

Indonesia

Legal Provisions

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GENERAL REMARKS

The purpose of this document is to give an overview of trade-related legal provisions and regulations, particularly those relevant for small and medium sized Swiss companies operating from outside the target country. It outlines the current state of legislation and, to the extent possible, its practical application.

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CUSTOMS LAW AND DUTIES

Indonesian Customs Law

Indonesian Customs Law (ICL) is governed under Law Number 17 of 2006. The Indonesian Customs Territory is defined as the territory of Indonesia, covering the land and waters and the air space over them and specified localities in the exclusive economic zone (ZEE) and the continental shelf in which the ICL applies in full. The Indonesian ZEE is the outer strip bordering the Indonesian territorial sea as determined by the law applicable to the Indonesian waters, covering the seabed, the subsoil thereof, and the water above it with an outermost limit of two hundred (200) nautical miles, measured from the baseline of the Indonesian territorial sea. The Customs Area is an area with certain borders at a harbor, airport, or other place designated for flow of goods, which is fully under the monitoring of the Indonesian Directorate General of Customs and Excise (DGCE).

Customs valuation is a series of customs procedures that are applied to determine the customs value of the imported goods. The determination of customs value in the course of importation into the Indonesian customs territory is governed under Article 15 of the ICL, which states that the customs value of imported goods shall be the "transaction value". If the customs value cannot be determined based on the transaction value of the imported goods, then the customs value should be based on the transaction value of identical goods, the similar goods, deduction method, or computation method, or should be determined on the basis of data available in the customs territory, subject to certain limitations.

Importation of goods into Indonesia must be declared to the Customs Authority using Customs declaration Form (PIB). The Importer must prepare a Customs Declaration Form (PIB) upon the importation of goods. The customs declaration should be accompanied by supporting documents, i.e. commercial invoice, airway bill (AWB) or bill of lading (B/L), packing list (P/L), insurance letter, etc.

Amendment to customs declaration is possible under certain circumstances. Revision can be made in the event where the imported goods have not been released from the temporary customs area, the error was not discovered by the customs officials, or no assessment has been issued. The type of customs declaration form depends on the purpose of import. Reference of custom declaration form can be accessed via: <https://ecd.beacukai.go.id/>.

Customs Tariff

Indonesia is a member of the World Trade Organization and adopts the Harmonized System Code for Customs Tariff. Import duties generally vary between 0% and 100%. The tariffs are calculated based on the CFR or CIF value, net of the specific weight or volume-averages. For customs duties, please refer to S-GE's modular database: <https://www.s-ge.com/en/customs-database-worldwide-customs-tariffs>.

Tariff Classification and Import/Export Duties

Indonesian Tariff classifications are governed under Article 12 of the ICL. The Indonesian HS Code is determined based on the ASEAN Harmonized Tariff Nomenclature, and the HS Code is now extended to eight (8) digits.

COMMODITY BALANCES AND DOWNSTREAMING POLICIES

Commodity Balance was first introduced in 2022 and is currently regulated by President Regulation Number 61 of 2024 on Commodity Balances ("PR 61/2024") as an implementing regulation of Law 6/2023. Commodity Balance consists of data and information containing the situation of consumption and production of certain commodities for the needs of the population and industrial needs within a certain period of time that is determined and applies nationally, in which the data and information will be the basis of issuance of Export and Import Permit. Commodity Balance can be accessed through the National Commodity Balance System (*Sistem Nasional Neraca Komoditas*) from the Indonesian National Single Window.

Every business player who wishes to do import and export of commodities shall draft a request plan, which details the required commodities as raw materials and/or auxiliary materials for industrial purposes, consumer goods, and commodities for other use than raw materials and/or auxiliary materials for industrial purposes.

Aside from import restrictions under commodity balances, Indonesian Government also enacted specific downstream policies for several products which are required to be processed before being exported. Businesses will need to process the raw material under some minimum requirements stipulated under related sectoral law before exporting. Some examples of such commodities that are subject to the downstream policy consist of nickel ore and bauxite ore.

IMPORT REGULATIONS / NON-TARIFF RESTRICTIONS

Tariff Classification and Import/Export Duties

Indonesian Tariff classifications are governed under Article 12 of the ICL. The Indonesian HS Code is determined based on the ASEAN Harmonized Tariff Nomenclature, and the HS Code is now extended to eight (8) digits.

Customs duty tariff depends on the HS Code of the imported goods as classified in the Indonesian Customs Tariff Book (BTKI – latest year edition is 2022). Knowing the correct classification is essential, since the HS Code is one of the factors that determine the rate of customs duties and taxes as well as the import/export requirements for the product.

A preferential tariff rate is extended to partner countries that have signed Free Trade Agreements (FTA). The CEPA of Indonesia – EFTA is already entry into force since November 1, 2021. Since Indonesia has ratified the agreement, the imposed import duties and tariffs, apply to trade between Indonesia and Swiss are as currently stipulated in the Minister of Finance Regulation No. 56/PMK.010/2022 on The Stipulation of Import-Duty Tariffs Under the Indonesia – EFTA CEPA ("**MOF Regulation 56/2022**") and amendments through MOF Regulation 91/2022. The schedule of import-duty tariffs differs between MOF Regulation 56/2022 and its predecessor, MOF Regulation 152/2021 where the earlier mentioned provides the updated version.

Import Duties

Imports are also subject to VAT and levied at a standard rate of 10%, or at a reduced rate between 0% and 5% calculated on the sum of the CIF value and duty. The applicable import duties depend on the type of product to import to Indonesia.

Three main types of taxes apply when importing goods to Indonesia:

| Tax type | Tax rate |
|-----------------------|--|
| Import Duty | Rates vary - depending on the HS Code of the goods |
| Value-Added Tax (VAT) | 11% |
| Income Tax | 2.5% or higher for specific products |

As stipulated in the MOF Regulation 131/2024, Taxable Goods classified as luxury are subject to 12% VAT starting 1 February 2025 while other VAT remains at 11%. The total tax of imported goods is known as the Declaration of Imported Goods (PIB). Committed to trade liberalization, the Indonesian government has progressively cut import duty rates on most products as stipulated in Ministry of Finance Regulation Number 96 of 2023 on Customs, Excise and Tax Provisions on The Import and Export of Consigned Goods ("**MOF Regulation 96/2023**") and its amendments. Most imported items attract duties in the range of 0% to 25%. The rates applicable may vary in accordance with the origin countries of imported goods according to international trade agreements or treaty ratified by Indonesia as listed in MOF Regulation 35/2023.

The basis for granting the preferential tariff by DGCE will rely on the Certificate of Origin (SKA) and Declaration of Origin (DAB) issued on imported goods by the issuing agency appointed by the government of exporter. The implementation of procedural provisions for the submission of SKA and/or DAB shall be carried out based on provisions stipulated under the procedures for the imposition of import duty tariffs on imported goods based on an international agreement or treaty.

SKA and/or DAB are submitted in the destination custom area in which it may be granted preferential tariffs if:

- a. SKA and/or DAB were issued by following the procedural provisions, and

- b. SKA and/or DAB fulfils the substantial provisions of origin of goods, including the origin criteria, consignment criteria and other procedural provisions in accordance with regulations of the minister on the procedures for the imposition of import duty tariff on imported goods based on international agreement or a treaty.

Import

Imported goods may be subject to import duty, sales tax, luxury goods tax, and/or income tax. If imported products are considered luxury goods, they are also subject to Luxury Tax, which rate depends on the type of product. For example: luxury cars (150% – 200%), yachts (75%), luxury motorcycles (60%-95%), alcohol beverages (5%-20%), branded shoes (40%). Under MOT 8/2024, some import goods may be subject to waiver (i.e., personal goods, cellphone, computer tablet, etc owned by migrant workers and pilgrims).

Companies can only import with an import license issued by the Ministry of Trade. The import-licensing requirement is exempted for the import of products of which values do not exceed US\$ 100, and products from the "master list" of approved investments. These include goods that cannot be produced in Indonesia or expensive capital goods (machinery), equipment, raw materials and consumer goods. The import of products as gift items to the Indonesian government and recognized non-profit organizations are also exempted from the licensing requirement, for examples: advertising material, as well as imports of warehousing (bonded warehouses).

The latest import regulation, MOF 96/2023, introduces new provisions as follows:

1. Authorized institutions and Computer Service Systems may carry out customs examinations in order to establish the relevant tariff and excise values.
2. E-commerce (PPMSE) is obliged to enter partnerships with the DGCE. Exemptions to such obligation can be granted to PPMSE that conducts import transactions of consigned goods with amount not exceeding 1.000 (one thousand) consignments within a period of 1 (one) calendar year.
3. Clearance classifications, as follows:
 - a. Consigned goods that are imported for use in the form of letters, postcards and documents are exempt from the imposition of import duties.
 - b. Consigned goods with customs value determined to exceed USD 3 up to USD 1,500 per goods recipient per consignment are levied with import duty at a tariff amounting to 7.5% and excluded from the levying of income tax.
 - c. The provisions of letter b above are exempted for some consigned goods (i.e., cosmetics, textile products, footwear, books, regular items, etc).

Temporary Import

Indonesia is not a member of the ATA Convention. For temporary import of goods, Indonesian importer must sign an undertaking with the competent customs office and provide a reclaimable guarantee equivalent to the amount of the good with customs and tax duties factored in. This is not necessary when participating in exhibitions because larger fair warehousing (bonded warehouse) would declare the goods.

Export

Any release of goods from the Indonesian customs territory shall be treated as an Export. Export of taxable goods/products is subject to VAT at 0%, while exports of products/commodities are not subject to export duty.

The export of timber, certain fish species, certain varieties of rice, certain categories of rubber, and culturally valuable antiques are prohibited. Special licenses are required for the export of products such as gold, silver, certain categories of rubber, and certain types of fish, oil and natural gas.

E-commerce

E-commerce users in Indonesia is expected to increase as much as 11.2% by 2025 out of its 284 million population. Government Regulation 80 of 2019 (GR 80/2019) regulates the utilization of internet-based and electronic trading activities which shall be conducted in compliance with tax regulations among e-commerce businesses. Hence, online businesses classified as small or medium enterprises (SMEs) are subject to 0.5% in income tax while large companies subject to the 22% corporate tax rate. Additionally, individual taxpayers who are earning at least US\$342,000 from their online business must charge their customers value-added tax (VAT).

To control purchases of cheap foreign products and protect small domestic firms, it shall be noted that goods sold via e-commerce are goods sent by postal service adheres to tariffs as stipulated in MOF Regulation 96/2023. Indonesian government impose import taxes 7,5% and VAT 11% on consumer goods sold via e-commerce with import value \$3 to \$1,500. Goods with import values less than \$3 will not be subject to import tax, but VAT 11% will apply. Additionally, goods with import value above \$1,500 will be subject to submission of import notification to the DGCE where imposition of import tax will be applied in accordance with DGCE calculation.

On non-tariff restrictions, please consult

https://www.wto.org/english/tratop_e/tpr_e/tp_rep_e.htm#bycountry

PRODUCT REGISTRATION, TECHNICAL STANDARDS, AND LOCAL CONTENT REQUIREMENTS

REGISTRATION PROCEDURE FOR PRODUCTS

Distribution or circulation of consumer products will require registration number. Several government institutions or agencies in charge for products registration are:

- Indonesia National Agency of Drugs and Food Controls (*Badan Pengawas Obat dan Makanan/ BPOM*) in charge of issuance of registration numbers and distribution permit on pharmaceuticals, food and skincare products. Checking and filling on the new registration can be done through <https://e-bpom.pom.go.id/>
- Ministry of Health (MOH) in charge of issuance of registration number of medical devices. Filling on the new registration of can be done through <https://aspak.kemkes.go.id/aplikasi/>
- Ministry of Trade (MOT), Indonesia National Agency of Drug and Food Control (BPOM), and National Agriculture Quarantine, Ministry of Agriculture (MOA) in charge for issuance of registration for dairy products. Specific policies are further regulated under each ministry issued regulations.

Product registration is mandatory and must be completed through a local Indonesian partner or counterpart.

STANDARDS, TECHNICAL RULES, LABELLING REGULATIONS

Standards

Indonesia is applying its own national standard called SNI (Standard National Indonesia) which applies for certain products that produced locally or imported. Aside from goods, SNI also applies for services, system, or process There are 2 (two) types of SNI: compulsory SNI and voluntary SNI. Compulsory SNI covers SNI products, services, system, process which are related to health, safety, and environmental sustainability. Products required compulsory SNI cannot be circulated unless they are SNI certified, otherwise the distribution of such products will be considered against the law. Tires, helmet (for motorcycle riders), cement, and mineral water are amongst the products required the compulsory SNI. Generally SNI adopts the standards and requirements in ISO, either as a whole or with modification.

The National Standardization Agency of Indonesia (*Badan Standarisasi Nasional/BSN*) issues the SNI certificate through the decision of the Head of BSN and published in national standardization and assessment system. Once a business obtains SNI certificate for its product, services, system, or process, they shall attach the SNI label into their products, envelope, letterhead, or other media indicating they are already SNI certified. The application for SNI certification is made through the Indonesian Ministry of Industry.



Labelling

Labelling is required for Food and Non-Food Products:

- Law No. 18/2012 on Food, Government Regulation No. 69 of 1999 on Food Labelling and Advertisement, BPOM Regulation No. 31 of 2018 on Processed Food Labels require all producers, importers and/or distributors to attach labels on food products before entering Indonesia customs area.
- Food labels provide information to the public on origin, safety, quality, nutrition value and other necessary information. Such label must be written, printed, or shown explicitly.
- Minister of Trade Regulation (MOT) No. 25/2021 requires producers and importers to attach labels written in Bahasa Indonesia on non-food products before distributed within Indonesia customs area.
- MOT Regulation No. 25/2021 describe the recent development on labelling that would need to be complied by domestic and foreign companies.
- SNI label shall be attached for products required with compulsory SNI.
- Violation of labelling regulation may result in formal warning letter, withdrawal of goods, temporary suspension of business activity, closure of warehouse, administrative fine, and/or revocation of business license.

HALAL REGULATIONS

The legal framework for halal product requirements originates from Law No. 33/2014 concerning Halal Product Assurance, with further provisions outlined in Government Regulation No. 42/2024 on the Implementation of Halal Product Assurance ("**GR 42/2024**"). The Badan Penyelenggara Jaminan Produk Halal (BPJPH), or Halal Product Assurance Organizing Agency, within the Indonesian Ministry of Religious Affairs (MoRA), holds the authority for the execution of this Halal Product Guarantee law.

According to GR 42/2024, goods and/or services related to food, beverages, drugs, cosmetics, chemical products, biological products, genetically modified products, as well as goods used, used, or utilized by the public are required to be labeled Halal or non-Halal. Halal registration and testing can be done through <https://e-halallab.com/>. Testing operations will require companies to pay administrative fees.

Highlighted articles of the Halal Law

- **Products** (subject to halal certification) are goods and/or services related to food, beverages, drug, cosmetic, chemical product, biological product, genetically modified product, as well as consumer goods that are worn, used, or utilized by the public.
- Products that enter, circulate, and traded in the territory of Indonesia **must be halal certified**.
- Products originated from **haram** material are **excluded** from Halal Certification.
- The **obligation of halal certification came into force in stages from October 17th 2019 until October 17th 2034** based on the type of products.

Halal Labelling

Based on BPJPH Decree No. 40/2022, it defines the new halal logo to attach in the product (on either the packaging or certain part of the product). The halal logo must also include the certificate number or the product registration number. The decree is valid starting 1st March 2022. Further the product halal decision number is published and can be checked through <https://halalmui.org/>.



LOCAL CONTENT REQUIREMENTS

Local Content Requirements (LCR) were initially introduced through Minister of Industry Regulation No. 10 of 2006, concerning the Use of Domestic Production Machinery to Obtain Import Duty Facilities for Goods and Materials. These provisions were subsequently reinforced by Presidential Decree No. 24 of 2018, regarding the National Team for the Increased Use of Domestic Products.

Indonesia's laws and regulations on LCR are classified under LCR provisions related to the government procurement and LCR provisions which are not related to the government procurement.

LCR provisions related to the government procurement can be found in, among others:

- Law No. 3 of 2014 on Industry;
- Presidential Regulation No. 16 of 2018 which is amended by Presidential Regulation No. 12 of 2021 on Government Procurement for Goods and Services; and
- Government Regulation No. 29 of 2018 on Industrial Empowerment.

LCR provisions which are not related to the government procurement can be found in, among others:

- Minister of Industry Regulation No. 16 of 2011 on Provisions and Procedures for Calculating the Level of Domestic Component;
- Minister of Industry Regulation No. 29 of 2017 on Procedures to Calculate Local Content of Cell Phones, Laptops, and Tablet Computers;
- Minister of Industry Regulation No. 22 of 2020 on Procedures to Calculate Local Content on Electronics and Telematics Products; and
- Minister of Industry Regulation No. 54 of 2012 on Guidelines of Local Content Usage for Electricity Infrastructure as last amended by Minister of Industry Regulation No. 33 of 2024.

The required Local Content Requirement (LCR) varies by product and/or sector. For instance, enterprises establishing radio frequency bands for wireless broadband services must achieve a minimum of 30% local content for subscriber stations. Similarly, the LCR for solar panels is set at a minimum of 60% by January 1, 2025. Some LCR regulations specify the requirement as a summation of local content values for individual product components, as exemplified by Minister of Industry Regulation No. 31 of 2022 concerning Terms and Procedures for Calculating Domestic Component Level Values for Medical Devices and In Vitro Diagnostic Medical Devices.

CURRENCY REGULATIONS AND OTHER TRANSFER RESTRICTIONS

National currency in Indonesia is the Rupiah (IDR, Rp abbreviated). Bank Indonesia (BI) controls the regulation and the transfers. Bank Indonesia Regulation No. 6 of 2024 on money and foreign exchange markets ("**PBI 6/2024**") stipulates that Indonesian bank are restricted from carrying out overseas transfers of local currency (rupiah), which must be converted into a foreign currency.

Based on PBI 6/2024, it stipulates that BI monitors Foreign Exchange Activities of Banks and Customers and regulates foreign exchange flows. In connection with this, Parties described in PBI/6/2024, are required to provide data, information, reports, information and/or explanations related to activities in the Money Market and Foreign Exchange Market and/or their business activities related to Bank Indonesia through surveys, reporting, or other methods determined by Bank Indonesia. The reports include periodic reports and/or incidental reports submitted through the reporting system.

COMMERCIAL REGISTER AND OTHER SOURCES OF COMPANY INFORMATION

Company Registration

Foreign investment in Indonesia shall be conducted in the form of a limited liability company (foreign investment company or PT PMA).

1. The applicant needs to select a name for PT PMA before the Notary will check and reserve the **PT PMA's name on the Ministry of Law and Human Rights (MoLHR)'s system**. The applicant has to pay the administrative cost to obtain a bank perception for the use of such a name. PT PMA's name shall be valid for 60 (sixty) days from the payment date until the company is established.

A company shall be established by 2 (two) or more shareholders (legal entity and/or individual) and shall have 3 (three) organs, which are:

- General Meeting of Shareholders (“GMS”)– divided into Annual GMS and other GMS. Annual GMS has to be carried out at the latest 6 (six) months after the end of the financial year;
- Board of Directors (“BoD”) – BoD carries out the purposes and objectives of the company in accordance with the limitation set by the Company Law and/or AoA. BoD consists of at least 1 (one) director or more, which is appointed by the GMS;
- Board of Commissioners (“BoC”) – BoC supervises the management of the company and advises the BoD where necessary. BoC consists of at least 1 (one) commissioner or more, which is appointed by the GMS.

The company shall also have a Deed of Establishment (“DoE”) that contains:

- Articles of Association (“AoA”), which consists of the following minimum information, among other: name and location of the company, purposes and objectives of the company, amount of the authorized capital, issued and paid-up capital, titles and the numbers of the BoD and BoC, and terms on the GMS; and
- Other related information, which consists of the following minimum information on the identity of the shareholders, BoD, and BoC and other related information.

The company will obtain its legality status after being registered to MoLHR and obtained registration proof.

2. **Tax Identification Number (Nomor Pokok Wajib Pajak or NPWP)** is the identification numbers given to taxpayers to exercise their taxation rights and obligations. NPWP will be issued in no later than 3 (three) working days after complete and correct documents submission.

3. **Processing and Obtaining Business Identification Number (“NIB”) from OSS.** Based on the Government Regulation No. 5 of 2021 on Implementation of Risk-Based Business Licenses (“GR 5/2021”), NIB serves as (i) Investment Registration, (ii) a Company Registration Certificate (TDP), (iii) an Importer Identification Number (API), and (iv) a customs access right.

4. **Business License**

Under the GR 5/2021, there are 3 types of risk of business activities that related to the business license:

- Low-Risk business activities: Most business activities classified as low risk only require NIB as license document.
- Medium Risk business activities: The Company will also have to fill out Standard Certificate (“Certificate”) in addition to NIB.
- High Risk business activities: The Company will require NIB and a License. The License will be issued after the applicant has met all the requirements for the relevant business activities (which may also include Environmental Impact Analysis – AMDAL), and therefore, may commence its operational and commercial activities.

For certain business activities (i.e. those located in an industrial estate, a special economic zone, free trade zone, or listed in a national strategic project), the issuance of the license may be expedited for a company to commence its preparation and operational activities.

5. **PBUMKU**

On top of business licenses granted for the main activities, GR 5/2021 mentions the need for Business License for Supporting Business Activities (“**PBUMKU**”) during the implementation of operational and/or commercial stages of a business activity.

PBUMKU is license-related document issued for supporting business activities attached to the main business activity as determined by each Indonesian Standard Business Field Classification (“**KBLI**”). PBUMBU may vary in forms for each KBLI, such as permit, approval, decree, appointment, certificate, and other forms as stipulated in GR 5/2021.

PBUMKU is issued through the OSS through verification process conducted by relevant ministries and state institutions, for example, BPOM as the state institution responsible for supervision of food and drug distribution issues Drug Distribution Permit and Cosmetics Distribution Permit. An example of PBUMKU being a supporting document for its main business activity is for KBLI 20132 (Artificial Rubber Industry) and the attached PBUMKU to support such business activity is Indonesian Standard Rubber Producer Identification Mark (*Tanda Pengenal Produsen Standar Indonesia Rubber*).

Corporate Income Tax Rate

As per 2022, the rate of corporate income tax is 22%. A Public company with >40% of its shares traded on the IDX and meets other conditions is subject to a 3% lower rate than the current business tax rate.

Withholding Tax Rate

Dividends received from an Indonesian company, cooperative, or state-owned company, are exempted from income tax withholding if the following conditions are met.

For resident recipients:

- Domestic dividends received or obtained by the individual taxpayer as long as the dividend is invested in Indonesia within a certain period of time, and corporate taxpayer;
- Dividends and income after corporate tax abroad, received by corporate and individual taxpayers, as long as they are investing or supporting other activities in Indonesia within a certain period of time, with the following requirements:
 - o The dividends and after-tax income invested are at least 30% (thirty percent) of the profit after tax; or
 - o The dividends obtained from overseas business entities whose shares are not traded on the stock exchange are invested in Indonesia.

Meanwhile, dividends paid to non-resident recipients incur a 20% final withholding tax.

LEGAL FORMS OF COMPANIES

PT PMA Establishment

There are several key matters that foreign investor has to be well aware of prior to establishing PT PMA:

1. **Indonesian Standard Business Field Classification (“KBLI”)**
Business sectors/activities in Indonesia are classified into different categorizations as regulated under the Head of Centre Statistic Body Regulation No. 2 of 2020 on the Indonesian Standard Business Field Classification (Klasifikasi Baku Lapangan Usaha Indonesia or KBLI). Foreign investor has to be specific in its business sectors/activities, since the details of business sectors/activities will be reflected in the KBLI code, and will further be used to determine investment limitations, establish PT PMA, and obtain licenses.
2. **Capital Investment**
Investment in Indonesia is regulated under the Presidential Regulation No. 10 of 2021 on Investment Business Activities as amended with the Presidential Regulation No. 49 of 2021. According to the Investment Coordinating Board Regulation No. 4 of 2021 on Guidelines and Procedures for Risk Based Business Licensing and Investment Facilities, the minimum issued and paid-up capital for PT PMA is IDR 10,000,000,000 / CHF 553,155, while the investment value has to be more than IDR 10,000,000,000 / CHF 553,155 excluding land and building.

This is due to the classification of a PT PMA as conducting large-scale activities, which is the only permitted scope for foreign investment. The required investment value varies based on the number of business activities or KBLI codes applied.

| Minimum Capital Requirement | Minimum Investment Value Requirement |
|--------------------------------------|---|
| IDR 10,000,000,000 (CHF 553,155)* | More than IDR 10,000,000,000, excluding Land & Building (CHF 553,155)* |

*The Bank Indonesia currency exchange rate as of 25 February 2025

REGULATIONS GOVERNING SALES AGENTS AND COMMERCIAL REPRESENTATIVES

Entry Conditions for Staff Performing Maintenance or Repair Services

According to the Ministry of Law and Human Rights (MOLHR) Regulation No. 22/2023 as amended by MOLHR 11/2024, regarding technical procedures for applying for and granting visas, including limited stay visa intended for foreign citizens who intend to reside in Indonesia for a limited period of time.

The application and issuance of limited stay visa has then referred to MOLHR Regulation No. 22/2023, regarding procedures for granting visas and stay permits for expatriate manpower. Based on the regulation, the validity period for a limited stay visa depends on the employment period stated in the employment contract.

Types of Sponsored Employment Visas

There are four types of work and stay permits in Indonesia:

- Visitor visa.
- Limited stay visa.
- Visitor stay permit.
- Limited stay permit.

Visitor visa

Visitor visa shall be granted based on application of foreign nationals to stay in Indonesian territory for 1 (one) or multiple trips, based on the submitted application. Visitor visa for multiple trips shall be granted for 60 (sixty) days up to 5 (five) years period, and 10 (ten) years period after entered Indonesian territory using a visitor visa for multiple trips.

Visitor stay permit

Visitor stay permit shall be granted based on application of foreign nationals for a limited period. The validity of visitor stay permit depends on the type of interest of its application. Visitor stay permit for holders of a visitor visa shall be granted for a maximum period of 60 (sixty) days from the date the entry stamp is granted (except for pre-investment or apprenticeship activities).

EMPLOYMENT

Employment issues in Indonesia is regulated mainly by Law Number 13 of 2003 on Manpower as amended by Law 6/2023. This law is implemented in practice by several regulations, which are (i) Government Regulation Number 34 of 2021 on Use of Foreign Workers (“**GR 34/2021**”), (ii) Government Regulation Number 35 of 2021 on Fixed Term Employment Contract, Outsourcing, Working and Rest Periods, and Termination of Employment (“**GR 35/2021**”), (iii) Government Regulation Number 36 of 2021 on Wages (“**GR 36/2021**”) as amended by Government Regulation Number 51 of 2023 on Amendments on GR 36/2021 (“**GR 51/2023**”); and (iv) President Regulation Number 57 of 2023 on the Mandatory Reporting of Job Vacancies (“**PR 57/2023**”).

Types of Labor Agreements

GR 35/2021 stipulates that there are two kinds of labor agreements, which are (i) Fixed Term Employment Contract (“**PKWT**”); and (ii) Non-fixed Term Employment Contract (“**PKWTT**”).

PKWT may be executed based on time period of up to 5 (five) years or completion of a certain work/deliverable, in which if the time period ends or the agreed work has been completed, the PKWT automatically ends.

Meanwhile, PKWTT binds employees permanently as its validity period is undetermined. PKWTT only ends if the employee resigns, enters into retirement period, or passes away. Permanent employees are hired through PKWTT.

Minimum Wages

Pursuant to GR 36/2021 and GR 51/2023, minimum monthly wage is determined by provincial authority as well as regency/city authorities, which are: (i) Provincial Minimum Wage (“**UMP**”); or (ii) Regency/City Minimum Wage (“**UMK**”). Minimum wages shall be determined based on economic and manpower condition. UMP and/or UMK are updated every year through a decree issued by Head of the Region, such as Governor, Mayor, and/or Regent. Per December 2024, the UMP for DKI Jakarta refers to DKI Jakarta Governor Decree Number 829 of 2024 on 2025 UMP, which is IDR 5,396,761.

The UMK for the Bogor, Depok, Tangerang, and Bekasi areas are determined based on the decrees of the governors of each province. In accordance with the West Java Governor Decree No.561.7/Kep.798-Kesra/2024 on UMK in West Java Province in 2025, the UMK for Bogor City is IDR 5,126,897.22, Depok City is IDR 5,195,721.78, and Bekasi City is IDR 5,690,752.95. According to Banten Governor Decree No. 471 of 2024, the 2025 UMK for Tangerang City is IDR 5,069,708.36.

BPJS Obligations

Employers are obliged to pay for social security for their employees, which are (i) Health Social Security (“**BPJS Kesehatan**”); and (ii) Manpower Social Security (“**BPJS Ketenagakerjaan**”). BPJS Kesehatan fees are paid every 10th (tenth) of each month, while BPJS Ketenagakerjaan fees are paid every 15 (fifteenth) of each month.

Foreign Workers Recruitment

Every employer in Indonesia shall prioritize recruitment of Indonesian worker(s) on any available position except the said position cannot be occupied yet by Indonesian worker(s). The foreign workers may only be employed by the employer in an employment relationship for a certain position and for a certain period of time. Furthermore, the certain position that may be occupied by the foreign workers shall be determined by the Minister of Manpower after receiving input(s) from the relevant ministries or agencies. An employer must:

- a. Appoint Indonesian workers as a foreign workers understudy workers who are employed for transfer of technology and transfer of expertise from the said foreign workers;
- b. Carry out education and job training for the foreign understudy workers in accordance with the qualifications for the position occupied by the foreign workers;
- c. Return the foreign workers to their respectively countries of origin after their employment agreements expire;
- d. Must facilitate Indonesian language education and training for the said foreign workers;
- e. Register the foreign workers in the national security program for foreign workers who work for more than 6 (six) months or insurance program from any insurance company for foreign workers who work for less than 6 (six) months;
- f. Must pay Compensation Fund for the Recruitment of Foreign Workers (“**DKPTKA**”) for every foreign workers who are employed as non-tax state revenue or regional revenue.
- g. Must report annually to the Minister of Manpower or relevant manpower office for the implementation of (i) recruitment of foreign workers, (ii) education and job training for foreign understudy workers; and (iii) transfer of technology and transfer of expertise from foreign workers to foreign understudy workers.

Employers are prohibited to employ a foreign worker to be in charge for a personnel or human resource position. To hire foreign worker(s), the employer shall submit a Foreign Worker Recruitment Plan (“**RPTKA**”) validated by the Minister of Manpower or an appointed official. Validation of RPTKA is used as a recommendation to obtain visa and stay permit in the framework of working for the said Foreign Workers. There are several types of RPTKA Validation as follows:

- a. Validation of RPTKA for temporary works is granted for a maximum period of 6 (six) months and cannot be extended.
- b. Validation of RPTKA for work more than 6 (six) months and Validation of RPTKA is granted for a maximum period of 2 (two) years and may be extended.
- c. Validation of RPTKA Special Economic Zone shall be granted for a maximum period of 5 (five) years and may be extended.
- d. Validation of RPTKA Special Economic Zone for the position of board of directors or commissioners, shall be given once and is valid as long as the Foreign Worker concerned becomes a board of directors or commissioners.

Mandatory Reporting of Job Vacancies

As stipulated in PR 57/2023, employers are obliged to report job vacancies within the company to the Ministry of Manpower. The reporting of job vacancies shall contain:

- a. Identity of Employer;
- b. Name of the position and number of employees needed;
- c. Validity period of the job vacancy; and
- d. Information on the position, including age, sex, education, skill and competency, work experience, wages or salary, domicile of work area, and other required information regarding the position.

In the event that a job vacancy has been occupied, the employer must report it to the Ministry of Manpower. The Minister of Manpower, governors, or regents/mayors shall impose an administrative sanction in the form of a written reprimand to any company who fail to report job vacancies.

PROTECTION OF INTELLECTUAL PROPERTY

Patent

Patent protection is obtained on registration with the Directorate of Patents, Layout Design of Integrated Circuits and Trade Secrets at the Directorate General of Intellectual Property (DGIP) of the Ministry of Law and Human Rights (MoLHR).

Law No. 13 of 2016 on Patents last amended by Law No. 65 of 2024. The following patent can be protected:

- Patent product: creating, importing or licensing the patented product;
- Patent process: creating, licensing or importing products that results from a patented process;
- Patent methods: system and usage that covers the creation, importation or licences from products resulting from patented methods, system and usage.

Patent shall be implemented in Indonesia. To maintain the registration of a patent, the patent holder must pay annuity fees. The fees must be paid from the year of the application to the current year, as well as for the following year. Failure to make this payment will result in the relevant patent rights being revoked.

Patent protection lasts for 20 years from the national filling date (NFD) and no extension is allowed. It is therefore essential to have a renewal system in place to ensure all applicable deadlines are properly met.

Trademark

Trademark protection in Indonesia is obtained upon registration to the Directorate of Trademarks and Geographical Indications at the Directorate General of Intellectual Property (DGIP). Trademark protection is provided for two-dimensional marks in the form of image, name, phrase, sentence, letter, number, colour configuration (or a combination of any of these) that are distinctive and applied in the trade of the respective goods and/or services.

The registered trademark shall receive legal protection for a period of ten years and may be extended for the same period. The trademark owner must avoid non-use for three consecutive years because any third party may submit a lawsuit through the Commercial Court for the deletion of a registered trademark if the trademark is not used within three consecutive years in the trade of goods and/or services from the registration date (NFD) or the last use.

The facilities are available to conduct IP searches and obtain IP information on registered IP rights:

www.wipo.int/branddb/en/index.jsp, www.asean-tmview.org and <http://pdki-indonesia.dgip.go.id>.

PROCEDURES FOR COLLECTING PAYMENT

In Indonesia, non-residents are normally subject to a 20% withholding tax on the remittance of interest, dividends, royalties, and other payments outside the country. Double tax treaties offer a lower withholding tax rate, ranged from 10% to 15%.

In addition, most treaties provide for an exemption from withholding tax, where interest is paid to the government or other specified authorities in other countries. The treaties also provide a "time test" for determining when a permanent establishment is deemed to exist. Indonesia and Switzerland have a tax treaty signed in 1988 and is still in force.

ENFORCING COMMERCIAL CONTRACTS AND RESOLVING DISPUTES

The Indonesian Civil Code governs international contracts. Enforcing contracts in Indonesia can be a long and difficult process. Indonesian people are not rush decision makers thus business negotiations can be very slow. Business relationships in Indonesia must be allowed to grow over time. Since commercial agreements are well discussed about before the formalization, the incidence of disputes is low.

Indonesian law includes several options for the resolution of commercial disputes:

- **Court litigation.** Commercial disputes are private in nature and therefore fall within the jurisdiction of the general court system;
- **Arbitration.** Indonesian Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution (Arbitration and ADR Law) expressly provides that arbitration in Indonesia can only be used either in cases that are commercial in nature; and if the parties have agreed in writing to resolve their disputes through arbitration;
- **Mediation;** and
- **Adjudication.** Adjudication is often used, especially in construction disputes, but there is currently no formal adjudication mechanism.

Indonesia is a civil law jurisdiction. Therefore, the judicial system is largely inquisitorial. Judges play an active role in court hearings, have broad powers to manage the litigation process, and are not bound by precedent. The inquisitorial approach is also often adopted in domestic arbitrations, at least those administered by some of the local arbitral institutions. Parties can file their lawsuit to the relevant court jurisdiction or to the appointed forum of dispute settlement as agreed within their agreement.

The arbitration expenses are often borne by both parties but can be entirely charged to the unsuccessful party in some situations. While Indonesian courts are largely impartial, litigations including the appeals process can take up several years to conclude.

Non-Court Termination of Commercial Agreement/Contract

Pursuant to Article 1266 of Indonesian Civil Code, termination of any commercial agreements shall be done through Court Decree, which means the parties of the agreement shall submit the application for such termination to the Court in the relevant jurisdiction. Termination without Court Decree is possible as long as the parties in commercial agreements put a provision to waive that Article 1266 of Indonesian Civil Code and arrange that such termination will be done through written agreement between them.

Law on Job Creation

Law 6/2023, as was enacted in 2023 to revoke Law Number 11 of 2020 on Job Creation, is expected to enhance the investment ecosystem and business activities, increase the protection and welfare of workers, create convenience, empowerment, and protection for Cooperatives and Micro, Small, and Medium Enterprises, and increase government investment and accelerate national strategic projects.

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| Business Licensing | <ul style="list-style-type: none"> Establishing a risk-based business licensing (low, medium-low, medium-high, and high risk) based on the assessments of the level of danger relating to health, safety, environment, and the resources utilization. |
| Investment | <ul style="list-style-type: none"> Introduction of 'Positive Investment List', which opens all business fields for investment, with the exception of 6 sectors¹, as stipulated under Presidential Regulation No. 10 of 2021 on Investment Business Fields as amended by Presidential Regulation No. 49 of 2021. Establishing the first Sovereign Wealth Fund (SWF), Indonesia Investment Authority (INA), as an alternative source of economic development financing. Adding tourism development as one of criteria for an investment to obtain taxation facility. |
| Ease of Doing Business | <ul style="list-style-type: none"> Create ease of business licensing by implement risk-based approached and integrate environment approval into business licensing. Amendment of Article 20 of Patent Law 13/2016 on local manufacturing requirement, which stipulates multiple ways to implement Patent, including import and license the patented products. |
| Labor | <ul style="list-style-type: none"> Simplification of foreign workers permit to only the Manpower Utilization Plan (RPTKA), with RPTKA's exemptions applied to Directors/Commissioners owning shares in an Indonesian entity and expatriates working for start-up companies. Only provincial minimum wages shall be applied with considerations on the minimum living wages (municipal and sectoral minimum wages are no longer applied). |

¹ The six sectors are: Class-I narcotics cultivation and industries, all forms of gambling and/or casino activities, illegal fishing of endangered fish species, utilization of coral or natural reefs, chemical weapons manufacturing industries, and industrial chemicals and industrial depleting-ozone industries.

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| Environment | <ul style="list-style-type: none"> • The Environmental Impact Assessment shall involve the “directly-impacted communities”. Civil society organizations can only be involved if they are part of the directly impacted communities, or have previously engaged in the advocacy works within the community. • Removal of the provision of minimum forest area, and give the responsibility to the Central Government to stipulate minimum forest area according to the physical and geographical conditions. |
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DATA PROTECTION

As of October 17, 2024, Law No. 27 of 2022 on Personal Data Protection (“**Law 27/2022**”) is fully applicable in Indonesia after a 2 (two) year transitional period. With the enactment of Law 27/2022, all parties who process personal data must comply with the provisions in this regulation. Personal data protection is an overall effort to protect personal data in the course of personal data processing in order to guarantee the constitutional rights of personal data subjects.

Personal data processing includes obtaining and collecting; processing and analyzing; storing; correcting and updating; displaying, announcing, transferring, disseminating, or disclosing; and erasing or destroying, which must be carried out based on the principles of personal data protection.

The rights of personal data subjects may be overridden in the interests of national defense and security, the interests of law enforcement processes, the public interest in the context of state administration, the interests of supervision of the financial services sector, monetary, payment systems, and financial system stability carried out in the context of state administration, or the interests of statistics and scientific research.

Any party who processes personal data without adhering to this regulation will be subject to administrative sanction, administration fine, or punishment for criminal violation.

THE GLOBAL MINIMUM TAX

Effective as of 1 January 2025, Indonesia has officially implemented the Global Minimum Tax (“**GMT**”) under Minister of Finance Regulation No. 136 Year 2024 on the Imposition of Global Minimum Tax Based on International Agreements (“**MOF Regulation 136/2024**”). Aligning with the OECD/G20 Pillar Two GloBE Rules, this regulation ensures that Multinational Enterprise (“**MNE**”) Groups meet a minimum Effective Tax Rate (“**ETR**”) of 15% in every jurisdiction where they operate.

Consistent with the GloBE Rules, in applying the GMT, MNE Groups are required to calculate the ETR and, if any, the top-up tax. The ETR is determined by dividing the adjusted covered taxes by the GloBE income/loss. The resulting percentage represents the ETR for the jurisdiction, which is then compared against the global minimum tax rate of 15% to assess whether any top-up tax is required.

MOF Regulation 136/2024 provides flexibility for Constituent Entities within a MNE Group, particularly during the transitional period, which covers the first three years of implementation (specifically for Fiscal Years starting on or before 31 December 2026 but excluding Fiscal Years ending after 30 June 2028).

The administrative obligations under GMT implementation include the GloBE Tax Return (“**SPT GloBE**”), the GloBE Information Return (GIR), and required notifications.

The GloBE Tax Return includes:

- GloBE Corporate Income Tax Return (SPT PPh GloBE), which must be filed by the Ultimate Parent Entity (UPE) that is a domestic taxpayer.
- DMTT Corporate Income Tax Return (SPT PPh DMTT), which must be filed by Constituent Entities in Indonesia that are not the UPE.
- UTPR Corporate Income Tax Return (SPT PPh UTPR), which applies to jurisdictions receiving a Top-up Tax allocation due to the absence of DMTT and IIR.

The Director General of Taxes (DGT) is authorized to assess compliance with Safe Harbour rules, review the imposition of Top-up Tax, and conduct compliance testing on the fulfillment of tax obligations under GloBE. This includes cases where Indonesia receives an additional tax allocation from a Safe Harbour jurisdiction with an Effective Tax Rate (ETR) below the Minimum Rate.

While administrative sanctions related to the submission of the SPT GloBE, DMTT Tax Return (SPT DMTT), UTPR Tax Return (SPT UTPR), and payment of additional tax obligations will follow the general tax regulations in effect, the Reporting Constituent Entity is exempt from administrative sanctions for fiscal years beginning on or after 31 December 2026 or before that date, up to 30 June 2028. This exemption provides flexibility during the transitional period.

OVERVIEW OF PUBLIC PROCUREMENT SYSTEM

Presidential Regulation No. 16 of 2018 on Government's Good and Services Procurement as amended by Presidential Regulation No. 12 of 2021 regulates Indonesia Public Procurement System. The National Public Procurement Agency ("**NPPA**") otherwise known in the Indonesian acronym of LKPP is a government agency responsible for develop and formulation of strategies in the area of public procurement.

NPPA has a reporting duty directly to the President of the Republic of Indonesia. In conducting its function and duties, the NPPA is under the coordination of the State Minister for the National Development Planning/Head of the National Development Planning Agency (BAPPENAS).

The Presidential Regulation No. 16 of 2018 currently serves as the primary regulation on public procurement and some important regulations are:

- NPPA Regulation No. 9 of 2021 on Online Shop and Electronic Catalog in Government Procurement of Goods and Services
- NPPA Regulation No. 12 of 2012 concerning Guidelines for Implementing Government Procurement of Goods/Services through Providers,

Public procurement in Indonesia is conducted through a decentralized framework. Each government institution, at both the central and regional levels, maintains a specialized unit tasked with the organization of procurement activities, encompassing both electronic and manual processes.

Electronic procurement begins with user requests from ministries, organizations, and local governments, directed to their respective Procurement Service Units (ULP), for the acquisition of specific goods, services, or works. The ULP then enters the procurement data into the Electronic Bidding System (SPSE), which is integrated with the Electronic Procurement Services Hosts (LPSE) of each ministry, organization, and local government (province/regency/city). Goods and services providers seeking to participate in bidding must register as vendors through the dedicated LPSE portal provided by each government institution.

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