



Doing business in Indonesia

A comparative guide

May 2022

A guide to doing business in Indonesia

Deloitte Legal compiled this guide for Legal 500, providing an overview of the laws and regulations on doing business in a variety of jurisdictions. The following country chapter contains the relevant information on the systems of law, the legal forms through which people carry out business, capital requirements, how entities are operated and managed, expansion possibilities, corporate governance, employment law and more.



No.	Question
<h2>A. Legal system and landscape</h2>	
1	<p>Is the system of law in your jurisdiction based on civil law, common law, or something else?</p> <p>The legal system of Indonesia is civil law.</p>
<h2>B. Entity establishment</h2>	
2	<p>What are the different types of vehicles/legal forms through which people carry on business in your jurisdiction?</p> <p>As the general principle, Investment Law provides that all foreign direct investments in Indonesia shall be in the form of a limited liability company (Perseroan Terbatas [PT]) duly established under the Indonesian law, namely Foreign Investment Company (Perusahaan Penanaman Modal Asing [PMA Company]), either by way of acquiring shares of an existing local company or establishing a new company. It is noteworthy that the Indonesian law also enables foreign investors to carry out business in Indonesia through Representative Offices (ROs). Certain types of ROs, however, may not perform full business operations and are only allowed to carry out limited scopes of activities in Indonesia.</p>
3	<p>Can non-domestic entities carry on business directly in your jurisdiction, i.e., without having to incorporate or register an entity?</p> <p>Generally, non-domestic or foreign investment shall be in the form of a PMA Company or a Representative Office (RO). RO, however, cannot generate income, and only a liaison office of its principal office and do the promotional work.</p>
4	<p>Are there any capital requirements to consider when establishing different entity types?</p> <p>Based on Article 12 paragraph (6) and (7) Indonesian Investment Coordinating Board Regulation No. 4 of 2021 on Guideline and Procedure for Risk-Based Business Licensing and Capital Investment Facilities, PMA Company shall also comply with the minimum capital requirement, namely issued/paid-up capital of at least Indonesian Rupiah (IDR) 10 billion per company/PMA Company. In addition, based on Article 189 paragraph (2) Government Regulation No. 5/2021 and Article 12 paragraph (2) Indonesian Investment Coordinating Board Regulation No. 4 of 2021 on Guideline and Procedure for Risk-Based Business Licensing and Capital Investment Facilities, PMA Company shall comply with the minimum investment value, namely the total investment more than IDR 10 billion, excluding land and building.</p>
5	<p>How are the different types of vehicles established in your jurisdiction? And which is the most common entity/branch for investors to utilize?</p> <p>Establishing a PMA Company in Indonesia is relatively an administrative and straightforward process. In general, foreign investors are required to carry out the following steps, among others, to incorporate a PMA Company:</p> <ol style="list-style-type: none"> a) Execute a deed of establishment of the PMA Company before an Indonesian Public Notary; b) Have the Public Notary file the deed of establishment with the Ministry of Labor & Human Resources through its electronic filing system (i.e., Ditjen AHU Online) and arrange for publication of the deed of establishment in the State Gazette (Berita Negara Republik Indonesia); c) Register the PMA Company in the Online Single Submission (OSS) system to obtain a username and password to access the OSS system; d) File application through the OSS system to obtain Business Identification Number (NIB). The NIB also functions as: <ul style="list-style-type: none"> • Importer Identification Number (Angka Pengenal Importir); • Company Registration Certificate (Tanda Daftar Perusahaan); and • Customs access (Akses Kepabeanan); e) Register the PMA Company in Tax Office and obtain a Taxpayer Identification Number (Nomor Pokok Wajib Pajak); and f) Open an Indonesian bank account and deposit share capital in such account. <p>The establishment process of a PMA Company may take around one to two months. Once incorporated, the PMA Company is required to obtain business licensing issued by the OSS institution and other relevant authorities (as the case may be).</p> <p>On a separate note, an application for the establishment of a Foreign Company RO and a Foreign Trade Company RO can be conducted through an online system, namely the OSS System. Both types of RO are intended to market and promote the principal foreign company's interests, liaise with relevant affiliates, and engage in other non-profit activities. The process of RO establishment may take around two months.</p>
6	<p>How is the entity operated and managed, i.e., directors, officers, or others? And how do they make decisions?</p> <p>Based on Law No. 40 of 2007 on limited liability companies as last amended by Law No. 11 of 2020 on Job Creation (Omnibus Law) (the "Indonesian Company Law"), a limited liability company will be operated and managed by the general meeting of shareholders (GMS), board of directors (BOD), and board of commissioners (BOC) with a portion as follows:</p> <ol style="list-style-type: none"> a) BOD is responsible for the day-to-day management of the company; b) BOC is responsible for the supervision of the management of the company and advising the BOD; and

	<p>c) GMS shall all the authorities that are not given to the BOD or BOC within the limits provided in the company law and/or Articles of Association (AOA) of the company.</p>
7	<p>Are there general requirements or restrictions relating to the appointment of (a) authorized representatives/directors or (b) shareholders, such as a requirement for a certain number, or local residency or nationality?</p> <p>Limited Liability Company</p> <p>Based on the Indonesian Company Law, a limited liability company must have at least one or more members of the BOD. However, a company whose business activity is related to collecting and/or managing public funds, a company that issues debt acknowledgments to the public, or a public company must have at least two members of the BOD. If there is more than one member of the BOD, the work distribution and management authority between the member of the BOD shall be based on the resolution of the GMS.</p> <p>Furthermore, those who can be appointed as the member of BOD are including any individual persons capable of conducting legal acts, unless within a period of five years prior to their appointment they have ever:</p> <ul style="list-style-type: none"> a) Been declared bankrupt; b) Been a member of a BOD or BOC who was declared at fault in causing a company to be declared bankrupt; or c) Been convicted for committing a criminal offense that is detrimental to the finance of the state and/or related to the financial sector. <p>Furthermore, it is noteworthy that the shareholder for a PMA Company in Indonesia is subject to foreign ownership threshold under the Presidential Regulation No. 49 of 2021 as lastly amended with Presidential Regulation No. 10 of 2021 on the Investment Business Activities or so-called Indonesia Positive Investment List with reference to the latest Klasifikasi Baku Lapangan Usaha (KBLI). In case there is indeed a foreign ownership threshold hence, the company will require a local shareholding as well in order to set up the proposed PMA Company in Indonesia.</p> <p>Representative Office</p> <p>On a separate note, RO shall be led by a Chief of RO, who is an Indonesian national or a foreigner. However, the Chief of RO must reside in Indonesia, and they have to provide a statement letter that they are only working at the relevant RO and not working in another place. It is also noteworthy that pursuant to the Article 16 paragraph (5) of the Indonesian Investment Coordinating Board (Badan Koordinasi Penanaman Modal [BKPM]) Regulation No. 4 of 2021 Guidelines and Procedures of Risk-Based Business Licensing and Investment Facilities (“BKPM Reg. 4/2021”), in the event that the appointed Chief of RO is a foreigner, the RO must employ an Indonesian employee in accordance with the prevailing laws and regulations.</p> <p>Moreover, Article 16 paragraph 4 of BKPM Reg. 4/2021 provides that while serving as the Head of RO, they shall not be allowed to engage in any activities other than the activities of the client’s RO; and hold concurrent positions as the head of a company and/or more than one RO.</p>
8	<p>Apart from the creation of an entity or establishment, what other possibilities are there for expanding business operations in your jurisdiction? Can one work with trade/commercial agents, resellers and are there any specific rules to be observed?</p> <p>A foreign company that conducts business activities as a manufacturer/producer may appoint a distributor and agent to distribute its goods to the retailer under a distributor/agency agreement that sets several provisions in accordance with the Government Regulation No. 29 of 2021 on the Implementation of Trade Sector and the Minister of Trade Regulation No. 22 of 2016 on the General Provisions of Goods Distribution as amended by the Minister of Trade Regulation No. 66 of 2019.</p>

C. Entity operation - please answer the following questions only for the most common entity/ies within your jurisdiction

C1. Governance

9	<p>Are there any corporate governance codes or equivalent for privately owned companies or groups of companies? If so, please provide a summary of the main provisions and how they apply.</p> <p>The Indonesian Company Law governs the crucial legal terms of Indonesian Company Law, incorporation of a company from its document requirements, business activities of the company, capital structure, number of shares, GMS, members of BOD and BOC, and related corporate governance of the company.</p> <p>Other than the Indonesian Company Law, implementing provisions on corporation actions (merger and acquisitions, etc.) are governed under several government regulations. Currently, the Indonesian government has just issued Omnibus Law to provide further and more detailed governance on privately-owned companies, which are focusing on areas of business, e.g., oil and gas, financial services, etc. The applicability of the Indonesian Company Law (including its implementation regulations), as well as Omnibus Law, will also be dependent on the sectoral regulations governing specific areas of business. The sectoral regulations are generally issued by respective technical ministries having authority over the business, for example, the Ministry of Energy and Mineral Resources which oversees energy (including electricity), oil & gas, and mining activities.</p>
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C2. Capital

10 **What are the options available when looking to provide the entity with working capital? i.e., capital injection, loans etc.**

Under the prevailing Indonesian laws and regulations, the capitalization of a company may be originated from capital and loan. Further, based on the Indonesian Company Law, the capital of a company (from equity-based sources) consists of the followings:

- a) Authorized capital
- b) Issued capital
- c) Paid-up capital

Issued and paid-up capitals are essentially an integral part and shall be considered as real equity of the company, as they are injected into the company's account.

Other than equity/capital injection, Indonesian law also allows companies to gain loan/financing from financial institutions, e.g., banks by having the similar rules of banking services in other jurisdictions, including having a know-your-customer process, etc.

The loan given to companies shall depend on the financial condition of the bank and legal due diligence results prior to entering the loan documentation. It is also noteworthy that Indonesian laws also allow local/Indonesian companies to obtain an offshore loan with several additional obligations to Bank Indonesia (Indonesian central bank), particularly to regularly update their loan positions through reporting to Bank Indonesia.

In addition to the above, to obtain funding for working capital, Indonesian companies may also pursue other debt and/or equity instruments applicable. In principles, the debt instruments (aside from regular financing) can be in the form of medium-term notes or bonds depending on the debt period, whilst equity instruments (aside from capital injection) can be in form of limited or public shares offering, e.g., through collective investments and initial public offerings.

C3. Return of proceed

11 **What are the processes for returning proceeds from entities? i.e., dividends, returns of capital, loans etc.**

Dividends

A dividend is the distribution of profits to shareholders on a pro-rata basis. Dividends are usually paid in cash but can also be satisfied by the transfer of non-cash assets. Dividends as part of the company's net profit or profit are officially announced by the BOD after obtaining approval from the GMS to be distributed to the shareholders.

According to Article 71 paragraph (2) of the Indonesian Company Law, dividends that can be distributed to shareholders are:

- a) The entire net profit after deducting the allowance for reserves;
- b) However, this principle can be set aside based on the decision of the GMS.

Share buybacks

A share buyback is a purchase by a company of its own shares from a shareholder. According to Article 37 of the Indonesian Company Law, a company may buy back the shares under some conditions, as follows:

- a) The share buyback does not cause the net assets of the company to become less than the total issued capital plus statutory reserves that have been set aside; and
- b) The total par value of all the shares bought back by the company and the share pledges or fiduciary securities over shares held by the company itself and/or another company of which the shares are directly or indirectly owned by the company shall not exceed 10% of the total issued capital in the company unless stipulated otherwise under laws and regulations within the capital market sector.

The shares bought back by the company may only be held by the company for a maximum of three years.

Capital reduction

A reduction of capital occurs when a company reduces the amount of its share capital. The reduction can be performed to authorized, subscribed, and paid-up capitals. There are two options to reduce subscribed and paid-up capital according to Article 47 paragraph (1) of the Company Law, withdrawing shares or decreasing the par value of shares. The reduction of share capital should be approved by GMS. The capital reduction shall be approved by the Minister of Law and Human Rights.

C4. Shareholder rights

12 **Are specific voting requirements/percentages required for specific decisions?**

Voting requirements to hold a GMS

	<p>a) A GMS may be held if more than one-half of the total shares with voting rights are present or presented in the GMS, unless the Law and/or AOA sets out a higher quorum. A second GMS summons may be performed in the event of the quorum is not reached.</p> <p>b) The second GMS summons must state that the first GMS shall be valid and entitled to adopt resolutions if at least one-third of the total shares with voting rights are present or represented in the GMS unless the AOA sets out a higher quorum.</p> <p>Voting requirements to amend the AOA</p> <p>a) The GMS to amend the AOA may be held if at least two-thirds of the total shares with voting rights are present or represented in the GMS, and the resolution shall be valid if approved by at least two-thirds of the total cast votes.</p> <p>b) A second GMS shall be held if the attendance as referred to in point a is not reached.</p> <p>c) The second GMS shall be valid and entitled to adopt a resolution if at least three-fifths of the total shares with voting rights are present or represented in the GMS, and the resolution shall be valid if approved by at least two-thirds of the total cast votes.</p> <p>Voting requirements to approve merger, consolidation, acquisition, or separation, the submission of application for the company to be declared bankrupt, the extension of the duration of establishment, and the dissolution of companies (Article 89 of the Indonesian Company Law)</p> <p>a) The GMS to approve merger, consolidation, acquisition, or separation, the submission of application for the company to be declared bankrupt, the extension of the duration of establishment, and the dissolution of companies may be held if at least three-quarters of the total number of shares with voting rights are present or represented in the GMS, and the resolution shall be valid if approved by at least three-quarters of the total casted votes.</p> <p>b) A second GMS shall be held if the attendance of the quorum as referred to in point a is not reached.</p> <p>c) The second GMS shall be valid and entitled to adopt a resolution if at least two-thirds of the total shares with voting rights are present or represented in the GMS, and the resolution shall be valid if approved by at least three-quarters of the total cast votes.</p>
13	<p>Are shareholders authorized to issue binding instructions to the management? Are these rules the same for all entities? What are the consequences and limitations?</p> <p>Under Indonesian Company Law, shareholders of a company are part of the company’s organ where certain corporate actions must be approved by the shareholders.</p> <p>The limitations of shareholders must be in accordance with their capital participation in the company (a limited liability).</p>

C5. Employment

14	<p>What are the core employment law protection rules in your country (e.g., discrimination, minimum wage, dismissal etc.)?</p> <table border="1" data-bbox="215 1321 1300 1986"> <thead> <tr> <th data-bbox="215 1321 422 1377">Right/Protection</th> <th data-bbox="422 1321 1300 1377">Details</th> </tr> </thead> <tbody> <tr> <td data-bbox="215 1377 422 1848">National minimum wage</td> <td data-bbox="422 1377 1300 1848"> <p>Government Regulation No. 36 of 2021 on Remuneration (“GR 36/2021”) provides that minimum wages consist of (i) provincial; and (ii) regency/regional-based minimum wages with certain provisions. The minimum wages are set based on economic and labor conditions. The governor shall determine the provincial minimum wages, whereas the governor may also determine a regency/regional-based minimum wages with certain provisions, which are:</p> <ul style="list-style-type: none"> • The average economic growth of the regency/region over the last three years is higher than the provincial average economic growth; or • The result of economic growth minus inflation of the regency/region over the last three years is always positive and higher than the provincial score. <p>In light of the above, it is noteworthy that each employer is prohibited from paying wages less than the minimum wage prescribed for each province or regency/region. However, Law No. 11 of 2020 on Job Creation (commonly known as “Omnibus Law”) exempts the minimum wage requirement for micro and small enterprises. Wages for micro and small enterprises are determined based on an agreement between the employer and the employee.</p> </td> </tr> <tr> <td data-bbox="215 1848 422 1986">Holiday</td> <td data-bbox="422 1848 1300 1986"> <p>The Article 79 of the Law No. 13 of 2003 as amended by the Omnibus Law (Indonesian Employment Law [IEL]) provides that every employee is entitled to take an annual leave. The number of annual leave days granted to an employee who has been working for 12 consecutive months in one year is at least 12 days.</p> </td> </tr> </tbody> </table>	Right/Protection	Details	National minimum wage	<p>Government Regulation No. 36 of 2021 on Remuneration (“GR 36/2021”) provides that minimum wages consist of (i) provincial; and (ii) regency/regional-based minimum wages with certain provisions. The minimum wages are set based on economic and labor conditions. The governor shall determine the provincial minimum wages, whereas the governor may also determine a regency/regional-based minimum wages with certain provisions, which are:</p> <ul style="list-style-type: none"> • The average economic growth of the regency/region over the last three years is higher than the provincial average economic growth; or • The result of economic growth minus inflation of the regency/region over the last three years is always positive and higher than the provincial score. <p>In light of the above, it is noteworthy that each employer is prohibited from paying wages less than the minimum wage prescribed for each province or regency/region. However, Law No. 11 of 2020 on Job Creation (commonly known as “Omnibus Law”) exempts the minimum wage requirement for micro and small enterprises. Wages for micro and small enterprises are determined based on an agreement between the employer and the employee.</p>	Holiday	<p>The Article 79 of the Law No. 13 of 2003 as amended by the Omnibus Law (Indonesian Employment Law [IEL]) provides that every employee is entitled to take an annual leave. The number of annual leave days granted to an employee who has been working for 12 consecutive months in one year is at least 12 days.</p>
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<p>Working hours</p>	<p>Working hours limitations are stipulated in Article 77 of the IEL, which provides that the employee is allowed to work for seven hours per day and 40 hours per week on six working days in a week or eight hours per day and 40 hours per week on five working days in a week.</p>
<p>Rest periods</p>	<p>Daily and weekly rest</p> <p>All employees are entitled to rest in order to maintain their performance. Based on Article 79 of the IEL, employers are obliged to give daily and weekly rest periods to their employees.</p> <p>Required rest periods consist of the following:</p> <ul style="list-style-type: none"> • The rest period during working hours is at least half an hour after the employee has worked for four consecutive hours; this rest period is not included in working hours; • The weekly rest period is one day after six working days in a week or two days after five working days in a week. <p>Ultimately, the implementation of daily and weekly rest periods is regulated in the employment agreement, company regulations, or collective labor agreement.</p>
<p>Pension rights</p>	<p>Employees are entitled to receive an old-age benefit, in the form of lump-sum cash payment, when they reach the statutory retirement age of 57 (and then rising by one year every three years until reaching age 65 in 2043). Employees are eligible to receive an old age benefit even though they continue their employment. They may choose to receive the old-age benefit when they reach the retirement age, or they may defer the benefit for no more than three years after reaching retirement age.</p> <p>Pension benefits</p> <p>Pension benefits consist of regular payments to participants or their beneficiaries, after the employee retires, suffers a permanent total disability, or dies. Pension benefits include the following:</p> <ul style="list-style-type: none"> • Old-age pension, received by the participant on retirement until death; • Disability pension, received by a disabled participant due to an accident or illness until death; • Widow/widower pension, received by a participant’s widow/widower until death or remarriage; • Children’s pension, received by a participants’ child until the child reaches the age of 23, begins working, gets married; or • A parent’s pension is received by a participant’s parent until a certain time limit in accordance with the regulations. <p>Pension participants may begin receiving payments only after they satisfy the following conditions:</p> <ul style="list-style-type: none"> • They have been enrolled in the program for at least 15 years or 180 months; and • They have reached the statutory retirement age of 57 as of 1 January 2019 (increasing by one year every three years until reaching age 65). <p>Employer-provided benefits</p> <ul style="list-style-type: none"> • In addition to social security benefits, a retiring employee is entitled to severance payments, service payments, and compensation payments set out in the IEL.
<p>Discrimination</p>	<p>The principle of equal treatment requires that all people, and in the context of the workplace all workers, have the right to receive the same treatment, and will not be discriminated due to reasons such as age, disability, nationality, race, and religion. This equal treatment principle has particular application in Indonesia due to its diversified population.</p>
<p>Maternity leave/pay</p>	<p>Article 82 of the IEL prescribes that female employees are entitled to one and a half months’ leave before the time they are estimated by an obstetrician or a midwife to give birth and another one and a half months’ leave thereafter.</p> <p>Female employees who have a miscarriage are entitled to have a period of leave of one and a half months’ or a period of leave as stated in the medical statement issued by the obstetrician or midwife.</p> <p>Female employees who take leave for the above reasons are entitled to receive a full salary.</p>

Paternity leave	The IEL provides two days of paid leave for paternity leave.										
Shared parental leave	The IEL does not specifically regulate the shared parental leave.										
Statutory sick pay	<p>Employers must provide continuous leave to employees who are ill if they provide a written statement from their doctor. The wages payable during a period of sick leave are as follows:</p> <table border="1" data-bbox="443 501 1235 775"> <thead> <tr> <th>Period of Absence</th> <th>Percentage of Wages</th> </tr> </thead> <tbody> <tr> <td>First four months</td> <td>100%</td> </tr> <tr> <td>Second four months</td> <td>75%</td> </tr> <tr> <td>Third four months</td> <td>50%</td> </tr> <tr> <td>Subsequent months</td> <td>25%</td> </tr> </tbody> </table>	Period of Absence	Percentage of Wages	First four months	100%	Second four months	75%	Third four months	50%	Subsequent months	25%
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Statutory notice periods	<p>Employees who are resigning are obliged to inform the employers in writing at least 30 days before the resignation date.</p> <p>However, the employer may impose a notice period requirement for more than one month, subject to the agreement in the employment contract or provision under the company regulation.</p>										
Unfair dismissal	<p>An employer may not terminate an employment relationship for any of the following reasons:</p> <ul style="list-style-type: none"> • The employee is prevented from attending work due to illness based on a doctor’s statement for a period not exceeding 12 consecutive months; • The employees are prevented from carrying out their work due to fulfilment of state duties in accordance with the provisions of the prevailing laws and regulations; • The employees perform religious duties prescribed by their religion; • The employee gets married; • A female employee is pregnant, gives birth, has a miscarriage, or is nursing her infant; • The employee has blood and/or marital relationship with another employee in the same company; • The employee establishes, becomes a member of, and/or the management of a labour union; or an employee conducts activities for a labor union outside working hours or during working hours with the agreement of the employer or pursuant to provisions regulated by an employment agreement, company regulations, or collective labor agreement; • The employee reports the employer to the authorities for a criminal act committed by the employer; • Based on differences in ideology, religion, political affiliation, ethnic group, skin color, group, gender, physical condition, marital status; or • The employee is permanently disabled, injured due to a work accident, or injured due to the employment relationship where, based on a doctor’s statement, the required recovery period cannot be predicted. <p>Any termination of employment that takes place for these reasons is void, and the employer must re-employ the employee.</p>										
Statutory redundancy payment	The IEL provides two days of paid leave for paternity leave.										
Statement of particulars	The IEL does not specifically regulate the shared parental leave.										

15 **On what basis can an employee be dismissed in your country, what process must be followed and what are the associated costs? Does this differ for collective dismissals and if so, how?**

	<p>The IEL does not differentiate between individual dismissal or collective dismissal. Termination of employment in Indonesia can be initiated by the employer through dismissal or by the employee through resignation. In the event of termination, the employer shall pay a severance package with the amount in accordance with the reason for termination and the formula as determined under the IEL to the terminated employee.</p> <p>In principle, the employer, the employee and/or the labor union, and the government must make all efforts to prevent termination of employment, and that termination may only occur after all efforts to prevent it have failed.</p> <p>If all efforts to prevent termination fails, the termination of employment must be negotiated between the employer and the labor union (where the affected employee is a member), or between the employer and the affected employee (if the employee is not a labor union member). Should the negotiation fail, the employer may only terminate the employment after receiving a decision from the Industrial Relations Dispute Settlement Court.</p> <p>Basis of employment termination under the Omnibus Law and its implementing regulation that came into effect on 2 February 2021, namely Government Regulation No. 35/2021 on Fixed Term Employment Agreement, Outsourcing, Working Hours and Rest Hours, and Employment Relationship Termination (“GR 35/2021”), is as follows:</p> <ul style="list-style-type: none"> a) Employee’s death; b) Expiration of Employment Contract for a Specified Period of Time (Perjanjian Kerja Waktu Tertentu); c) Employee is detained for committing a crime; d) Employee violation of the employment agreement, collective labor agreement (perjanjian kerja bersama [PKB]), and company regulation (peraturan perusahaan [PP]); e) Employee absence for five days with two formal summons; f) Continual losses for two consecutive years; g) Force majeure; h) Efficiency; i) Bankruptcy; j) Suspensions of debt payment obligations; k) Retirement; l) Corporate action (i.e., merger, acquisition, consolidation or spin-off); m) Employee’s resignation; n) Employee’s request for termination due to employer action; o) Employee’s lengthy illness; and p) Other causes as determined under an employment agreement, PKB, or PP. <p>Furthermore, in relation to the termination of the employee, it is noteworthy that the employer shall notify the employee in writing at least 14 days before the termination date of the objectives and reasons for termination. If the employee refuses the termination both the employer and the employee may carry out amicable negotiations.</p>
<p>16</p>	<p>Does your jurisdiction have a system of employee representation/participation (e.g., works councils, co-determined supervisory boards, trade unions etc.)? Are there entities which are exempt from the corresponding regulations?</p> <p>The IEL recognizes a labor union as an employee representation.</p> <p>In Indonesia, labor unions are regulated by Law No. 21 of 2000 concerning Labor Unions (“Labor Union Law”). The fundamental basis for the enactment of the Labor Union Law is that the employee as a citizen has the right to freedom of association and equal treatment before the law, which in this context includes the right to form and participate in labor unions.</p> <p>Under the Labor Union Law, a labor union is defined as an organization that is established by and for employees and which is free, open, independent, democratic, and responsible to fight, defend, and protect the rights and interests of employees and improve the welfare of employees and their families.</p> <p>A labor union can be formed by employees within a particular enterprise or by employees who do not work at an enterprise. More than one labor union can collaborate to form a labor union federation. Moreover, more than one labor union federation can collaborate to form a confederation of labor unions.</p>
<p>C6. Anti-corruption/bribery/money laundering/supply chain</p>	
<p>17</p>	<p>Is there a system governing anti-bribery or anti-corruption or similar? Does this system extend to nondomestic constellations, i.e., have extraterritorial reach?</p> <p>Yes, it is regulated under Law Number 31 of 1999 on Eradication of Criminal Acts of Corruption as lastly amended by Law Number 20 of 2001. The law also has an extraterritorial reach. For example, any person outside of the territory of Indonesia who provides assistance, opportunity, or information for the occurrence of a corruption act shall be subject to the same punishment as the perpetrator. In addition, any gratification received outside of the Indonesian territory shall also be subject to the law.</p>
<p>18</p>	<p>What, if any, are the laws relating to economic crime? If such laws exist, is there an obligation to report economic crimes to the relevant authorities?</p>

	<p>In Indonesia, economic crime is regulated under Emergency Law Number 7 of 1955 on Investigation, Prosecution, and Justice of Economic Crimes and its amendments. However, there are various criminal acts in the field of economics which are regulated by other laws and regulations. Such as Law Number 31 of 1999 on Eradication of Criminal Acts of Corruption as lastly amended by Law Number 20 of 2001 (Corruption Law), and Law Number 7 of 1992 on Banking as lastly amended by Law No. 11 of 2020 (Banking Law). Under Law Number 8 of 2010 on Prevention and Eradication of The Crime of Money Laundering (Money Laundering Law), there is also an obligation to report economic crimes to the relevant authorities (e.g., Indonesian Financial Transaction Report and Analysis Centre (Pusat Pelaporan dan Analisis Transaksi Keuangan [PPATK])). Whereas PPATK was established in 2003 to prevent money laundering in Indonesia. The PPATK receives and analyses suspicious transaction reports, cash transaction reports, and other information as well as distributes its findings to law enforcement agencies.</p>
19	<p>How is money laundering and terrorist financing regulated in your jurisdiction?</p> <p>Money laundering and terrorist financing are regulated under Law Number 8 of 2010 on Prevention and Eradication of The Crime of Money Laundering. Whereas the law targeted any person (or corporation) who places, transfers, assigns, spends, pays, grants, deposit, take abroad, change the form, exchange for currency or securities or other actions on assets which he knows or should reasonably suspect is the result of crime as in the purpose of concealing or disguising the origin proposed assets, including those intended for criminal acts of terrorism.</p>
20	<p>Are there rules regulating compliance in the supply chain (for example comparable to the UK Modern Slavery Act, the Dutch wet kinderearbeid, the French loi de vigilance)?</p> <p>It should be noted there is no specific regulation in Indonesia that governs the supply chain. However, the following regulations might be comparable to Slavery Act, e.g., Law Number 21 of 2007 on Eradication of The Crime of Human Trafficking, Law Number 13 of 2003 on Employment as lastly amended by Law Number 11 of 2020, and Law Number 23 of 2002 on Child Protection as lastly amended by Law Number 35 of 2014.</p>

C7. Compliance

21	<p>Please describe the requirements to prepare, audit, approve and disclose annual accounts/annual financial statements in your jurisdiction.</p> <p>Based on the Indonesian Company Law, a financial statement shall be submitted along with the annual report by the BOD of the company to the GMS that consist of at least a year-end balance sheet of the preceding year with a year-end balance sheet of the previous year as comparison, the profit and loss statement of the same preceding year, cash flow report, and statement of changes in equity, as well as notes to the financial statements.</p> <p>The Financial Statement shall be prepared on the basis of the Final Accounting Standards. Meanwhile, the balance sheet and profit and loss statement of the same proceeding year for a company that is subject to audit must be submitted to the Minister under the laws and regulations.</p> <p>The BOD must submit the financial statement of the company to a public accountant for audit if:</p> <ol style="list-style-type: none"> The line of business of the company is raising and/or managing public funds; The company issues acknowledgments of indebtedness to the public; The company is a publicly-held company; The company is a state-owned limited liability company; The company owns assets and/or turnover of at least IDR 50 billion; or Required by the laws and regulations. <p>If the financial statement that is prepared proves false and/or misleading, members of the BOD and members of the BOC shall be jointly and severally liable to the aggrieved parties.</p>
22	<p>Please detail any corporate/company secretarial annual compliance requirements.</p> <p>Pursuant to Article 32 paragraph (7) BKPM Regulation No. 5 of 2021, PMA Companies are required to file Investment Report (Laporan Kegiatan Penanaman Modal) on a quarterly basis through OSS System, with the following deadlines:</p> <ol style="list-style-type: none"> Quarter 1: 10 April in the relevant year; Quarter 2: 10 July in the relevant year; Quarter 3: 10 October in the relevant year; and Quarter 4: 10 January in the subsequent year. <p>Further, companies, in general, are also required to submit Manpower Report (Wajib Lapor Ketenagakerjaan Perusahaan) annually every December, as regulated under Article 5 paragraph (3) of Ministry of Manpower Regulation No. 18 of 2017.</p> <p>In addition, companies may be required to submit additional corporate/company secretarial annual compliance requirements under the regional regulation (e.g., an obligation for companies in Jakarta to submit the Welfare Facility Report (Wajib Lapor Fasilitas Ketenagakerjaan) in accordance with the Jakarta Province Government through Jakarta Province Regulation No.6 of 2004.</p>

<p>23</p>	<p>Is there a requirement for annual meetings of shareholders, or other stakeholders, to be held? If so, what matters need to be considered and approved at the annual shareholder meeting?</p> <p>Based on the Indonesian Company Law, an annual GMS must be held within six months of the conclusion of the accounting year of the company as stated in the AOA of the respective company. During the annual GMS, the BOD shall submit an annual report that must contain at least:</p> <ul style="list-style-type: none"> a) A financial statement that consists of at least a year-end balance sheet of the proceeding year with a year-end balance sheet of the previous year as comparison, the profit and loss statement of the same proceeding year, cash flow report, and statement of changes in equity, as well as notes to the financial statements; b) A report on the activities of the company; c) A report on the implementation of corporate social and environmental responsibility; d) Detailed issues arising during the accounting year that affect the line of business of the company; e) A report on the supervising duties that have been performed by the BOC during the preceding year; f) The names of members of the BOD and members of the BOC; g) Salaries and allowances of the members of the BOD, and salaries or honorariums and allowances of the members of the BOC of the company in the preceding year. <p>The annual report shall be signed by all members of BOD and BOC who are in office in the relevant accounting year and shall be made available at the office of the company for the date of the notice of the GMS for examination by the shareholders.</p> <p>The approval for the annual report, including ratification of a financial statement as well as a report on the supervising duties of the BOC shall be made by the annual GMS in accordance with the Indonesian Company Law and/or the Articles of Association.</p>
<p>24</p>	<p>Are there any reporting/notification/disclosure requirements on beneficial ownership/ultimate beneficial owners (“UBO”) of entities? If yes, please briefly describe these requirements.</p> <p>Based on Presidential Regulation No. 13 of 2018 on the Application of the Principle of Recognizing the Beneficial Owner of Corporations in the Context of Prevention and Eradication of Money Laundering and Terrorism Financing Crimes requires UBO registration for corporations which in this case includes Limited Liability Companies.</p> <p>Such information must be submitted to the authorized institution through the Corporate Service Administration System. UBO information must be updated and updated annually. Authorized agencies mentioned above are further clarified by Regulation of the Minister of Law and Human Rights No. 15 of 2019 on Procedures for Implementing the Principle of Recognizing the Beneficial Owners of Corporations, that Corporations must submit accurate information regarding UBO to the Minister of Law and Human Rights.</p>

C8. Tax

<p>25</p>	<p>What main taxes are businesses subject to in your jurisdiction, and on what are they levied (usually profits), and at what rate?</p> <p>Based on the Indonesian tax regulations, the main taxes applied to companies doing business in Indonesia are corporate income tax (CIT), branch profit tax, withholding tax (WHT), value added tax (VAT), and luxury-goods sales tax (SLT), as well as various other indirect levies, such as a tax on land and buildings, regional taxes, and stamp-duty.</p> <p>Set out below the applicable rate based on Indonesia Tax Regulations:</p> <table border="1" data-bbox="215 1388 1324 2051"> <thead> <tr> <th colspan="2">Indonesia quick tax facts for companies</th> </tr> </thead> <tbody> <tr> <td>CIT rate</td> <td>FY 2019: 25% FY 2020 and FY 2021: 22% FY 2022 and thereafter: 20%</td> </tr> <tr> <td>Branch profit tax rate</td> <td>20%</td> </tr> <tr> <td>Capital gains tax rate</td> <td>0.1% - 25%</td> </tr> <tr> <td>Basis</td> <td>Worldwide, with certain exemptions for dividends and business profits</td> </tr> <tr> <td>Participation exemption</td> <td>Yes</td> </tr> <tr> <td colspan="2">Loss relief</td> </tr> <tr> <td>Carryforward</td> <td>Five Years</td> </tr> <tr> <td>Carryback</td> <td>No</td> </tr> <tr> <td>Double taxation relief</td> <td>Yes</td> </tr> <tr> <td>Tax consolidation</td> <td>No</td> </tr> <tr> <td>Transfer pricing rules</td> <td>Yes</td> </tr> </tbody> </table>	Indonesia quick tax facts for companies		CIT rate	FY 2019: 25% FY 2020 and FY 2021: 22% FY 2022 and thereafter: 20%	Branch profit tax rate	20%	Capital gains tax rate	0.1% - 25%	Basis	Worldwide, with certain exemptions for dividends and business profits	Participation exemption	Yes	Loss relief		Carryforward	Five Years	Carryback	No	Double taxation relief	Yes	Tax consolidation	No	Transfer pricing rules	Yes
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	Thin capitalization rules	Yes
	Controlled foreign corporation rules	Yes
	Tax year	Calendar year or accounting/financial year
	Advance payment of tax	Yes
	Income tax return due date	The end of the fourth month after the tax year ends, can be extended for a maximum of two months from the original deadline by submitting a notification to the Directorate General of Tax.
	Withholding tax	
	Dividends	20% (nonresident); 10%/exempt (resident)
	Interest	20% (nonresident); 15%/20% (resident)
	Royalties	20% (nonresident); 15% (resident)
	Technical service fee	20% (nonresident); 2% (resident)
	Branch profit tax	20%
	Capital tax	No
	Social security contributions (employer contribution)	0.24% - 4%
	Land and building tax	0.3% - 0.5%
	Land and building acquisition duty	5%
	Transfer tax	0.1% (transfer of shares listed on Indonesian stock exchange); 5% (transfer of shares in non-listed resident company by a nonresident); 0%/0.5%/1.0%/2.5% of gross proceeds (transfer of land and/or buildings)
	Tax on founder shares at initial public offering	0.5%
	Stamp duty	IDR 3,000/IDR 6,000 (IDR10,000 from 2021)
	VAT	10%
26	<p>Are there any particular incentive regimes that make your jurisdiction attractive to businesses from a tax perspective (e.g., tax holidays, incentive regimes, employee schemes, or other)?</p> <p>i. Reduction of corporate income tax facility ("Tax Holiday") Tax Holiday facility will be granted to any Indonesian legal entity (including PMA Companies) having new investment (either by way of setting up a new company or by the expansion of business). Based on Minister of Finance Regulation Number 130/PMK.010/2020 on the Implementation of Tax Holiday Facility, new investment in certain Pioneer Industry is eligible to apply for the corporate income tax reduction (tax holiday) facility. The facilities are as follows: a) 50% reduction of CIT for the period of five years for an investment of IDR 100 billion up to less than IDR 500 billion, with a 25% reduction in CIT for two years after the end of the tax holiday period; and b) 100% reduction of CIT with 50% reduction in CIT for two years after the end of the tax holiday period.</p> <p>ii. Tax allowance Tax allowance facilities may be granted to Indonesian legal entities (including PMA Companies) having new investment (either by way of setting up a new company or by the expansion of business) that: a) Falls within a certain line of business as listed in Attachment I of GR 78/2019; or b) Falls within a certain line of business and is located in a certain location as listed in Attachment II of GR 78/2019. Furthermore, the new business must also (i) have a high investment value or export value; (ii) absorb a significant amount of employees; or (iii) have high local content.</p> <p>iii. Super tax deduction facility For a taxpayer that does not obtain a tax holiday or tax allowance facility, a "super tax deduction facility" is available for the following business activities or expenditures:</p>	

	<p>a) New capital investment or business expansion in labor-intensive industries.</p> <p>b) Apprenticeship, internship, and/or learning programs in human resources development.</p> <p>c) Research and development-related activities.</p> <p>iv. Special economic zone Taxpayers in special economic zones (Kawasan Ekonomi Khusus [SEZ]) investing in main business sectors can apply for a tax holiday facility. However, the requirements for the tax holiday facility in SEZ are subject to further implementing regulations. A tax allowance facility is also available for investments in SEZ in:</p> <p>a) Business activities that are not granted with tax holiday facility; and</p> <p>b) Business activities apart from the main business sector.</p> <p>v. Bonded storage Bonded storage is a building, a site, or a zone that meets certain requirements and is used to store goods for certain purposes and to obtain customs facilities.</p> <p>vi. Master list facility Import of machinery, goods, and materials made by a company that conducts development or expansion of industry in the context of industry or certain service industry can be granted with import duty exemption. The import duty exemption facility for the import of machinery, goods, and materials shall be issued by the BKPM.</p>
27	<p>Are there any impediments/tax charges that typically apply to the inflow or outflow of capital to and from your jurisdiction (e.g., withholding taxes, exchange controls, capital controls, etc.)?</p> <p>Yes, please refer to our table in the question No. 25 above.</p>
28	<p>Are there any significant transfer taxes, stamp duties, etc. to be taken into consideration?</p> <p>Commencing from 2021, a single stamp duty rate of IDR 10,000 is applicable.</p>
<h2>C9. M&A</h2>	
29	<p>Are there any public takeover rules?</p> <p>Yes. Acquisitions of Indonesian public companies – known as “public companies” or perusahaan terbuka (which have the “Tbk.” suffix attached to their corporate name) are subject to regulations promulgated by Indonesia’s capital markets regulator (from 1 January 2013, Indonesia’s Financial Services Authority (Otoritas Jasa Keuangan [OJK]) (i.e., OJK Regulation No. 9 of 2018 on Acquisition of Public Company) and, for listed companies, the rules of the Indonesia Stock Exchange. By statute, a public company is defined as a company that has at least 300 shareholders and issued capital of at least IDR 3 billion, or such other number of shareholders and issued capital that may be stipulated in government regulations.</p> <p>Acquisition of a public company also must comply with the Indonesian Company Law to the extent applicable to public companies. As is the case for private companies, additional regulatory requirements may apply in the case of acquisition of a company in a regulated sector, such as banking, insurance, or oil and gas exploration and production.</p>
30	<p>Is there a merger control regime and is it mandatory/how does it broadly work?</p> <p>Under the Indonesian Company Law, the merger of limited liability companies is possible where one or more companies are merged into a single surviving company (with the simultaneous dissolution of the other company or companies). In consolidation, two or more companies merge into a new entity and each of the original companies is dissolved in an acquisition, and an individual or legal entity takes over all or most of the shares of a company, resulting in a transfer of control.</p> <p>In terms of the merger of a limited liability company, approval is required from the shareholders of the company which can be obtained by way of general meeting of shareholders of the company and conveyed to the notary deed in Bahasa Indonesia, and submit it to the Ministry of Laws and Human Rights of the Republic of Indonesia.</p> <p>Furthermore, there is a requirement for an announcement shall be made to the public through at least one national newspaper and employees of the company that will conduct a merger within a maximum period of 30 days prior to the invitation of a general meeting of shareholders. Subsequently, there is 14 days period as of the public announcement date on such merger, wherein, the creditor may submit an objection to the company that will conduct the merger and unless the creditor’s objection has been resolved, then, such company cannot continue the process of such merger.</p>
31	<p>Is there an obligation to negotiate in good faith?</p> <p>In terms of the acquisition of a public company, it is typically preceded by negotiations between the potential acquirer and either the controlling party of the target (in the case of an acquisition of existing shares) or the BOD of the target (in the case of an acquisition of</p>

	<p>newly issued shares).</p> <p>A prospective acquirer who commences such negotiations to acquire a public company is required to make an announcement in at least one nationally circulated Indonesian language newspaper or the IDX website and to convey such announcement directly to the target company, OJK, and, if the company is listed, the IDX.</p> <p>In terms of the acquisition of a limited liability company, there will require approval from the shareholders of the company. It can be obtained by way of the GMS of the company and conveyed to the notary deed in Bahasa Indonesia and submit it to the Ministry of Laws and Human Rights of the Republic of Indonesia.</p> <p>However, it is noteworthy to take into account that there are divided into two share sales in a limited liability company, such as (i) transfer of shares which is applicable for the minor shares of the company and shall not affect to the major control of such company, whereas (ii) acquisition, such action will affect the direct change of control of such company. In case of acquisition, an announcement shall be made to the public (through at least one national newspaper and employees of the target company within a maximum period of 30 days prior to the invitation of the general meeting of shareholders. Subsequently, there is 14 days period as of the public announcement date on such acquisition, wherein, the creditor may submit an objection to the target company, and unless the creditor's objection has been resolved, the target company cannot continue the process of such acquisition.</p>
<p>32</p>	<p>What protections do employees benefit from when their employer is being acquired, for example, are there employee and/or employee representatives' information and consultation or co-determination obligations, and what process must be followed? Do these obligations differ depending on whether an asset or share deal is undertaken?</p> <p>In the event of corporate restructuring, it is mandatory, based on Article 127 paragraph (2) of the Indonesian Company Law, for the company to announce at least in one national newspaper and inform the relevant employees in writing regarding the proposed corporate restructuring at least 30 days before the GMS.</p> <p>Under GR 35/2021, in the event of a merger, consolidation, or spin-off, and the employer or employee does not want to continue the employment relationship, the employee is entitled to receive a severance package consisting of severance pay, service pay, and remuneration pay.</p> <p>In the event of an acquisition that triggers a change of employment terms and conditions, and the impacted employee does not want to continue the employment relationship, the employer may terminate the employment relationship and pay the impacted employee with a severance package consisting of severance pay, service pay, and remuneration pay.</p>
<p>C10. Foreign direct investment</p>	
<p>33</p>	<p>Please detail any foreign direct investment restrictions, controls or requirements. For example, please detail any limitations, notifications and/or approvals required for corporate acquisitions.</p> <p>Investment restriction depends on the business activity performed, which shall be classified under the Indonesian Standard Industrial Classification (KBLI) which describes every business activity in different codes. Every KBLI code has a different limitation of foreign shares ownership as stipulated in the prevailing laws and regulations.</p> <p>In the event the KBLI code that will be selected is not specifically stated in the laws and regulations, then it may potentially be opened to 100% for foreign investment (however, there are several KBLI codes specifically allocated for Micro, Small, and Medium Enterprises). It is noteworthy that PMA Company is classified as a Large-Scale business and there is a requirement for PMA Company to comply with a minimum paid-up capital, in the amount of IDR 10 billion.</p> <p>By this time, there is no restriction on foreign controls on certain positions since it has been revoked by the Omnibus Law.</p>
<p>34</p>	<p>Does your jurisdiction have any exchange control requirements?</p> <p>Individuals departing from Indonesia with cash and/or other forms of payment instrument with a value of at least IDR 100 million (or the equivalent in any foreign currency) must notify the Indonesian customs and excise authority. Individuals entering Indonesia with cash and/or other forms of payment instrument with a value of at least IDR 100 million (or equivalent in any foreign currency) must notify the Indonesian customs and excise authority, and, upon arrival, enter the red line (Jalur Merah), subject to physical checks by the customs and excise authority. In addition, individuals are prohibited to carry foreign currency more than (the equivalent of) IDR 1 billion.</p> <p>Indonesia does not prohibit the transfer of funds to or from foreign countries. However, for transfers/remittances from Indonesia of US\$100,000 or more (or the equivalent in any foreign currency), the person undertaking the transaction or remittance must provide underlying documentation, that will be provided to Bank Indonesia by the relevant bank). All cash or non-cash transactions carried out in</p>

Indonesia, by residents or nonresidents, must use IDR. Exemptions may apply to certain transactions in the framework of implementing the state budget, the acceptance or provision of grants (hibah) from or to an overseas party, international trade transactions, foreign currency bank deposits, and international financing transactions.

D. Entity closure

35 **What are the most common ways to wind up/liquidate/dissolve an entity in your jurisdiction? Please provide a brief explanation of the process.**

In general, winding up of a company by way of liquidation may occur as the result of one or more of the following events:

- i. Approval by the shareholders through the GMS;
- ii. The expiry of a pre-determined period of incorporation determined in the AOA;
- iii. Court order, which can be made based on the request from:
 - a. The public prosecutor(s), on grounds that the company has violated the public interest, or the company has committed an action that violated the prevailing laws and regulations;
 - b. A relevant party, based on the basis that there are legal flaws in the company's AOA; and
 - c. The shareholders, the BOD, or the BOC based on grounds that it is not possible to continue the company's business;
- iv. Withdrawal of its bankruptcy status based on a commercial court verdict having permanent and binding legal force, where the bankrupt company's assets are insufficient to pay the costs of bankruptcy;
- v. The company enters into a state of insolvency as referred to in the Bankruptcy Law; and
- vi. A revocation of the company's business permits that required the company to be liquidated in accordance with the prevailing laws and regulations.

Article 142 (2) of the Indonesian Company Law provides that the winding up of a company must be followed with liquidation by a Liquidator. Prior to the liquidation process, the JV Co must convene a GMS approving the proposed liquidation and the appointment of a liquidator. Liquidation of the company is effectively ongoing from the approval by the GMS until the liquidation process is complete, and the accountability of the Liquidator (as evidenced by the Liquidator's report) is accepted by the GMS. Under the Indonesian Company Law, there are three announcements shall be made including the outcome of the liquidation process will be finally announced in the newspaper as required under Article 153 (3) of the Indonesian Company Law.

The Indonesian Company Law sets out the procedures for liquidation, which include the appointment of a Liquidator, treatment of the company's assets under liquidation, terms and conditions of liquidation, documentary requirements, applicable sanctions, and rights and obligations of the company under liquidation, all of which must be followed by the company to complete the liquidation process.

The liquidation of a company will not cause the company to lose its status as a legal entity (a statutory body) until the liquidation process is complete as described above. During the liquidation, the Liquidator will gather the company's assets, assess, and determine the company's liabilities, e.g., indebtedness, obligations, and any claim against it. All management duties of the company will be transferred to the Liquidator, and the company under liquidation is not allowed to perform any legal acts except such acts that are required to settle its assets in the liquidation process.

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