

Commercial Real Estate in Indonesia: Overview

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A Q&A guide to commercial real estate law in Indonesia.

The Q&A gives a high-level overview of real estate investment structures; restrictions on foreign ownership; title; tenure; sale of real estate; real estate tax; real estate finance; leases; and planning law.

Real Estate Investment

Investment Structures

1. What entity types and acquisition structures do investors typically use for real estate investment in your jurisdiction?

Common Entity Types

The most common investment vehicle is the limited liability company (*perseroan terbatas*), which is established specifically to engage in property business.

Most investors (domestic and foreign) choose this investment vehicle because it can hold a right to build (*hak guna bangunan*), which is the most common land title held by real estate developers for their projects (see [Question 2](#)).

A limited liability company cannot hold freehold title (*hak milik*). Freehold can only be held by Indonesian nationals and certain legal entities stipulated by the government (see [Question 2](#) and [Question 6](#)).

Real Estate Investment Trusts (REITs)

REITs (*Dana Investasi Real Estate*) (DIRE) have been used in Indonesia although they are not commonly used. Based on [Indonesia Stock Exchange](#) information, only three REITs were listed in the Indonesia Stock Exchange between 2013 and 2019. XSPI, which is backed by the premium Plaza Indonesia asset, shows significantly stronger performance, reflected in the last dividend distribution of 5.2600 per unit, substantially higher than the other two REITs (XCIS at 0.0113 and XCID at 0.4680). This highlights that high-quality, well-established assets can generate attractive and stable returns through a REIT structure.

In contrast, the other two REITs show relatively modest yields, suggesting that not all REITs in the Indonesian market have reached a scale or maturity comparable to REIT markets in more developed jurisdictions.

Common Acquisition Methods

Asset purchase. This is a direct acquisition of real estate. It involves a sale and purchase deed (*Akta Jual Beli*, AJB), made before a land deed conveyancer (*Pejabat Pembuat Akta Tanah*, PPAT), an official authorised to draw up authentic land deeds. The National Land Agency (*Badan Pertanahan Nasional*, BPN) deems an AJB admissible evidence of an agreement to transfer land from a seller to a buyer. The buyer must be eligible to hold title (see [Question 6](#)).

Share acquisition. Real estate can also be acquired indirectly by acquiring the shares of a company holding real estate. In general, a share acquisition can be carried out through a:

- Share transfer: a purchase of shares from one or more existing shareholder(s), so that the buyer becomes the majority shareholder of the company.
- Share subscription: an injection of capital into a company, so that the buyer becomes the company's majority shareholder.

A majority shareholding does not automatically mean direct ownership of the real estate, as the company continues to be the registered owner of the real estate. The new shareholders also indirectly assume responsibility for the company's other assets, liabilities, and obligations.

Restrictions on Foreign Ownership and Occupation

2. Are there restrictions on foreign ownership or occupation of real estate (including foreign ownership of shares in companies holding real estate)? Are there restrictions on foreign lending, security, and guarantees to buy or occupy real estate in your jurisdiction?

Foreign Ownership of Real Estate

Freehold can only be held by Indonesian nationals and specified legal entities (see [Question 6](#)) (Law No. 5 of 1960 on Basic Agrarian Principles (Agrarian Law)).

Companies engaged in the purchase, sale, lease, and operation of real estate can be owned by foreign entities.

The most common investment vehicle is the limited liability company. Most investors (domestic and foreign) choose this because it can hold a right to build, which is the most common land title held by real estate developers for their projects. The right to build can be held for a maximum of 80 years (including extension and renewal periods).

In the new capital city of Indonesia (*Ibu Kota Nusantara*) (IKN), which is being built to replace Jakarta, the right to build can initially be granted for a maximum of 30 years, extended for a maximum of 20 years and renewed for a maximum of 30 years, subject to certain criteria and evaluation stages. The evaluation stages include an evaluation conducted five years after the initial granting of title, and an evaluation conducted two years prior to the end of each of the extension period or the renewal period (Law No. 3 of 2022, as amended by Law No. 21 of 2023 on the Capital City).

The right to own an apartment unit (*Hak Milik atas Satuan Rumah Susun*, HMSRS) is extended to foreign nationals holding the required immigration documentation and foreign entities with representative offices in Indonesia (Government Regulation No. 18 of 2021 on the Right to Manage, Land Rights, Flat Units; Land Registration (Regulation 18/2021)).

Further, foreign nationals with the required documentation can own landed houses or apartments built on right to use (*hak pakai*) or right to build land.

However, foreign nationals can only acquire HMSRS title to apartments in either:

- A special economic, free trade or free port, industrial zone.
- Other economic zone: urban or suburban zone, tourism zone, or one suitable for a vertically aligned housing development, which has a positive economic impact on the public.

Properties that can be owned by foreign nationals are subject to restrictions on minimum price, floor space, land area, number of apartment units (where relevant), and zoning (they must be in areas zoned for residential purposes) (Regulation 18/2021).

Minimum price restrictions for properties houses and apartment units) that can be owned by foreign nationals in all provinces in Indonesia are currently set out in Decree No.1241/SK-HK.02/IX/2022 of 2022 on the Acquisition and Price of Residential Houses for Foreign Citizens (issued by the Minister of Agrarian Affairs and Spatial Planning/Head of National Land Agency).

For example, the current minimum price of properties that can be owned by foreign nationals in Jakarta Province is IDR5 billion for a house and IDR3 billion for an apartment unit.

Foreign Lending, Security, and Guarantees

Both the following are permitted:

- Creating security over real estate for the benefit of a foreign lender.
- Lending for the purchase of real estate by a foreign lender.

In theory, a mortgage can be created over property with the right to use and property with HMSRS title (*see above, Foreign Ownership of Real Estate*). However, this is rarely seen in practice. Further, foreign nationals may have limited access to finance from Indonesian banks as Indonesian Central Bank Regulation No. 6 of 2024 on the Money Market and Foreign Exchange Market only permits financing to non-Indonesian residents (those not domiciled in Indonesia or have domiciled in Indonesia for less than one year) for certain specified economic activities in Indonesia.

Title to Real Estate

Title Registration

3. How is title to real estate evidenced? What is the system for public registration/recordation of title? Is electronic access and electronic conveyancing available?

How Title is Evidenced

Title over land (with or without a building on it) is evidenced by a land title certificate issued by the relevant land office.

The government can issue the land title certificate electronically (Regulation No. 3 of 2023 on the Issuance of Electronic Documents in Land Registration Activities (issued by the Minister of Agrarian Affairs and Spatial Planning/Head of National Land Agency)). As of 2025, the electronic land title certificate has been applied nationwide, to gradually convert physical land title certificates into electronic land title certificates. Any legal process in the land office involving land that is still recorded in a physical land title certificate will involve conversion into an electronic land title certificate (widely known as the electronic certificate (*sertipikat elektronik*)) by the land office.

Title to a building can be evidenced by a building ownership certificate (*Surat Bukti Kepemilikan Bangunan Gedung, SBKBG*).

Public Registration/Recordation System

Title over land is registered with the BPN. It is a government institution with responsibility for land administration. Its head office is in Jakarta, with regional offices at provincial level and regional/municipal offices across Indonesia.

Issues can occur when gathering evidence for non-registered customary (*girik*) land, especially in large real estate projects. *Girik* documentation only proves that a person has control over particular land and is not evidence of land ownership. Such rights over land based on *girik* documents can be registered with the land office and granted land title.

However, evidence of non-registered customary (*girik*) land will no longer be valid after five years from the enactment of Regulation 18/2021 (issued by the Minister of Agrarian Affairs and Spatial Planning/Head of National Land Agency) (2 February 2026).

SBKBG is maintained by the Ministry of Public Works and Public Housing through an information system on building construction management (*Sistem Informasi Manajemen Bangunan Gedung, SIMBG*).

Electronic Access and Conveyancing

BPN has electronic system for land registration through several websites and/or applications. The electronic system covers, among others, electronic land and spatial planning information services, checking of land title certificates, and land registration. It is still being developed and some technical issues might arise when applying.

Information on registered land can be provided in the Land Registration Certificate (*Surat Keterangan Pendaftaran Tanah*, SKPT) issued by the relevant land office. Currently the SKPT is generally obtained through the electronic system.

This system can accommodate electronic signatures for the purpose of verification.

SIMBG can be *accessed electronically*.

4. What are the main information and documents registered/recorded in the public registration/recordation system? Can confidential information or documents be protected from disclosure?

Main Information and Documents

The information and documents registered in the public register of title kept by BPN are:

- Details of the land (including details of the location, boundaries, and a map).
- Details of the owner (title holder).
- Issue date and period of validity of the title.
- Transfer history of the title.
- Other third-party rights created. Under Indonesian law, it is possible to create another land title over certain land titles (see [Question 6](#)).
- Encumbrances (mortgages) over the land title.
- Blockage, attachments, and disputes over the land title.

Confidential Information

Details of registered land are in principle publicly accessible, for which certain documentation is required and some procedures apply. There is no procedure to prohibit the disclosure of data.

5. Is there a state guarantee of title? Are authorities that manage public title registration/recordation systems liable for title registration errors? Is title insurance available and is it commonly used?

State Guarantee of Title and Compensation

There is no absolute title guarantee from the state. A land title certificate is the strongest evidence of land ownership, unless proven otherwise.

In theory, land ownership under a land title certificate held in good faith by the owner for five years from when it is issued cannot be claimed by a third party based on the certificate being invalid.

BPN can be held liable to pay compensation for any errors it makes in relation to title registration by virtue of the decision of the state administrative court (*Pengadilan Tata Usaha Negara*, PTUN).

Title Insurance

Title insurance is uncommon and not generally available from insurance providers in Indonesia.

Types of Tenure

6. How can real estate be held (that is, what types of tenure and other main ownership rights exist over land)?

Freehold Title/Absolute Ownership

The Agrarian Law recognises several types of land title, of which the following are the most important:

- Right of ownership/freehold (*hak milik*). Freehold, the highest form of land ownership in Indonesia, can only be held by Indonesian nationals and certain legal entities stipulated by the government, for example state-owned banks, agricultural cooperatives, religious and social institutions appointed by the government.
- Right to cultivate (*hak guna usaha*), which is used for agricultural purposes.
- Right to build. This is the most common land title held by real estate developers (domestic and foreign) for their projects. It can be held for a maximum of 80 years (including extension and renewal periods).
- Right to use (*hak pakai*), which can be used for purposes other than agricultural and the right to use land, resources over the land, and/or to collect proceeds from the land.

All these titles are granted by the government and allow the holder to use the land concerned to the extent granted by the specific right. However, they differ in terms of who is eligible to hold them, duration, nature of use permitted, ability of the title to be transferred or used as security, and so on.

Co-ownership or joint ownership (when title is held by several parties) is possible, provided that all holders are eligible to hold the title concerned.

Leasehold Title

A lease is generally regulated under the Civil Code. However, the Agrarian Law recognises leasehold title for building, which is a right to use the other party's land for building purposes.

Condominium Ownership/Equivalent

Title to an apartment unit is called HMSRS (see [Question 2](#)), which is mainly regulated under Law No. 20 of 2011 on Apartments, as amended by Law No. 6 of 2023 on the Enactment of Government Regulation in Lieu of Law No. 2 of 2022 on Job Creation into Law (Law 6/2023).

Other Rights

The Agrarian Law also recognises the right to manage (*hak pengelolaan*), which is considered part of state control of land.

Sale of Real Estate

Preliminary Agreements

7. What types of preliminary agreements are typically used in the sale of real estate and are they legally binding?

In new real estate projects, there is typically a marketing or co-operation agreement between the agent and the seller/developer. It commonly includes the identity, role, rights and obligations of the parties. More detailed matters may also be included, such as sales targets and commission fees. The seller/developer often co-operates with a bank that offers home loans to buyers and a more attractive financing scheme (such as lower interest rates and discounted deposits).

The real estate agent offers the property to potential buyers according to the marketing/co-operation agreement, including the price, financing scheme (if the seller associates with a bank), and payment scheme. If the buyer accepts the offer, the loan agreement and the sale agreement are in principle in line with the offer.

The seller and buyer usually enter into a conditional sale and purchase agreement (CSPA) (*Perjanjian Pengikatan Jual Beli*, PPJB) before the transfer of the land. The CSPA is commonly deemed a pre-contractual arrangement for the sale of the land.

In some cases, the CSPA requires a deposit by the buyer to the seller and may set out certain conditions to be met by each party before executing the sale. Conditions commonly relate to or are subject to the results of due diligence conducted over the land.

The CSPA is executed prior to the signing of an AJB, in which the AJB must be made before a PPAT. BPN regards an AJB as legitimate evidence and an agreement to transfer the land from the seller to the buyer ([Question 8](#)).

Exchange and Completion/Closing

8. When does the sale become legally binding? What are the main documents and formalities for exchange and completion/closing of the sale? When does title transfer? Is notarisation required?

When Legally Binding

The sale becomes legally binding when the AJB is duly executed by the parties before a PPAT.

Completion/Closing Documents

In some cases, before entering into the AJB, the parties will enter into a CSPA (see [Question 7](#)). The CSPA stipulates the conditions precedent (CPs) to be met by each party before executing the sale of the land. Conditions commonly relate to and/or are subject to the results of due diligence conducted over the land. If the CPs have been fully satisfied by the relevant party (or waived by the other party to the extent permitted), the parties will enter into the AJB.

After execution of the AJB, the PPAT who draws up the AJB will register the AJB to administer the title transfer (*balik nama*). Registration is conducted by the PPAT at the relevant land office after all the following conditions are met:

- The AJB is duly executed before the PPAT.
- The buyer has paid all the purchase price to the seller.
- Payment of applicable taxes (see [Question 10](#) and [Question 12](#)).
- All required documents are completed.

When Title Transfers

Title is transferred to the buyer once the AJB is executed before a PPAT (which typically mentions the transfer of the land title and all buildings and fixtures on the land and payment of the purchase price has been made to the seller). The purchase price must be paid by the time the AJB is executed. The transfer of land title must then be registered with the relevant land office.

Notarisation

Transfer of land title must be made in the form of a notarial deed executed before a PPAT. PPAT fees vary according to the transaction value. However, a PPAT honorarium should not be more than 1% of the total transaction value cited in the AJB.

The maximum percentage will depend on the total transaction value cited in the AJB and is provided in Regulation No. 33 of 2021 (issued by the Minister of Agrarian Affairs and Spatial Planning/Head of National Land Agency).

Environmental Issues

9. Briefly outline the environmental legislation and potential liability in a purchase of real estate. Is it common to carry out environmental due diligence and obtain environmental insurance? How is environmental liability typically dealt with in the sale contract?

Environmental Legislation and Liability

In general, the new owner or occupier can inherit environmental liability relating to the land, even if it was caused by the previous owner.

In a sale and purchase transaction, all benefits, losses and encumbrances on the land become the rights or burdens of the buyer, in accordance with the sale and purchase deed stipulated by the government.

This position can, however, be negotiated with the seller. The parties can insert a clause into the sale contract, or in a separate agreement, stating that the seller or previous owner is responsible for all environmental liability relating to the land due to events occurring before execution of the AJB.

Buyers in certain industries with a high likelihood of environmental impact such as mining, oil, gas, and plantations must carry out an environmental survey and obtain environmental impact clearance certification (Law No. 32 of 2009 on Environmental Protection and Management, as amended by Law 6/2023).

Every business in Indonesia that has an impact on the environment must generally obtain an environmental approval. This consists of an environmental feasibility decision or statement of environmental management ability approved by the central or regional government (Government Regulation No. 22 of 2021 on Implementation of Environmental Protection and Management).

Environmental approval is obtained through either:

- Preparing an environmental impact analysis (EIA) and an EIA feasibility test.

- Completing an environmental management efforts and environmental monitoring efforts form (*Upaya Pengelolaan Lingkungan Hidup-Upaya Pemantauan Lingkungan Hidup*, UKL-UPL) which will be examined by the relevant government department.

For a business where an EIA or UKL-UPL is not required, the business must provide a statement of commitment to environmental management and monitoring (SPPL). This confirms a commitment by the person in charge to manage and monitor the environmental impact of the business and/or activity.

Industrial companies situated in or intending to establish themselves within an industrial zone, must prepare a Detailed Environmental Management Plan and Environmental Monitoring Plan (*Rencana Pengelolaan Lingkungan Hidup-Rencana Pemantauan Lingkungan Hidup Rinci*, Detailed RKL-RPL) (Minister of Industry Regulation No. 1 of 2020 on the Drafting of Detailed Environmental Management Plan and Environmental Monitoring Plan for Industrial Companies which are Located or which Will be Located in Industrial Zones).

The Detailed RKL-RPL sets out efforts to:

- Deal with the environmental impacts caused by the business or activity plans.
- Monitor environmental components affected by the business or activity plans in an industrial zone.

Further, Indonesia recognises a licence to ensure conformity between the proposed spatial utilization and the zoning regulation (*Kesesuaian Kegiatan Pemanfaatan Ruang*, KKPR), which is required for every business enterprise (Government Regulation No. 21 of 2021 on Spatial Planning Implementation) (Regulation 21/2021).

KKPR is incorporated into the Indonesian integrated licensing system (risk-based online single submission (OSS) system) (OSS RBA) and is issued as one of the following permits:

- Confirmation of Conformity of Spatial Utilization Activities (*Konfirmasi Kesesuaian Kegiatan Pemanfaatan Ruang*, KKKPR). This licence serves as a confirmation that the intended business activity complies with the detailed spatial plan of the regency/city which has been integrated with the OSS RBA system.
- Approval of Conformity of Spatial Utilization Activities (*Persetujuan Kesesuaian Kegiatan Pemanfaatan Ruang*, PKKPR). This licence serves as an approval that the intended business activity complies with the spatial plan of the regency/city, other than the detailed spatial plan. This licence is granted if a detailed spatial plan for the relevant business location has not yet been established or has not yet been integrated with the OSS RBA system.

Environmental Due Diligence and Insurance

See above, [Environmental Legislation and Liability](#)

Environmental insurance is not common in Indonesia.

Environmental Issues in the Sale Contract

See above, [Environmental Legislation and Liability](#). Representations, warranties and/or undertakings including relevant indemnities on environmental liability can be agreed in the CSPA.

Real Estate Tax

Stamp Duty/Transfer Tax

10. Is stamp duty/transfer tax (or equivalent) payable on a purchase of real estate? Who pays and are there any exemptions? Does it apply to the transfer of shares in a company holding real estate?

Stamp Duty/Transfer Tax

Transfer tax. The purchase of real estate attracts land and building acquisition duty (*Bea Perolehan Hak atas Tanah dan Bangunan*, BPHTB), and the sale of real estate attracts income tax (*Pajak Penghasilan* or PPh).

Stamp duty. Under Law No. 10 of 2020 on Stamp Duty, stamp duty is imposed on documents made to explain a civil nature event. Stamp duty at a nominal IDR10,000 applies to certain documents, including notarial and PPAT deeds (such as an AJB).

Who Pays

In a sale and purchase transaction, the buyer pays BPHTB, generally at the rate of 5% (which is the maximum rate) of the transaction value or the sale value of the tax object (NJOP), whichever is higher. The NJOP amount varies between regions. If BPHTB is calculated based on the transaction value, the transaction value will be reduced by the non-taxable acquisition value at a minimum of IDR80 million (for the taxpayer's first title acquisition in the region). The amount of the non-taxable acquisition value may vary between regions.

The seller pays PPh, generally at the rate of 2.5% of the transaction value.

The stamp duty is paid by both parties or by any of the parties based on mutual agreement between them.

Exemptions

The following acquisitions of rights over land or buildings are exempt from BPHTB:

- For government or state institution offices recorded as goods owned by the state or region.
- By the state for the organisation of governmental matters and/or for development within the framework of public interest.

- For agencies or representatives of international institutions on condition that they are not engaged in any business or other activities outside of functions and duties of the agency or institution as governed under minister regulation.
- For diplomatic representatives and consulates based on the principle of reciprocal treatment.
- By individuals or entities due to conversion of rights or due to other legal actions in the absence of change of name.
- By individuals or entities due to waqf (endowment).
- By individuals or entities used for religious purposes.
- For low-income people as stipulated under the prevailing laws and regulations.

Transfer of Shares

BPHTB does not apply to a share transfer.

Since a transfer of shares in a company (regardless of whether the company owns real estate) requires a notarial deed, nominal stamp duty therefore applies. See above, [Stamp Duty/Transfer Tax](#).

Tax on Seller's Profits/Gain

11. Is tax imposed on a seller's profit or gain on a sale of real estate? Are there any exemptions? Does it apply to a transfer of shares in a company holding real estate?

Tax on Seller's Profits/Gain

PPh is paid by the seller (either an individual or a corporation) on a sale of real estate (*see Question 10*).

Exemptions

The following transfers of rights over land or buildings are exempt from PPh:

- By individuals with income below or up to the non-taxable income, who transfer land and/or a building right with a gross value of less than IDR60 million in one transaction.

- By individuals through grants to direct family member(s), religious bodies, educational bodies, social institutions including foundations, co-operatives, or individuals who run micro or small businesses.
- By entities through grants to religious bodies, educational bodies, social institutions including foundations, co-operatives, or private individuals who run micro or small businesses.
- Due to inheritance.
- By entities that conduct the transfer of assets in the form of land and/or buildings for the purpose of business merger, consolidation, or expansion that has been determined by the Minister of Finance to use book value.
- By individuals or entities that conduct the transfer of assets in the form of buildings for the purpose of implementing agreements for the build-operate-transfer, the built-transfer-operate, or the utilisation of state assets in the form of land and/or buildings.
- By individuals or entities that are not included as tax subjects (such as diplomatic representatives).

Transfer of Shares

PPh applies to a sale of shares by an individual and a corporate seller.

Value Added Tax (VAT) or Equivalent

12. Is VAT (or equivalent) payable on a sale of real estate? Who pays? Are there any exemptions?

VAT/Equivalent

VAT typically applies to a sale involving a real estate developer that provides real estate services to consumers.

Generally, VAT is imposed by the seller if the seller is a taxable business (*pengusaha kena pajak*).

Who Pays

If the sale involves a real estate developer that provides real estate services to consumers, VAT at 11% is typically payable by the buyer as a consumer.

Exemptions

The sale is exempt from VAT if it is for non-commercial purposes, or if the land is located in certain areas (such as a free trade zone).

Municipal/Local Taxes

13. Are municipal/local taxes paid on the occupation or ownership of business premises or business ownership? Are there any exemptions?

Regional governments can charge regional taxes, which are in line with regional conditions, through the enactment of regional regulations. However, they must be in line with the broad policy guidelines set out under Law No. 1 of 2022 on Financial Relationships between the Central Government and the Local Government. Therefore, regulations on regional taxes (including possible exemptions) vary between regions depending on the policy of the regional government.

For example, the Land and Building Tax (annual tax paid by a land title holder) tariff in Jakarta under the Regulation of the Special Capital District of Jakarta Province No. 1 of 2024 is 0.5% of NJOP.

Real Estate Finance

Secured Lending Involving Real Estate

14. Briefly outline the typical security package required by lenders in relation to commercial real estate lending. How are the most common forms of security interest relating to real estate created and perfected? Is there a mortgage tax/registration fee?

Typical Security Package

Real estate is typically secured by a land mortgage (*Hak Tanggungan*). Under a mortgage, the borrower grants the lender an interest in the borrower's real estate as security for the debt.

Other available and commonly used (depending on the scale of the project) security interests include:

- Pledge of shares in the borrower (granted by each shareholder of the borrower) including relevant powers of attorney.

- Pledge of an account (a bank account or an account receivable).
- Fiduciary security over the borrower's assets that are not secured by a mortgage, including fiduciary security over receivables and insurance proceeds.
- Guarantees (corporate or personal).
- Various contractual security documents, such as conditional novation over key agreements.

These security interests can be granted in addition to a mortgage, depending on the scale of the project.

Common Forms of Security: Creation and Perfection

Mortgages are created and perfected by:

- Signing a mortgage deed in Indonesian, before a PPAT with jurisdiction over the land to be mortgaged, which may or may not include any building above the land.
- Registration of the mortgage deed with the electronic mortgage system (E-Mortgage System) which is submitted online on the [BPN website](#). To evidence the mortgage, the E-Mortgage System issues an electronic mortgage certificate in favour of the lender. To be registered as a mortgagee in the E-Mortgage System, the lender must create an account in the E-Mortgage System.

Mortgage Tax/Registration Fees

During registration of a mortgage deed at the relevant land office, the PPAT pays on the lender's behalf an administrative tariff called non-tax state revenue (PNBP) to the government, which is normally reimbursed by the mortgagor. The amount of the PNBP depends on the secured amount of the mortgage. The maximum amount of PNBP payable is IDR50 million per mortgage certificate, payable on a mortgage above IDR1 trillion.

There is no mortgage tax payable on registration of a mortgage other than PNBP.

Lenders' Remedies

15. Briefly outline the main remedies for lenders in relation to secured real estate if the borrower defaults on the loan. What is the effect of the borrower's insolvency on the lender's remedies?

Lenders' Remedies

Under Law No. 4 of 1996 on Mortgages, a mortgagee is a secured creditor. Therefore, if the borrower is in default on the loan, the lender/mortgagee can exercise its right to sell the secured real estate through a public auction or private sale, if agreed between the mortgagor and mortgagee in the security/lending documents. The enforcement is subject to certain requirements and procedures set out in law.

In theory, a mortgage registered at the land office with a mortgage certificate has the same executory effect as a binding court decision and therefore can be realised outside court proceedings. However, in practice, a court decision may be required to evidence that the borrower is in default before realising the mortgage.

Effect of the Borrower's Insolvency

The right of the mortgagee as a secured creditor is not affected by the borrower's insolvency.

Based on the Bankruptcy Law (Law No. 37 of 2004), the lender is encouraged to participate in insolvency proceedings by submitting its claims and enforcing its rights as a secured creditor.

Real Estate Leases

Negotiation of Leases

16. Are commercial lease provisions regulated or freely negotiable? Which legislation applies?

Contractual lease provisions are generally freely negotiable. The Civil Code sets out provisions on leases but they can be waived by mutual agreement of the parties.

Rent Payments

17. At what intervals is rent usually paid in a business lease? How are rent levels usually determined and reviewed?

Rent Payment Intervals

Rent intervals depend on the lease and are subject to agreement between the parties. However, the rent in a business lease is usually paid annually in advance.

Rent Review

Rent levels are usually reviewed at the end of the lease period, except for service charge and mandatory utility price increases such as electricity and water and any other fees agreed by the parties. Market rate is commonly referred to in determining the rent levels.

18. Is stamp duty and VAT (or equivalent) payable on rent?

Stamp duty is typically payable on signing the rent agreement.

VAT is payable on rent at 11% of the gross lease rent amount. If the landlord is registered as a taxable company, the VAT is collected by the landlord.

19. Is a rent security deposit or other security usually required by the landlord?

A rent security deposit is not legally regulated. In practice, the landlord usually requires the tenant to deposit a fixed amount at the beginning of the lease. The amount of a rent security deposit is subject to agreement between the landlord and tenant. The amount is also subject to the duration of the rent, use of the premises, scale of the project, and so on. However, it is typically around three months' rent.

Although not common in practice, the landlord may request other forms of security such as a bank guarantee.

Length of Term and Security of Occupation

20. Is there a typical length of lease term or restrictions on the duration of a lease? Do tenants of business premises have security of occupation or rights to renew the lease at the end of the contractual lease term?

Length of Lease Term

The length of a lease term is subject to agreement between the landlord and tenant. The length of a commercial lease term depends on the use of the premises, scale of the project, and so on. However, the recent trend in leases is for shorter terms (five years or less). The lease term must also observe the remaining validity period of the land title unless the land title is the right of ownership/freehold title which has an unlimited duration.

There is no explicit legal restriction on the duration of a commercial lease.

Security of Occupation

A landlord usually has discretion whether to renew the lease at the end of the contractual lease term. This is usually set out in the lease agreement.

The lease agreement typically contains a provision that requires the tenant to notify and obtain consent from the landlord for the extension.

Under the Civil Code a tenant enjoys security of occupation in certain circumstances, such as if the premises are sold (unless agreed otherwise in the lease). In this case, the sale of the premises does not prejudice the right of the tenant to occupy the premises until the end of the lease term.

Disposal

21. What restrictions typically apply to the disposal of the lease by the tenant?

Assignment and Subletting of the Lease

The tenant cannot grant a sub-lease of the leased premises nor transfer the lease to another party without the landlord's permission (Civil Code).

The principles of propriety and good faith are adopted in general under the Civil Code.

Group (Affiliate) Sharing

In practice, tenants can usually share their business premises with companies in the same corporate group with permission from the landlord. A separate lease in writing with the landlord may be required, especially for a foreign investment company, as data on the company's registered office address is recorded in the OSS RBA system (see [Question 9](#)).

Legal Reorganisation or Transfer/Sale of the Tenant

In a legal reorganisation or transfer or sale of the tenant, subject to the lease, the tenant's successor will generally continue the lease. Commercial leases typically have "change of control" clauses requiring the tenant to obtain the landlord's consent to such a change.

22. Does a landlord or tenant retain any liability under the lease after the lease is assigned?

Landlord's Retained Liability

There is no specific provision in Indonesian law that specifies liability retained by the landlord when the lease is assigned. In general, liability under the lease agreement after the lease is assigned can be contractually agreed.

Tenant's Retained Liability

Typically, the tenant will remain liable for maintaining the premises in good condition throughout the lease term. See also above, [Landlord's Retained Liability](#).

Landlord's Remedies and Tenant's Insolvency

23. What remedies are available to a landlord for a breach of the lease by the tenant? On what grounds can the landlord usually terminate the lease? What is the effect of the tenant's insolvency?

Landlord's Remedies and Grounds for Termination

The landlord can typically terminate the lease agreement if any of the following breaches occur:

- Rent payment default by the tenant.
- Assignment or sublease without prior approval from the landlord.
- The tenant's bankruptcy.

The landlord may also terminate the lease agreement on other grounds as agreed by the parties in the lease agreement. If the tenant breaches the lease agreement, the landlord can issue a default notice to the tenant. The default notice is issued to confirm that the tenant has breached a provision under the lease agreement and to order the tenant to remedy or fulfil certain obligations arising from or related to the breach.

The default notice is also evidence of the landlord's good faith in requesting the tenant to settle the breach amicably. In practice, a default notice can be issued two to three times, with a gap between notices of seven to 14 days. If the tenant does not respond

to the default notice or fails to settle the breach and so there is no amicable settlement, the landlord can bring a private lawsuit against the tenant.

The lawsuit is submitted to the district court with jurisdiction over the tenant's domicile, unless otherwise agreed by the parties in the lease. A lawsuit filed with the district court is not applicable if an arbitration clause is specified in the lease. In this case, the landlord can apply for arbitration of the dispute with the arbitration body specified in the lease.

Effect of the Tenant's Insolvency

A tenant's state of financial distress where it is unable to pay its debts can usually trigger early termination of the lease by the landlord. If the tenant fails to pay any of its debts and the tenant has another creditor to whom a debt is due, the landlord can file a petition with the competent commercial court for the tenant's bankruptcy to liquidate the tenant's assets for the benefit of the landlord and the other creditor(s).

Under the Bankruptcy Law, the commercial court must render a decision on a bankruptcy petition within 60 days of a petition being filed. A bankruptcy declaration triggers an automatic stay of the bankruptcy estate. The rights of secured creditors to enforce security and of any third parties to claim assets under the control of the bankrupt debtor or the receiver are subject to the automatic stay for a maximum 90 days. No legal action to obtain payment from the tenant can be taken during the stay period. The stay does not apply to a creditor's claim that is secured with cash (such as a rent security deposit) and the right of creditors to apply set-off.

Once the bankruptcy estate is declared insolvent, secured creditors must exercise their privileged right over the collateral within two months. Unsecured creditors can exercise their rights after then. The Bankruptcy Law provides that a creditor not backed by an in rem security right and not categorised as a preferred creditor under the relevant law and regulations falls within the category of an unsecured creditor.

Planning and Development Controls

24. In what circumstances can local or state authorities purchase property compulsorily (expropriation/eminent domain)? Is the purchase price or compensation based on market value?

Compulsory Purchase/Expropriation

Central and regional governments, including state-owned and regional-owned enterprises, can compulsorily purchase business premises in certain areas to develop facilities in the public interest, such as railways, airports, or other public infrastructure, as stipulated in Government Regulation No. 19 of 2021 on the Implementation of Land Acquisition for Developing Public Interest Facilities, as amended by Government Regulation No. 39 of 2023 (Regulation 19/2021).

Compensation

The compensation paid to the owner of the premises is determined by either a:

- Public appraiser, a private individual who conducts assessments independently and professionally and who has obtained a practising licence for assessment from the Minister of Finance.
- Land appraiser, a public appraiser licensed by the Ministry of Agrarian Affairs and Spatial Planning to calculate the value of an object related to land procurement activities for development in the public interest or other land and spatial planning activities.
- Government appraiser, a public official who is fully assigned, authorised, and obligated to conduct appraisal activities (Regulation 19/2021).

25. What authorities regulate planning control and which legislation applies?

Spatial planning is governed by Law No. 26 of 2007 on Spatial Layout, as amended by Law 6/2023 (Law 26/2007). Under Law 26/2007, both central and regional governments are authorised to conduct spatial planning. The central government can issue guidelines on spatial planning. Regional governments must follow the norms, standards, procedures, and criteria stipulated by the central government to implement spatial planning in the relevant region.

26. What are the main authorisation and consultation procedures in relation to planning consents?

Initial Consents

A planning consent (KKPR) is issued through the OSS system (currently OSS RBA). Building approval is issued by a regent or mayor (except for buildings located in Jakarta, where approval is issued by the governor).

The OSS system will issue consent following completion of the assessment of the submitted spatial utilisation documents, which is processed within five days after payment of the non-tax state revenue. The time to issue a building approval may vary in practice. However, the assessment of the submitted spatial utilisation documents is carried out in a maximum of 20 days from the date the spatial utilisation documents are declared as complete (Government Regulation No. 28 of 2025).

Third Party Rights and Appeals

Under Law 26/2007, third parties are entitled to:

- Obtain information about the spatial plan.

- Benefit from the increase of spatial value due to spatial planning.
- Receive proper compensation for loss incurred due to development carried out according to the relevant spatial layout plan.
- File a claim with the relevant authority for development that deviates from the spatial layout plan.
- Claim annulment of a permit and suspension of development by the relevant authority, for development that deviates from the spatial layout plan in its area.
- Claim annulment of a KKPR and/or termination of development that does not comply with the spatial plan of the relevant authority.
- Claim compensation for loss incurred from the central government, regional government, or the applicant for a land use proposal, if a spatial layout plan causes loss.
- Although Law 26/2007 is silent on the right to appeal against a planning decision, generally any person can appeal against a governmental decision to the State Administrative Court.

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- Surrendering a plot of land of over 5,000 square metres to the regional government under a new zoning area.

- Reviewing the agreement on fulfilment of obligations (PPK) with the regional government, as required in the SIPPT.

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- Assisting China-based sponsors of the Intermediate Treatment Facility (ITF) and the Waste-to-Energy (WTE) projects within Jakarta Metropolitan Area, Indonesia, for the acquisition of lands required by the projects.
- Assisting a Japanese manufacturing company in the acquisition of land within an industrial complex in West Java, Indonesia, through its subsidiary.

- Assisting the subsidiary of a South Korean manufacturing company in the acquisition of land within an industrial complex in East Java, Indonesia.

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