



The second annual complimentary guide to understanding Foreign Investment practices around the world with an Asia-Pacific focus

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Foreign Investment Law
Guide 2018–2019

Jurisdiction: Indonesia
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1. What are the main reasons foreign investors invest in your jurisdiction? (Please provide a brief introduction to your jurisdiction and some facts and figures related to foreign investment.)

With its unique competitive advantages in economic growth, abundance of market opportunities and strategic location, Indonesia proves to be a promising and attractive country for foreign direct investment (“FDI”).

For the past decade Indonesia has been able to maintain a stable yet remarkable economic growth with an average of 5% annual GDP growth for the past 5 years. In the year 2017 alone Indonesia’s GDP stood at 5.07%, a number which shows a robust growth due to its strengthening investment, net exports and international trade flows. OECD forecasts this growth to continue even higher in the year 2018 and 2019 thus offering a promising and attractive aspect for foreign investors to invest in Indonesia. Indonesia’s credit rating has been rated stable (investment grade) by S&P, Moody’s and Fitch respectively.

Along with Indonesia’s increasing economic growth, its market opportunities continue to expand. Indonesia ranks as the 4th most populated country in the world, with over 266 million people and 42.4% of them being within the peak of productive working ages of 25–54 years. This not only illustrates Indonesia’s immense market opportunities but also gives Indonesia a vast

potential workforce to support its ever-growing economy and markets.

The exclusivity of Indonesia’s geographical location makes it a major shipping lane, since it is an archipelagic country between the Indian and Pacific Ocean and the two continents of Asia and Australia. This gives Indonesia a competitive geographical advantage in the business of exports and imports as well as ease in reaching foreign markets.

With the estimated economic growth, abundance of market opportunities and strategic location, Indonesia proves to be a promising and attractive country for FDI.

2. What foreign investment legislation is in place in your jurisdiction (e.g. Foreign Investment Law or Foreign Investment Catalogue)? Please provide a brief overview of such legislation.

Foreign investment in Indonesia is governed by a few regulations which are briefly described below.

Investment Law and its implementing regulations:

Law No. 25 of 2007 concerning Investment (“Investment Law”) regulates the principles of FDI, such as the rights and obligations of a foreign investor and the requirement of all FDI in Indonesia to be made in the form of a limited liability company (*Perseroan Terbatas* or “PT PMA”).

There are several implementing regulations to the Investment Law. One of the most important implementing regulations is the so-called negative list. The “Negative List” is a presidential regulation which contains a list of business activities that are either closed or open to investment with restrictions. The Negative List is amended from time to time and currently the enforcing Negative List is based on the Presidential Regulation No. 44 of 2016.

At end of June 2018, the government enacted Government Regulation 24 of 2018 concerning Electronically Integrated Business Licensing Service (“GR 24/2018”). GR 24/2018 introduces the so-called Online Single Submission (“OSS”) system for issuance of licenses and permits by the government which replaces the earlier centralized FDI processing done through the Investment Coordinating Board (*Badan Koordinasi Penanaman Modal* or “BKPM”).

At the time this guide was prepared, the implementation of OSS had been launched, but certain aspects remain unclear as to implementation and subject to implementing regulations.

Other implementing regulations to the FDI include the BKPM Regulations, which regulates in detail among others, the norms, standards, and procedures for the implementation of FDI. Also BKPM Regulation No. 6 of 2018 regarding the Guidelines and Procedures for investment licensing and facilities, as well as Regulation No. 8 of 2018 concerning Guidelines and Procedures for Investment Implementation Control have recently been passed.

Company Law:

The Company law stipulates the general regulation concerning the limited liability company (*perseroan terbatas* or “PT”), including, among others, establishment, corporate organs, and requirements of PT.

In particular, all FDI in Indonesia must be made in the form of a PT. Hence in the case of FDI, the Company Law must be read in conjunction

with Investment Law and its implementing regulations.

Civil Code:

The Indonesian Civil Code serves as a general foundation to the concepts in civil law, including that of people (in relation to companies being an artificial legal person), ownership of goods, and contractual relationship principles. The Indonesian Civil Code was adopted from the colonial Dutch civil law and has been in force for more than a century.

3. What restrictions are placed on foreign investment? Does this differ at local levels of government?

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The general restrictions on foreign investment are listed in the Negative List. The Negative List contains a list of business activities that are closed or open to foreign investment with restrictions. Restrictions imposed by the Negative List are in the form of, among others:

- a. Partnership obligations with small, micro and medium business, or cooperatives;
- b. A maximum foreign shareholding;
- c. Special licenses; and
- d. Investors from ASEAN countries may have a higher foreign ownership allowance than non-ASEAN countries for certain business activities that are allowed with restrictions in Indonesia.

Further, although lines of business not listed in the Negative List would theoretically be open to FDI with 100% foreign shareholding, in practice, technical authorities may impose an unwritten policy to impose certain restrictions or conditions.

The Negative List applies nation-wide, although facilities for FDI in certain business activities or business activities in certain regions may be available. Such facilities include the deduction of income tax as regulated under the Government Regulation No. 9 of 2016 regarding Facility of



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Kevin joined ABNR in October 2002 and was made partner in 2016. After graduating in 2000 from the University of Indonesia's Faculty of Law, majoring in business law, he went on to earn an LL.M degree (cum laude) in international business law from Leiden University, Netherlands, in 2002. In 2015, he was seconded to a leading law firm in the Netherlands.

Prior to obtaining his LL.M, he worked as a researcher in the Indonesian Bankruptcy Law Monitoring Project under a technical assistance project funded jointly by the International Monetary Fund and the Netherlands Government. Armed with his experience of working on this project and of handling numerous restructuring & insolvency matters, he is a regular contributor to publications, workshops, and seminars on Indonesian bankruptcy law and practice.

He currently focuses his practice on restructuring & insolvency, M&A, FDI, telecommunications, aviation and commercial arbitration / litigation. He also has considerable experience in advising and representing multinational companies across various sectors and industries, including manufacturing, oil and gas, TMT, trading/distribution, construction, mining and plantations.

Income Tax for Investment in Certain Business Activities and/or in Certain Regions.

4. What are the most common business vehicles for foreign investors? How long do they take to be set up? What are the key requirements for the establishment and operation of these vehicles?

The most common business vehicles for foreign investors is foreign investment PT ("PT PMA").

Other than PT PMA, foreign companies may also establish a Foreign Company Representative

Office (*Kantor Perwakilan Perusahaan Asing* or "KPPA") or a Foreign Trading Company Representative Office (*Kantor Perwakilan Perusahaan Perdagangan Asing* "KP3A"). However, KPPA and KP3A are merely cost centers and may not generate any revenue in Indonesia, as their activities are limited to the promotion and marketing of products only or taking care of the interest of its offshore principal company.

Please find the table of comparison between PT PMA, KPPA and KP3A below:

Type of vehicles	Purpose	Limitations
PT PMA	To Conduct Business Activities as a legal entity in Indonesia in form of a limited liability company.	Subject to the limitations of business activities that are closed or open to investment with restrictions within the Negative List.
KPPA	<ul style="list-style-type: none"> a. As a supervisor, liaison, coordinator, and care taker of the principal's interest in Indonesia; and b. Prepare the establishment of a PT PMA in Indonesia. 	<ul style="list-style-type: none"> a. May not directly seek profit from a source in Indonesia; b. Prohibited to enter a contract/ transaction on the selling and buying of commercial goods or services; and c. May not participate in any form of management of a company, subsidiary or branch of a company in Indonesia.
KP3A	<ul style="list-style-type: none"> a. Introduce, promote and enhance the marketing of goods manufactured by the principal; b. provide information or guidelines regarding the utilization and importation of the goods to the user of the products; c. conduct market research and monitoring/ supervision of the sale of goods within Indonesia (domestically) in the framework of promotion of goods of the principal; d. conduct market research of products required by the principal and to connect the principal with local companies and provide guidelines or information regarding delivery/export requirements; and e. forge and on behalf of the principal, to close contracts with local companies within the framework of exports. 	<p>A KP3A may not generate any revenue in Indonesia. In general, a KP3A is prohibited from to engaging in the following activities:</p> <ul style="list-style-type: none"> a. entrance into sales contracts or transactions, from the initial stage up to and including completion and implementation; b. submission of tenders or bids; c. execution of contracts; d. settlement of claims, and the like; and e. conducting importation of goods.

Type of vehicles	Key requirements for the establishment and operation	Approximate time of setting up
PT PMA	<ul style="list-style-type: none"> a. Minimum investment of IDR10++ billion. The minimum investment may be higher for certain types of business; b. Minimum of 2 shareholders; and c. Requires a business license for conducting business. 	3–4 months, and conceivably faster under the OSS System.
KPPA	<ul style="list-style-type: none"> a. KPPA must obtain a KPPA license which is valid for a maximum of 3 years and may be renewed; and b. The KPPA chief must be residing in Indonesia, and may not hold a double position as a chief of another KPPA or any other company in Indonesia. 	2–3 months.
KP3A	Similar with KPPA above.	2–3 months.

5. Under what circumstances are foreign investments subject to government approvals? What is the process and timeline for such approvals?

All FDI in Indonesia are subject to government approvals, particularly in the establishment process and to enable them to conduct business activities. At the end of June 2018, the government enacted GR 24/2018 which introduces the OSS system for issuance of licenses and approvals by the government. The objective of GR 24/2018 is to unify and simplify licensing processes and government approvals nationwide. The OSS system will be a “single-reference” online licensing system for the handling of licenses previously managed by different ministries and government agencies, including from the regional government. The system will for the time being be administered by the Coordinating Ministry of Economic Affairs (the Ministry).

The licensing and government approvals processes are divided into several stages in the following order:

- a. The establishment of PT PMA. In this stage, the founders of PT PMA execute the deed

of establishment in front of a notary public, obtain validation as a legal entity from the Minister of Law and Human Rights; and obtain Taxpayer Registration Number (*Nomor Pokok Wajib Pajak* or NPWP).

- b. Registration at the OSS system. In this step the PT PMA activates its online account at the OSS system by completing the required documentations.
- c. Obtaining a Single Identity Number or *Nomor Induk Berusaha* (NIB). NIB serves as the business identity number to process further licenses and also valid as business registration certificate and import licenses.
- d. Obtaining preliminary business licenses such as a location permit, building permit and environmental permit.
- e. Obtaining a Business License as the mandatory license required prior to commencement of business activities.
- f. Obtaining Operational/Commercial License which is a subsequent license after the obtainment of a Business License, required to commence commercial or operational activities.

At the time this write-up was prepared, the OSS system had been launched, but certain implementing regulations as mandated by GR 24/2018 have not been issued as of this date. Thus, certain aspects remain unclear.

6. What sectors are heavily regulated or restricted in your jurisdiction, if any? Conversely, what are some of the more open or unrestricted sectors, if any?

Heavily regulated industries include banking and financial institutions, natural resources, i.e. mining and oil and gas, pharmaceuticals and transportation. Some of the more open or unrestricted sectors include industry, trading and management consultancy.

7. Are there any restrictions on doing business with certain countries or territories in your jurisdiction? (For example, sanctions.)

No. There are no restrictions and/or sanctions on doing business with certain countries or territories in Indonesia.

8. What grants or incentives are on offer to foreign investors, if any?

There are several grants or incentives in the form of facilities for foreign investors in doing business in Indonesia, such as:

- a. Import Duty Facilities;
- b. Tax Allowances;
- c. Tax Holidays; and
- d. Ease of Direct Investment in Construction (Kemudahan Langsung Investasi Konstruksi “KLIK”).

The table below gives a brief description on what such facilities entails:

Type of Facilities	Available Facility
Import Duty Facilities	Exemption of import duties facilities for machinery and raw material.
Tax Allowance	Deduction of net income tax of company amounting to 30% from investment value for a period of 6 years.
Tax Holiday	Deduction of income tax to pioneers in the industry for a period of 5–20 years.
Ease of Direct Investment in Construction (KLIK)	Allows investors in certain industrial locations to start the construction project prior to obtaining its construction licenses. This facility is only available in 47 specific industrial locations including: Kenda, Bukit Semarang Baru, Wjiaya Kusuma, etc.

Type of Facilities	Remarks												
Import Duty Facilities	<p>The imported machineries must fulfill the following criteria:</p> <ul style="list-style-type: none"> a. the machineries have not been produced locally; b. the machineries have been produced locally, but do not meet the requirements; or c. the quantity of the locally produced machinery is not sufficient. <p>The imported raw materials can be exempted from import duty if the industry has utilized machineries with 30% or more local content.</p>												
Tax Allowance	<ul style="list-style-type: none"> a. There are 145 business sectors that may fulfil the requirement for tax allowance. b. Requirements include investment value, export orientation, opening of employment opportunities, level of domestic components, location of project. 												
Tax Holiday	<p>Applicable for pioneers in certain industries, among others:</p> <ul style="list-style-type: none"> a. integrated refining and/or refineries of oil and gas; b. integrated pharmaceutical raw materials; c. integrated manufacturing of the main components of communication equipment (smartphones); and d. integrated manufacturing of the main components of aircraft. <p>The period of tax holiday is subject to the investment value, as follows:</p> <table border="1" data-bbox="365 906 1010 1145"> <thead> <tr> <th data-bbox="365 906 658 944">Investment Value</th> <th data-bbox="658 906 1010 944">Tax Holiday Period</th> </tr> </thead> <tbody> <tr> <td data-bbox="365 960 658 992">IDR 500 billion</td> <td data-bbox="658 960 1010 992">5 years</td> </tr> <tr> <td data-bbox="365 999 658 1031">IDR 1 trillion</td> <td data-bbox="658 999 1010 1031">7 years</td> </tr> <tr> <td data-bbox="365 1037 658 1069">IDR 5 trillion</td> <td data-bbox="658 1037 1010 1069">10 years</td> </tr> <tr> <td data-bbox="365 1075 658 1107">IDR 15 trillion</td> <td data-bbox="658 1075 1010 1107">15 years</td> </tr> <tr> <td data-bbox="365 1114 658 1145">IDR 30 trillion</td> <td data-bbox="658 1114 1010 1145">20 years</td> </tr> </tbody> </table>	Investment Value	Tax Holiday Period	IDR 500 billion	5 years	IDR 1 trillion	7 years	IDR 5 trillion	10 years	IDR 15 trillion	15 years	IDR 30 trillion	20 years
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Ease of Direct Investment in Construction (KLIK)	<ul style="list-style-type: none"> a. No minimum requirement of investment amount/value or employees; b. Available only in certain industrial locations; c. Construction license can be obtained in parallel with the construction process. 												

9. Are there any free trade, special economic or industrial zones in your jurisdiction and what are their requirements?

Law No. 39 of 2009 on SEZ (“Law 39/2009”) and its implementing regulations regulates Facilities and ease of doing business for the Special Economic Zone (“SEZ”) in Indonesia, which among others include facilities for taxation, customs and excise. Pursuant to Law 39/2009, SEZ is made up of a few zones in export processing, logistics, industry, technology development, tourism, energy and/or other economies. These incentives are put in place to encourage investment in such sectors and particular locations. Facilities include ease of doing business in the aspects of taxation, customs and excise; obtaining rights to land; and obtaining certain licenses.

In addition to SEZ, some area of Indonesia has been declared as Free Trade Zones (“FTZ”), i.e., Batam-Bintan-Karimun. Similar to SEZ, FTZ has exempting facilities from some taxation, customs and excise requirements.

10. What are the main taxes that could apply to foreign investors in your jurisdiction? (For example, Personal Income Tax, Corporation Tax, Value Added Tax and Social Security Payments.)

The main taxes that could apply to foreign investors in Indonesia include:

- a. Income Tax;
- b. Withholding Tax;
- c. Value Added Tax (for goods and/or services); and
- d. Luxury Goods Tax.

11. What are some of the employment regulations in your jurisdiction that foreign investors should be aware of? Is it possible to secure residency permits or work visas for foreign nationals under investment?

Law No. 13 of 2003 concerning Manpower (“Manpower Law”) regulates certain key characteristics of employment in Indonesia which ultimately protects labor welfare. Some key characteristics of the Manpower Law includes minimum standards in employment contracts, working hours, income, company regulations, social security and rules regarding expatriates.

The compulsory social security in Indonesia is registered with *Badan Penyelenggara Jaminan Sosial* or “BPJS”. BPJS is further divided into two, Manpower BPJS and Health BPJS which are both compulsory. Manpower BPJS comprises of (i) *Jaminan Kecelakaan Kerja* (employment accident benefits), (ii) *Jaminan Kematian* (death benefits), (iii) *Jaminan Hari Tua* (old age benefits), (iv) *Jaminan Pemeliharaan Kesehatan* (health benefits), and (v) pensions. Expatriates who work in Indonesia for a minimum of 6 months must also be registered with both Manpower BPJS and health BPJS. Under GR 24/2018, a BPJS application may be incorporated into the OSS system.

Expatriates are allowed to work in Indonesia, provided that they have the necessary licenses and permits. The recently passed Presidential Regulation No. 20 of 2018 concerning Expatriate (“PR 20/2018”) has come into force on 29th June 2018. However, there are certain positions that are prohibited for expatriates, including those that relate to human resources and personnel departments. Under PR 20/2018, expatriates are allowed to hold a position in more than one company in Indonesia, provided that: (i) the two employers fall into a particular sector; (ii) the expatriate serves the same position; and is (iii) hired for the same employment period.



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Agus is a senior ABNR partner whose key practice areas are M&A, FDI, Competition, and TMT. A 1996 graduate of the University of Indonesia's School of Law, majoring in commercial law, he has been a partner of ABNR since 2004. He was recently recognized by Vantage Asia / Asia Business Law Journal as one of Indonesia's 100 most influential lawyers.

Over the last year, Agus' significant M&A and FDI mandates included:

- advised Singapore-based Tobacco company Renzoluc Pte. Ltd., and its parent

company, Korea Tobacco & Ginseng Corporation (S. Korea's largest tobacco company) on their acquisition of 3 Indonesian tobacco companies located in East Java;

- assisted PT Kideco Jaya Agung (Indonesia's third largest producer of bituminous coal) on all aspects of its sale to South Korean mining company Samtan;
- represented Henkel, the global producer of laundry & home care, beauty care and adhesive products, and its Indonesian subsidiary on their acquisition of the business and assets of Pt CGP Applied Technologies Indonesia as part of Henkel's global acquisition of GCP Applied technologies Inc;
- advised Mitsubishi Steel MFG Co. Ltd on its acquisition of a controlling interest in an Indonesian steelmaker located in East Java.

Meanwhile, in the TMT arena, he recently advised a Singapore-based investment fund on its acquisition of an interest in an Indonesian ride-hailing company; and assisted a PRC-based online news aggregator and content platform in relation to its establishment of a legal presence and commencement of commercial operations in Indonesia. He is currently advising an international web-based entertainment company on its proposed establishment of a JV with an Indonesian telecommunications provider.

12. Can foreign investors acquire real property and land in your jurisdiction? Are there any restrictions or limitations?

Indonesian law permits a PT PMA to acquire land under certain land titles. There are generally 4 common types of land titles recognized in Indonesia, as follows:

- a. Right of Ownership (*Hak Milik* or “HM”) – available only to Indonesian citizens and specific types of legal entity as determined by the Indonesian Government, grants the right to own and utilize land, valid for unlimited period;
- b. Right to Build (*Hak Guna Bangunan* or “HGB”) – available to Indonesian citizens and Indonesian legal entities (including a PT PMA), grants the right to utilize and build upon a plot of land, valid for a maximum 30 years with possible extension of 20 years and renewal for another 30 years;
- c. Right to Cultivate (*Hak Guna Usaha* or “HGU”) – available to Indonesian citizens and Indonesian legal entities (including a PT PMA), grants the right to utilize land for agricultural/fisheries/animal husbandry purposes, valid for maximum 35 years with possible extension of 25 years and renewal for another 35 years; and
- d. Right to Use (*Hak Pakai* or “HP”) – available to Indonesian citizens, Indonesian legal entities (including a PT PMA), foreign citizens who reside in Indonesia, and foreign legal entities, grants the right to utilize land and/or collect harvested products of such land, valid for 25 years with possible extension of 20 years and may be renewed.

HM is similar to the concept of freehold, while HGB, HGU, and HP are similar to the concept of leasehold with certain qualifications for each right.

A Land Certificate obtained through registration with the National Land Agency (*Badan Pertanahan Nasional* or BPN) serves as a valid evidence of title over land. The land title is

transferred upon the buyer and seller entering into a legal Sale and Purchase Agreement before a Land Conveyancer. The transfer of title must be followed by the registration of the land title in the buyer’s name.

It is important to note that despite the issuance of a Land Certificate as a valid evidence of title over land, there are still certain circumstances in which the title may be revoked for the sake of public interest. In addition to certificated land, there are still vast areas of uncertified lands in Indonesia.

13. Are there any processes in your jurisdiction that can block foreign investment under specific circumstances?

Regulatory-wise, there are no official processes that can block foreign investment under specific circumstances, as long as the restrictions under the Negative List are complied with.

14. What foreign currency or exchange controls should foreign investors be aware of?

There is no foreign exchange control in Indonesia. Persons may freely hold, use and transfer foreign currency. The transfer of foreign exchange to and from abroad is, however, subject to a reporting requirement to the Indonesian Central Bank. The Indonesian Central Bank restricts the use of Indonesian currency for certain transactions. For export financing and offshore loans, Bank Indonesia also requires that any export and offshore borrowing proceeds (in foreign currency) must be drawn down through domestic banks appointed by the Indonesian Central Bank licensed as a foreign exchange bank. The Indonesian Central Bank does not require the proceeds in foreign currency to be converted into Indonesian Rupiah or to be kept for a specified time period. The rule seeks to bring the Indonesian export’s proceeds into an Indonesia banking system, but maintains the free foreign exchange movement policy.

There is a specific regulation on the mandatory use of Rupiah within the Republic of Indonesia, which basically lay down the rule that any transaction carried out in Indonesia, both by residents and non-residents must be in Indonesian Rupiah, and parties are prohibited from refusing to accept the Indonesian Rupiah as payment for the transaction. It also prohibits the use of dual price denomination using Indonesian Rupiah and any other currency. Several types of transactions are specifically exempted from this obligation, such as international financing transactions and FDI in the form of capital contribution/transfer of shares. Under the Investment Law, foreign investors are allowed to transfer and repatriate in foreign currency for, among others, capital, profits (dividends), and royalties.

15. Are there any restrictions, approval requirements or potential penalties if a foreign investor withdraws their investment in your jurisdiction?

No. A foreign investor is allowed to withdraw its investment or transfer its ownership in a PT PMA to another qualified party. However, particularly for withdrawal of FDI which results in the winding up of a PT PMA, Company Law requires such company to be dissolved and liquidated, which processes includes revocation of all licenses and settlement of liabilities, especially for taxation. In practice, a dissolution and liquidation process may take up to 2 years or more to complete.

16. What contract enforcement and investor protection mechanisms are in place in your jurisdiction, if any?

Under the Investment Law, all investors (including foreign investors) are generally entitled to certainties of right, law, and protection. “Certainty of right” means that the Indonesian Government guarantees the rights of investors insofar that they have satisfied the specified obligations. “Certainty of law” means that the Indonesian Government guarantees

the placement of laws and regulations as the primary foundation in any measure and policy for investors. “Certainty of protection” means that the Indonesian Government guarantees that the investors are protected in performing their investment activities.

Furthermore, the Investment Law also stipulates that the Indonesian Government will not take any measures in the form of nationalization or expropriation against the proprietary rights of investors, unless provided for by law. In the event that a nationalization or expropriation takes place, the Indonesian Government will provide compensation whereby such amount shall be determined based on market value.

17. Does your jurisdiction have any bilateral or multilateral investment protection treaties with Asia-Pacific jurisdictions that are commonly used for investing into the country?

Indonesia has a model bilateral investment treaty and has entered into 42 bilateral investment treaties with countries all over the world including those in the Asia-Pacific region. As of August 2018, twenty six of such treaties are in force. Further, Indonesia has also entered into nineteen treaties with investment provisions, of which fifteen are in force.

Indonesia is also a party to a multilateral investment treaty among ASEAN countries, as well as multilateral investment treaties between ASEAN countries and non-ASEAN countries such as China and Japan. Some of these were made in the form of framework agreements.

18. What intellectual property rights protections are available in your jurisdiction to foreign investors?

There are no specific intellectual property rights (IPR) protections for foreign investors. Indonesia recognizes seven IPR that may be held by individuals and business entities (including by a PT PMA) being as follows:

- a. Copyright;
- b. Trademark;
- c. Patent;
- d. Trade Secrets;
- e. Industrial Design;
- f. Layout Design of Integrated Circuit; and
- g. Geographical Indication.

Indonesia applies “first-to-file” system for trademarks, meaning that a party who first registers the trademark with the Directorate General of IPR will be protected under the Indonesian law, even though such party is not the first user of the trademark. Nonetheless, if a party registers a trademark which is an imitation of a well-known mark, the owner of the well-known mark may file for cancellation of the registration on the basis of bad faith and/or well-known status of the trademark.

In addition to the abovementioned types of IPR, Indonesia also recognizes Plant Variety Protection which gives protection to the breeder of plant variety.

19. Are there any environmental policies and regulations that (potential) foreign investors should be aware of prior to or throughout the investment process in your jurisdiction?

In general, any business and/or activity in Indonesia must be equipped with environmental license, which type and requirement differ depending on the impact of the said business and/or activity to the environment.

Under Law No. 32 of 2009 concerning Environmental Management and Protection, any company whose business and/or activity brings significant impact to the environment must obtain and maintain an Environmental Impact Analysis (*Analisis Mengenai Dampak Lingkungan* or “AMDAL”). Other businesses and/or actions that are not required to maintain an AMDAL as stipulated in the Environmental Law must conduct environmental management

efforts and environmental monitoring efforts through the preparation of Environmental Management Efforts (*Upaya Pengelolaan Lingkungan* or “UKL”) and Environmental Monitoring Efforts (*Upaya Pemantauan Lingkungan* or “UPL”) documents. Other businesses and/or actions that are not required to maintain UKL-UPL must maintain an Environment Management Statement Letter (*Surat Pernyataan Kesanggupan Pengelolaan dan Pemantauan Lingkungan Hidup* or “SPPL”). Timely completion of AMDAL and/or UKL-UPL documents determines the granting of an effective Environmental Permit.

20. Are there any government agencies or non-governmental bodies that (potential) foreign investors can turn to for more information on investment in your jurisdiction?

Following the recent launch of OSS system, foreign investors can access the OSS website for detailed information on licensing. Please see <https://oss.go.id/oss>

Additional information can also be accessed through the BKPM website at www.bkpm.go.id. The BKPM also established the Indonesia Investment Promotion Center (IIPC) that foreign investors may find in certain countries.

21. Have there been any recent proposals for reforms or regulatory changes that will impact foreign investment in your jurisdiction?

The recent issuance of GR 24/2018 and introduction of OSS system resulted in the temporary suspension of application of investment licenses submitted to the BKPM. At the time of this report, the OSS system had been launched and has served licensing of new FDIs. However, certain implementing regulations mandated under GR 24/2018 have not been issued which results in certain aspects to be somewhat unclear.



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Adri obtained his law degree from the Faculty of Law, University of Indonesia, majoring in Business Law. In 2009, he joined ABNR as an associate and the year after was admitted as an advocate by the Indonesian Advocates Association.

Adri specializes in Indonesian corporate and commercial law matters and has plenty experience in handling investment projects, M&A transactions, capital market projects and corporate restructuring.

Worthy of note is his specific knowledge of pharmaceutical laws and regulations and his very good understanding of the pharmaceutical business. In 2013 and subsequently in 2014, he divided his time between routine practice at the firm and secondment at a leading multinational pharmaceutical company. The experience has further strengthened his knowledge in pharmaceutical law and has helped develop his understanding of the commercial side of the pharmaceutical industry.

The latest issue of the Negative List was released in 2016 and is generally updated from time to time. As per the date of this write-up, various stakeholders have taken part in discussions to revise the existing Negative List. However, there is still no information on the exact timing of issuance and the content of the revisions to the existing Negative List.

In 2016, the Indonesian Government commenced the drafting of a Government Regulation concerning settlement of investment disputes. However, to date, the draft is still being discussed by stakeholders at the executive level. Furthermore, Indonesia will hold general elections for the posts of President and members

of the House of Representatives in 2019. It is worth noting that changes in administration may affect the overall Indonesian policy for the subsequent years, including the overall climate and inclination for FDI in Indonesia.

22. Are there any other features regarding foreign investment in your jurisdiction or in Asia that you wish to highlight?

Presidential Regulation No. 13 of 2018 concerning Implementation of the Principle on Identifying Beneficial Owners of Corporations in the Framework of Prevention and Eradication of Money Laundering Criminal Act and Terrorism Funding Criminal Act implements

the ‘Know Your Beneficial Owner for Corporations’. The term “Corporation” herein refers to various types of business activities in Indonesia, such as limited liability company (including a PT PMA), foundation, association, and partnership. Different types of beneficial owners can apply for different types of business activities. Each Corporation is required to provide information on its beneficial owner(s) to the Authorized Agency, which must be updated annually. The data collected will be managed by the Authorized Agency (which varies according to the type of business activity) in the Corporation Administration Services System, and forms a database which helps the Indonesian Government to indicate the source or use of funds or property associated with a corporate vehicle. Despite its immediate effect, the regulation grants a transitional period of one year for Corporations that are already established or in the process of establishment.

In practice, the implementation of this new regulation is still unclear due to the lack of the implementing regulations.

Another important note is the imposition of Indonesian-language requirement in agreements. Under Law No. 24 of 2009 concerning Flag, Language, National Emblem, and National Anthem, memoranda of agreements or agreements involving an Indonesian individual or legal entity must have an Indonesian language version, and, if involving a foreign party, the agreement may also be added with the language of the relevant foreign party and/or in English. Nevertheless, the parties may agree to choose foreign language as the governing language.

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