

# Legal 500

## Country Comparative Guides 2026

### Indonesia

### Project Finance

#### Contributor

ABNR Counsellors at  
Law



**Emir Nurmansyah**

Senior Partner | [enurmansyah@abnrlaw.com](mailto:enurmansyah@abnrlaw.com)

**Serafina Muryanti**

Partner | [smuryanti@abnrlaw.com](mailto:smuryanti@abnrlaw.com)

This country-specific Q&A provides an overview of project finance laws and regulations applicable in Indonesia.

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# Indonesia: Project Finance

## 1. What are the typical ownership structures for project companies in your jurisdiction? Does this vary based on the industry sector?

In Indonesia, project companies are usually structured as limited liability companies with sponsors holding shares either directly or through a holding SPV. However, in the upstream oil and gas sector, project companies—such as production sharing contract contractors—can be foreign entities with permanent establishment status in Indonesia.

## 2. Are there any corporate governance laws or accounting practices that foreign investors in a project company should be aware of?

Foreign investors are required to comply with Indonesian Company Law, which sets forth general regulations regarding corporate governance for limited liability companies operating in Indonesia. As for accounting practices, Indonesian Company Law requires that financial statements of a limited liability company to be prepared on the basis of financial accounting standards established by Indonesian Financial Accounting Standards Board i.e., PSAK (Pernyataan Standar Akuntansi Keuangan).

## 3. If applicable, what forms of credit support from sponsors or host governments are typically provided?

In the context of project finance in Indonesia, sponsors typically enter into a Sponsor Support Agreement or Equity Support Agreement, in which generally they commit to maintaining adequate cash flow for the project companies through equity injections or shareholder loans. From the government perspective, projects developed under the Public-Private Partnership (PPP) scheme benefit from guarantees provided by the Minister of Finance and/or PT Penjaminan Infrastruktur Indonesia.

## 4. What types of security interests are available (and suitable) for a project financing in your jurisdiction? Are direct agreements used?

The form of in rem security interests available under

Indonesian law for project financing are:

- Mortgage for land, plant and other fixtures provided that the land has a specific land title permitted to be subject to mortgage
- fiduciary security for movable and immovable tangible assets which not able to be subject to mortgage, receivables, insurance proceeds, intellectual property rights; and
- pledge for bank accounts and shares.

In rem security interests grant holders preferential rights to assets, even in bankruptcy. In addition to in rem security interest, in practice finance parties and the obligors also commonly have "contractual security" arrangements despite potential issues with validity since under Indonesian law no other contractually created instruments can serve as security. These contractual security arrangements include conditional novation for security purposes and powers of attorney.

Alongside the Indonesian law security documents referenced above, it is also standard practice to establish direct agreements for key project documents.

## 5. How are the above security interests perfected?

### Mortgage

A land mortgage in Indonesia is created by signing a mortgage deed in Indonesian before a local land official and registering it through the E-Mortgage Deed Registration System. The process is complete when the electronic mortgage certificate (E-Certificate) is issued and recorded on the electronic land title certificate. The E-Certificate is emailed to the mortgagee.

Under the E-Mortgage framework, lenders or creditors are required to register within the E-Mortgage Party Registration System before proceeding to record the mortgage deed in the E-Mortgage Deed Registration System. Notably, the online mortgage registration system is available exclusively in Bahasa Indonesia. The registration process may pose challenges for offshore creditors or lenders and could require considerable time to complete.

### Fiduciary security

A fiducia security is created through a written agreement in Indonesian, signed before a notary as a notarial deed. Legal title transfers to the transferee and returns automatically to the transferor upon full repayment of the debt. The transferee owns the assets while the debt remains unpaid, and parties may agree that the actual re-transfer occurs only after full payment.

The fiducia security agreement must be registered online with the Fiducia Registration Office within 30 days of signing the fiduciary transfer agreement. The fiduciary security becomes valid upon registration, and once the application is accepted, the fiduciary transferee will be issued a fiduciary certificate by the Registration Office.

If the fiducia security agreement is not registered within 30 days, it must be re-executed. Additional requirements, such as providing notices and acknowledgements, are necessary for fiduciary security over receivables and insurance proceeds. Without these notices and acknowledgements, enforcing the fiduciary security may be affected.

#### Pledge

A pledge is created by a deed that outlines its details, which may be executed as a notarial or private document. For tangible assets, the pledge requires physical transfer of the asset from the pledgor's possession, and ends when the creditor no longer controls it. For intangible movable assets, notification must be given to the relevant party.

Share pledges must be recorded in the company's shareholder register; for listed shares, both the company and Stock Administration Bureau are notified, with registration by the Bureau. If shares are held at KSEI, a confirmation letter certifies the pledge. For bank account pledges, notification and acknowledgment from the bank are required, which confirms their agreement to the pledge terms. Typically, such pledges are supported by a power of attorney to manage accounts, but this does not establish an in rem security interest.

#### Contractual security

For contractual security involving a conditional novation, the assignor must notify the counterparties to the relevant contracts and obtain their acknowledgement.

## 6. Please identify how security is enforced (notably the enforcement options available for secured parties) both pre and post

#### insolvency/bankruptcy of the project company?

The bankruptcy of the project company or in this case a mortgagor, pledgor, or fiduciary transferor/assignor does not affect the security rights of the mortgagee, pledgee, or transferee/assignee, as the property is excluded from the bankruptcy estate. Below is the enforcement available for each in rem security interest.

#### Mortgage

A mortgage may not contain a clause permitting the creditor to take possession of the mortgaged property upon the debtor's default. This restriction serves to uphold public policy in Indonesia, safeguarding the debtor's interests and rights in the underlying land. In the event of default, the mortgagee is entitled to have the property sold through either public auction or private sale.

If the debtor defaults, the mortgagee has the right to enforce the mortgage either through instant or direct execution (parate eksekutie), or by using the executory title found in the mortgage certificate.

The right of instant or direct execution legally allows the mortgagee to sell the mortgaged property at a public auction using their own authority, without needing the mortgagor's approval. In principle, this means the mortgagee can auction the property and use the proceeds to repay any outstanding debt, without requiring an executorial title or a writ of execution (fiat executie) from an Indonesian court. However, in practice, such parate executie is only feasible if the mortgagor cooperates. Also, it is rarely used because the Indonesian State Auction Office generally requires a court order to proceed with an auction.

Apart from this enforcement method, the mortgage certificate itself carries an executorial title. This is indicated by the heading "Demi Keadilan berdasarkan Ketuhanan Yang Maha Esa" ("In the name of justice based on the belief of God Almighty"), which gives it the same legal weight as a final judgement from an Indonesian court. With this executorial title, the mortgagee can auction the mortgaged property after first obtaining a writ of execution (fiat executie) from the court.

As mortgages are the most widely enforced security interest in Indonesia, the procedures for their enforcement are relatively well established in practice.

The Mortgage Law permits private sales when it is determined that such transactions can secure a higher

sale price for the benefit of all parties involved. While agreements for private sales are typically included within the mortgage deed, this provision is not universally applied. To initiate a private sale subsequent to default, both the mortgagor and mortgagee must consent to proceed by private sale. In accordance with the Mortgage Law, the procedures for conducting a private sale of mortgaged land and buildings include the following:

- The mortgagor and mortgagee mutually agree to foreclose on the mortgaged property via private sale. • The relevant parties, including holders of secondary or subsequent mortgages and other creditors, must be given at least one month's prior written notification regarding the proposed private sale of the mortgaged property. During this period, the intention to conduct a private sale must be advertised in no fewer than two local newspapers and/or through local mass media such as radio or television in the area where the mortgaged property is situated.
- The private sale may proceed only if there are no objections from third parties. It should be noted, however, that the law does not clearly define which third parties may object; nevertheless, it is reasonable to assume that this group comprises, at a minimum, other creditors of the debtor.

### Fiduciary security

To enforce security over goods in a fiduciary transfer, the transferee must possess the goods. If the transferor does not cooperate, the transferee must obtain a court attachment order from the District Court by submitting an application with required evidence. After proving ownership and securing the goods, the transferee can sell them publicly or privately if feasible.

If a debtor defaults, the fiduciary transferee has two main enforcement options under Indonesian law: (1) using the executorial title provided by the Fiduciary Certificate to auction the goods after obtaining a court writ; or (2) exercising direct execution, allowing for auction without prior court approval, although in practice court orders are usually required.

A private sale may bring higher proceeds than a public auction, and can only occur with mutual consent after notifying interested parties and publishing the notice in newspapers. Foreclosure by private sale is subject to a one-month waiting period and no objection from third parties.

For receivables, insurance, or bank accounts, upon default, the fiduciary transferee must promptly notify the underlying obligors via a court bailiff, unless they acknowledge the assignment in writing. Once notified, obligors must pay directly to the transferee, who can enforce payment even if previous payments were made to the transferor. The process requires an application to the District Court, which handles official notification and acknowledgment. While this procedure is considered correct, current law does not explicitly regulate enforcement other than asset sale by auction or private sale; however, direct collection is acknowledged by one of the drafters of the Fiduciary Law in a public forum.

### Pledge

Article 1155 of the Indonesian Civil Code requires pledged property to be sold by public auction according to local customs, though interpretation of this requirement is unclear today. Enforcement does not grant the right to appropriate the pledged property (Article 1154). In theory, a pledgee may foreclose without court approval, but in practice, courts usually require a judgment or order before auctions are held. The auction process can be delayed if counterclaims arise. No specific rules govern auctions of pledged movable or mortgaged immovable property; general procedures are defined by Minister of Finance Decree No. 27/PMK.06/2016.

Since public auction may not yield the highest sale price, Article 1156 offers alternative enforcement options. For pledged shares, the pledgee may request a District Court to decide how to sell the shares or allow acquisition at a court-determined price, with the sale price deducted from the debt. If the court orders an auction, the pledgor and possibly the debtor will be summoned, and the shares auctioned through the State Auction Office. Shares traded on Indonesia's securities exchange can instead be sold via two brokers without a court order if a power of attorney exists; however, registrar reluctance can delay title transfer due to legal concerns.

A private sale of pledged property is valid only when the pledgor agrees after default or joins the sale agreement, with proceeds used to satisfy the creditor's claim.

### 7. What are other important considerations in relation to the security regime in the jurisdiction that secured parties should be aware of?

In practice, there is often uncertainty about whether certain assets should fall under a mortgage on land and fixtures or be secured using fiducia over tangible assets. For example, it's still unclear if machinery and turbines

attached to land should be covered by a mortgage. If secured parties list assets under the wrong security documents, it could impact the enforceability of the security. Accordingly, it is essential for lenders and project companies to collaborate effectively in identifying the most appropriate form of security for these assets, taking into account their unique attributes.

**8. What key project risks should lenders be aware of in project financings in your jurisdiction? This may include, but may not be limited to, the following risks: force majeure, political risk, currency convertibility risk, regulating or permitting risk, construction/completion risk, supply or feed stock risk or legal and regulatory risk).**

Key project risks in Indonesia are primarily associated with regulatory challenges, which are often linked to permitting risks. Indonesian regulations can be volatile, frequently changing and at times inconsistent or unclear, which may result in ambiguity during implementation of the project and sometimes create additional permitting issues. Nevertheless, most project agreements with the government—such as cooperation or concession agreements—address these risks by including provisions under political force majeure events, wherein the government absorbs or assumes such risks.

**9. Are any governmental / regulatory consents required and are any financing or project documents requirement to be filed with any authority in order to be admissible in evidence in a court of law, valid or enforceable?**

There are no governmental or regulatory consents required to be obtained with any authority in order for the financing or project documents to be admissible in evidence in a court of law, valid or enforceable.

**10. Are there any specific foreign exchange, royalties, export restrictions, subsidies, foreign investment, that are relevant for project financings (particularly in the natural resources sectors)?**

There are no limitations on overseas payments or capital repatriation for foreign investors. Nevertheless, any transfer of foreign exchange to or from abroad must comply with reporting obligations to Bank Indonesia, as

outlined in the relevant regulations governing the monitoring and reporting of foreign exchange activities, excluding offshore loans, which may be periodically amended. Additionally, certain Indonesian rupiah transactions are restricted under the Bank Indonesia Regulation concerning the Money Market and Foreign Exchange Market and its respective implementing regulations, subject to updates. Non-compliance with these regulations may result in administrative sanctions.

Indonesia's foreign exchange controls are limited, with the rupiah generally convertible within the country. Bank Indonesia restricts state-owned enterprises from sourcing US dollars through state-owned banks, and limits the transfer of rupiah abroad to support currency stability and prevent speculation by non-residents. The central bank can also request information on foreign exchange activities from residents and those planning to stay in Indonesia for at least one year.

In Indonesia's natural resources sectors, all natural resources assets within national jurisdiction are classified as state property and must be managed and utilized by the government for the optimal benefit of its citizens. Consequently, the sale and export of these resources are subject to regulatory oversight and may require government approval in specific cases. For instance, in the mineral mining industry, companies are obliged to process and refine minerals domestically before export. Furthermore, export proceeds from natural resources must be deposited into designated or specialized onshore bank accounts, with requirements to retain a specified portion or percentage of such earnings (30% for oil and gas and 100% for mining other than oil and gas, agriculture, forestry and fisheries) within the country's financial system through these specialized accounts for a specified period of time (3 months for oil and gas and 12 months for mining other than oil and gas, agriculture, forestry and fisheries).

**11. Please set out any specific environmental, social and governance issues that are relevant. For example, are project companies subject to certain ESG laws, reporting requirements or regulations?**

Certain infrastructure sectors in Indonesia now have specific regulation on ESG such as transportation in which the project companies must adhere to. Nevertheless, the government promotes and, to a certain extent, requires the implementation of environment, social, and good governance (ESG) in infrastructure and public interest projects. Additionally, project companies

are required to obtain environmental permits and submit mandatory periodic reports as part of their obligations.

## 12. Has any public-private partnership models or laws been enacted in the jurisdiction, and if so, are they specific to certain industry sectors?

Presidential Regulation No 38 of 2015 sets rules for public-private partnerships in infrastructure. Additional regulations address government guarantees, support, and procurement processes for Public-Private Partnerships (PPPs). PPPs in Indonesia encompass a wide range of industry sectors, including energy, telecommunications, transportation, water and waste management, and healthcare.

## 13. Will foreign judgments, arbitration awards and contractual agreements to arbitrate be upheld?

Generally, foreign court decisions are not enforceable in Indonesia. Such judgments may be presented as evidence during a retrial of the case's merits, in accordance with applicable laws and regulations. Indonesia has not entered into any treaty, convention, or bilateral agreement that recognises the enforcement of foreign court judgments.

Indonesia has formally ratified the 1958 United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention), subject to both the reciprocity reservation and the commercial nature reservation. Additionally, Indonesia is also a party to the 1965 Convention on the Settlement of Investment Disputes between States and Nationals of Other States (the ICSID Convention), and has demonstrated compliance with several awards rendered under that treaty. Pursuant to Indonesian Arbitration Law, foreign arbitral awards are recognized as enforceable within the jurisdiction of Indonesia. Enforceability is established after an Indonesian court grants validation by issuing a writ of eksekuatur (court order).

## 14. Is submission to a foreign jurisdiction and waiver of immunity effective and enforceable?

In Indonesia, contracts may select foreign law and jurisdiction unless this conflicts with Indonesian public policy or mandatory rules from another closely connected jurisdiction that require application, regardless of the chosen law. With respect to waiver of immunity, certain contracts, such as cooperation agreements between

project companies and relevant government contracting agencies, may contain waiver of immunity provisions. Generally, the waiver of sovereign immunity is a principle that should be incorporated into Indonesian law. However, since sovereign immunity is not explicitly addressed in Indonesia, there is no solid legal foundation for it under current Indonesian law. By joining the 1965 Convention on the Settlement of Investment Disputes between States and Nationals of Other States, Indonesia has accepted the doctrine of restrictive sovereign immunity, meaning certain state assets are protected by this immunity.

## 15. Please identify what you consider to be (a) the key current issues for project financing in your jurisdiction; and (b) any emerging trends or topics which should be considered or focused on by project financing stakeholders in this jurisdiction.

### Key issues

While there are generally no explicit restrictions preventing a foreign lender from holding a security interest or enforcing such rights under a loan and security agreement, technical regulations—specifically those concerning the e-mortgage system in Indonesia—create indirect limitations. These regulations may impact the ability of a foreign lender to directly hold and register a mortgage within the e-mortgage framework.

The increased involvement of state-owned enterprises, including Danantara, as project sponsors in Indonesia has notably limited the provision of security and support from these sponsors. It is important to highlight that:

- Under Presidential Decree No. 59 of 1972, state-owned enterprises (SOEs) and regional-owned entities are prohibited from granting security or guarantees to secure the repayment of offshore loans by SOEs, regional-owned entities, or private companies.
- Any security or guarantee granted by an Indonesian entity that is controlled and owned by the Government of Indonesia may be subject to the restrictions imposed by the World Bank Negative Pledge.

### Emerging trends

As previously noted, Indonesia's sovereign wealth funds (Danantara and INA) are increasingly engaging in partnerships with private investors to drive project development across various sectors. Although public-

private partnerships (PPPs) have been present in Indonesia since 2015, they remain an integral component of risk-sharing strategies within infrastructure projects. PPPs may also offer viable solutions to address key project financing challenges such as regulatory uncertainties and elevated interest rates.

## 16. Please identify in your jurisdiction what key legislation, subsidy regimes or regulations have been implemented (or will / plan to be) for projects in connection with the energy transition and/or specific projects due to energy security?

Current key legislation in connection with energy transition is Presidential Regulation No. 112 of 2022 on the Acceleration of Renewable Energy Development for Power Supply (PR 112) that establishes a framework for cleaner power generation in Indonesia, aligning with the country's international climate-change commitments. The principal elements of PR 112 are outlined below:

- It restricts the development and operation of new coal-fired power plants (CFPPs), except for those already identified in PLN's Electricity Supply Business Plan prior to the issuance of PR 122, or those meeting certain criteria, such as operations not extending beyond 2050.
- The regulation mandates the accelerated decommissioning of CFPPs, requiring PLN to expedite the retirement of both its own CFPPs and those owned by Independent Power Producers (IPP) through early termination of power purchase agreements, contingent on prevailing power supply and demand conditions.
- To support the acceleration of CFPP decommissioning and early contract termination with IPPs, the government may offer fiscal incentives through a funding and financing structure, including blended finance sourced from the state budget and other avenues, all aimed at advancing Indonesia's energy transition.

The government also recently issued Government Regulation No. 40 of 2025 on National Energy Policy (GR 40/2025), which shift the focus from energy security and gradual diversification under the previous regulation (Government Regulation No. 79 of 2014) to rapid decarbonization, climate resilience, and green economy.

GR 40/2025 sets forth comprehensive provisions regarding the implementation of fiscal and non-fiscal

incentives by the Government to both energy providers and users, aiming to facilitate the supply, operation, utilization, and advancement of new and renewable energy (NRE).

Fiscal incentives encompass measures such as tax reductions, import duty exemptions, and other financial reliefs in accordance with applicable state finance laws and regulations. Non-fiscal incentives may include streamlined licensing processes, training, technical assistance, or alternative forms of non-financial support.

These incentives are available to energy providers engaged in the development of core NRE technologies, as well as to energy providers and users who adhere to energy conservation requirements related to energy supply, business activities, and utilization.

Furthermore, GR 40/2025 stipulates that the Government may extend additional support—such as financing, guarantees, or compensation—to state-owned enterprises and other businesses in the sector.

## 17. Please identify if there are any material tax considerations which need to be taken into account for a project financing in your jurisdiction, and if so, how such tax issues can be mitigated.

Unless payments from the project company to lenders under financing agreements are made to an Indonesian bank or an Indonesian branch of a foreign bank, they are subject to withholding tax in Indonesia. If the lender is a resident of a country that has an active tax treaty with Indonesia, the withholding tax rate may be reduced according to that treaty.

## 18. What types of funding structures (e.g. debt, equity or alternative financing) are typical for project financing in your jurisdiction. For example, are project bond issuances, Islamic finance and – in the context of mining deals – streams or royalties, seen as attractive (and common) options for stakeholders? Are you seeing private credit in project financing in your jurisdiction or other alternative financiers? If so, what types of projects are they looking to finance and what are the key structuring issues of such financings?

Project financing in Indonesia mainly relies on debt. While

project bonds, equity (typically for smaller projects), and mixes of conventional and Islamic finance are used, they remain far less common than traditional debt financing.

Private credit providers and alternative financiers are beginning to enter the project financing market; however, their participation is currently limited to smaller initiatives, such as rooftop solar PV projects. There is no unique structuring issues associated with these types of financings; they generally encounter the same considerations as other project financing arrangements in Indonesia.

**19. Please explain if there are any regional development banks or export credit agencies, and if so, what is their role in project financing in your jurisdiction and beyond.**

Export credit agencies, multilateral institutions, development banks, commercial banks, and non-bank financial entities—both domestic and international—are commonly engaged or involved as lenders in project finance transactions in Indonesia. As in any jurisdiction, these ECAs and development banks play a crucial role in project financing by providing guarantees and insurance that could reduce the risks for both the lenders and borrowers/project companies.

**20. Please explain if there are any important insurance law principles or considerations in connection with any project financing in your jurisdiction.**

Insurance policies covering project assets can be issued or guaranteed by foreign insurance companies without restrictions. However, a 20 percent income tax in Indonesia is applied to insurance premium payments received by these foreign insurers.

When project asset insurance is subject to fiduciary security and the insurer acknowledges this arrangement, any payouts from such policies may be directed to foreign secured creditors. Additionally, it is common practice for secured creditors to appear as insured parties in the policy by way of a banker's clause.

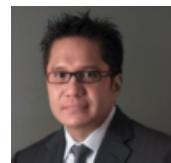
**21. Please explain if there are any issues with entering into any hedging arrangements in this jurisdiction.**

In general, entering into hedging arrangements is not an issue; in fact, such arrangements are required for offshore loans.

## Contributors

**Emir Nurmansyah**  
Senior Partner

[enurmansyah@abnrlaw.com](mailto:enurmansyah@abnrlaw.com)



**Serafina Muryanti**  
Partner

[smuryanti@abnrlaw.com](mailto:smuryanti@abnrlaw.com)

