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CLIENT ALERT INDONESIA

TAPPING PERSPECTIVES

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LEGAL UPDATE ON CAPITAL INVESTMENT IN INDONESIA

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→ Regulation Update on Capital Investment in Indonesia

The Indonesian Investment Coordinating Board (Badan Koordinasi Penanaman Modal/**BKPM**) recently enacted BKPM Regulation No. 5 Year 2019 (**REGULATION 5**) amending the BKPM Regulation concerning Guidelines and Procedures for Capital Investment Licensing and Facility (**REGULATION 6**). Below please find a summary of Regulation 5:

MINIMUM INVESTMENT VALUE AND PAID UP CAPITAL

- A foreign investment company (PMA COMPANY) shall be classified as large-scale company if it has minimum net assets of IDR 10 billion, excluding the value of land and building, or if it has minimum annual sales of more than IDR 50 billion, figures based on the latest financial report.
- A PMA Company shall have a minimum total investment of IDR 10 billion, excluding the value of land and building. A total investment of minimum IDR 2.5 billion shall be injected as paid up capital.
- The classification as large-scale company and the remittance of the required minimum total investment should be fulfilled within one year after the PMA Company obtained a business license.

BUSINESS LICENSE FOR THE PUBLIC WORKS AND HOUSING SECTOR

- BKPM shall no longer be competent to issue business licenses in the following sector: 1.) business license for property business and development; and 2.) business license for the housing sector. The Online Single Submission portal will now handle the issuance of business licenses.
- The minimum investment value requirement for property business and development activities does no longer exist.

SHARES DIVESTMENT OBLIGATION

- Shares divestment obligation means that shares owned by a foreign shareholder of a PMA Company have to be offered for sale to Indonesian parties.
- A PMA Company that is obliged to divest its shares by the prevailing regulations shall remain bound to this obligation.
- A shares divestment obligation that has been stipulated prior to the enactment of Regulation 5 in the principle license or business license of the PMA Company, shall remain valid and legally binding. The PMA Company may choose to not perform this obligation if the shareholders agreed and stipulated in the company's deed as follows:
 - a. For a PMA Company not wholly owned by foreign shareholders, the Indonesian shareholders agreed to not seek/demand to own the shares from the divestment obligation in the approval letter and/or Business License; or
 - b. For a PMA Company wholly owned by foreign shareholders, the shareholders declare that the PMA Company has no commitment/agreement with any Indonesian party to sell its shares.
- The value of shares to be divested should at least equal IDR 10.000.000 (ten million Rupiah) for each receiving shareholder.
- Shares divested can be sold back, upon the approval of the Ministry of Law & Human Rights (**MOLHR**), to any Indonesian or foreign nationals
 - both, natural persons and business entities.

LIMITED-STAY VISAS

- The BKPM is entitled to issue recommendations of limited-stay visa (Visa Tinggal Terbatas/**VITAS**) and recommendations of visa conversion to foreign shareholders of a PMA Company.

Obtaining a **VITAS** recommendation is a prerequisite to obtaining a VITAS approval from the Immigration Office. Below please find a table providing the conditions a foreign shareholder shall meet to qualify for an application:

Foreign Shareholder	VITAS Recommendation	Conversion Recommendation	
		Visit Permit → VITAS	VITAS → Permanent Stay Permit
Assuming position as a director/commissioner	Owning Rp 1 billion ≤ shares value		
Non Director/Commissioner	Owning Rp 1.25 billion ≤ shares value	Owning Rp 10 billion ≤ shares value	

- Foreign shareholders who do not meet the above qualification shall apply for an expatriates utilization permit from the Ministry of Manpower before applying for the stay permit at the immigration office.

CONTACT FOR FURTHER INFORMATION



MARKUS SCHLUETER
Attorney at Law (Germany)
Partner
T +49 221 9499 093 42
markus.schlueter@roedl.com

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Publisher:
Rödl & Partner
Green Office Park 9
Wing A, 3rd Floor, Zone 6&7
Jl. Grand Boulevard BSD City
Tangerang 15345, Indonesia
T +62 21 2056 0405
www.roedl.de | www.roedl.com

Responsible for the content:
Rödl & Partner (Indonesia)
jakarta@roedl.com
Green Office Park 9
Wing A, 3rd Floor, Zone 6&7
Jl. Grand Boulevard BSD City
Tangerang 15345, Indonesia

Layout/Type:
Rödl & Partner (Indonesia)
jakarta@roedl.com

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