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ASEAN BRIEFING

From Dezan Shira & Associates

Setting Up in Indonesia

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Introduction

ALBERTO VETTORETTI
Managing Partner

After overcoming the Asian financial crisis in 1998, Indonesia developed into a vibrant democracy with the largest and most dynamic economy in Southeast Asia. The country's GDP has grown at a consistent pace at just above five percent in the past year. Interest rates have also remained low and domestic consumption has risen — accounting for approximately 60 percent of GDP as of September 2019.

Since President Joko Widodo's re-election in April 2019, his government has vowed to continue implementing his prudent macroeconomic policies and structural reforms to further enhance the ease of doing business and improve the country's investment climate. This included issuing various tax incentives as well as widening the number of positions open to expatriate workers.

In this issue of the ASEAN Briefing magazine, we begin by introducing Indonesia's business environment by highlighting the major industries that support the country's US$1 trillion-dollar economy as well as its tax and visa regulations. We then analyze the various tax incentives offered to foreign investors, in addition to the incentives provided in special economic zones (SEZ). Finally, we focus on corporate establishments and the set-up process investors need to follow if they are looking to establish a legal presence in the country.

With an office in Jakarta and years of experience helping foreign enterprises set up operations in the country, Dezan Shira & Associates is well positioned to assist your company in entering the Indonesian market. For more information, please email us at indonesia@dezshira.com

With kind regards,

Alberto Vettoretti

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This Issue's Topic

Setting Up in Indonesia

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The Business Environment: An Introduction

By Dezan Shira & Associates
Editor: Ayman Falak Medina

After gaining independence in 1945, Indonesia experienced rapid industrialization during the 1970s on the back of strong oil exports before labor-intensive industries became the new engine of growth in the late 1980s. This economic growth came to a sudden halt at the onset of the 1997-1998 Asian financial crisis.

Since the crisis, the country has implemented sound fiscal policies and political reforms that have reduced public debt and improved the investment climate.

Indonesia's mining and petroleum industry have been the backbone of the country's economy since the 1970s. Primary commodities account for some 60 percent of total exports.

Despite Indonesia trying to climb up the value production chain, commodities are set to continue to dominate exports for the next 10 years, with China and India replacing the US and Japan as the top export destinations.

Indonesia's manufacturing sector employed some 15 percent of the total workforce in 2018 with GDP from this sector reaching US$40 billion in the second quarter of 2019. The main areas of production are food and beverages, textiles, electronics, automotive, footwear, and textile and garments.

An estimated 99 percent of the manufacturers are micro, small, or medium enterprises

Country Profile

Official name
Republic of Indonesia

Capital
Jakarta

Population
267 million

Currency
Rupiah (US$1 = 14,025 Rupiah as of October 30, 2019)

GDP (2019)
US$1.06 trillion

GDP PPP per capita (2019)
US$11,605

Import value (2019)
US$142.5 billion

Export value (2019)
US$150 billion

Average monthly wage
US$ 278

Main Industries

- Petroleum
- Natural Gas
- Textiles & Garments
- Electronics
- Handicrafts
- Chemical Fertilizers
- Mining
- Footwear
- Plywood
- Processed Food
- Palm Oil
- Jewelry
- Medical Instruments
- Rubber

(MSMEs), who account for two-thirds of total employment in the sector.

The country's services sector is the largest source of job creation, forming 45 percent of total employment in 2018. Contributing US$36 billion to the GDP in the second quarter of 2019, Indonesian companies in this sector have expanded their operations beyond Indonesia to Myanmar, Singapore, and Vietnam.

Agriculture continues to play an integral role in the economy, employing one-third of the country's total workforce. The sector consists of small-scale farming and large commercial plantations for a variety of products such as rice, rubber, palm oil, tropical fruits, nutmeg, cocoa, and coffee.

Contribution to the GDP from agriculture reached US$6.3 billion in the second quarter of 2019; Indonesia's government aims to achieve food-self-sufficiency by 2045.

The government is making efforts to develop a more competitive business environment for foreign investors. However, businesspeople should look to develop a base understanding and the risks involved before committing to investing in Indonesia.

Ease of doing business rankings

Indonesia has consistently improved its ease of doing business (EODB) ranking, having reached an all-time high of 129 among 190 economies in 2008 and a record low of 72 in 2017 (the lower the rank, the more conducive the regulatory environment is for business operations).

This year, the country was ranked 73rd, a blow to the government's goal to reach 40th by 2019.

In its report, the World Bank highlighted Indonesia's rigid employment regulation and increasing the minimum wage as the factors that prevented the country from climbing up the ranks.

However, Indonesia did rank positively for:

- *Starting a business* - It is now easier since the introduction of an online platform for business licensing, which issues the electronic certificates.
- *Paying taxes* - It has been made simpler due to the online filing and payment system for major taxes.
- *Enforcing contracts* - It is now managed through an online case management system for judges designed to streamline the filing, and delivery of court documents.
- *Trading across barriers* - It has improved because of the online processing of export customs, enabling more efficient and cost-effective cross border trade.
- *Getting electricity* - It is now easier for businesses due to renovation and upgradation to its electrical grids.

Taxation

Taxation in Indonesia is based on Law No. 16, 2009, which sets out the various taxes that companies, individuals, and investors need to comply with. These include corporate income tax (CIT), personal income tax, value-added tax, and luxury tax.

Tax residency

A foreign company is considered a tax resident of Indonesia if it has a domicile in the country. In such cases, the company is subjected to the same tax obligations as the resident tax payer.

Corporate income tax

Corporate income tax is set at a basic rate of 25 percent, although the government has stated it will gradually reduce CIT to 22 percent by 2022. Other applicable CIT rates are:

- Public companies that offer the minimum requirement of 40 percent of total share capital are subjected to a 5 percent tax cut from the standard rate, allowing them to pay 20 percent CIT;
- Companies that have an annual turnover of 50 billion Rupiah (US$3.5 million) are eligible for a 50 percent tax cut from the standard rate, which is imposed proportionally on the part of the gross turnover of 4.8 billion Rupiah (US$341 thousand); and
- Companies with gross turnover of no more than 4.8 billion Rupiah (US$341 thousand) are subject to 0.5 percent tax of total turnover.

Value-added tax

Value-added tax (VAT) in Indonesia is imposed on the provision of services or the transfer of taxable goods. VAT rates are set out below:

- 10 percent imposed on most manufacturers, retailers, wholesalers, and importers;
- Export of tangible and intangible goods are subject to 0 percent VAT; and
- Export of services is subject to 0 percent VAT.

The government's negative list sets out all the goods and services that are non-taxable, these include among others: mining or drilling products, basic food commodities, medical health services, financial services, and educational services.

Personal income tax

Personal income tax (PIT) in Indonesia is determined through a self-assessment system meaning - resident tax payers will need to file individual income tax returns.

To be considered a tax resident, tax payers will need to stay in the country for more than 183 days over a 12-month period or intend to stay in the country for more than 183 days even if they have spent less than 183 days in the country.

The PIT tax is based on four income bands ranging from 5 to 30 percent. Non-residents are subject to a flat rate of 20 percent on their gross income.

INCOME TAX RATE

INCOME PER YEAR	RATE (%)
Up to 50 million Rupiah (US$3,558)	5
Between 50 - 250 million Rupiah (US$3,558 – US$17,788)	15
Between 250 - 500 million Rupiah (US$17,788 – (US$35,586)	25
500 million Rupiah (US$35,586) and above	30

Applicable tax deductions

Tax residents are eligible for several tax deductions depending on their dependents. In Indonesia, a family is considered a single tax reporting unit having a single tax number (NPWP).

Indonesia has adopted the worldwide income taxation system, meaning tax residents will have to pay PIT on income earned in Indonesia as well as income earned from abroad – this is subject to an applicable tax agreement between Indonesia and the country in question.

Visas

There are a variety of visas foreign visitors can apply for depending on their purpose of visit.

Business visas

This is a single-entry visa valid for 60 days upon arrival and can be extended up to four times. This type of visa is intended for businesspeople who engage in meetings in the country, attend conferences, or undertake market research.

Multiple entry business visas

Multiple entry business visas allow foreign visitors to make repeated trips into Indonesia for one year. The visa, however, has a 60-day limit upon arrival, meaning that visitors will have to leave the country before it expires before entering Indonesia again.

Working visas

A work visa (KITAS) can only be applied by the Indonesian company that will hire the foreign worker. The company will first apply for a limited stay visa (VITAS) at the Ministry of Manpower (MOM) and must prove that the foreign applicant is required to fulfil certain positions.

The MOM will issue a recommendation letter to the Directorate General of Immigration in Jakarta, who will issue the final approval. Other than employees, applicants who have an Indonesian spouse are also eligible for this visa with the Indonesian spouse acting as the sponsor.

Permanent stay visas

The permanent stay visa (KITAP) allows expatriates to permanently stay in Indonesia. To qualify for this visa, expatriate workers would need to have held a KITAS for four consecutive years, work in the same company, and hold the same position.

As with other visas, applicants will need a local sponsor. In addition to their employer, this could also be their spouse (who must be Indonesian).

Visa on arrival

Foreign tourists can obtain visas on arrival at any of the country's main international airports. Those that are eligible must belong to one of the 73 nationalities listed in the Directorate General of Immigration's website. The visa is valid for 30 days and can be extended by an additional 30 days. Holders of this visa are not permitted to work in Indonesia.

Income Tax Deductions

Basic of deduction	Deductible amount per year
Individual tax payer	54 million Rupiah (US$3,844)
Spouse	Additional 4.5 million Rupiah (US$320)
Each dependent (max 3)	Additional 4.5 million Rupiah (US$320)

Tax and SEZ Incentives for Investments

By Dezan Shira & Associates
Editor: Ayman Falak Medina

Since 2015, Indonesia has introduced an array of policies ranging from tax incentives to economic stimulus packages aimed at developing the logistics sector, enhancing the ease of doing business, and ultimately, increase foreign investment.

One significant initiative targeted at improving the country's investment climate was the issuance of the 16th Economic Policy Package in 2018. The policy package provides tax holidays for certain business sectors, and tax cuts for companies that repatriated their export earnings.

Under the package, foreign investors could attain a 50 percent corporate income tax (CIT) cut for up to five years if they invested 100 billion Rupiah (US$7.1 million) and up to 500 billion Rupiah (US$35 million). Capital investments worth more than 500 billion Rupiah (US$35 million) but less than 1 trillion Rupiah (US$71 million) are eligible for 100 percent CIT cut for a period of five years.

There are further CIT reductions offered for two years following the end of the timeline. These reductions are: an additional 25 percent tax holiday allowance for investment type 1; an additional 50 percent tax holiday allowance for investment types 2 through 6.

Available Tax Incentives			
Invest Type	**Capital Investment**	**Tax Holiday (%)**	**Period (years)**
1	Up to 100 billion Rupiah (US$7.1 million) less than 500 billion Rupiah (US$35 million)	50	5
2	More than 500 billion Rupiah (US$7.1 million) less than 1 trillion Rupiah (US$71 million	100	5
3	More than 1 trillion Rupiah (US$71 million) less than 5 trillion Rupiah (US$356 million)	100	7
4	More than 5 trillion Rupiah (US$356 million) less than 15 trillion Rupiah (US$1 billion)	100	10
5	More than 15 trillion Rupiah (US$1 billion) less than 30 trillion Rupiah (US$2.1 billion)	100	15
6	More than 30 trillion Rupiah (US$2.1 billion)	100	20

Note: US$1=14,014 Rupiah as of October 30, 2019

How to obtain tax incentives

To obtain a tax incentive, investors must have an Indonesian legal entity, comply with the Indonesian thin-capitalization rule by having a debt to equity ratio of not more than 4:1, and the minimum capital investment requirement of 100 billion Rupiah (US$7.1 million). Furthermore, companies must make new investments into pioneer industries, which is defined as any industry that provides added value for the national economy, broad connections, and introduces new technology.

Pioneer industries

Under the latest economic package, two new sectors - digital economy and agricultural commodity processing - are now open for 100 percent foreign ownership. There are also modifications to certain pioneer industries on the list, as the government aims to bring its industries beyond assembly and up the value chain. This can be seen from the introduction of irradiation, electro medical, or electrotherapy equipment and robotics components to support the creation of manufacturing machinery as new sectors open for investment.

The full list of sectors consists of:
- Oil and gas purification and or refinery industry;
- Organic base chemical industry;
- Manufacturing industry of main components for industrial engines and main components for engines;
- Inorganic base chemical industry;
- Petrochemical industry, based on petroleum, natural gas or coal;

- Economic infrastructures;
- Manufacturing of irradiation equipment, electro medical or electrotherapy;
- Manufacturing of electronic and telematics devices, main components such as semiconductors wafer, backlight for liquid crystal display, electrical driver or displays;
- Pharmaceutical raw material industry;
- Manufacturing of the main components for ships;
- Upstream base metal industry;
- Manufacturing of the main components for aircraft and other supporting aircraft industries;
- Manufacturing of the main components for electrical power generation engines;
- Manufacturing of the main components for trains;
- Manufacturing of robotic components, which support the engines manufacturing industry;
- Agricultural, plantation or forestry – based processing industries that produce pulp;
- Manufacturing of vehicle and the main components for vehicles; and
- Digital economy that includes data processing, hosting and other related activities.

Investors that want to engage in an industry not listed above can make a request to the Ministry of Finance, which will assess their application in coordination with the Indonesian Investment Coordinating Board (BKPM).

Online application process

Investors must now apply for the tax holiday through the Online Single Submission System (OSS), a one-stop-shop business licensing system. After entering their details onto the platform, the system will issue a business registration number and business license on the same day.

New tax incentives

Throughout 2019, the government has issued various tax incentive programs to entice foreign investors. In early June 2019, Government Regulation 45 of 2019 (GR 45, 2019) was issued which provides a series of tax incentives for investments in labor intensive industries, training programs, as well as research and development (R&D).

Through GR 45, 2019, investors can receive a 60 percent net income reduction of their total investments in the form of tangible assets, including any land assets used for business activities, if they invest or expand into labor intensive or pioneer industries.

Investors looking to start training programs or apprenticeship schemes, they can receive a gross income reduction of up to 200 percent of the total costs incurred. Investors will need to demonstrate that their programs can produce skilled graduates that can positively impact local industries and businesses.

Further, investors are eligible for a 300 percent gross income deduction in the total costs occurred if they conduct R&D activities that are deemed to advance the national economy, develop new industries and technologies, or transfer foreign technology to local enterprises. Other incentives issued include the waiving of VAT on taxable goods for the upstream oil and gas sector, in particular, for the exploration stage. Additionally, there are exemptions on land and building tax, and tax discounts on the joint facility operating costs, and indirect relocation expenditures.

Lastly, the government issued regulation PMK-32, which expanded the list of export services that can receive zero-rated VAT. To be eligible, these services must be produced or developed in Indonesia by a taxable business for the benefit of international recipients. The types of services include:

- Toll manufacturing;
- Repair and maintenance;
- Freight forwarding services for export-orientated goods;
- Construction consulting services;
- Information and technology services;
- Research and development services;
- Charter of aircraft or ships for international flights or shipping services;
- Business consultation and management;
- Legal consultation;
- Architecture and interior design consulting;
- HR consulting;
- Marketing;
- Engineering;
- Accounting or bookkeeping;
- Taxation;
- Financial audits;
- Trading services to find Indonesian suppliers for export purposes; and
- Interconnection, satellite providers and/or communication and data connectivity.

SEZ specific incentives

Indonesia currently operates 13 special economic zones (SEZ) spread across the archipelago. These can be divided into two categories: industry-based SEZs (8) and tourism-based SEZs (5).

SEZs in Indonesia

SEZ	Primary Industry
Arun Lhokseumawe	Oil & gas, Petrochemicals, Logistics, Agro industry, Paper
Sei Mengkei	Palm oil processing, Rubber processing, Logistics, Tourism
Galang Batang	Bauxite processing, Aluminium processing, Energy, Logistics
Tanjung Api-api	Petrochemicals, Rubber processing, Palm oil processing, Logistics
Tanjung Kelayang	Tourism
Tanjung Lesung	Tourism
Singhasari	Tourism, Technology Development
Mandalika	Tourism
Morotai	Tourism, Fishery processing, Logistics
Palu	Nickel & iron ore processing, Cocoa processing, Seaweed processing, Rattan wood processing, Logistics
Bitung	Coconut processing, Pharmaceuticals, Fishery processing, Logistics
Sorong	Industrial shipyard, Mining, Agricultural products
Maloy Batuta Trans Kalimantan	Palm oil processing, Wood processing, Logistics

Three SEZs were inaugurated in 2019 and the government plans to open another seven in 2020. The government hopes greater investment into SEZ's can elevate the country's position as a regional production base, supported by a comparatively cheap labor force, abundance in natural resources, good infrastructure, and a strategic compared location to other Asian markets. SEZs provide investment opportunities for a diverse range of sectors from commodities to manufacturing to tourism, but each SEZ was selected for its proximity to local resources and thus serve specialized primary industries.

Furthermore, the government has implemented a number of SEZ specific incentives. Investors must note that, prior to applying, they must submit their relevant documents to the Online Submission System (OSS) in order to receive a special identity number.

Fiscal Incentives for SEZs		
Type	**Facility**	**Terms and Conditions**
Tax holidays	• CIT reductions of 20-100 percent for 10-25 years investments of more than 1 trillion Rupiah (US$71 million); • CIT reductions of 20-100 percent for 5 -15 years for investments • of more than 500 billion Rupiah (US$35 million); and • CIT reductions of 20-100 percent for 5 -15 years* for investments less than 500 billion Rupiah (US$35 million). **(This is only for specified SEZs determined by the National Council for Economic Zones).*	• Become new Indonesian tax payers; • Invest in the primary business activity of the specific SEZ; • Demonstrate a new investment plan; • Submit a letter stating the ability to deposit funds in Indonesian banks of at least 10 percent of the total investment; and • Company must have been established since 2011.
Tax allowance	• A reduction in net taxable income by 30 percent for up to six years; • Accelerated amortization and depreciation; • Income tax on dividends of 10 percent; and • Compensation for tax losses for 5-10 years.	• Invested in the primary business activity of the SEZ and is not receiving tax holiday facilities from the SEZ; or • Invested in new ventures in the SEZ.
Withholding import tax	**Corporate entities** • Import duties are waived for the import of capital goods for up to three years; • Import duties are waived for the import of capital goods for up to two years; • No import duties for the import of raw materials for production, capital goods, and packaging; and • The manufacture of goods that utilize 40 percent of local components.	• The type and quantity of the goods that are not subject to import tax will be determined by the individual SEZ.
VAT	**Exemption of VAT** • Import of goods from outside the SEZ customs area; and • Import of goods from outside the SEZ customs area (but still within Indonesia) into the SEZ **VAT refunds** • Refunds for foreign passport holders that purchase goods from retail stores in tourism-based SEZs **Luxury tax exemptions** • Transfer of property in the SEZ	

Non-fiscal incentives for SEZs	
Type	**Facility**
Immigration	• Foreign investors can obtain a visa on arrival valid for 30 days that can be extended five times for 30 days each; • Foreign investors can apply for work permits at the SEZ; • Simplified process to attain multiple entry visas for foreign businesspeople and their families; • Resident permit for foreign nationals who own a property in a tourism-based SEZ; and • Resident permit for foreign nationals who are looking to live and retire in a tourism-based SEZ
Business licenses	• Accelerated issuance of business licenses
Land rights	• Foreign investors can obtain the Right to Build on the land which can be extended for 80 years; and • Foreign investors have the Right to Build on land designated for residential property for up to 80 years (which can then be extended)

How to Structure and Set Up Your Business

By Dezan Shira & Associates
Editor: Ayman Falak Medina

Despite improvements in the World Bank's latest Ease of Doing Business report, Indonesia continues to be challenging for foreign investors. The disharmony between the regulations issued by the central government and those at the regional level is a major barrier for businesses.

Investors should assess their specific needs carefully before deciding which corporate structure to operate from. Using a reliable local advisor is recommended for first-time investors in the country, as they will find it easier to remain compliant with applicable regulations.

There are two legal options for foreign investors looking to set up in the country: a foreign investment company (PT PMA) or representative office (RO).

Foreign investment company

Establishing a foreign investment company or PT PMA, is the preferred structure for companies looking to have a legal presence in the country.

Foreign investors will need to have an investment plan of a minimum 10 billion Rupiah (US$750 thousand) and a minimum paid-up capital equivalent of 2.5 billion Rupiah (US$178 thousand).

Prior to setting up, applicants should study the Negative Investment List (NIL) to see which business sectors are unavailable or restricted for foreign ownership. For business sectors that are restricted, foreign investors will need to engage in a joint venture with a local company.

There are several advantages to PT PMAs, including:

- Special financial and non-financial incentives, particularly in pioneer industries;
- Incentives for setting up in special economic zones (SEZs);
- Foreign investors can own as little as one percent and as much as 100 percent of the company (depending on the industry);
- Able to participate in government sponsored business tenders in the country;
- Ease of processing for business licenses;
- Ease of processing for work permits;
- Lower tax and import duties;
- Simple organization structure (requiring only one director, one commissioner, and two shareholders); and
- Ability to sponsor foreign executives and employees

There are no restrictions on where the PT PMA can set up in the country, but the business can only focus on one specific sector or area.

Moreover, all applicants will need approval from the Indonesian Investment Coordinating Board (BKPM) and should submit an investment plan (this must show their intended investment realizations).

Set up requirements for a foreign investment company

According to BKPM Regulation No 5 of 2013, investors looking to incorporate a PT PMA need to adhere to the following requirements:

- A total investment plan of a minimum of 10 billion Rupiah (US$750 thousand) (excluding land and properties);
- A minimum paid up capital of 2.5 billion Rupiah (US$178 thousand or equivalent to 25 percent of the total investment);
- Appointment of two shareholders (these can be foreign individuals or corporations);
- There must be minimum equity of 10 million IDR (US$715) per share;
- The appointment of at least one commissioner and a director (these can be held be foreign individuals); and
- The director will be responsible for running the day to day activities of the company

Set up process for a PT PMA

1. Reserve a company name with the Ministry of Labor (which should not be similar to the name of other companies or use vulgar language);
2. Establish a legal entity with the company's activities stated in the Deed of Establishment (this must be done with a local notary and the Deed of Establishment will have to be ratified by the Ministry of Law and Human Rights);
3. Obtain a tax payer identification number

from the local tax office and domicile letter from the district government;

4. Obtain a Single Business Number (NIB) by applying through the Online Single Submission system (the NIB applies as the company's import identification number, customs ID, and registration certificate; the NIB will also automatically register your company under the government's health and social security scheme); and
5. Some companies may need to apply for additional licenses (such as for mining and fintech) based on the type of industry.

Representative offices

Opening an RO is the fastest and simplest way of establishing a legal entity in the country. This set up is a temporary arrangement – ROs are not allowed to engage in any commercial activities, issue invoices, sign contracts, or earn any revenue. Foreign investors, however, can own 100 percent of this business entity and don't have to contribute the same paid-up capital required by PT PMAs.

The business activities of ROs are limited to: market research activities, obtaining information on potential clients, developing trade contacts, and gather information on regulations and laws. There are four types of ROs, which we explore below.

General representative office (KPPA)

A KPPA is a general RO, ideal for investors who are still exploring opportunities in Indonesia. The KPPA has two main responsibilities:

- Represent, supervise, and manage its parent company in Indonesia; and
- Prepare for the establishment of a limited liability company for the parent company.

The KPPA must be incorporated in the capital of any Indonesian province and must be located in an office building. The KPPA permit is valid for an initial three years and can be extended twice for one year each time.

Representative office for a foreign trading company (KP3A)

A KP3A is similar to a KPPA but is more ideally suited for manufacturers or product owners looking to establish a network of distributors in the country. The KP3A is divided into the following categories:

- Can act as a buying/or selling agent for the parent company, performing liaising or promotional activities; or
- Act as a manufacturing agent with its activities also limited to market research and liaising.

Unlike a KPPA, the KP3A does not have to be established in the capital city of a province; they can set up in any district or regency in the country.

Foreign investors will also need to obtain a Foreign Company Trade Representative license (SIUP3A), which can be done through the OSS system of the BKPM. The KP3A permit is limited to two months (temporary license) to a maximum of one year (permanent license).

Representative office for a foreign construction company (BUJKA)

A BUJKA is an RO for foreign construction companies, and unlike the KPPA and KP3A entities, a BUJKA can undertake projects in Indonesia through a joint venture with a local construction company. The BUJKA license is valid for three years and the local partner must be a limited liability company.

Applicants must prove to the National Construction Services Development Board (LPJK) that they are classified as a 'large' construction company, and they must have a service business license issued by the Department of Public Works.

Representative office for a foreign oil and gas company (KPPA MIGAS)

Foreign oil companies can set up a representative office through a KPPA MIGAS permit. The license is valid for three years and applicants will need to seek prior approval from the BKPM.

General set up requirements for ROs

Foreign investors looking to open an RO will need to fulfil the following requirements:

- Register with the BKPM through their online portal (SPIPISE);
- The parent company's Article of Association legalized by a notary and the Indonesian Embassy of the parent company's country of origin;
- Letter of Appointment by the Indonesian Embassy located in the parent company's country of origin;
- Latest financial statements of the parent company.
- Letter of intent legalized by a notary and the Indonesian Embassy located in the parent company's country of origin;
- The number and details of local workers to be hired;
- Certificates demonstrating competency in the relevant industry or sub-sector;
- Recommendation letter from the Ministry of Energy and Mineral Resources (for KPPA MIGAS applicants;
- Lease agreements;
- Must be located in the capital of a province (unless it is a KP3A applicant); and
- A letter that states the RO will not engage in any commercial activities in Indonesia.

A note on the local limited liability company (PT PDMN)

Foreign investors who want to operate a PT PDMN, a registered local company, should understand that this can carry legal uncertainties as a PT PDMN can only be owned by Indonesian citizens.

According to Article 33 of the Investment Law of 2007, foreign investors are prohibited from making an agreement that states the share/joint ownership in a company is on behalf of another party. Also known as a 'nominee agreement', foreign investors have used such arrangements to avoid regulations and requirements that apply to them.

This carries inherent risks as the local shareholders will have full control of the business and the foreign investors' rights will not be recognized by the law.

Foreign investors who cannot afford to establish a PT PMA can engage in joint ventures or partnerships with domestic firms. This will also enable investors to enter industries that are restrictive for foreign ownership without having to face the legal ramifications.

Another option would be to buy an established PT PDMN, but this entity would need to be converted to a PT PMA. This would also mean having an investment plan of a minimum 10 billion Rupiah (US$750 thousand), and paid-up capital of 2.5 billion Rupiah (US$178 thousand).