law No 6 of 2023 on the Ratification of Presidential Regulation in lieu of Law No 2 of 2022 on Job Creation), which streamlines various laws across many sectors;
- Government Regulation No 28 of 2025 on Implementation Risk-Based Business Licensing, which

- regulates the types and requirements of business licences (“GR 28/2025”); and
- various other laws and regulations, depending on the industry.

### 1.2 Regulatory Framework for FDI Authority and Licensing

In general, FDI in Indonesia is overseen by the Ministry of Investment and the Downstream Industries/Indonesia Investment Coordinating Board (*Badan Koordinasi Penanaman Modal* (BKPM)). The BKPM stipulates the requirements for FDI, operates an online integrated licensing portal, the Online Single Submission Risk-Based Approach system (the “OSS system”), and monitors investments by business undertakings.

To operate in Indonesia, business undertakings are required to register with the OSS system and apply for a business licence. The OSS system simplifies the licensing process by allowing businesses to apply for and manage their licences online. The OSS system will issue a licence based on the authorisation granted by other governmental ministries/agencies for the sector concerned.

The OSS system applies a risk-based approach to determine the type of business licence that must be obtained by businesses to conduct their business activities. The risk levels are determined based on assessments of various factors, including health, safety, environmental impact and resource utilisation.

Businesses are classified into the following main risk categories.

- Low risk: businesses in this category only need to obtain a business identification number (*Nomor Induk Berusaha NIB*).
- Medium risk: These businesses require an NIB and a standards certificate. This category is divided into medium-low risk (requiring a self-assessed standards certificate) and medium-high risk (requiring a verified standards certificate).
- High risk: High-risk businesses must obtain an NIB and a business licence, as well as additional permits or approvals.

For certain sectors, however, the business will be monitored directly by the ministries/agencies concerned, and the requisite licensing will also be issued by them (instead of via the OSS system), such as for banking and financial services, which are under the supervision of the Financial Services Authority (*Otoritas Jasa Keuangan* (OJK)) and the central bank, Bank Indonesia. Nonetheless, business undertakings engaging in these business sectors would still be required to register with the OSS system.

## Foreign Investment Limitations

Businesses must observe limitations on foreign ownership where applicable. In principle, pursuant to Presidential Regulation No 10 of 2021 on Business Fields for Investment, as amended by Presidential Regulation No 49 of 2021 (the “Investment List”), all business fields are open to FDI, except those:

- declared closed to investment as per the Indonesian Investment Law and the Investment List; or
- reserved for the central government.

Business sectors open to investment are also divided into:

- priority sectors, which are entitled to specific fiscal or non-fiscal facilities;
- those that are reserved or require partnership with a co-operative and micro, small or medium-sized enterprise;
- those subject to certain requirements, such as a limitation on foreign ownership; and
- “others” (100% open to FDI).

## 2. Recent Developments and Market Trends

### 2.1 Current Economic, Political and Business Climate

The Indonesian government has issued GR 28/2025, replacing the previous Government Regulation No 5 of 2021 on the Implementation of Risk Based Business Licensing, to refine and streamline the national business licensing framework. The new regulation seeks to enhance clarity, consistency and efficiency in the licensing process.

Following its issuance in October 2025, the BKPM enacted Regulation No 5 of 2025 on the Guidelines and Procedures for the Implementation of Risk-Based Business Licensing and Investment Facility through the Electronically Integrated Business Licensing System (“BKPM Reg 5/2025”), which replaces BKPM Regulation No 4 of 2021. Key updates include the relaxation of the minimum paid-up capital for foreign investment companies from IDR10 billion to IDR2.5 billion, adjustments to the minimum investment value across several sectors – including food and beverage (F&B), real estate, accommodation and agriculture – and changes to the reporting period and deadline for the mandatory periodical investment activity report.

Updates will be made to the OSS system and the Indonesian national single window to ensure alignment with the new regulatory framework.

## 3. Mergers and Acquisitions

### 3.1 Transaction Structures

The most common structure used for transactions in Indonesia is share acquisition. This allows a foreign investor to invest directly in Indonesia and control its investment in an Indonesian company that it acquired by way of share ownership. There are two approaches:

- acquisition through the board of directors (BOD), achieved through subscription to new shares in the company by a foreign investor; and
- direct acquisition of shares by way of the sale and purchase of shares in a company between an existing shareholder and a foreign investor.

In practice, foreign investors would most likely opt for direct acquisition, as it is a much simpler process. The structures in this section are also common in public companies.

### 3.2 Regulation of Domestic M&A Transactions

An M&A transaction for a private company must comply with the requirements and procedures of the Indonesian Company Law.

- In a merger or direct acquisition, the BOD of the company would be required to produce a merger/acquisition plan for approval by the board of commissioners (BOC) and a general meeting of shareholders (GMS) of the company. This requirement does not apply if the acquisition only involves direct acquisition of the existing shares of the company.
- The merger/acquisition plan must be announced to the creditors in a newspaper with nationwide circulation, and to employees. This announcement provides an opportunity for creditors of the company to file objections to the merger/acquisition plan. The company must settle all claims before the transaction can proceed. Meanwhile, employees of the company would also have the option to either continue or terminate their employment following the transaction.
- The result of the merger/acquisition transaction must be further announced in a newspaper with nationwide circulation.

Depending on the industry, an M&A transaction may require prior approval from the relevant government authority. Should the M&A transaction meet a certain assets/sales value threshold, additional reporting requirements shall apply (for further details, see 6. Antitrust/Competition).

For public companies, a GMS is not required for an acquisition that results in a change of control. However, the new controller is required to make a mandatory tender offer (MTO). In an MTO, the new controller must offer to purchase all shares from the shareholders, other than those owned by:

- a shareholder that has taken part in the takeover transaction with the new controller;

- a person who has already received an offer with the same terms and conditions from the new controller;
- another person who, at the same time, is making either an MTO or voluntary tender offer for the same company's shares;
- a shareholder who owns at least 20% of the company's shares; or
- another controller of the public company.

For a merger, the merger plan must be approved by the BOC and the GMS. However, if the merger might cause a conflict of interest that could potentially result in economic loss to a public company, prior approval for the merger must be obtained from the independent shareholders.

## 4. Corporate Governance and Disclosure/Reporting

### 4.1 Corporate Governance Framework

An FDI company in Indonesia must be a limited liability company, which is a legal entity established by at least two shareholders by way of capital pooling in which the shareholder's liability is limited to the amount paid for the shares subscribed to. The establishment of the company must be carried out with due observance of the provisions under the Company Law and the Investment Law. Limited liability is also the requisite legal format for public companies.

The general requirements for establishment of an FDI company are as follows:

- the company must have at least two shareholders;
- the minimum issued and paid-up capital is IDR2.5 billion (approximately USD150,000);
- the investment value must be greater IDR10 billion (approximately USD625,000), excluding the land and building value, per line of business and project location – different minimum investment criteria apply to businesses engaged in certain activities, such as F&B, real estate, accommodation, agriculture, plantation, livestock and aquaculture businesses; and
- the company must have a two-tier management system comprising (i) a BOD, which manages the

day-to-day operations of the company, and (ii) a BOC, which supervises the management of the company carried out by the BOD.

A foreign investor can only invest in a limited liability company.

## 4.2 Relationship Between Companies and Minority Investors

### Rights of Minority Investors

Under the Company Law, minority investors (shareholders) in an Indonesian company are to be treated equivalently to other investors, enjoying the same rights as vested in the shares they hold unless otherwise stipulated in the articles of association of the company.

The Company Law includes specific provisions to protect the rights of minority investors in an Indonesian company. Pursuant to the Company Law, one or more shareholders collectively representing at least one-tenth of the total issued shares with valid voting rights (or any smaller amount as provided for in the articles of association) are entitled to:

- request the holding of a GMS;
- act on behalf of the company to file a lawsuit with a district court against a member of the BOD or BOC, whose fault or negligence has caused a financial loss to the company;
- request a district court to investigate the company, a director or a commissioner if the shareholders believe that they have committed an unlawful act that has caused a financial loss to the company, the shareholders or a third party; and
- submit a request to the GMS to dissolve the company.

The foregoing rights are also applicable to minority shareholders of a public company. Typical minority shareholders' rights for a public company are the rights to participate in an MTO (in the event of an acquisition) and be classified as independent shareholders. Certain transactions, including conflict of interest and affiliated party transactions deemed material (which amount to more than 50% of the public company's equity), must obtain prior approval from the independent shareholders at a shareholders' meeting.

## 4.3 Disclosure and Reporting Obligations

During the establishment of an Indonesian company, the founders are required to disclose information and documentation related to the shareholders of the company (including foreign investors), as well as the ultimate individual beneficiary owner of the company, to the Ministry of Law, which oversees the legalisation of companies in Indonesia.

Once operational, the company must report periodically to the BKPM on the realisation of its investment in Indonesia.

Additionally, every company must also declare its ultimate beneficial owner (UBO) to the Ministry of Law. A UBO is defined as an individual who:

- holds more than 25% of the shares in the company as stated in the articles of association;
- has more than 25% of the voting rights in the company;
- receives more than 25% of the annual income or profit earned by the company;
- has the authority to appoint, replace or dismiss members of the BOD and/or BOC;
- has the authority or power to influence or control the company without obtaining authorisation from any party;
- receives benefits from the company; and/or
- is the true owner of the source of funds for the company's shares.

Information on the UBO is accessible to the public through the Ministry of Law's website.

## 5. Capital Markets

### 5.1 Capital Markets Overview

The Indonesian capital markets are mainly governed by the Capital Markets Law. Capital market activities in Indonesia are regulated and supervised by the OJK, which oversees capital market activities and participants including the Indonesian Stock Exchange (IDX), Indonesian Central Securities Depository (*Kustodian Sentral Efek Indonesia* (KSEI)), Indonesian Clearing and Guarantee Corporation (*Kliring Penjaminan Efek Indonesia* (KPEI)), brokers and other participants

involved in Indonesian capital markets. The OJK also approves initial public offerings (IPOs) in Indonesia.

Self-governing bodies relating to capital market activities in Indonesia include:

- the IDX, which monitors trading, settlements and listed company compliance with its regulations and receives corporate action notifications from companies and announces them to the market – supervision also includes listing applications by Indonesian companies to be listed on the IDX;
- the KPEI, a clearing and guarantee institution for clearing and stock exchange transaction settlement guarantees; and
- the KSEI, a central depository for equity and corporate bonds in the Indonesian market, set up as a private limited liability company.

Since the enactment of the Capital Markets Law, scripless trading has been used, and the KSEI was established to facilitate this. Despite Indonesia being a civil law jurisdiction that generally does not recognise the distinction between legal and beneficial ownership, the Capital Markets Law does acknowledge such a separation.

An investor holds its securities beneficially in a security account maintained by the KSEI through the investor's custodian or securities broker. For equities, the KSEI acts as a global custodian and is recorded in the register of members of the relevant issuer. Investors also maintain a cash account into which payments related to their securities are made (such as dividend distributions, coupon payments or payments related to the sale of securities).

Capital market funding has been recognised by Indonesian companies as a funding alternative to bank financing. As of November 2025, 955 companies had listed their shares on the IDX, with 23 new listings recorded for the year up to that month.

There is no limit to the funds that can be obtained from IPOs. The funds obtained by the company will depend on the number of shares offered to investors and the share price. The company can take into account the funding needs for a company's business plan and how

much the founding shareholders are willing to reduce their ownership percentage by.

A company that wishes to make an IPO must submit a registration statement to the OJK supported by documentation including:

- a cover letter;
- a prospectus;
- an audited financial statement;
- a letter of comfort from the accountant;
- a financial forecast statement;
- a due diligence report and legal opinion;
- underwriting agreements (if any);
- a corporate structure document that describes the position of the company vertically, starting from the individual shareholders up to the subsidiaries at the highest level, and the position of the company horizontally;
- a statement on the completeness and validity of the public offering documents submitted by (i) the company, (ii) the underwriter and (iii) capital market-support professionals; and
- other information requested and deemed necessary by the OJK, and which can be made available to the public without adversely affecting the interests of the company.

Registration may become effective on the 20th working day from (i) the date the registration statement is fully received by the OJK or (ii) the date on which the OJK receives the latest amendments or additional information submitted by the issuer in response to the OJK's request for amendments and/or additional information – or on an earlier date, if declared effective by the OJK.

In practice, it takes four to six weeks as of the first IPO submission for an IPO to receive a statement on effectiveness from the OJK.

## 5.2 Securities Regulation

General provisions on the listing of shares on the IDX include the following:

- equity securities that may be listed on the IDX include shares and equity securities other than shares accompanying the public offering, including

warrants and other share derivatives issued by the listed company for conversion into shares of the listed company;

- the listed company is required to list all the shares issued, and to have fully paid for the company listing unless otherwise stipulated by laws and regulations;
- shares that can be traded on the IDX are scrippless;
- a listed company is prohibited from carrying out a stock split or reverse stock split for at least 12 months after its shares are listed on the IDX;
- the share price at the time of initial listing is at least IDR100; and
- the prospective listed companies are required to register equity securities with the KSEI.

To remain listed, a listed company must meet the following requirements:

- the free-float shares total at least 50 million, and at least 7.5% of the total number of registered shares; and
- the shareholders total at least 300 customers who hold a single investor identification.

Generally, a foreign investor in a business in this jurisdiction is not subject to the requirements under applicable securities laws and regulations, and may purchase shares in Indonesian-listed companies. However, there are limitations on ownership by foreign investors in certain industries, such as banking and other financial industries, even if the companies are listed.

### 5.3 Investment Funds

The FDI rules subject funds to foreign investment limitations. There are no exemptions, as the authority would only take into account the nationality of the investor even if structured as an investment fund. As an alternative, albeit subject to the sectoral regulations governing the business of the companies, foreign investors can invest through a mutual fund (*reksa dana*) established by a local investment manager.

## 6. Antitrust/Competition

### 6.1 Applicable Regulator and Process Overview

#### Merger Control

Merger control in Indonesia is governed primarily by Law No 5/1999 on the Prohibition of Monopolistic Practices and Unhealthy Business Competition, as amended by the Job Creation Law (the “Indonesian Competition Law” (ICL)), government regulations and Indonesia Competition Commission (*Komisi Pengawas Persaingan Usaha* (KPPU)) regulations and guidelines.

The KPPU is a quasi-judicial body responsible for the enforcement of the ICL, which grants authority to the KPPU to investigate or examine allegations of monopolistic practices or unfair business competition reported by the public or by undertakings, or on its own initiative, and to subsequently issue decisions and impose sanctions. The KPPU enforces the aforementioned merger control legislation.

All types of FDI trigger a notification if all the criteria for notification of the KPPU are met. There are no exemptions available for specific categories of foreign investors or investments.

Mergers, consolidations and acquisitions are subject to notification of the KPPU. A merger is a juridical act whereby one or more undertaking merges with another undertaking, resulting in assets and liabilities being transferred by operation of law to one undertaking, and with the legal status of the other undertaking ceasing by operation of law.

Consolidation is a juridical act whereby two or more undertakings join together to establish a new undertaking that obtains the assets and liabilities from the consolidating undertaking by operation of law, and with the legal status of the consolidating undertaking ceasing by operation of law.

Acquisition is a juridical act whereby an undertaking acquires the shares or assets of another undertaking, resulting in a change of control of the undertaking or the assets thereof. It is generally assumed that a

change of control could also involve a change from sole to joint control.

The regulations issued by the KPPU stipulate that a merger, consolidation or acquisition between non-affiliated parties, in which any or all of the non-affiliated parties are engaged in business activities in or sales to Indonesia, and which meets the specified thresholds (combined assets in Indonesia exceeding IDR2.5 trillion or, if all undertakings involved in the transaction are active in the banking sector, IDR20 trillion – or combined sales in Indonesia exceeding IDR5 trillion), is subject to mandatory notification to the KPPU even if the transaction occurs outside Indonesia. A transaction needs to be notified to the KPPU if all of these criteria are met.

A transfer of assets (tangible or intangible) is tantamount to the acquisition of shares and, accordingly, should be notified to the KPPU if there is a transfer of their managerial or physical control, or an increase in the ability of the acquirer to control a relevant market. The following asset transfers are exempt:

- a non-bank asset transfer transaction valued at less than IDR250 billion;
- a bank asset transfer transaction valued at less than IDR2.5 trillion;
- a transfer of assets that is carried out in the ordinary course of business – this depends on the business profile of the acquiring party and the purpose of the acquisition, and transactions in the ordinary course of business include (i) the transfer of finished goods from one undertaking to another for resale to consumers by an undertaking that is active in the retail sector (eg, the sale of consumer goods by retailers) and (ii) the transfer of supplies to be used within three months in the production process (eg, the purchase by an undertaking of raw materials and basic components from various sources for production);
- a transfer of assets specifically in the property sector that is designed to provide (i) space for use by the buyer or (ii) social facilities or facilities for general use; and
- assets that are not intended for business use by the acquirer (eg, land for corporate social respon-

sibility or not for-profit activities, or to comply with statutory requirements).

A transaction that meets the relevant criteria should in principle be filed with the KPPU within 30 business days of the date that the transaction becomes legally effective. The KPPU has three business days from the date of submission to verify the completeness of the notification documents and issue a receipt confirming both the completeness of those documents and the notifiability of the transaction. Thereafter, the KPPU has 90 business days from the date the notification is declared complete to review the notification and issue its opinion. In practice, the KPPU may issue the opinion beyond the statutory deadline.

As Indonesia has a post-merger system, there are no waiting periods and implementation of the transaction is not required to be suspended prior to clearance.

## 6.2 Criteria for Antitrust/Competition Review

The KPPU applies the Herfindahl-Hirschman index (HHI) or concentration ratio. The KPPU carries out a comprehensive assessment and looks at other aspects if:

- the HHI is between 1,500 and 2,500, and the change in the HHI is greater than 250; or
- the HHI is above 2,500, and the change in the HHI is greater than 150.

If the market concentration test is positive, the KPPU will consider certain factors, including entry barriers. The KPPU may look at the ease with which new players may enter the market, the strength of new players, the time needed to enter the market, switching costs, the homogeneity of products and brand loyalty.

## 6.3 Remedies and Commitments

If the transaction proceeds to a comprehensive assessment and raises competitive concerns, the KPPU may propose a conditional approval, including a timeline for its implementation. The undertaking may then choose to: (i) accept the proposal in its entirety; (ii) reject the proposal entirely; or (iii) partially reject the proposal.

If the undertaking selects option (ii) or (iii), it must provide legal, economic and/or technical considerations supporting the rejection. Furthermore, if the undertaking partially rejects the proposal, it may submit an alternative conditional approval (remedies) along with a proposed timeline for implementation to the KPPU. The agreed remedies will be stipulated in a KPPU decision, which may take the form of: (i) structural remedies; (ii) behavioural remedies; or (iii) the implementation of a reasonable pricing strategy.

## 6.4 Antitrust/Competition Enforcement

As Indonesia has adopted a post-merger system, the KPPU has no authority to block or otherwise challenge FDI. The KPPU cannot prohibit or otherwise interfere with a transaction within the framework of merger control; however, it may initiate a formal investigation into cartel violations or the abuse of dominance rules under the ICL.

## 7. Foreign Investment/National Security

### 7.1 Applicable Regulator and Process Overview

Indonesia does not have a foreign investment/national security review regime applicable to FDI that may scrutinise or potentially block an investment in sectors or locations deemed sensitive, and which might affect national security. Additionally, all investors are treated equally regardless of their country of origin.

The Indonesian Investment Law, however, describes several business fields that are closed for investment in Indonesia, including:

- the cultivation of narcotic crops and manufacture of schedule I narcotic drugs;
- all forms of gambling and/or casino activities;
- fishing of species listed in Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora;
- coral and sponge utilisation or harvesting for construction/lime/calcium materials, aquariums and souvenirs/jewellery, including living coral or recently dead wild coral;
- the manufacture of chemical weapons; and

- the manufacture of industrial chemicals or ozone-depleting substances.

In 2021, the Indonesian government issued the Investment List, adding the manufacture of hard liquor, wine and malt beverages to the list. In addition to the foregoing, some other business fields are reserved for the government authority (and thus closed for investment), including activities or services carried out in the framework of strategic defence and security that cannot be carried out or in co-operation with a third party.

The Investment List also limits or restricts several business fields with respect to FDI. For instance, the manufacture of traditional cosmetics, traditional medicines for human consumption, batik textiles and ships is currently reserved for domestic investment and closed to FDI.

### 7.2 Criteria for National Security Review

There is no applicable information in this jurisdiction.

### 7.3 Remedies and Commitments

There is no applicable information in this jurisdiction.

### 7.4 National Security Review Enforcement

Other than the restriction or limitation of business fields specified under the Investment Law and the Investment List, the prevailing regulations do not grant the government the authority to block or otherwise challenge FDI, particularly after an investment has been made. In general, foreign investors are able to invest in Indonesia as long as they comply with all the requirements of Indonesian law, and there is no restriction or limitation on the intended business under the prevailing regulations.

## 8. Other Review/Approvals

### 8.1 Other Regimes

Other regimes that may be relevant to foreign investors in Indonesia include the following.

#### Zoning Requirements

The project/business location for FDI must align with the spatial planning and zoning requirements in that location. The conformity of the business with spatial

planning will be evidenced by confirmation or approval issued by the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (MOA) via the OSS system, which constitutes a prerequisite for obtaining a business licence.

There is also a requirement under the prevailing regulations pertinent to the industrial sector, where a manufacturing industry must be located within an industrial estate or an area designated for industry. This requirement may be exempted upon approval from the MOA.

## Environmental Matters

Business undertakings are required to obtain environmental approval for every type of business they carry out in Indonesia. The type of environmental approval required depends on the impact of the business on the environment:

- an environmental impact analysis (*Analisis Mengenai Dampak Lingkungan* (AMDAL)) is required for a business having a significant impact on the environment;
- an Environmental Management Efforts and Environmental Monitoring Efforts (*Upaya Pengelolaan Lingkungan Hidup dan Upaya Pemantauan Lingkungan Hidup* (UKL-UPL)) report is required for a business having no significant impact on the environment; and
- a Letter of Undertaking of Environmental Management and Monitoring (*Surat Pernyataan Pengelolaan Lingkungan* (SPPL)) is required for a business that has no significant impact on the environment and does not meet the criteria mandating an AMDAL or UKL-UPL.

Environmental approval is also a prerequisite for business licensing in the OSS system.

## Asset and Land Acquisition

Should land acquisition be necessary for FDI, the types of land title that can be registered under the name of the company pursuant to the Indonesian Agrarian Law (Law No 5 of 1960 regarding Basic Regulations for Agrarian Affairs) are:

- the right to build (*hak guna bangunan* (HGB)) – the right of the holder to utilise the land to build a new establishment or use anything that has been previously built on the land on an exclusive basis;
- the right to cultivate (*hak guna usaha* (HGU)) – the right to cultivate a plot of state land for agricultural purposes, and to benefit from the proceeds derived from the agricultural activities conducted on the land; and
- the right to use – a subsidiary right upon land that may be granted by the holder of an HGB or HGU land title to another party.

The procedure for acquiring a plot of land in Indonesia depends on whether or not the land is certified (ie, has been registered with the land office and issued with a land title) or uncertified (ie, has not been registered with the land office nor issued a land title).

In general, for uncertified land, the process involves the acquisition of the land from the original landowner by the purchaser, and registration of the acquired land with the national land agency. For certified land, the process involves the transfer of the title from the original registered landowner to the purchaser, followed by the registration of the transfer with the land agency.

## Sanctions

Business undertakings that fail to comply with the obligations under the Investment Law and its implementing regulations (eg, the reporting obligation) are liable to administrative sanctions, ranging from a written warning to limitations on business activity, suspension of business and/or investment activities, and revocation of the right to conduct business or investment activities. These sanctions would be sequentially imposed by the BKPM on business undertakings. In addition to administrative sanctions, business undertakings may still be subject to other sanctions under the prevailing law and regulations.

## 9. Tax

### 9.1 Taxation of Business Activities

The tax imposed on a company doing business in Indonesia depends on the line of business carried out by that company.

A company is treated as a resident of Indonesia for tax purposes (and subject to tax on worldwide income) if it is incorporated or domiciled in Indonesia. Generally speaking, companies are obliged to pay corporate income tax (CIT) at a flat rate of 22%. CIT applies to corporate taxpayers, including limited liability companies, limited partnerships, firms, joint ventures, foundations and other entities that are established or domiciled in Indonesia.

Other applicable taxes include final income tax for certain sectors (eg, micro, small and medium enterprises, construction), land and building tax, stamp duty and excise tax on specific goods.

A foreign company carrying out business activities through a permanent establishment (PE) in Indonesia will generally have to assume the same tax obligations as a resident taxpayer. PEs as non-resident taxpayers are taxed only on income sourced from Indonesia. Taxable objects of PE include:

- income from business or activities of the PE and held or controlled property;
- income of the head office from business or activities, the sale of goods or provision of services in Indonesia that are similar to those conducted or carried out by the PE in Indonesia; and
- income in the form of dividends, interest, royalties, rental, grant, debt forgiveness, etc, received or accrued by the head office, provided that there is an effective relationship between the PE and the property or activities giving rise to the aforementioned income.

Public companies that meet the minimum listing requirement of 40% and consist of at least 300 shareholders, each holding less than 5% of the paid-in shares, and where these conditions are met for at least 183 days in a tax year, are entitled to a tax cut of 3% off the standard rate, giving them an effective CIT rate of 19%.

Small companies – ie, corporate taxpayers with annual gross turnover of no more than IDR50 billion, are entitled to a 50% discount off the standard tax rate, which is imposed proportionally on taxable income when the gross turnover is up to IDR4.8 billion. Those

with annual gross turnover of no more than IDR4.8 billion are subject to a final tax of 0.5% of the turnover for a limited period.

Domestically sourced dividends are not subject to tax if received or accrued by:

- an individual taxpayer, provided the dividend is invested in Indonesia within a certain period, or
- a corporate taxpayer.

The following foreign-sourced income may be exempt from income tax if it is reinvested or used for business activities in Indonesia within a certain period:

- income received by an Indonesian taxpayer from a PE abroad;
- dividends paid by companies abroad; and
- active business income received by an Indonesian taxpayer from abroad (not from a PE or foreign subsidiary).

For after-tax income from a PE and dividends paid from a non-listed subsidiary, the minimum reinvestment is 30% of profit after tax. Otherwise, the difference between the 30% threshold and the reinvested portion will be subject to income tax.

## Value Added Tax

In Indonesia, value added tax (*pajak pertambahan nilai* (PPN)) is levied on most goods and services. The standard PPN rate is currently set at 12%. However, for goods and services that are not classified as luxury items, the government has implemented an effective rate of 11% (by reducing the tax base).

PPN is imposed at each stage of the production and distribution process on manufacturers, retailers and ultimately consumers. Certain goods and services, such as basic commodities, healthcare and education, are either exempt from PPN or subject to non-collection.

## 9.2 Withholding Taxes on Dividends, Interest, Etc

Withholding tax (WHT) applies to a range of payments made to both resident and non-resident taxpayers. For payments to resident taxpayers, WHT is gen-

erally imposed at 15% on passive income such as dividends, interest and royalties, while payments for services, consulting, and rentals are typically subject to a 2% WHT. An exception applies to rentals of land and/or buildings, which are subject to a final WHT of 10%. These WHTs can usually be credited against the recipient's annual income tax liability – except for the final WHT, which cannot be credited.

For non-resident taxpayers, WHT is generally imposed at a flat 20% on Indonesian-sourced income, including dividends, interest, royalties, and service fees. However, this rate may be reduced or exempted under an applicable double taxation agreement (DTA), provided the foreign recipient is able to demonstrate eligibility – typically through submission of a certificate of residence (*Direktorat Jenderal Pajak* (DGT) Form).

### 9.3 Tax Mitigation Strategies

Recent tax mitigation strategies in Indonesia generally focus on optimising available investment incentives, strengthening transfer pricing (TP) policies, and improving tax governance to manage audit risks. Companies increasingly utilise tax holiday/allowance schemes, special economic zone (*kawasan ekonomi khusus*) facilities and restructuring of financing (debt vs equity) to reduce effective tax burdens. Businesses also revisit their TP models – particularly around method selection, value-chain alignment and documentation – and some pursue advance pricing agreements to reduce future disputes.

On the compliance side, firms enhance internal tax controls, ensure proper deductibility support, optimise depreciation and expense timing, and proactively manage VAT and WHT exposures. As Indonesia prepares to implement the global minimum tax (rate of 15%), multinational groups are reassessing entity and holding structures to ensure cost-efficient, compliant operations. The overall trend is towards mitigation through incentive optimisation, prudent TP planning and stronger tax governance rather than aggressive tax structuring.

### 9.4 Tax on Sale or Other Dispositions of FDI

The sale or other disposition of FDI in Indonesia is generally subject to capital gains tax, which is treated as ordinary income for Indonesian income tax purposes.

If the seller is an Indonesian tax resident, gains are taxed at the standard 22% CIT rate. For non-resident investors, capital gains derived from the transfer of shares in an Indonesian company are subject to a final WHT of 5%, calculated on the gross transfer value. If a tax treaty applies, the sale of shares may be exempt.

The sale or transfer of shares in a public listed Indonesian company (on the IDX) is subject to 0.1% tax on the gross transfer value.

Disposition of investments can also include offshore share transfers (ie, sale of shares in a foreign holding entity owning Indonesian subsidiaries). Under Indonesia's indirect transfer rules, such transactions may under specific circumstances still be deemed taxable in Indonesia.

VAT does not apply to share transfers, but stamp duty may apply.

### 9.5 Anti-Evasion Regimes

Indonesia enforces both general (GAAR) and specific (SAAR) anti-avoidance rules to combat tax evasion and abusive arrangements. Under GAAR, the tax authority may re-determine taxable income or deny deductions if a transaction lacks a bona fide business purpose or is structured solely for tax benefits. They may apply the substance-over-form principle to disregard artificial arrangements without commercial substance.

SAAR covers targeted rules such as TP, thin capitalisation, beneficial ownership and controlled foreign company (CFC) provisions. A CFC in Indonesia refers to a foreign entity that is at least 50% owned (directly or indirectly) by an Indonesian taxpayer or jointly controlled ( $\geq 50\%$ ) by Indonesian residents. Under Indonesia's CFC rules, certain undistributed profits of such foreign subsidiaries may be deemed as dividends and taxed in Indonesia, even if not actually distributed. These rules aim to prevent profit shifting and tax deferral through offshore entities.

## 10. Employment and Labour

### 10.1 Employment and Labour Framework

The primary employment legislation in Indonesia is Law No 13 of 2003 on Manpower, as amended by the Job Creation Law (the “Manpower Law”), and Law No 2 of 2004 on Industrial Relations Dispute Settlement (the “IRDS Law”). In 2021, the Indonesian government also issued four government regulations, the key aspects of which cover expatriates, fixed-term employment contracts, outsourcing, working hours and rest entitlement, termination of employment, wages and job loss security.

Indonesian employment law provides protection to employees who are performing, or about to perform, work for employers in Indonesia. The Manpower Law recognises two types of employment agreements: permanent and fixed-term. Expatriates are employed under a fixed-term employment agreement subject to their work permit.

In principle, in any employment relationship, the employment terms and conditions are determined by agreement of both the employer and employee. Employment terms and conditions, however, may not be less than those regulated under the prevailing manpower laws and regulations. Moreover, employment can only be terminated in accordance with the procedures and reasons stipulated under the Manpower Law and its implementing regulations, the employment agreement, a collective labour agreement (CLA) or company regulation (CR).

The Manpower Law recognises the CLA as an instrument of collective bargaining between a registered labour union, or several registered labour unions, and an employer, several employers or employer organisations. A CLA contains the rights and obligations of the employer, labour union and employees but in greater detail compared with those regulated in the prevailing laws and regulations. More specific employment terms and conditions may be agreed in an individual employment agreement.

As far as employment terms and conditions are concerned, the Manpower Law also recognises a CR for companies that do not yet have a registered labour

union. A CR is obligatory for companies employing at least ten employees, and its formulation is the responsibility of the employer. As a general rule, the quality and quantity of the content regulated in the CLA and the CR must not be less than that regulated under the prevailing laws and regulations.

Essentially, rules related to labour unions are stipulated under Law No 21 of 2000 on Employee/Labour Unions (the “Labour Union Law”). Under the Labour Union Law, a labour union will be recognised if, following its establishment, (i) it provides notification of its establishment in writing to the local office of the Manpower Agency for registration purposes; and (ii) it provides notification of its establishment and registration number to its employer, to which the employer has no right to object.

A recognised labour union is entitled to:

- negotiate a CLA with management;
- represent employees in industrial relations dispute settlements;
- represent employees in manpower institutions;
- establish an institution or carry out activities related to efforts to improve employee welfare;
- carry out other manpower or employment-related activities that do not violate prevailing laws or regulations;
- establish and become a member of a labour union federation; and
- become affiliated or co-operate with an international labour union or other international organisation.

Works councils are recognised as bipartite co-operation bodies (BCBs) under the Manpower Law. Companies that employ more than 50 employees are obliged to establish a BCB, which functions as a communication and consultative forum between an employer and the representatives of a labour union and/or employees within the framework of improving industrial relations. Members of a BCB are representatives of the employer and the employees/labour union, with a 1:1 composition and at least six members.

### 10.2 Employee Compensation

Employees who undertake work are entitled to receive wages. The amount paid is by agreement between

the employer and the employees, but it should not be less than the minimum wage stipulated in the applicable laws and regulations (the minimum wage varies between provinces).

Further, incentives, bonuses or reimbursement must be based on an agreement between the employer and employees, as well as on the employers' policy. Employers are obliged to enrol their employees in the social security programme administered by the Social Security Agency (*Badan Penyelenggara Jaminan Sosial* (BPJS)) for Manpower and the BPJS for Health.

The Manpower Law recognises a mandatory religious holiday allowance of one month's wages for employees with 12 months of consecutive service. For those with service periods of one to 12 months, the allowance is paid pro rata. The allowance must be paid at least seven days before the religious holiday.

The normal working hours are seven hours per day and 40 hours per week, for six working days per week, or eight hours per day and 40 hours per week for five working days per week. Flexible working arrangements are possible subject to agreement between the parties.

Overtime can only be performed on the order of an employer and with the consent of the employee. For overtime work, employees are entitled to receive overtime wages, the amount of which shall be calculated using the overtime wages formula stipulated under the prevailing law and regulations.

Employees are entitled to paid annual leave of at least 12 days upon completion of 12 consecutive months of service. They are also entitled to special paid leave (sick leave, maternity leave, leave for marriage, etc).

In the event of termination of a permanent employee (including due to an employee reaching the specified pension age), the employer is obliged to pay a severance package, which comprises (i) severance pay, (ii) service appreciation pay and (iii) compensation for entitlements.

The calculation of (i) to (iii) must be performed using the formulas stipulated under Government Regulation

No 35 of 2021 on Fixed-Term Employment Agreements, Outsourcing, Work and Rest Hours, and Termination of Employment ("GR 35") at a minimum. The amounts will vary depending on the reason for termination, length of service, latest salary, fixed allowance and balance of annual leave. The employer may opt to use its own formula, as regulated in the employment agreement, CR or CLA, provided that it is more beneficial to the employee than that stipulated in GR 35.

In the event of early termination of a fixed-term employee, the employer must compensate them in an amount equivalent to the remaining salary of the employee until expiry of the fixed-term employment agreement. In addition, in the event of expiration of a fixed-term employment agreement for any reason, the employer is also obligated to pay compensation as per GR 35, which will be calculated in proportion to the employee's period of service. The latter compensation is not applicable to foreign employees.

In the event of the acquisition or a change of control of a company, the employment relationship between the acquired company and the employees will automatically continue unless they are terminated. Termination may be initiated by the company or requested by employees only if their employment terms and conditions change and they do not wish to continue the employment, in which case the employees are entitled to the applicable severance package.

### 10.3 Employment Protection

If an employer enters into a merger, consolidation, acquisition or spin-off, this corporate action will not necessarily affect the employment relationship between the employer and the employee. However, if – in connection with a corporate action – an employee is not willing to continue the employment or vice versa, the employer can terminate the employee. In the event of this type of termination, the employee shall be entitled to receive a severance package calculated using the formulas stipulated under the prevailing manpower laws and regulations.

In accordance with GR 35, if an employer wishes to terminate an employee, it must serve written notice on the employee of its intention, and the reason(s) for termination, at least 14 business days before the

intended termination date (or seven business days if the termination is during a probationary period). This requirement does not apply in cases of resignation, expiry of a fixed-term employment agreement, the employee reaching pension age or where the employment relationship ends due to the employee's passing.

If the employment agreement, CR or CLA requires a longer notice period, the employer must comply with it. If, after being notified, the employee rejects termination, settlement must be reached by way of bipartite negotiation and the industrial relations dispute settlement mechanism of the IRDS Law.

The Manpower Law and GR 35 are silent in relation to employment termination due to a business sale (other than a spin-off transaction). Therefore, if the sale is only related to one or part of the businesses managed by the company, the foregoing reasons for termination will not be applicable. In practice, employees who are attached to the business will either be offered (i) a new position in the seller's company, (ii) transfer of employment to the purchaser (new owner of the business) or (iii) mutual termination by the seller.

If a business sale is carried out due to the employer experiencing losses, or to prevent losses, the employer may terminate the impacted employees for reasons of business efficiency. For termination due to the employer experiencing losses, the employer must be able to prove those losses via internal or external financial audit reports.

To terminate for reasons of efficiency in order to prevent losses, the employer must be able to prove that there is potential for reduced productivity or profit that will impact the employer's operations (the primary requirement for this type of termination). GR 35 does not provide examples of proof that must be produced by the employer. This allows each employer to self-evaluate their circumstances and provide proof that is relevant to their business and operations.

In the acquisition of a company, the employment relationship between the acquired company and the employees will automatically continue unless terminated. In a business sale, employees do not automatically transfer to the buyer. They are entitled to be given

an option to continue working for the buyer or to have their employment terminated. In the case of the latter, employees are entitled to a severance package.

In any of the corporate actions described in the foregoing, the labour union shall be entitled to represent its members during the negotiation with the employer – eg, negotiation on employee transfer or the severance package in the event of termination. However, this negotiation process with the labour union will not hinder the employer from proceeding with the intended corporate actions.

## 11. Intellectual Property and Data Protection

### 11.1 Intellectual Property Considerations for Approval of FDI

Intellectual property in Indonesia is divided into seven types, each of which is regulated by its respective law:

- trade marks, stipulated in Law No 20 of 2016 on Marks and Geographical Indication (as amended);
- geographical indication, stipulated in Law No 20 of 2016 on Marks and Geographical Indication (as amended);
- patents, stipulated in Law No 13 of 2016 as lastly amended by Law No 65 of 2024 on Patents;
- copyright, stipulated in Law No 28 of 2014 on Copyright (as amended);
- industrial design, stipulated in Law No 31 of 2000 on Industrial Design;
- trade secrets, stipulated in Law No 30 of 2000 on Trade Secrets; and
- layout designs of integrated circuits, stipulated in Law No 32 of 2000 on Layout Designs of Integrated Circuits.

All of the foregoing are classified as intellectual property rights (IPRs), and the associated legislation is referred to as the Intellectual Property Law (the "IPR Law").

The IPR Law is an important aspect of FDI, as it protects the intellectual property of any party in Indonesia. To ensure protection of an intellectual property asset, a foreign investor must register or record the assets

with the Directorate General of Intellectual Property (DGIP) of the Ministry of Law, except for copyright (for which protection is not based on recordation but rather on declaration).

However, it is strongly recommended that a copyright owner also record the copyright, and obtain notification of recordation evidencing ownership thereof, in case future proof is required. Notification of copyright ownership from the DGIP would constitute strong evidence of ownership for the copyright owner.

For trade marks, geographical indication, industrial design and patents, the DGIP will examine the matter (administratively and substantively) before granting IPR protection.

## 11.2 Intellectual Property Protections

As long as the owners have duly registered their intellectual property with the DGIP (except for copyright), the intellectual property will be protected by the IPR Law, and the authority will be evidenced by IPR registration or recordation with the DGIP.

Some difficulties experienced by owners in obtaining protection for their intellectual property are caused by similarities between IPRs registered or recorded with the DGIP prior to submission by the owners.

An intellectual property owner that wishes to obtain IPRs in Indonesia but finds that its IPR has been registered in the general registry of the DGIP must first file a cancellation lawsuit against the IPR registration with the commercial court (against the name of the registered party) and prove intellectual property ownership to a panel of judges. If the lawsuit is successful, the registered IPRs will be cancelled, and the new owner can apply for IPRs to replace the cancelled ones.

There are no limitations on protection or the enforcement of the IPR Law in Indonesia, as long as the IPRs are registered or recorded (and still valid) in accordance with the applicable IPR laws.

The protection of AI-generated works remains unclear due to the absence of explicit provisions within the IPR Law. This ambiguity arises from the lack of clarity regarding the identity of AI creators and the owner-

ship of AI-generated works, as the AI programmes themselves create new content, generate information and derive ideas based on the recognition of patterns in data. This complicates the establishment of legal protection for such works.

## 11.3 Data Protection and Privacy Considerations

Personal data protection in Indonesia must follow the provisions in Law No 27 of 2022 on Personal Data Protection (the “PDP Law”) and, for personal data processing in electronic systems, Law No 11 of 2008 on Electronic Information and Transactions, as amended by Law No 1 of 2024 (the “EIT Law”), as well as its implementing regulations including Government Regulation No 71 of 2019 on the Provision of Electronic Systems and Transactions (GR 71/2019). The PDP Law is effective as of 17 October 2024. Following the enactment of the PDP Law, the Indonesian government has been working on the Draft Implementing Regulation for Law No 27 of 2022 on Personal Data Protection, which is intended to provide further guidance on the PDP Law’s implementation and enforcement. However, as of the fourth quarter of 2025, there is no clear timeline for its finalisation.

Pursuant to the PDP Law and GR 71/2019, personal data is defined as data on a person who is identified or identifiable, separately or in combination with other information – either directly or indirectly – through an electronic system or via non-electronic means. Given this definition, the term “personal data” has a broad interpretation and includes any data attributable to an individual capable of being used to identify them.

The PDP Law acknowledges several lawful bases for personal data processing:

- consent of the data subject;
- contractual necessity;
- for compliance with the data controller’s legal obligations;
- to protect the vital interests of the data subject;
- if it is in the public interest – ie, for the provision of public services or for the exercise of lawful authority; and
- legitimate interest.

The processing of personal data in Indonesia must have at least one of these lawful bases.

The PDP Law applies extraterritorially to organisations that carry out legal actions, as regulated in the PDP Law, and are located:

- within the jurisdiction of Indonesia; and/or
- outside the jurisdiction of Indonesia but subject to legal consequences (i) in Indonesia or (ii) in connection with the personal data of an Indonesian citizen.

The EIT Law applies to any Indonesian citizens, foreign nationals or legal entities that carry out legal actions, as stipulated in the EIT Law, both within and outside Indonesia, which have legal consequences within or outside Indonesia and harm/affect the public interest in Indonesia.

The PDP Law also allows cross-border personal data transfer offshore from Indonesia, provided that it complies with the following requirements:

- the country receiving the transfer of personal data has an equal or higher level of personal data protection than that afforded under the PDP Law (“Adequacy of Protection”);
- in the absence of Adequacy of Protection, an adequate level of binding personal data protection must be available (“Appropriate Safeguards”); and
- in the event that neither Adequacy of Protection nor Appropriate Safeguards are present, consent for the cross-border data transfer must be given by the data subject.

The points in the foregoing list must be assessed and implemented in sequence. To date, the list of countries that meet the Adequacy of Protection requirements has not been published.

Furthermore, Minister of Communications and Information Technology (currently known as the Minister of Communications and Digital, or MOCD) Regulation No 20 of 2016 on Personal Data Protection in Electronic Systems stipulates that the transfer of information containing personal data managed by an electronic system operator (ESO), either private or public in scope, domiciled in Indonesia to a territory outside of Indonesia must be co-ordinated with the MOCD or the authorised official/agency. There are two types of report that must be submitted to the MOCD in relation to such cross-border transfer: (i) a cross-border personal data transfer plan report and (ii) a cross-border personal data transfer implementation result report.

Additionally, business undertakings in specific sectors, such as the banking and financial sector, may be subject to data localisation requirements.

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