

## Letters from the Editors

2016 got off to a distressing start for Indonesia, as a deadly terror attack unfolded on Jakarta's Jl. Thamrin on January 14<sup>th</sup>. The attack resulted in a number of casualties, while the Indonesian Stock Exchange suffered a minor dive as the nation's capital-market transactions took a hit. This decline proved to be short lived however, just as many experts had predicted, and the temporary jitters shown by investors in the wake of the attack soon calmed down.

January also saw the official inauguration of the ASEAN Economic Community (AEC). In spite of the fact that the original AEC Blueprint was signed some nine years ago now, the Indonesian public still seems barely cognizant of what the country is about to face, as the region starts to open up competitively. Moreover, at a governmental level, little in the way of new regulations has been formulated as a response to the challenges thrown up by the new AEC. To be strictly accurate, the government has issued several regulations aimed at deregulating provisions on imports and exports, licensing, industry and so forth. However these regulations were issued under the framework of the Widodo administration's economic-policy packages, as opposed to being specifically geared towards this new era of regional integration.

From mid-December 2015 until mid-January 2016, a number of new regulations aimed at business were issued by the government, including several new government regulations on forestry aimed at accelerating the development of non-forestry industry in forested areas. These new regulations should ultimately have a positive contribution to make to the national economy. Other much discussed government regulations relate to water utilization and the country's drinking-water supply system. These regulations finally offer certainty to water businesses following the annulment of Law No. 7 of 2014 on Water Resources by the Constitutional Court.

Moving on to the world of finance, the Financial Services Authority (OJK) has put pedal to the metal of late and has issued a whole raft regulations covering joint-venture capital companies, public companies, and the banking sector. More than 20 regulations were issued just before the end of 2015, most of which set out basic provisions on several types of financial-service institution.

In stark contrast with the OJK's recent frenzy of activity, the poor performance of parliament as regards its legislative program has come in for a lot of criticism. Indeed, only one single new piece of legislation ended up being passed in 2015, while the House has yet to determine the list of draft bills that will be deliberated under the 2016 National Legislation Program. The Legislation Board at the House has proposed 40 draft bills for incorporation into the 2016 National Legislation Program, however to date there has been no sign of approval being granted by the House.

This edition of Monthly Law Review encompasses some 84 regulations that we have classified into "General Corporate", "Energy and Natural Resources", "Trade", "Taxation", and "Financial Services", as well as a section for regulations that evade easy categorization, and which we have therefore titled "Miscellaneous".

## GENERAL CORPORATE

1. Financial Service Authority (Otoritas Jasa Keuangan - "OJK") Regulation [No. 60/POJK.04/2015](#) on Information Disclosure for Certain Shareholders

Enforcement date: 29 December 2015

Summary:

- Issuers and public companies must disclose any changes in the composition of a company's shares to the OJK. This obligation applies to a company's BoD, as well as any shareholders owning 5% or more stakes in the company.
- The transaction (transfer of shares) must be reported within 10 days of being carried out and the report must contain the following necessary information: 1) name, domicile and citizenship of the parties involved (buyer and seller); 2) volume of transacted shares; 3) share-purchase price; 4) date of transaction; 5) purpose of transaction.
- Non-compliance with this obligation will result in administrative sanctions being imposed (written warnings, fines, business limitations or suspensions, license revocations and cancellation of approvals or registrations; as well as other measures deemed necessary by the OJK).

2. Minister of Trade Regulation [No. 116/M-DAG/PER/12/2015 of 2015](#) on the Amendment to Regulation [No. 37/M-DAG/PER/9/2007](#) on Organizing Company Registration

Enforcement date: 23 December 2015

Summary:

- The Minister of Trade's authority to organize Company Registrations has now been delegated to the Chairman of the Capital Investment Coordinating Board (*Badan Koordinasi Penanaman Modal - "BKPM"*), specifically as regards foreign investment that meets the following criteria: has a minimum investment value of IDR 100 billion and/or employs at least 1000 members of the Indonesian workforce.
- The Minister may retract this delegation based on a BKPM request and/or if the BKPM is deemed unable to implement the delegated authority.
- Company Registration processing will utilize an online system organized by the Ministry of Trade.

3. Minister of Finance Regulation [No. 253/PMK/08/2015](#) on Procedures for Granting Guarantees for the Acceleration of Toll-Road Construction in Sumatra

Enforcement date: 31 December 2015

Summary:

- A guarantee is given in the form of a Government Letter of Guarantee signed by the Minister and addressed to a Creditor (a financial institution providing a loan to PT. Hutama Karya ("HK") for the purpose of toll-road construction in Sumatra. The guarantee is valid from the date of signing until all HK obligations have been fulfilled.
- If HK is unable to fulfill its obligations to the Creditor, then the Creditor must submit a written claim to the Minister stating that HK is unable to meet its repayment obligations, as set out in the lending agreement, and stating the total amount of the invoice in question.
- Lending agreements which were signed before the issuance of this regulation will follow the provisions set out in this regulation.

4. Minister of Employment Regulation No. [40 Of 2015](#) on Procedures for Extending Work Agreements for Individual Employers

Enforcement date: 31 December 2015

Summary:

- All Indonesian workers working overseas (*Tenaga Kerja Indonesia* - "TKI") are required to sign a working agreement before travelling to their destination country. The working agreement is valid for two years, which can be extended by another two years at the maximum.
- Within three months of any working agreement expiring, a TKI can extend their working agreement without having to return to Indonesia. An agreement can be extended by the TKI themselves or through the Private Indonesian Workers Placement Agency (*Pelaksana Penempatan Tenaga Kerja Indonesia Swasta* - "PPTKIS").
- Requirements for an extension are as follows: 1) the TKI should work for the same employer during the working agreement period; 2) the content and terms set out in the working agreement must be at least the same or better than the previous agreement; 3) an agreement can be extended by a maximum of two years, and so forth.
- Extensions to working agreements and their validity periods must be approved by the relevant manpower-affairs authorities in the placement countries.

5. Minister of Employment Regulation [No. 44 of 2015](#) on the Organization of Work-Accident-and-Death Programs for Day-Laborers, Temporary Laborers and Fixed-Term Laborers Working in the Construction Industry

Enforcement date: 31 December 2015

Summary:

- All employers working in the construction industry must register their workers (including day-laborers, temporary laborers and fixed-term laborers) with the Work-Accident Insurance (*Jaminan Kecelakaan Kerja* - "JKK") and Death Insurance (*Jaminan Kematian* - "JKM") program organized by the Workers Social Security Agency for Labor (*BPJS Ketenaga Kerjaan*) either online or manually.
- The BPJS for Labor must provide a membership certificate, membership number, and proof of payment no later than one day after taking receipt of a completed registration form and payment of the member's first dues.
- Sets out the monthly premium for the program based on the hazard level of the work in question as follows: a) 0.24% of a worker's monthly wage (very low-risk work), b) 0.54% of a worker's monthly wage (low-risk work), c) 0.89% of a worker's monthly wage (medium-risk work), and d) 1.27 % of a worker's monthly wage (high-risk work).
- The JKK program consists of a health service (encompassing drug prescriptions, doctor's fees, medical rehabilitation, and so forth); compensation (partial disability compensation, *orthose* and *prothese* compensation, scholarships for children up to IDR 12 million per child, and so forth).
- Heirs of any deceased insured parties are entitled to compensation to the tune of: a) full compensation amounting to IDR 16,200,000; 2) funeral compensation amounting to IDR 3 million; 3) scholarships for children up to IDR 12 million per child; and so forth.

6. Minister of Finance Regulation [No. 269/PMK.010/2015](#) on Sales Thresholds for Modest Multi-Dwelling Units and the Income of Individuals Acquiring Modest Multi-Dwelling Units

Enforcement date: 8 January 2016

Summary:

- Sets out the criteria for modest, multi-dwelling units that can be owned under the subsidized housing-credit scheme as follows: 1) the unit should be between 21m<sup>2</sup> and 36m<sup>2</sup> in size; 2) the construction should comply with ministerial regulations issued by the Minister of Public Works and Public Housing; 3) the unit must be the first home for the subsidized buyer, and must not have its ownership transferred, according to the law; and 4) the unit is subject to a certain sale-price threshold, which is to be based on the buyer's income.

- The modest, multi-dwelling unit sales-threshold price is set at IDR 250 million for buyers generating/earning IDR 7 million per month.
- The purchase of subsidized, modest, multi-dwelling units will not be subject to value-added tax.

7. Minister of Finance Regulation [No. 265/PMK.08/2015](#) on the Preparation and Execution of Facilities under the Framework of Public/Private Partnerships for Infrastructure Development

Enforcement date: 31 December 2015

Summary:

- Stipulates that the government must provide facilities for the following projects: 1) prioritized public/private-partnership (*kerjasama pemerintah dan badan usaha* - "KPBU") projects, including infrastructure projects within certain sectors (e.g. road and transportation, irrigation, electricity, oil and gas, media and telecommunications); and 2) other projects that meet the criteria specified in this regulation.
- Sets out the types of facilities covered by the aforementioned projects, as well as the necessary requirements, namely: 1) a project-preparation facility (i.e. preparations for feasibility studies and any required supporting documents); and 2) a transaction-assistance facility (i.e. the establishment of executing legal entities, signing of KPBU agreements and financial closure for KPBU projects).
- Specifies the procedures for acquiring the facilities in question, including the submission of a proposal by the person in charge of a given KPBU to the Minister. This will in turn lead to verification from the Directorate General of Risk and Financing Management as regards the person in charge's preparedness to acquire the facility and to adequately execute all of the KPBU project's activities.
- Enables the Minister to appoint a state-owned enterprise to undertake a project if it is deemed necessary or more effective, provided that any such appointments are first stipulated in a decree for each project that ends up being assigned to a state-owned enterprise.

## CONSUMER AND RETAIL

8. Head of the National Agency for Drugs and Food Control (*Badan Pengawas Obat dan Makanan* - "BPOM") Regulation [No. 19 of 2015](#) on Technical Requirements for Cosmetics

Enforcement date: 29 December 2015

Summary:

- All cosmetics distributed within Indonesia must comply with certain technical requirements as regards the following aspects: 1) security; 2) claimed benefits; 3) quality; 4) labeling and other necessary information (such as claims regarding the benefits of consuming certain products).
- These requirements should refer to the following areas: 1) laboratory testing, empirical evidence or other relevant scientific source(s) as regards the security and benefit aspects of a product; 2) the appendix to the regulation, as regards any consumption-claim information as it relates to a cosmetic product; 3) Indonesia's Cosmetics Codex, and other acknowledged standards or applicable laws and regulations that relate to product quality.
- All labeling must be clear and in the Indonesian language, and should cover the following: 1) cosmetic's name, claimed benefits, usage instructions, ingredient composition, size or weight and expiration date; 2) producer's name and country; 3) name and domicile of the producer or importer in Indonesia; 4)

notification number for any cosmetic product that has secured a license to be produced or imported; and 5) any other information and/or warnings (if required)

- Any already existing cosmetics currently being distributed and commercially circulated within Indonesia must comply with this regulation within 12 months (maximum) of its enforcement.
- Non-compliance with this regulation may result in administrative sanctions (written warnings, distribution bans and restrictions, product revocations or terminations, production or import suspensions and/or cancellation of cosmetic notifications).

9. Head of BPOM Regulation [No. 18 of 2015](#) on Technical Requirements for Materials Used in Cosmetics

Enforcement date: 31 December 2015

Summary:

- Stipulates that cosmetic materials must comply with quality requirements as set out under Indonesia's Cosmetics Codex, as well as with other acknowledged standards or applicable laws and regulations that apply in Indonesia.
- Lists names and/or quality requirements for the following materials: 1) cosmetics materials (Appendix I), coloring materials (Appendix II), preservative materials (Appendix III), sunblock materials (Appendix IV), as well as other materials that may be used with certain limitations; and 2) materials that must not be used in cosmetics production (Appendix V).
- Requires that all cosmetic products which have already secured a cosmetics notification (i.e. evidence relating to a license that states that the cosmetics in question may be produced or imported) should make any necessary adjustments and comply with the regulation by 31 December 2016.
- Sets out a number of administrative sanctions for non-compliance (written warnings, distribution bans and restrictions, product revocations or terminations, production or import suspensions and/or cancellation of cosmetics notifications)

## Trade

10. Minister of Finance Regulation [No. 272/PMK.04/2015](#) on Central Logistic Bonded Zones

Enforcement date: 31 January 2016

Summary:

- Central logistic bonded zones (*Pusat Logistik Berikat* - "PLB") are customs areas under the supervision of the Directorate General of Customs and Excise.
- Goods can be stored in a PLB for a maximum period of three years, otherwise the goods must be returned to the exporting country; stored at another PLB, stored in a free zone, stored in a Special Economic Zone, or stored in another type of economic zone. The storage period can be extended if the goods in question are intended for use in oil and natural-gas operations; for mining purposes; for certain industrial purposes; or for other industrial purposes approved by the Head of the Customs Office.
- PLB locations must satisfy the following requirements: be situated in a place which can be reached by transportation facilities; contain an area for the conducting of physical examinations of imported/exported goods; have clear area limits; and so forth.
- Licenses for PLB organizers and for the recognition of PLB locations are requested from the Director General of Customs and Excise. An application must satisfy the following requirements: demonstrate a

good system of internal control and possess an IT inventory; be in the form of a state-owned enterprise, be listed on the Indonesian Stock Exchange; and so forth.

11. Government Regulation [No. 96 of 2015](#) on Facilities in Special Economic Zones

Enforcement date: 21 February 2016

Summary:

- Facilities provided in Special Economic Zones (*Kawasan Ekonomi Khusus* - "KEK") encompass: 1) taxation (income tax, valued-added tax, and sales tax on luxury goods), customs, and excise; 2) employment (covering the use of foreign labor, special tripartite cooperation agencies, wages councils, labor unions, and so forth); 3) immigration affairs (including a 30-day visa-on-arrival facility, which can be extended for business or governmental purposes); 4) land affairs [including the granting of land rights, such as the right to manage (*Hak Pengelolaan*), the right to build (*Hak Guna Bangunan* - "HGB"), and the right to use (*Hak Pakai*)]; and 5) licensing and non-licensing (including the issuance of Principle Licenses, Extension Principle Licenses, and so forth).
- Any business activities undertaken within a KEK do not require a Nuisance Permit (*Izin Gangguan*).

12. Government Regulation [No. 85 of 2015](#) on Amendment to Government Regulation [No. 32 of 2009](#) on Bonded Zones

Enforcement date: 25 November 2015

Summary:

- Incorporates new types of location that may be designated as the origin or destination for goods being stored in or extracted from bonded storage areas, namely: 1) special economic zones (*Kawasan Ekonomi Khusus* - KEK); 2) free-trade zones and free ports (collectively referred as Free Zones); and 3) other economic zones prescribed under prevailing laws and regulations.
- Introduces the central bonded logistics facility (*pusat logistic berikat*), which is a new type of bonded storage area at which the goods stored are exempt from certain customs duties and import taxes.
- Sets out several types of import activities that are exempt from the obligation to pay excise duty, namely: 1) goods imported from overseas to bonded warehouses; 2) rejected goods moved from bonded storage areas to bonded warehouses; 3) goods imported from overseas to bonded zones; 4) imported goods moved from bonded storage areas to bonded zones; 5) imported goods moved from special-economic areas, free-trade zones, or other type of economic area; 6) goods imported from overseas to bonded exhibition areas; 7) domestic goods moved from bonded storage areas to exhibition facilities; 8) imported goods in duty-free shops; 9) goods moved from bonded zones to duty-free shops; and 10) goods imported from overseas to bonded auction areas.
- See ILB [No. 2795](#)

13. Minister of Trade Regulation No. [127/M-DAG/PER/12/2015](#) on Provisions for the Import of Secondhand Capital Goods

Enforcement date: 1 February 2016 to 31 December 2018

Summary:

- Sets out updated guidelines for the importation of secondhand capital goods (*barang modal tidak baru* - "BMTB"). These goods are divided into three groups based on the type of importer, as follows: 1) Direct

user (to be used for 15 years, 20 years or 30 years); 2) Reconditioning companies (to be used for 20 years or requiring technical recommendation/consideration before being imported); and 3) Remanufacturing companies.

- Stipulates that importers must first secure import approval from the Director General of International Trade (“Director General”) at the Ministry.
- The requirements and procedures for securing approval differ from one importer to another, however the following general provisions apply to all types of importer: 1) the Director General may appoint an investigation team (to examine applications and supporting documents, as well as conduct site visits if required); 2) approval is valid for one year and may be extended for another year; and 3) import-realization reports must be submitted quarterly by an importer to - <http://intarade.kemendag.go.id>
- Requires that imported BMTBs are verified by a surveyor at the loading port. These verification results are to be incorporated into a surveyor’s report as a supporting document as regards the settlement of an importer’s import excise obligations.

14. Minister of Trade Regulation [No. 125/M-DAG/PER/12/2015](#) on Salt Imports

Enforcement date: 1 April 2016

Summary:

- Sets out updated guidelines relating to the import of salt as a raw or supporting material for industrial activities (industrial salt) or for daily consumption (consumable salt). The imported salt must have the following composition: 1) a minimum of 97% sodium chloride (*natrium clorida*) for industrial salt; or 2) 94.7 to 97% sodium chloride (*natrium clorida*) for consumable salt.
- Industrial salt may only be imported based on an industrial-salt demand plan (as determined at a coordinating meeting attended by the ministries or relevant institutions) and can only be imported by importers already in possession of the following: 1) a Producer-Importer Identification Number (*Angka Pengenal Importir Produsen - API-P*); and 2) industrial salt import approval from the Coordinator of Central Technical Enforcement Unit I (*Unit Pelaksana Teknis Pusat I - “UPTP I”*) at the Ministry.
- Import approval must be applied for electronically via - <http://inatrade.kemendag.go.id>. Import approval is valid for one year (maximum). Importers must submit a monthly report to the Director General of International Trade via - <http://inatrade.kemendag.go.id>.
- Consumable salt may only be imported by state-owned enterprise that: 1) are engaged in the salt business; 2) have been appointed or recommended by the government due to a salt shortage; and 3) have secured import approval from the Coordinator of UPTP I at the Ministry.
- Requires that all imported salt is verified by a surveyor at the relevant loading port, and that the verification results are incorporated into a surveyor’s report as a supporting document during the settlement of an importer’s import excise obligations.

15. Head of Commodities Futures Trading Supervisory Agency Regulation No. [126/BAPPEBTI/PER/12/2015](#) (“Amendment”) on the Second Amendment to Regulation No. [62/BAPPEBTI/PER/3/2008](#) on Futures-Trader Registration Certificates

Enforcement date: 8 December 2015

Summary:

- The Trader Registration Certificates application form provided in the Appendix has been updated. Specifically, Form No. III.PRO.56 has been replaced with Form No. 126.PBK.01.

- The standardized Corporate Responsibility Statement form has also been updated. Form No. III.PRO.50.H has now been replaced with Form No. 126.PBK.02.

16. Minister of Trade Regulation [No. 103/M-DAG/PER/12/2015](#) on Import and Export Provisions for Rice

Enforcement date: 1 January 2016

Summary:

- Lists the types of rice that can be imported (e.g., glutinous rice) and exported (e.g., half-milled rice, Thai Hom Mali rice, and so forth). A complete list of products is set out in the Appendices to the regulation.
- Special types of rice (specifically rice which is not produced through the organic farming system) can only be exported after Export Approval has first been secured from the Minister. Export Approval can be secured by submitting an online application to the Minister (via the Director General of Foreign Trade). Any application should enclose the necessary supporting documents (Trade Business License, Company Registration Certificate, confirmation order from prospective buyers in an importing country, and so forth).
- Permitted reasons for importing rice include price stabilization, disaster relief, and for consumption by underprivileged sectors of the community. However, any imports should comply with the following conditions: 1) the maximum breakage level for imported rice is set at 25%; 2) all rice should be imported by the Logistics Agency (*Badan Urusan Logistik - "BULOG"*); 3) rice should be imported within the following periods: one month before the harvesting season, during the harvesting season, and two months after the harvesting season; and 4) Import Approval should first have been secured from the Minister.
- The following documents remain valid until their expiry date if they were issued prior to the Regulation being introduced: Export Approval, Import Approval Acknowledgement as a Producer Importer of Rice (*IP-Beras*), and General Importer of Rice (*IT-Beras*).
- See ILB [No. 2803](#)

17. Government Regulation [No. 85 of 2015](#) on the Amendment to Government Regulation [No. 32 of 2009](#) on Bonded Storage Areas

Enforcement Date: 25 November 2015

Summary:

- Goods that can be stored in or extracted from a bonded storage area now also include goods originating from and designated to: 1) special economic zones (*Kawasan Ekonomi Khusus - KEK*); 2) free zones, comprising of free-trade zones and free ports; 3) other economic zones, as prescribed by prevailing laws and regulations.
- Bonded storage areas are classified into: 1) bonded warehouses; 2) bonded zones; 3) bonded exhibition facilities; 4) duty-free shops; 5) bonded auction halls; 6) bonded recycling facilities; and 7) centrally bonded logistics facilities.
- Goods stored in bonded storage areas are exempt from certain customs and taxes, including import duties, taxes on import activities, excise, value-added tax and/or luxury-goods sales tax.
- Adds several types of import activities that are now to be exempt from the obligation to pay excise duty, including: 1) goods imported from overseas to bonded warehouses; 2) goods imported from overseas to bonded zones; 3) imported goods in duty-free shops; 4) and so forth. Previously, Regulation [No. 32 of 2009](#) did not set out any excise-free status for these activities.
- See ILB [No. 2795](#).

18. Presidential Directive [No. 13 of 2015](#) on the Inland Free-Trade Agreement.

Enforcement Date: 23 December 2015

Summary:

- Instructs the Coordinating Minister for Economic Affairs, the Minister of Finance, the Minister of Trade, the Minister of Industry, and the Head of the Indonesia Investment Coordinating Board to implement and oversee the Inland Free-Trade Agreement facilitation policy.
- Related ministries/officials are required to implement this facilitation policy in accordance with their respective authorities (e.g. the Minister of Finance will issue tax-exemption regulations, the Minister of Trade will issue preferential-tariff regulations, and so forth). These regulatory framework drafts must be completed by December 2015 at the latest.
- The Coordinating Minister for Economic Affairs is responsible for overseeing, evaluating, and managing the formulation and implementation of the Inland Free-Trade Agreement facilitation policy, as well as for reporting it to the President.

19. Minister of Finance Regulation [No. 224/PMK.04/2015](#) on Import and Export Oversight for Prohibited or Restricted Goods

Enforcement Date: 17 January 2016

Summary:

- Mandates for the Directorate General of Customs and Excise (Directorate General) to oversee the importation and/or exportation of prohibited or restricted goods.
- The Directorate General will announce a list of prohibited or restricted goods which has been regulated by the relevant technical institutions via the Indonesia National Single Window portal (INSW). The list must set out, at a minimum: 1) a description of the goods; 2) the nature of the prohibition and/or restriction in question, as well as any required documents, and so forth.

20. Minister of Trade Regulation [No. 118/M-DAG/PER/12/2015](#) on Import Provisions for Complementary Goods, Goods for Market Testing and After-Sales Service

Enforcement Date: 1 January 2016

Summary:

- Holders of Producer Importer Identification Numbers (*Angka Pengenal Importir Produsen* - "API-P") may import goods for the following non-manufacturing purposes: 1) complementary goods; 2) market testing; and 3) after-sales service.
- The requirements that have to be met before any of these goods can be imported include: 1) all such goods should be brand new; 2) the goods cannot yet be produced by any API-P holders; and 3) the goods should comply with an API-P holder's business license. Complementary goods for import must be produced by foreign companies which have established a special relationship with an API-P holder.
- Import approvals are to be requested online via <http://inatrade.kemendag.go.id>, while relevant supporting documents should also be submitted (copy of a business license, copy of an API-P, proof of special relationship with foreign companies, and so forth).
- Import approval will be revoked if an API-P holder: 1) twice fails to submit the mandatory report; 2) is proved to have tampered with the contents of an import approval; 3) is later proven to have provided false information when applying for import approval; 4) and so forth.

21. Minister of Trade Regulation [No. 117/M-DAG/PER/12/2015](#) on Import Provisions for Sugar

Enforcement Date: 1 January 2016

Summary:

- Limits import quotas for sugar (raw sugar, refined sugar, and white plantation sugar). Quotas are to be decided at an inter-ministry coordinating meeting. White plantation sugar can only be imported for control purposes (i.e. to ensure availability and price stability).
- Raw sugar and refined sugar may be imported by a holder of a Producer Importer Identification Number (*Angka Pengenal Importir Produsen* - "API-P"), while white plantation sugar may only be imported by state-owned enterprises currently holding a General Importer Identification Number (*Angka Pengenal Importir Umum* - "API-U"). These businesses must secure import approval before importing any sugar into Indonesia.
- Import approval must be requested online via <http://inatrade.kemendag.go.id> and any such requests must also enclose the relevant supporting documents (copy of an API-P and a recommendation from the Director General of Agro Industry at the Ministry of Industry). State-owned enterprises currently in possession of valid API-Us need only file an application and submit a copy of their API-U.
- Import limitations relating to sugar do not apply if the sugar is to be used for certain purposes (research and development, sample goods that are not for sale, promotional goods, and so forth).

22. Minister of Finance Regulation [No. 229/PMK.04/2015](#) on Priority Custom Partners

Enforcement date: 16 January 2016

Summary:

- Importers or exporters who have been recognized as priority custom partners ("Partners") can enjoy facilities such as: fewer required documents and physical examinations, utilization of trucks and containers without the need to first submit an application, ability to settle customs obligations via payment in installments, and so forth.
- In order to become a Partner, exporters and importers must satisfy the following requirements: be considered to have earned a good reputation over a period of the past six months, not be in arrears as regards their customs obligations, have never committed a criminal offence in the field of customs, be in a specific field of business, and so forth.
- Partners may also recommend that their business counterparts receive expedited customs processing (locomotive facility). The business counterpart partner will then be prioritized as regards being appointed as a Partner (so-called "member get member").

23. Director General of Customs and Excise Regulation [No.PER-25/BC/2015](#) on the Amendment to Regulation No. PER-10/BC/2014 on Guidelines for Customs Registration ("2014 Regulation")

Enforcement date: 18 December 2015

Summary:

- Sets out the types of supporting documents required by importers/exporters who are undertaking Special Investment Projects (with a minimum investment amount of IDR 1 billion and/or utilizing at least 1000 Indonesian workers) in order to apply for Customs Registration via the One-Stop Integrated Service (*Pelayanan Terpadu Satu Pintu* - "PTSP") facility.
- The required supporting documents consist of: 1) Special Investment Project licenses from the Capital Investment Coordinating Board; 2) a company's Taxpayer Identification Number (NPWP); 3) an Importer Identification Number ("API") (for importers) or a Company Registration Certificate (for exporters); 4) the

identity card of the person in charge of the company in question; and 5) a Statement Letter of Correctness for Filling out Forms and Documents in accordance with Appendix II to the 2014 Regulation.

- The Director of Customs and Excise Information then has three hours in which to make a decision regarding a completed application.

## Taxation

24. Government Regulation [No. 123 of 2015](#) on the Amendment to Government Regulation No. [131 of 2000](#) on Income Tax for Deposits and Savings Interest, Including Bank Indonesia Certificate Interest

Enforcement date: 28 December 2015

Summary:

- Income tax in the USD currency on deposit interest sourced from export revenues and deposited in a bank in Indonesia (either a domestic bank or foreign bank) is as follows: a) 10% of the gross amount (for one-month deposit periods); b) 7.5% of the gross amount (for three-month deposit periods); c) 2.5% of the gross amount (for six-month deposit periods); and d) 0% of the gross amount (for deposit periods of over six months).
- Income tax in the IDR currency on deposit interest sourced from export revenue and deposited in a bank in Indonesia (either a domestic bank or a foreign bank) is as follows: a) 7.5% of the gross amount (for one-month deposit periods); b) 5% of the gross amount (for three-month deposit periods); and c) 0% of the gross amount (for deposit periods of over six months).
- Income tax on the interest and discount of Bank Indonesia Certificates, as well as interest on deposits not covered by the two points above is as follows: 20% of the gross amount (for domestic taxpayers and permanent establishments); and 20% of the gross amount or a tariff based on the Double Taxation Agreement (for foreign taxpayers).

25. Government Regulation [No. 81 of 2015](#) on the Import and/or Handover of Specific Strategic Taxable Goods Exempt from Value-Added Tax

Enforcement Date: 60 days after November 9, 2015

Summary:

- The strategic taxable goods that can be imported or procured without having to pay value-added tax (VAT) are: 1) completely built or completely dismantled machines and factory equipment which is to be directly utilized in the production of taxable goods, (excluding spare-parts); 2) hides and skins which have not been tanned/processed; 3) cattle and fish fodder, excluding pet food; 4) low-cost subsidized housing, and so forth.
- VAT exemption facilities will be invalidated in the following circumstances: 1) if they are being used for a purposes other than their initial purpose; or 2) if they have been transferred to another party within four years of their importation and/or procurement allowance being granted. All outstanding VAT must be settled within one month of it becoming payable.

26. Minister of Finance Regulation [No. 248/PMK.010/2015](#) on Amendment to Regulation [No. 162/PMK.03/2014](#) on Issuance Procedures for Value-Added-Tax-Free, Value-Added-Tax and Luxury-Goods-Sales-Tax Notification Letters for Foreign Missions and International Agencies and Their Officials

Enforcement Date: 29 December 2015

Summary:

- Goods imported by foreign missions, international agencies and their officials are exempt from having to pay value-added tax (VAT) or VAT and luxury-goods sales tax, provided that an international agreement exists which contains a tax-exemption clause. The tax exemption is valid until the international agreement expires.
- In order to acquire such an exemption, the following requirements must be satisfied: 1) approval must be obtained from the Minister of Finance; 2) the international agreement entered into has to have been integrated into the national legal system via ratification, accession, acceptance and/or approval processes; and 3) the exemption must have been recommended by the Minister of the State Secretariat or relevant government officials.
- The tax-exemption facility will be revoked if: 1) imported goods are transferred to a third party within four years of the tax-exemption facility being secured; 2) VAT exemption facilities are transferred to another party.
- If an international agency and/or its officials have already paid the relevant VAT or VAT and luxury-goods sales tax on the importation of goods subject to the tax-exemption facility, then the agency in question and/or its officials may file for a tax refund.

27. Minister of Finance Regulation [No. 244/PMK.03/2015](#) on Procedures for the Calculation and Return of Excess Tax Payments

Enforcement date: 29 December 2015

Summary:

- Taxpayers who have paid a greater amount of tax than that which is outstanding and payable may claim refunds from the Head of the Taxation Office where they are domiciled.
- Types of taxes eligible for tax refunds are: income tax (PPh), sales tax on luxury goods (PPnBM), sales tax (PPN), and land-and-building tax (PBB).
- Sets out the terms and conditions for requesting tax refunds, including the obligation to deduct any overpayment amounts from an applicant's outstanding and payable tax balance and the obligation to submit relevant supporting documents (Tax-Collection Letter, Tax-Assessment Letter, and so forth).
- See ILB [No.2796](#)

28. Minister of Finance Regulation [No. 228/PMK.04/2015](#) on the Release of Imported Personal Goods

Enforcement date: 16 January 2016

Summary:

- In order to have imported personal goods released from customs, an Import Goods Notification (*Pemberitahuan Impor Barang - "PIB"*) document must first be produced. The following goods are exempt from this obligation: resident-relocation goods, passenger or air-crew hand luggage, postal goods, rushed handling goods, or natural-disaster relief goods.
- PIBs are to be submitted to customs offices by importers either online or manually for each import activity, or periodically (the latter case applies to imports of electricity, liquid goods, or gas via a transmission system or pipeline).
- Importers are responsible for the payment of import duties or relevant taxes after the PIB registration date. In cases where the importer has not been found, the Customs Clearance Service (PPJK) business is authorized to manage the PIB and must pay the import duties or payable tax.

- Goods which are subject to excise (alcohol and tobacco products) should, in addition to paying the relevant import duties and payable taxes, also: 1) pay the relevant excise 2) have excise labels affixed to them, and 3) have an excise-paid label affixed to them.

29. Minister of Finance Regulation [No. 227/PMK.04/2015](#) on Currency Exchange Rates for the Calculation and Settlement of Import Duties

Enforcement date: 16 January 2016

Summary:

- Import duties, taxes, and/or excise must be paid in the rupiah currency and calculated using the import-duty benchmark value (“Basis Value”). The Basis Value uses exchange rates which are periodically determined by the Minister of Finance.
- If more than one foreign currency is being used, then the exchange rate used for the Basis Value involves the conversion of the two or more foreign currencies into one single currency.
- If the foreign-currency exchange rate has yet to be determined by the Minister, then the Basis Value will utilize the daily-spot foreign exchange rate against the USD currency on the international market.

30. Minister of Finance Regulation [No. 226/PMK.04/2015](#) on the Amendment to Regulation [No. 155/PMK.04/2008](#) on Customs Notifications (“Amendment”)

Enforcement date: 17 December 2015

Summary:

- Importers must state the quantity of the strategic food(s) being imported in their customs-import notifications. A list of strategic foods is set out in the appendix (rice, salt, sugar, cattle and animal products, and so forth).
- The Minister may decide on other types of goods (aside from strategic foods) whose quantities must also be stated in any custom-import notifications.

## Miscellaneous

31. [Draft Bill on Contempt of Court](#)

Enforcement Date: Currently being deliberated by the House of Representatives

Summary:

- Applies to all levels of court (first-instance court right up to the Supreme Court). Every individual is obliged to uphold the integrity, independence and honor of the court as a judiciary body (maintaining order in court rooms, not bringing any prohibited items (e.g. weapons) into court rooms, standing when the judge enters the court room, politely acknowledging the presence of the judge when he or she enters or exits the court room, and so forth).
- Authorizes judges in a court room to demand order by: 1) reprimanding or expelling any person or persons who are causing a disturbance; 2) prohibiting entrance to court premises within a certain radius; 3) ordering body searches, and so forth. This authority can be exercised via oral instructions, written decisions, or written rulings.

- Establishes a Court Safeguard Unit to help the National Police maintain the order and security of the court. This unit is authorized to: 1) investigate any reports or information relating to contempt-of-court allegations; 2) search and confiscate evidence relating to contempt-of-court allegations; 3) arrest and detain criminal suspects for contempt of court in coordination with and under the supervision of the National Police; 4) and so forth.
- Non-compliance with the Draft Bill (e.g. by individuals, lawyers, or law-enforcement officers) will result in criminal sanctions being applied (including one to 15 years imprisonment and/or fines ranging from IDR 7.5 million to IDR 1 billion).

### 32. [Draft Bill on the Creative Economy](#)

Enforcement date: currently under discussion at the House of Representatives

Summary:

- Aims to set out Indonesia's first legal framework for dealing with the country's creative economy, and incorporates provisions on human resources within the creative economy, as well as the infrastructure and facilities needed in order to develop the sector.
- Stipulates that the creative economy refers to the additional value of an idea that derives from human creativity and intelligence. The term "creative economy" covers cultural heritage, the arts, the media and functional creations.
- Sets out provisions for improving the quantity and quality of the country's creative-economy practitioners and businesses by: 1) clarifying the rights and obligations of creative-economy practitioners and businesses; 2) requiring the government (both central and regional) to set up an integrated creative-economy education system; and 3) mandating that creative-economy practitioners and businesses possess a certain level of competency, which is to be proven through certification.
- Specifies the infrastructure and facilities that will be needed in order to develop the creative-economy sector, including: 1) creative centers that feature internet access; 2) financial facilities and incentives (e.g. income-tax facilities for investors, regional tax facilities); and 3) other types of assistance from the government (e.g. relating to the registration or promotion of intellectual property).
- See ILB [No. 2800](#)

### 33. Minister of Transportation ("Minister") Regulation [No. PM 200 of 2015](#) ("Third Amendment") on the Third Amendment to Regulation [No. PM 10 of 2014](#) on the Procedures and Requirements for Granting Permits for the Utilization of Foreign-Flagged Ships for Activities Other than the Transportation of Passengers and/or Goods in Indonesian Domestic Waters ("Regulation")

Enforcement date: 29 December 2015

Summary:

- Amends the provisions for securing a Minister's license to be able to use foreign-flagged ships by: 1) eliminating the requirement to submit a recommendation to use foreign-flagged ships (by the requesting institution); and 2) stipulating that a license may be granted if the requesting institution is able to show an auction document evidencing its efforts to procure the ship; 3) regulates prioritized ships as follows: domestic ships and foreign-flagged ships purchased by Indonesian legal entities under a leasing scheme; and 4) requires that auction documents be reported to the Directorate General of Sea Transportation on the date that any auction is initiated, and so forth.
- Changes the provision on the securing of Ministerial approval for types of foreign-flagged ships not covered by the Regulation: 1) adds the Central Leadership Council of the Indonesian National Ship-Owners'

Association to the team authorized to evaluate any requests; 2) elaborates the basis upon which the Minister can grant a request, as specified under points 2) to 4) of the licensing procedures listed above.

- Stipulates that auction documents are not required in order to secure a Minister's license in emergency situations, including accidents or any events that may impact upon sailing safety.
- Replaces all Appendices to the Regulation.

34. Minister of Transportation Regulation [No. PM 190 of 2015](#) on the Management of Irregular Airport Operations

Enforcement date: 15 December 2015

Summary:

- Irregular airport operations occur when there are passenger buildups due to: delays in flight operations (due to the density of air traffic); internal airport operational factors (resulting from damaged airport facilities, events involving religious and state affairs, air shows, and so forth); natural factors (poor weather, natural disasters, or fog); or other factors (riots, demonstrations, or labor strikes).
- An airport authority must establish a committee for the management of Irregular Airport Operations comprising of airport management, airport officials, security staff, customs staff, immigration staff, and so forth. This committee is to liaise with stakeholders in order to tackle the issues in question.
- Passengers who suffer losses due to Irregular Airport Operational factors, such as damaged airport facilities or delays due to problems with ground support officers, are entitled to compensation as set forth in the Service Level Agreement.

35. Minister of Transportation Regulation [No. PM 187 of 2015](#) on Amendment to Regulation [No. PM 56 of 2015](#) on Airport-Management Activities ("Amendment")

Enforcement date: 4 December 2015

Summary:

- The Amendment allows "Airport Organizers": Airport Business Entities (for commercial airports) or Airport Business Units (for non-commercial airports), to appoint "Business Entities" such as State/Regionally Owned Enterprises (BUMN/BUMD), Indonesian Limited-Liability Companies or cooperatives to provide certain airport services.
- In order to be appointed to provide certain airport services, Business Entities must satisfy the relevant financial requirement [IDR 500 billion (minimum) for domestic airports or IDR 1 trillion (minimum) for international airports], as well as be owned by Indonesian legal entities/citizens, supported by staff who are experienced in the provision of airport services, and so forth.
- See ILB [No. 2793](#)

36. Minister of Transportation Regulation [No. PM185 of 2015](#) on Passenger-Service Standards for Scheduled Domestic Economy-Class Flights

Enforcement Date: 4 January 2016

Summary:

- Sets out passenger-service standards for scheduled, domestic, economy-class flights, covering pre-flight, in-flight, and post-flight services. These services are further classified into full services, medium services, and no frills (minimum services).

- Pre-flight service standards includes flight information, reservations, ticketing, check-in, boarding, as well as the handling of any flight delays, flight cancellations, and the right to refuse any passenger attempting to board.
- In-flight service standards include cabin facilities (lavatories, air-sickness bags, access to entertainment and media), food and beverages, and flight crews.
- Post-flight service standards include: the disembarkation process, transit or flight transfers, the reclaiming of any checked in luggage.
- Passengers who cancel their flights are entitled to receive a refund (if the cancellation occurs four hours or more before a flight). Refunds range from between 20% to 90% of the ticket-purchase price).

37. Governor of the Jakarta Special Capital Region Regulation [No. 244 of 2015](#) on Implementing Guidelines for Advertisers

Enforcement date: 15 December 2015

Summary:

- Advertisements defined in the regulation include: 1) billboard advertisements (including neon signs, gateway advertisements, and the like); 2) digital advertisements (including public video screens, large electronic displays, and the like); 3) banner advertisements; 4) stickers; 5) pamphlets; 6) moving advertisements (on vehicles); 7) air-space advertisements; 8) sound advertisements; 9) film advertisements and so forth.
- Sets out four types of zone where advertising is allowed: 1) strictly controlled areas (advertisements can only be installed on walls, in certain areas in buildings and so forth), 2) medium-control areas (advertisements can only be installed on walls, in certain areas in buildings, in outdoor areas and so forth), 3) low-control areas (advertisements can be installed in police stations and so forth), and 4) specially controlled area (areas managed by special authorities in coordination with local government). Advertisements are allowed to be placed on city infrastructure (pedestrian bridges, underpasses, flyovers, gardens, police stations, and so forth) and in other locations (garden areas, on buildings, on top of buildings, etc.).
- Advertising spaces on city infrastructure are to be auctioned off by the Financial Management and Regional Assets Board (*Badan Pengelola Keuangan dan Aset Daerah- "BPKAD"*). Advertising space can be rented for up to two years.

38. Minister of Maritime Affairs and Fisheries Regulation [No. 36/PERMEN-KP/2015](#) on Criteria and Classification of Small-, Medium-, and Large-Scale Operations for the Collection of Fishery Levies

Enforcement date: 8 December 2015

Summary:

- Collection of Fishery Levies is classified into: 1) small scale (ships from 30 to 60 tons gross); 2) medium scale (ships from 60 to 200 tons gross), and large scale (ships above 200 tons gross).
- New applications, extensions, and/or replacement Fishing Licenses (*Surat Izin Penangkapan Ikan*) processed prior to the issuance of this regulation are subject to fishery levies based on Decree No. KEP.40/MEN/2003 on Criteria for Small- and Large-Scale Operations Within the Fisheries Industry ("Decree").

## Manufacturing and Industry

### 39. Head of the National Agency for Food and Drugs Control (“BPOM”) Regulation [No. 17 of 2015](#) on Evaluation Guidelines for Biosimilar Products

Enforcement date: 15 December 2015

Summary:

- Biosimilar products are biological products which possess levels of efficacy, safety, and quality similar to those profiled in already approved biological products. Examples of such biological products are: vaccines, immune serums, hormones, enzymes, blood products, and so forth.
- Set out guidelines in an Appendix for the evaluation of biosimilar products (general requirements, special requirements, evaluation, guidance relating to safety, and so forth).
- Exempts the following products from the biosimilar evaluation processes: vaccines, products sourced from blood/plasma, blood-recombinant products, gene-therapy products, and stem cells.
- Applications for biosimilar product registration submitted before the regulation was issued will be processed based on the provisions set out in the previous regulation.

### 40. Head of BPOM Regulation [No. 16 of 2015](#) on Assessment and Evaluation Procedures for the Development of New Drugs

Enforcement date: 15 December 2015

Summary:

- Assessments relating to the development of new drugs must be conducted via the following stages: 1) pre-development phase; 2) development proposal; 3) clinical-test proposal; and so forth). Appendix I sets out further details.
- Applications to evaluate the development of any new drugs should be submitted by the pharmaceutical industry or research facility to the Head of the BPOM using forms set out in Appendix II, and should also enclose relevant supporting documents, as listed in Appendix III (summary of the quality of the new drug, the drug creation process, packaging specifications, and so forth).
- The evaluation process will take 100 working days at most from the time of a complete set of documents being received. The evaluation process will result in a set of evaluation results, as well as one of the following decisions: 1) approval for clinical testing, or 2) rejection.
- Owners of approved applications must then report the development of any new drugs to the Head of the BPOM.

### 41. Minister of Trade Regulation [No. 113/M-DAG/PER/12/2015](#) on the Second Amendment to Regulation [No. 54/M-DAG/PER/12/2010](#) (“2010 Regulation”) on Import Provisions for Steel Iron

Enforcement date: 30 December 2015

Summary:

- Extends the enforcement-date period of the 2010 Regulation from 1 January 2011 until 31 December 2016.

### 42. Minister of Public Works and Housing Regulation [No. 49/PRT/M/2015](#) on Procedures for the Use of Patents in the Field of Public Works and Public Housing

Enforcement Date: 15 December 2015

Summary:

- Establishes guidelines for the use of patents in Ministry of Public Works and Public Housing projects by the following parties: inventors, patent holders, patent managers, and patent-utilization partners.
- The guidelines cover: procedures for the utilization of patents, compensation, the receipt and utilization of any Non-Taxable State Income (*Penerimaan Negara Bukan Pajak*) deriving from patent royalties, reporting, oversight, and control)
- A Patent Utilization Cooperation Agreement must be entered into by a patent holder and a patent-utilization partner before any patent can be utilized in a ministry project.
- Sets out the provisions that must be adhered to by the parties involved (identities of the parties, definitions, rights and obligations of the parties, financing, duration of the agreement, and so forth).
- Compensation not classified as a patent royalty is to be granted to certain inventors. This compensation breaks down as follows: 1) 40% of a payment valuing up to IDR 100 million; 2) 30% of a payment valuing between IDR 100 million and IDR 500 million; 3) 20% of a payment valuing between IDR 500 million and IDR 1 billion; and 4) 10% of a payment valuing over IDR 1 billion.

## Financial Services

### 43. [Bill on Guarantees](#)

Enforcement date: 30 days after being passed by the House of Representatives (17 December 2015)

Summary:

- Aims to set out a legal framework for guarantee business models that should help micro-, small-, and medium-scale enterprises and cooperatives (UMKMK) to obtain loans from banks, in spite of any potential non-bankable characteristics.
- Specifies the scope of the guarantee services that may be offered by guarantee institutions and re-guarantee institutions, including guarantee and claim mechanisms, which may be conducted either conventionally or under sharia principles
- Sets out the requirements for establishing a guarantee institution or re-guarantee institution, as well as the procedures for securing a license from the OJK before any business activity may commence.
- See ILB [No. 2787](#).

### 44. Minister of Finance Regulation [No. 264/PMK.08/2015](#) on Amendment to Regulation [No. 137/PMK.08/2013](#) on the Sale and Repurchase of Government Promissory Notes in Foreign Currencies on the International Market ("Regulation")

Enforcement date: 31 December 2015

Summary:

- Changes the authorities involved in organizing the sale and repurchase of government promissory notes (*surat utang negara* - "SUN") in foreign currencies on the international market ("Global Foreign SUN"): 1) from agents appointed by the Minister to Bank Indonesia (BI) as regards administration of the ownership of the Global Foreign SUN; 2) from the Directorate General of Risk and Financing Management to the Directorate General of Debt Management as regards the technical working unit that prepares and executes the sale and repurchasing of Global Foreign SUN;

- These changes in authority as regards the administration of Global Foreign SUN have resulted in the elimination of the following provisions: (i) procedures to appoint agents; and (ii) agreements with appointed agents.
- Stipulates that the technical mechanism relating to the administration of SUN ownership, clearing and settlement processes, and payment agents for SUN principle amounts and interest will now follow international standards instead of an information memorandum agreed by the parties involved in a given transaction, based on Law [No. 24 of 2002](#) on SUN.
- Clarifies that all sales of Global Foreign SUN will be recorded in the state budget, without specifying whether the sales are to be considered as state income.

45. Minister of Finance Regulation [No. 263/PMK.05/2015](#) on Payment Procedures for Agreements in Foreign Currencies Sourced Solely in Rupiah

Enforcement date: 31 December 2015

Summary:

- Specifies the criteria that have to be met by parties entitled to acquire payments in foreign currencies based on an Agreement on Goods/Services Procurement for Government (*perjanjian/kontrak pengadaan barang/jasa pemerintah* - "PKPBJ") or a decree stipulated by a state-budget user, their proxy or a commitment-maker official, specifically: 1) the recipient should be domiciled abroad; 2) the recipient should have an account with a foreign bank; 3) the recipient's country of origin should allow payment transfers from foreign countries; and (4) any payments should be completed in foreign currencies via banks in Indonesia (for payments based on decrees only).
- Sets out the requirements and procedures for payments based on PKPBJ or decrees that may be conducted through the following methods: 1) the without-a-credit-letter (L/C) method made directly after delivery of goods/services; or 2) the with an L/C method, through which payments are made directly from the state general treasury's account into the recipient's account.
- Enables year-end payments to be made before delivery of the goods/services have been completed, provided that a guarantee has been issued by a governmental bank in Indonesia.

46. Financial Services Authority (*Otoritas Jasa Keuangan* - "OJK") Circular Letter [No. 32/SEOJK.04/2015](#) on Corporate Governance Guidelines for Publically-Listed Companies

Enforcement date: 17 November 2015

Summary:

- When implementing Good Corporate Governance measures, Listed Companies must take into consideration: 1) the Five Aspects 2) Eight Principles, and 3) 25 Recommendations set out in the appendix.
- The Five Aspects are: 1) the relationship between publically listed companies and their shareholders; 2) functions and roles of the Board of Commissioners ("BoC") and 3) Board of Directors ("BoD"); 4) participation by stakeholders; and 5) transparency;
- The Eight Principles are: 1) enhancing the value of general meetings of shareholders ("GMS"), 2) improving corporate communication between shareholders and investors, 3) strengthening the membership and composition of the BoC, 4) improving the quality of BoC tasks and responsibilities, 5) strengthening the membership and composition of the BoD, 6) improving the quality of BoD tasks and responsibilities, 7)

enhancing good corporate governance by incorporating participation from stakeholders, 8) improving transparency.

- Good corporate governance must be implemented using the so-called “comply-or-explain” approach. This means that listed companies must comply with the regulation, or offer a clear, informative, and adequate explanation to stakeholders and investors as regards the reasons for non-compliance, as well as possible alternate methods for compliance (if any).

47. OJK Circular Letter [No. 37/SEOJK.03/2015](#) on the Products and Activities of Rural Sharia Financing Banks

Enforcement date: 21 December 2015

Summary:

- The products and activities of Sharia Rural Financing Banks (*Bank Pembiayaan Rakyat Syariah - “BPRS”*) can be classified as follows: 1) Fund raising (savings, investments, loans); 2) Fund distribution (financing based on the principle of profit sharing and leasing, refinancing, and so forth); 3) Fund placement (in the form of clearing accounts, deposits, sharia deposit certificates, and so forth); 4) foreign-currency exchange; 5) others (provision of electronic banking facilities, payroll services, issuance of electronic money, and so forth).
- Sets out the requirement for BPRS which are looking to launch new products and activities, specifically: 1) the product in question should not have previously been issued or implemented by the relevant bank; or 2) the product in question can have been previously issued or implemented however with features and characteristics that have a higher risk probability.
- Launch plans for new BPRS products and activities must contain at least the following information: type and general explanation of the new product(s) and activities, issuance period, risk-mitigation plan, and so forth, using the forms provided in Appendix 1.

48. OJK Regulation [No. 46/POJK.03/2015](#) on the Determination of Systemically Important Bank and Capital Surcharges

Enforcement date: 28 December 2015

Summary:

- A Systemically Important Bank (“SIB”) is a bank in possession of significant assets, network area or complex transactions within the banking sector that could potentially drag down the entire banking industry and other financial sectors if the bank were to fail (both operationally and financially).
- Capital Surcharges are additional injections of capital which serve to reduce any negative impacts on the financial system and economy should an SIB fail.
- The OJK, in coordination with Bank Indonesia (“BI”), will determine SIBs and Capital Surcharges every six months, in March (using data posted in December of the previous year) and in September (using data posted in June of the same year).
- Sets out several indicators to be used when designating SIBs, including: the overall size of the bank in question (to be determined from a measure of a bank’s total exposure), the bank’s interconnectedness (including its intra-financial system assets, intra-financial system liabilities, and outstanding securities), and business complexity (including its over-the-counter derivatives, domestic indicators, substitutability, and so forth), as well as the sanctions which will be levied on SIBs failing to comply with this regulation.

49. OJK Regulation [No. 37/POJK.05/2015](#) on the Direct Examination of Joint-Venture Companies

Enforcement date: 28 December 2015

Summary:

- The Direct Examination process is undertaken to ensure that annual reports published by Joint-Venture Companies (*Perusahaan Modal Ventura* - "PMV"), Sharia Joint-Venture Companies (*Perusahaan Modal Ventura Syariah* - "PMVS"), and Sharia Business Units (*Unit Usaha Syariah* - "UUS") actually match up with the prevailing conditions and to assess whether the relevant regulations are being complied with.
- The Direct Examination process is to be carried out once every three years or on an ad-hoc basis (if any allegations of non-compliance with prevailing regulations governing PMV, PMVS, and UUS based on analysis of the submitted report emerge).
- A notification letter relating to any Direct Examination process must be received at least three business days before the examination in question takes place, except in cases where there are reasons to believe that a company is deliberately attempting to hide data and information from the examining party.
- PMV and PMVS failing to comply with this regulation will be subject to administrative sanctions (warnings, business suspensions, and revocations of business licenses).

50. OJK Regulation [No. 43/POJK.04/2015](#) on Investment-Manager Codes of Practice

Enforcement date: 28 December 2015

Summary:

- An Investment Manager's BoC, BoD, Investment Committee, and Investment Management Team, including Investment Managers who have direct or indirect ownership over the securities being transacted for/by a given customer, are prohibited from: 1) engaging in a transaction involving the same securities before a customer's transaction is processed (i.e. a large-volume transaction that has a significant impact on the market), 2) engaging in any cross transactions with customers, and/or 3) selling securities which have been held for a period of less than 30 days.
- Sets out an Investment Manager's obligations (the obligation to be a member of an Investment Managers' association; the obligation to inform customers via written statements if there is any conflict of interest regarding the securities being transacted; the obligation to set out a policy on the disclosure of any conflicts of interest and restrictions that relate to transactions, as set out above; the obligation not to receive any kind of gifts from customers which could potentially lead to a conflict of interests.
- Investment Managers are prohibited from receiving rebates relating to the transactions being managed, unless it's in a customer's interests. Moreover, any rebate must be deposited immediately into the customer's account.
- Administrative sanctions for any parties failing to comply with the regulation are as follows: written warnings, fines, suspension of business operations, revocation of business licenses, and so forth.

51. OJK Regulation [No. 31/POJK.04/2015](#) on the Disclosure of Material Information or Facts by Issuers or Public Companies

Enforcement date: 22 December 2015

Summary:

- Material Information or Facts ("Material Information") are defined as important information relating to facts or events which may affect the price of securities listed on the capital market and/or investment

decisions (e.g., corporate restructuring, debt restructuring, share splits, dividends, disputes that affect operations, changes in BoD and BoC, and so forth).

- Issuers and listed companies must disclose any relevant Material Information to the OJK and also announce it to the public (date of the event in question, Material Information type, detailed explanation of the Material Information, and any possible effects it may have) through a medium such as a company's website, the capital-market website, or a newspaper.
- Failure to comply with the regulation may result in the OJK imposing administrative sanctions (written warnings, fines, suspension of business operations, revocation of business licenses, and so forth).

52. OJK Regulation [No. 38/POJK.05/2015](#) on Registration and Supervision of Actuary Consultants, Public Accountants, and Appraisers in the Non-Bank Financial Industry

Enforcement date: 28 September 2016

Summary:

- Actuary Consultants, Public Accountants, and Appraisers must be registered with the OJK as service providers working within the Non-Bank Financial Industry (*Industri Keuangan Non-Bank - "IKNB"*) in order to be able to offer services to Non-Bank Financial Service Institutions (*Lembaga Jasa Keuangan Non-Bank - "LJKNB"*).
- Sets out the requirements for registration with the OJK for various professions (including the submission of applications and the relevant supporting documents, including such as license to practice, a recent CV, a recently received diploma, a taxpayer-identification number, and so forth). The OJK will then process all applications within 20 business days of receipt of a complete set of supporting documents.
- A single LJKNB cannot be served by the following professions after a certain service period has ended: 1) Actuary Consultants → three consecutive working projects; 2) Public Accountants → five consecutive accounting years; and 3) Appraisers → three consecutive accounting years.
- Applications can be submitted from 28 June 2016. [Art 29 (2)]
- Failure to comply with this regulation will result in administrative sanctions being applied (including written warnings, limitations being placed on business activities, revocation of business licenses, and revocation of registration letters).

53. OJK Regulation [No. 32/POJK.04/2015](#) on Capital Raised for Publically Listed Companies Through the Granting of Preemptive Rights

Enforcement date: 22 December 2015

Summary:

- All shareholders are entitled to Preemptive Rights to Order Securities ("**Preemptive Rights**") based on the relevant shareholding percentage, if a publically listed company intends to raise capital through the issuance of new shares and/or other securities.
- Preemptive Rights do not apply to: 1) bonus shares from earnings which have been capitalized into shares; and/or 2) bonus shares from shares or other equity which have been capitalized into shares.
- Preemptive Rights must satisfy the following: 1) be approved at a General Meeting of Shareholders (*Rapat Umum Pemegang Saham - "RUPS"*); and 2) be registered with the OJK, having enclosed the relevant supporting documents, including an effective registration statement and others (an initial plan to raise capital with Preemptive Rights, a comfort letter, a statement letter from management within the accounting sector, etc).

- The period between RUPS approval being granted and a registration statement becoming effective cannot exceed one year.
- Failure to comply with this regulation may result in sanctions (the OJK postponing the issuance of an effective statement, written warnings, fines, suspension of business activities, revocation of business licenses, and so forth). The names of sanctioned listed companies will be announced to the public.

54. OJK Regulation [No. 36/POJK.05/2015](#) on Good Corporate Governance for Joint-Venture Companies (“PMV”)

Enforcement date: 28 December 2015

Summary:

- PMVs or Sharia PMVs are required to implement good corporate governance principles (“GCG Principles”) with respect to their various business activities. These GCG Principles should encompass transparency, accountability, responsibility, independence, and fairness.
- Implementation of GCG Principles must be codified into a set of guidelines which should make reference to at least the following: the tasks and responsibilities of the BoC and BoD; remuneration policy; financial and non-financial transparency policy; procedures for the formulation of long-term plans, work plans and annual budgets; and so forth.
- Shareholders in PMV or PMVS should satisfy the following requirements, among others: any paid-up capital should not derive from either loans or money laundering, a shareholder should not have been convicted of a criminal offense in the financial services and/or economic sector over the last five years, and a shareholder should not have been declared bankrupt or responsible for a bankruptcy over the last five years, and so forth.
- PMV or PMVS should establish an annual business plan, implement a risk-management strategy (identifying and assessing business risk), implement a financial reporting system for the purposes of supervision, and engage in periodic self-assessment as regards the implementation of GCG based on the relevant guidelines.
- Failure to comply with this regulation will result in administrative sanctions being applied (in the form of written warnings, suspensions of business activities, and/or revocations of business licenses).

55. OJK Regulation [No. 35/POJK.05/2015](#) on the Organization of Joint-Venture Company (“PMV”) Business Activities

Enforcement date: 28 December 2015

Summary:

- Sets out how PMVs may organize their business activities (including equity participation, quasi-equity participation, productive business financing, management of venture fees, as well as other business activities such as fee-based business and other business activities approved by the OJK).
- Sharia PMV and Sharia Business Units (“UUS”) may also engage in sharia venture-capital business activities consisting of 1) investment [including equity participation, purchase of *sukuk* (sharia bonds), and profit-sharing based financing], 2) services (which generate additional revenue in the form of fees), 3) management of venture fees, and 4) other services approved by the OJK.
- Sets out capital requirements as regards the management of venture capital: equity of at least IDR 20 billion (for limited liability PMVs); IDR 10 billion (for cooperative PMVs, limited-partnership PMVs, and limited-liability sharia PMVs); and IDR 5 billion (for cooperative sharia PMVs, limited partnership sharia PMVs, and UUSs).
- PMVs, sharia PMVs, and/or UUSs involved in the management of venture capital must submit a written financial report to the OJK and to their investors once every three months (in March, June, September, and December). This financial report should be audited by a public accountant registered with the OJK.

- 5% of a PMV's or sharia PMV's entire business operations must be allocated to micro-, small-, and medium-scale enterprises and cooperatives.
- Non-compliance with this regulation will result in administrative sanctions being applied (written warnings, suspension of business activities, or revocation of business licenses) and will also be announced to the general public.

56. OJK Regulation [No. 34/POJK.05/2015](#) on Business Licenses and the Organizational Structure of Joint-Venture Companies

Enforcement date: 28 December 2015

Summary:

- Sets out the legal forms of PMVs and sharia PMVs: 1) limited-liability company (whose shares must be held by an Indonesian citizen/legal entity, local government, and so forth), 2) cooperative, or 3) limited partnership (established by 25 companies at the most).
- Sets out the requirements that have to be met in order to secure a business license from the OJK (submission of an application form, as set out in Appendix 1, and relevant supporting documents, such as a company charter, as well as a list of shareholders, list of BoD and BoC membership, and so forth). The OJK then has 30 business days upon receipt of a completed application and set of supporting documents in which to make a decision.
- States that PMVs and sharia PMVs have six months (at the most) in which to commence operations upon being granted a business license. PMVs and sharia PMVs then have 10 days after their business activities have commenced in which to report this commencement to the OJK.
- Sets out guidelines relating to the organizational structure of PMVs and sharia PMVs, including: 1) administration and bookkeeping; 2) business analysis; 3) risk management; 4) financial management, and implementation of APU and PPT programs.
- Sets out provisions on the hiring of foreign workers, be they: 1) experts (one level below the BoD), 2) consultants, or 3) advisors.
- Non-compliance with this regulation will result in administrative sanctions being applied (written warnings, suspension of business activities, or revocation of business licenses).

57. OJK Regulation [No. 33/POJK.04/2015](#) on Formats and Contents of Prospectuses for the Purposes of Raising Capital for Publicly Listed Companies Through the Granting of Preemptive Rights

Enforcement date: 22 December 2015

Summary:

- Sets out the information that must be contained within a prospectus (summary of the prospectus, as well as information relating to the public offering, purpose of the public-offering fund raising, debt statement, analysis of risk factors, information relating to taxation, analysis and discussion by management, information relating to equity and dividend policy, and so forth).
- Failure to comply with this regulation will result in sanctions being applied (including postponements in the granting of effective statements, written warnings, fines, suspension of business activities, revocation of business licenses, and so forth). Companies found to be in violation will also be announced to the general public.

58. OJK Regulation [No. 39/POJK.05/2015](#) on the Implementation of the Anti-Money-Laundering Program and the Prevention of Terrorism Funding by Financial Service Providers in the Non-Bank Financial Sector

Enforcement date: 28 December 2015

Summary:

- Financial Service Providers working in the Non-Bank Financial Sector (*Penyedia Jasa Keuangan - "PJK"*) are required to implement Anti-Money-Laundering (*Anti Pencucian Uang - "APU"*) as well as Prevention of Terrorism Funding (*Pencegahan Pendanaan Terorisme - "PPT"*) programs. These programs should incorporate active supervision from the BoD and BoC, written procedures and policies, effective internal-control methods, management information systems, and human resources.
- Guidelines on the implementation of APU and PPT must include written procedures and policies which should at the least encompass the implementation of a Customer Due Diligence ("CDD") process (consisting of information and document requests, document verification, and the monitoring of customer accounts), the implementation of Enhanced Due Diligence ("EDD") processes, and so forth.
- A PJK business's effective internal controls as regards these programs are to be proven by the implementation of adequate policy, procedure, and internal monitoring; the establishment of authorities and the limits of responsibility for any task force responsible for the implementation of APU and PPT; and an examination of the implementation of any APU and PPT programs by an internal auditor.
- A PJK business must establish either a manual or computerized management information system which is capable of identifying, analyzing, overseeing, and providing effective reports on the various characteristics of customer transactions.
- Non-compliance with this regulation will result in administrative sanctions being applied (written warnings, limitations of business activities, or suspensions of business activities. Any sanctioned PJK will have its name announced to the general public.

#### 59. OJK Regulation [No. 42/POJK.03/2015](#) on Commercial-Bank Mandatory Liquidity Coverage Ratios

Enforcement date: 23 December 2015

Summary:

- States that commercial bank ("**Banks**") must comply with the Liquidity Coverage Ratio ("**LCR**") to the level of at least 100% in a sustainable manner.
- Banks unable/potentially unable to fulfill the 100% LCR requirement must: 1) analyze the liquidity conditions (including any factors that may cause the Bank to fail to fulfill the LCR obligation, plans to rectify this failure, and an analysis of periods of liquidity stress), 2) provide relevant information and a liquidity analysis report to the OJK, and 3) take necessary steps in order to fix the liquidity conditions problem (such as reducing a Bank's exposure to liquidity risks and improving any contingency funding plans).
- Banks must be in possession of a High Quality Liquid Assets ("**HQLA**") policy for the purposes of fulfilling their LCR obligations (the policy should include identification of the legal entity, its geographical location, currency of the HQLA account, and so forth).
- HQLA must meet several requirements relating to: 1) fundamentals (which should be low risk, fixed, and which should follow an easy assessment method, and so forth), 2) market characteristics (the market should be active, adequate and have low volatility, and so forth), 3) operations (which should be free from any kind of claims and which should have its budgetary needs met, and so forth), and 4) diversification (involving the possession of various types of financial assets and currencies).
- Banks are required to calculate and report their LCR on a daily, monthly, and quarterly basis to the OJK via an online process.

- Non-compliance with this regulation will result in administrative sanctions being applied (written warnings, suspension of certain business activities, fines of up IDR 1 million per day for delays in the submission of monthly LCR reports).

60. OJK Regulation [No. 24/POJK.03/2015](#) on the Products and Activities of Sharia Banks and Sharia Business Units

Enforcement Date: 8 December 2015

Summary:

- Sharia banks and sharia business units (“Banks”) may issue new products and/or establish new business activities after fulfilling the following requirements: 1) the product or activity in question has to have never been launched/offered before; or 2) the product or activity has previously been offered but new features or characteristics have been added. Plans to issue any new products/activities must be incorporated into the bank’s business plan.
- OJK approval is required for the new product/activity launch if it has not been included in a Bank’s activity or product codification, otherwise an approval is not required. Requests for approval must be lodged with the OJK 30 days before launch. Banks must provide an explanation to the OJK if requested to.
- Sets out the requirements for the launching of new products/activities, which should: 1) have been incorporated under a Bank’s product and business-activity codification; 2) have been incorporated under a Bank’s business plan; 3) be in accordance with a Bank’s BUKU classification; and 4) be supported by sufficient operational preparations.
- Banks must issue the new product and/or establish the new business activity within six months at the latest after obtaining OJK approval. Failure to do so will result in the revocation of the approval.

61. OJK Regulation [No. 25/POJK.03/2015](#) on the Disclosure of Foreign-Customer Information for Taxation Purposes to Partner Nations or Jurisdictions

Enforcement Date: 11 December 2015

Summary:

- As part of the Automatic Information Exchange Agreement between Indonesia and partner nations or jurisdictions, all financial-services institutions (e.g. institutions in the banking, capital-market, and/or insurance sectors) are obliged to submit reports containing information on their foreign-customer bases to the Tax Authority, to be forwarded to partner nations or jurisdictions. This report can be submitted to the Tax Authority via the OJK.
- The report must contain information on an institution’s foreign-customer base as well as the customers’ account balances.
- The report must be forwarded to partner nations or jurisdictions at least 60 days before the deadline set out in the Automatic Information Exchange Agreement. The report must also name and inform the officers responsible for receiving the report (tax authority or the OJK).
- Failure to comply with this regulation will result in administrative sanctions (written notifications or warnings).

62. OJK Regulation [No. 26/POJK.03/2015](#) on the Mandatory Allocation of Minimum Integrated Capital for Financial Conglomerates

Enforcement Date: 11 December 2015

Summary:

- Financial Conglomerates must set aside an amount of integrated minimum capital equal to at least 100% of a financial conglomerate's aggregate regulatory capital requirement. This obligation must be undertaken after the Ratio of the Mandatory Integrated Minimum Capital Allocation (KPMR Ratio) has been calculated. Moreover, the OJK is allowed to set a larger value.
- Mandates the financial-conglomerate holding entity, including BoD and BoC, responsible for implementing an effective and comprehensive integrated capital-management policy.
- The integrated capital-management policy must satisfy the following requirements: 1) include policies and procedures relating to the management of integrated capital; 2) be able to assess the sufficiency of the integrated capital; 3) oversee and submit an integrated report on the capital in question; 4) incorporate a sufficient internal-control mechanism; 5) periodically review the management of the integrated capital.
- Non-compliance with this regulation will result in administrative sanctions (written warnings, reduction of business-soundness levels, restriction of business activities, and so forth).

63. OJK Regulation [No. 27/POJK.03/2015](#) on Bank Activities in the Form of Trust Deposits

Enforcement Date: 11 December 2015

Summary:

- Banks intending to engage in trust businesses must first obtain approval from the OJK and also acquire the following documents: 1) principal approval; and 2) letter of confirmation.
- Trust businesses must comply with the following: 1) the trust business must be organized by a working unit that is separate from other business-activity units; 2) banks as trustees can only manage their settlers' financial assets; 3) a trusteeship between trustee and settler must be drawn up in a written agreement; 4) and so forth.
- Trustees may act for and on behalf of a settler in accordance with the trusteeship agreement as: 1) paying agent; 2) fund-investment agent (either commercial-investment and/or sharia-based investment); and/or 3) borrowing agent and/or financing agent based on sharia principles. The trustee's actions must be set out in written instructions from the settler.
- Sets out the provisions that must be incorporated into all trusteeship agreements: 1) the appointment of a bank as trustee, and the appointment of the beneficiary; 2) the rights and obligations of the trustee, settler and beneficiary; 3) dispute-settlement mechanisms; 4) and so forth.
- Trust businesses must implement risk-management programs which include: 1) active supervision by a BoD, BoC or sharia-oversight council; 2) any necessary policies and procedures; 3) sufficient risk-identification, measurement, oversight and management processes, as well as a risk-management information system; and 4) and internal-control mechanisms.

64. OJK Regulation [No. 28/POJK.05/2015](#) on Dissolution, Liquidation, and Bankruptcy for Insurance, Sharia Insurance, Re-Insurance, and Sharia Re-Insurance Companies

Enforcement Date: 11 December 2015

Summary:

- Sets out the grounds on which insurance companies, sharia-insurance companies, reinsurance companies, and sharia-reinsurance companies (Businesses) can wrap up their business operations, specifically: 1) having their business license revoked by the OJK, 2) being declared bankrupt, 3) ceasing business operations out of their own volition.
- Businesses wrapping up their operations due to their licenses being revoked by the OJK must comply with the following: 1) immediately cease all business operations, 2) organize a general meeting of shareholders

in order to dissolve the company, and establish a liquidation team charged with handling all of the company's dissolution and liquidation processes.

- Businesses ending their business operations out of their own volition must report these plans to the OJK for approval, and must also comply with the following: 1) have a low or medium-to-low risk level, so that the assets of any given company or group only constitute a certain percentile of the total industrial assets, in accordance with risk-level assessment provisions; and 2) have already incorporated the possible cessation of business operations into their business plan.
- Sets out the procedures and requirements whereby creditors can file a request with the OJK relating to bankruptcy petitions against businesses.

65. OJK Regulation [No. 29/POJK.04/2015](#) on Issuers or Public Companies Exempt from Mandatory Reports and Announcements

Enforcement Date: 22 December 2015

Summary:

- Issuers or public companies exempt from the mandatory reporting and announcement obligation are: 1) companies which have had all of their business licenses invalidated; 2) companies which have been declared bankrupt based on the results of a final and binding decision; or 3) companies which fulfill at least three out of six criteria, including: i) have not operated at any point over the past three years, ii) have had their business operations suspended, iii) have been delisted from the stock exchange, and so forth.
- The OJK will determine which issuers or public companies are entitled to the exemption, which will be effectively enforced upon the determination date. The OJK can revoke any exemption if issuers and public companies undergo any changes in status.
- The OJK will publicly announce the list of issuers and public companies which are entitled to (or no longer entitled to) enjoy the exemption via the OJK's official website.
- Non-compliance with this regulation will result in sanctions being applied (written warnings, fines, restrictions of business operations, and so forth).

66. OJK Regulation [No. 30/POJK.04/2015](#) on Realization Reports for the Use of Public-Offering Proceeds

Enforcement Date: 16 April 2016

Summary:

- Issuers engaging in public offerings or publicly offered bonds (*sukuk*) are required to submit realization reports on the use of their public-offering proceeds ("LRPD") to the OJK on the 15<sup>th</sup> day of the month following an offering, until all funding from the public-offering proceeds has been realized.
- Publicly listed companies are responsible for the utilization of the proceeds of any public offering to the annual general meeting of shareholders (RUPS), until all of the proceeds have been realized. This accountability should incorporate the following information at a minimum: (i) the total amount of acquired funds; (ii) any expenses involved in the carrying out of the public-offering; and (iii) the total amount of realized funds, as well as their utilization, any unrealized funds, and the reasons as to why these funds have yet to be realized.
- Issuers must reveal details of the expenses involved in the conducting of any public-offerings in the LRPD.
- Non-compliance with this regulation will result in administrative sanctions being applied (written warnings, fines, restriction or suspension of business activities, and so forth).

67. Bank Indonesia (BI) Regulation [No. 17/23/PBI/2015](#) on the Amendment to BI Regulation [No. 16/10/PBI/2014](#) on Foreign-Exchange Revenues from Exports and the Withdrawal of Foreign-Exchange Debt

Enforcement Date: 2 January 2016

Summary:

- Foreign-currency loans are debts that derive from: 1) non-revolving loan agreements; 2) debt securities; and 3) the margin that exists between a new foreign-currency loan to be used for refinancing, and a previous foreign-currency loan. Debtors are required to withdraw their foreign-currency loans from a foreign-exchange bank and report the receipt of such withdrawals to BI.
- The amount of an accumulated foreign-currency loan must be the same as the total amount of commitment to the foreign-currency loan. If the amount of the accumulated receipt is lower than the total commitment, with a deficit margin of over IDR 50 million (or its equivalent in foreign currency), then a written explanation and the necessary supporting documents must be submitted to BI.
- The amount of each receipt of a foreign-currency loan via a foreign-exchange bank must be the same as the amount of each withdrawal of the foreign-currency loan. If the amount of each receipt is lower than each withdrawal with a deficit margin of over IDR 50 million or its equivalent, then the margin will be disregarded if the debtor submits the necessary supporting document to BI.
- Debtors that do not withdraw loans in foreign currencies via foreign exchange banks will be subject to administrative sanctions (fines amounting to 0.25% of each withdrawal value - up to a maximum of IDR 50 million), written warnings; notification of the foreign lender and/or authorized institutions). These administrative sanctions become effective on 1 March 2016.
- See also ILB [No. 2407](#).

68. BI Regulation [No. 17/22/PBI/2015](#) on Mandatory Countercyclical Buffers

Enforcement Date: 28 December 2015

Summary:

- Countercyclical buffers are additional injected funds which function to buffer possible losses due to excessive credit supply/bank financing that may end up disrupting the overall stability of the financial system. These countercyclical buffers are mandatory for banks (both commercial and sharia based)
- Sets the countercyclical-buffer amount (between 0% and 2.5% of a bank's risk-weighted assets), as well as the implementation period for the mandatory countercyclical-buffer program.
- The initial countercyclical buffer is set at 0%, effective from 1 January 2016, an amount which can be adjusted by BI based on developments in macroeconomic conditions, the Indonesian financial system, and/or the global economic outlook.
- A countercyclical buffer will be established through tier 1 common equity capital in order to preserve the following allocated funds: 1) minimum main-core capital, 2) minimum core capital, and 3) minimum capital according to risk profile.
- BI will evaluate the countercyclical-buffer amount and implementation period of a given bank once every six month. This evaluation process will decide whether the amount and period will be maintained or adjusted. Adjustment would mean that the current amount will be raised (over a timeframe stretching from six to 12 months) or reduced (which becomes effective immediately).

69. BI Circular Letter [No. 17/52/DKSP](#) on the Implementation of National Standards for Chip Technologies and the Use of 6 (six) Digit Online Personal Identification Numbers for ATM Cards and/or Debit Cards Issued in Indonesia

Enforcement Date: 30 December 2015

Summary:

- Serves to increase ATM-card and/or debit-card security by replacing the current magnetic-strip based technology used by ATM cards and debit cards with chip technologies.
- Principals, issuers, acquirers, clearance organizers, and/or final-settlement organizers of ATM and/or debit cards (collectively referred to as “providers”) will be obliged to utilize the new chip technology. Issuers and acquirers are also obliged to utilize the six-digit online PIN system as the authentication method for each transaction that uses an ATM and/or debit card.
- Providers must complete the installation of all supporting infrastructure that relates to the introduction of this new chip technology (e.g. ATM terminals, EDC Terminals, processing tools) by 31 December 2021 at the latest.
- Six-digit PIN technology must be implemented by 30 June 2017 at the latest for ATM and/or debit cards still using the old magnetic-strip technology, or by 31 December 2021 at the latest for ATM and/or debit cards that already use chip technology.

70. BI Circular Letter [No. 17/51/DKSP](#) on the Third Amendment to BI Circular Letter [No. 11/10/DASP](#) Dated 13 April 2009 on Organizing Card-Based Payment Instrument Activities

Enforcement Date: 30 December 2015

Summary:

- The maximum withdrawal value from Automatic Teller Machines (ATM) using a debit card or credit card is now set at: 1) IDR 10 million per day per account for debit cards/credit cards that use magnetic-strip technology; and 2) IDR 15 million per day per account for debit cards/credit cards that use chip technology.
- The maximum inter-account transfer via ATM using a debit card/credit card is now set at: 1) IDR 25 million per day per account for debit cards/credit cards that use magnetic-strip technology; or 2) IDR 50 million per day per account for debit cards/credit cards that use chip technology.

71. BI Circular Letter [No. 17/50/DPM](#) on the Third Amendment to BI Circular Letter [No. 16/15/DPM](#) Dated 17 September 2014 on Foreign-Exchange Transactions Against the Rupiah Between Banks and Foreign Parties

Enforcement Date: Issued on 21 December 2015, applies retroactively from 7 October 2015.

Summary:

- Investments in the form of securities issued by BI (BI Securities) in foreign currencies can no longer be used as underlying transactions for the purchase of foreign currencies as part of a foreign-exchange transaction against the rupiah carried out through spot and/or derivative transactions.
- The upper purchasing threshold for foreign currencies against the rupiah without any underlying transaction is now set at: 1) USD 25,000 or its equivalent in another currency per transaction per foreign customer using a spot transaction; 2) USD 1 million or its equivalent in another currency per transaction per foreign customer (or per outstanding) per bank using a derivative transaction.
- The upper selling threshold for foreign currencies against the rupiah through derivative transactions without any underlying transaction is now set at: 1) USD 5 million or its equivalent in another currency per transaction per foreign customer (or per outstanding) per bank, if the transaction involves a forward transaction; 2) USD 1 million or its equivalent in another currency per transaction per foreign customer (or per outstanding) per bank if the transaction involves a swap or option transaction.

72. BI Circular Letter [No. 17/49/DPM](#) on the Fourth Amendment to BI Circular Letter [No. 16/14/DPM](#) Dated 17 September 2014 on Foreign-Exchange Transactions Against the Rupiah Between Banks and Domestic Parties

Enforcement Date: Issued on 21 December 2015, applies retroactively from 7 October 2015

Summary:

- Investments in the form of securities issued by BI (BI Securities) in foreign currencies can no longer be used as underlying transactions (un-withdrawn credit facilities) for the purchase of foreign currencies against the rupiah through spot and/or derivative transactions.
- Sets the upper selling threshold for foreign currencies against the rupiah through derivative transactions without an underlying transaction at :1) USD 5 million or its equivalent in another currency per transaction per customer using a forward transaction; 2) USD 1 million or its equivalent in another currency per transaction per customer using an option transaction.
- Banks must implement a document-control procedure in order to ensure that: 1) documents already used as an underlying transaction can be re-used in another foreign-exchange transaction, provided that the value does not exceed the underlying transaction; 2) for a series of economic activities in which several types of underlying-transaction documents exist, one of these documents can be used as an underlying transaction for any foreign-exchange transactions against the rupiah.

73. BI Circular Letter [No. 18/1/DPSP](#) on Amendment to BI Circular Letter [No. 17/32/DPSP](#) Dated 13 November 2015 on Auction Procedures for State Commercial Papers in the Primary Market and the Management of State Commercial Papers

Enforcement date: 5 January 2016

Summary:

- Amends the provisions on bidding methods for auction proposals as regards state commercial papers (*surat berharga negara* - "SBN") using the rupiah currency in the domestic primary market, and covers: 1) the auction of government bonds (*surat utang negara* - "SUN") proposed by a main dealer: specifically competitive and/or non-competitive bidding for state bonds and competitive bidding for SUN; and 2) the auction of sharia SBN proposed by the auction participants: specifically competitive bidding (if the auction is proposed in the name of personal interest) or competitive and/or non-competitive bidding (if the auction is proposed on behalf of parties other than BI or the Deposit Insurance Corporation).
- Clarifies that offerings for additional SBN auctions may not exceed the amount of each SUN series offered via the non-competitive bidding method.
- Merges provisions on the auction of SUN in foreign currencies by main dealers in their own interests or on behalf of other parties (excluding BI and Deposit Insurance Corporations) as follows: 1) competitive and/or non-competitive bidding for state bonds; and 2) competitive bidding for state treasury notes.
- Adds a provision mandating that BI announces any decision made by the Directorate General of Risk and Financing Management (on behalf of the Minister) regarding auctions and the settlement-transaction process for SBN or additional SBN in cases where technical difficulties arise in the commercial-bank daily reporting system and/or other communications system used by BI.

## Energy and Natural Resources

74. Government Regulation [No. 122 of 2015](#) on Drinking-Water Supply Systems

Enforcement date: 28 December 2015

Summary:

- Sets out two types of drinking-water supply systems (*Sistem Penyediaan Air Minum* - "SPAM"): 1) SPAM pipeline networks (raw-water collection and supply facilities; production facilities; distribution facilities; and service units used as drinking-water supply points), and 2) SPAM non-pipeline networks (shallow wells; hydro-pump wells; rainwater tanks; water tanks/water terminals; and water-catchment facilities).
- Parties allowed to organize SPAM programs are: 1) state/regionally owned enterprises; central technical units (*Unit Pelaksana Teknis* - "UPT") or regional technical units (*Unit Pelaksana Teknis Daerah* - "UPTD") established by central/regional government; the general public; and business entities.
- SPAM programs must be integrated into sanitary mechanisms (waste-water management systems, garbage-management systems).
- See ILB [No. 2798](#)

75. Government Regulation No. [No. 121 of 2015](#) on Water-Resource Utilization

Enforcement date: 28 December 2015

Summary:

- Sets out the parties allowed to utilize water resources, specifically: 1) surface water and 2) underground water, namely: State/Regionally/Village-owned enterprises, private enterprises, cooperatives, individuals, or cooperative ventures that exist between enterprises (together referred to as "**Water Business**").
- Two types of licenses are needed in order to utilize water resources: 1) water-resource utilization license, for utilization of surface water (valid for **10 years** and extendable), and 2) underground water-resource utilization license (valid for **three years** and also extendable).
- Licenses granted prior to the enforcement of the new regulation will remain valid until their expiration date.
- Non-compliance with the regulation will result in administrative sanctions being applied (written warnings, business-activity suspensions, or license revocations).
- See ILB [No. 2794](#)

76. Minister of Trade Regulation [No. 119/M-DAG/PER/12/2015](#) on Mining-Product Export Provisions

Enforcement date: 1 February 2016

Summary:

- Sets out limitations and/or restrictions on the export of certain unrefined or unprocessed mining products (metallic and non-metallic minerals), including their export procedures and requirements.
- Appendix I sets out a list of 169 types of metallic minerals and 19 non-metallic minerals, while Appendix II lists 11 minerals that must be processed to a certain standard before they can be exported.
- The mining products set out in Appendix II (including hematite, magnetite, geothite, laterite, and so forth) can only be exported until 12 January 2017.
- Appendix III lists raw materials/ores and unprocessed /unpurified minerals which are not allowed to be exported.
- Parties allowed to export the mining products set out in Appendices I and II should be holders of: 1) Mining Business Licenses (*Izin Usaha Pertambangan* - "IUP") for production and operation with Clean and Clear status; 2) Special IUPs (*Izin Usaha Pertambangan Khusus* - "IUPK") with Clean and Clear status; IUPs for

production and operation encompassing processing and refining, Industrial Business Licenses, or Industry Registration Certificates.

- The following purposes or parties are exempt from this regulation: Mining products used for exhibitions, passenger or transportation-crew cargoes, artwork, and mining products used for the purposes of research and development.

77. Minister of Energy and Natural Resources Regulation [No. 43 of 2015](#) on Evaluation Procedures for the Issuance of Mineral and Coal-Mining Licenses

Enforcement date: 30 December 2015

Summary:

- The issuance of IUPs will be evaluated by the Director General of Minerals and Coal at the Ministry, or by the relevant governors.
- The evaluation process consists of several stages, namely: 1) administrative evaluation [such as applications to extend Indonesian Mining Rights (*Kuasa Pertambangan* - "KP") licenses or applications to extend IUPs before they expire]; 2) zoning evaluation [in order to evaluate whether the granted mining areas (*Wilayah Izin Usaha Pertambangan* - "WIUP") overlaps with any others]; 3) technical evaluation (exploration reports and feasibility studies); 4) environmental evaluation; and 5) financial evaluation (proof of fixed-fee and production-fee payments).
- Non-compliance with the five criteria set out above will result in administrative sanctions being applied (written warnings, suspension of business activities, or license revocations).

78. Government Regulation No. [No. 104 of 2015](#) on the Procedures for Altering the Designation and Function of Forest Areas

Enforcement date: 28 December 2015

Summary:

- Sets out two methods whereby a forest-area designation may be altered, specifically: partial alteration and alteration of provincial forest areas.
- Partial alteration changes the status of a region's designated forest area (exchange forest areas, or lifting forest-areas). This method is only applicable to limited-production forests and/or permanent-production forests.
- The partial alteration method encompasses two processes: 1) alteration of the primary function of a forest area; and 2) modification of forest type without any changes being made to an area's primary function.
- For more information, see [ILB No. 2802](#)

79. Government Regulation [No. 105 of 2015](#) on the Second Amendment to Government Regulation [No. 24 of 2010](#) on the Utilization of Forest Areas

Enforcement date: 28 December 2015

Summary:

- Makes changes to: 1) the types of non-forestry business operations allowed in production and protected forest areas; 2) the requirements and procedures for securing the Borrow-to-Use License required in order to utilize production in protected forest areas; and 3) the obligations of Borrow-to-Use License holders.

- Non-forestry operations added are: construction of astronomical and observatory facilities, water reservoirs, dams and other similar waterworks facilities, and temporary shelters for disaster victims.
- Borrow-to-Use Licenses have now become more lenient in their requirements in that: 1) applicants are no longer required to obtain Principal Approval from the Minister of Environment and Forestry before applying for a Borrow-to-Use License; 2) members of the general public are now eligible to apply for Borrow-to-Use Licenses.
- Adds a new obligation for holders of Borrow-to-Use Licenses i.e., the obligation to submit information on the boundaries of the utilized Forest Area to the Minister no later than one year after a license has been issued.
- See ILB [No. 2804](#)

80. Government Regulation [No. 108 of 2015](#) on the Amendment to Government Regulation [No. 28 of 2011](#) on the Management of Nature Reserves and Conservation Areas

Enforcement date: 28 December 2015

Summary:

- Aims to accommodate geothermal-energy business activity within the country's forestry conservation areas, as regulated under Law [No. 21 of 2014](#) on Geothermal Resources. Introduces a new term: "environmental service utilization", which serves to replace the previous term: "environmental condition utilization". The new term defines geothermal resources as an integral part of the environmental service utilization concept.
- The addition of geothermal utilization means that: 1) geothermal-resource utilization is now an activity that can be undertaken in natural conservation areas (i.e. national parks, forest parks, and nature-tourism parks); and that 2) levies and charges can be imposed on geothermal businesses.
- Mandates that further provisions on the utilization of geothermal resources within nature reserves and natural conservation areas should be set out in a Ministry regulation.
- See ILB [No. 2801](#)

81. Presidential Regulation [No. 146 of 2015](#) on the Construction and Development of Domestic Oil Refineries

Enforcement date: 30 December 2015

Summary:

- Aims to provide guidelines on the construction and development of domestic oil refineries, covering: 1) construction and development schemes; 2) the purchase of oil-refinery products; and 3) guidance and monitoring measures.
- Stipulates that oil-refinery construction or development can be undertaken by the government or by legal entities (i.e. state or regionally owned enterprises, private business entities or cooperatives) through the following schemes: 1) public/private partnerships (*kerjasama pemerintah dan badan usaha - "KPBU"*); or 2) appointments, utilizing either government or corporate financing.
- Legal entities working under the KPBU scheme must establish a new limited-liability company and secure an oil processing license (*izin usaha pengolahan*), which will remain valid for 30 years and which is extendable for another 20 years (maximum).
- Appoints PT. Pertamina (Persero) as the body: 1) responsible for planning and preparations, as well as for organizing agreements with private contractors, and for the monitoring of any KPBU projects; 2) responsible for guaranteeing refinery construction and development or the organization of refinery activities once the construction stage has been completed; and so forth.
- See ILB [No.2807](#)

82. Minister of Finance Regulation [No. 230/PMK.02/2015](#) on the Amendment to Regulation [No. 139/PMK.02/2013](#) on Procedures for the Payment of Domestic Obligation Fees, Over-Lifting Fees and/or Under-Lifting Fees for Upstream Oil and Gas Activities

Enforcement Date: 18 December 2015

Summary:

- The Directorate General of Budgeting at the Ministry of Finance may recalculate the domestic-market obligation (DMO) fees and/or under-lifting fees owed by the government to contractors, as well as PT. Pertamina's obligations to the government as regards its upstream oil-and-gas activities.
- The contractors referred to by this regulation are: 1) contractors whose shares are either entirely or partially owned by PT. Pertamina, 2) acting as contractors in an upstream oil-and-gas work area.
- See ILB [No. 2273](#).

83. Minister of Public Works and Housing Regulation [No. 50/PRT/M/2015](#) on Water Resource Utilization Licenses

Enforcement Date: 3 December 2015

Summary:

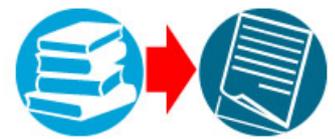
- Renews the procedures and requirements for obtaining water-resource utilization licenses, as mandated by Constitutional Court Decision [No. 85/PUU-XI/2013](#).
- All parties utilizing water must secure a water-resource utilization license (government institutions, legal entities, social institutions, or individuals), including, but not limited to, the utilization of water for commercial purposes. Activities exempt from this obligation are: 1) water usage for daily necessities; and 2) farming activities undertaken by individuals and farmers via existing irrigation systems.
- In order to extend a water-resource utilization license, a written application must be submitted 30 days at the latest before its expiration date. Failure to do so will result in the license holder having to file for a new license. Previously, the time frame for the filing of license-extension applications was set at three months at the latest before their expiration date.

84. Government Regulation [No. 109 of 2015](#) on Horticultural-Business Financing

Enforcement date: 28 December 2015

Summary:

- Sets out systematic procedures for the financing of horticultural businesses: 1) planning (plan drafting, plan implementation, and plan evaluation); 2) utilization of resources (human resources, natural resources, and artificial resources); 3) horticultural development (horticultural zoning and horticultural businesses); 4) distribution and marketing (loading priority for horticultural products, improved horticultural product consumption, and so forth); 5) guarantees and investment (facilitates for small- and micro-scale horticultural businesses offered by financial institutions, and so forth); 6) information systems (the establishment of an integrated horticultural-information systems); 7) research and development (including the publication of horticultural research); 8) empowerment (partnership developments, and so forth); 9) management (financing relating to the establishment of horticultural-development institutions), 10) supervision (supervision and evaluation of horticultural products); and public participation.



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