

## FDI Guide

### Indonesia

#### Contact

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**Foreword:** A specific chapter is dedicated to the new Regulation (EU) 2019/452 of 19 March 2019 creating a framework for the screening of foreign direct investment (FDI) into the European Union through a combination of: (1) mandatory information by the Member State receiving a filing under its FDI regime of all other Member States and the European Commission; and (2) the possibility for the latter to make comments or issue opinions to the former.

	Topic	Explanation/Description of what is expected	Indonesia
1.	Principle	Describe if the FDI regime is built by exception to a principle of freedom of investment or whether restrictions to transferring funds to and from your country apply generally.	<p>In principle, foreign investment in Indonesia is open except for certain business fields that are closed to investment or can only be carried out by the central government.</p> <p>In Indonesia, business fields are represented by a five-digit business code, locally known as Indonesian Standard Business Classification (<i>Klasifikasi Baku Lapangan Usaha Indonesia</i> or KBLI).</p> <p>President Regulation No 10 of 2021, as amended by President Regulation No 49 of 2021 on Investment Business Fields ('Regulation No 10'), sets out that certain business fields are closed to foreign investment, subject to investment caps or only available to foreign investors if they are in partnership with a local cooperative, or a micro, small or medium-scale enterprise, locally known as <i>usaha, mikro, kecil, dan menengah</i> (UMKM).</p> <p>Further, foreign investors can only invest in 'large-scale' business activities (as opposed to micro and small business activities) with an investment value of more than IDR 10bn (approximately USD 700,000) (excluding land and building value).</p> <p>Activities that can only be carried out by the central government are services in defence or security that are strategic and cannot be carried out by or in cooperation with other parties.</p> <p>With respect to the transfer of funds to or from Indonesia, we have assumed that this question relates to the establishment of foreign investment companies.</p>

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			<p>From outside Indonesia into Indonesia: there are currently no restrictions on fund transfers.</p> <p>From Indonesia to outside Indonesia:</p> <p>In the context of transferring dividends, in Article 71 of Law No 40 of 2007 on Limited Liability Companies as amended by Law 11 of 2020 on Job Creation (the ‘Company Law’), a limited liability company can distribute dividends to its shareholders (including foreign shareholders) provided that: (i) the company has positive retained earnings in the relevant year; (ii) the distribution is based on resolutions of the company’s General Meeting of Shareholders (GMS); and (iii) deductions have been made to comply with the statutory capital reserve regulations.</p> <p>In the context of fund transfers (in general), based on the requirements of Bank Indonesia (Indonesia’s central bank), all fund transfers abroad in foreign currency of above USD 10,000 (or the equivalent) must be reported by the relevant local bank to Bank Indonesia. For such a purpose, the transacting party must provide a copy of the underlying transaction documents to the local bank (eg, the relevant agreement, invoice and bill of lading).</p>
2.	<p><b>Legal regime</b></p> <p><b>Authority(ies) in charge</b></p>	<p>Describe source(s).</p> <p>Name of authority in charge of applying the FDI rules (Minister/Agency/...).</p>	<p>Generally, foreign investment is overseen by the Ministry of Investment/Indonesia Investment Coordinating Board (<i>Badan Koordinasi Penanaman Modal</i> or BKPM). Aside from BKPM, other ministries/government authorities also oversee the FDI rules for their respective sectors, with examples such as:</p> <ol style="list-style-type: none"> <li>1. The Indonesian Financial Services Authority (<i>Otoritas Jasa Keuangan</i> or OJK) and Bank Indonesia are empowered to regulate financial services.</li> <li>2. The Special Task Force for Upstream Oil and Gas Business Activities (<i>Satuan Kerja Khusus Pelaksana Kegiatan Usaha Hulu Minyak dan Gas Bumi</i> or SKK Migas) oversees the upstream oil and gas industry, while the downstream sector is overseen by a separate agency called the Downstream Oil and Gas Regulatory Agency (<i>Badan Pengatur Hilir Minyak dan Gas Bumi</i> or BPH Migas).</li> <li>3. Geothermal power is overseen by the Ministry of Energy and Mineral Resources, in close coordination with PT PLN (Persero), the state electricity company, as the energy off-taker.</li> </ol>

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3.	<p><b>Transactions that may be subject to FDI</b></p> <p>Type</p> <p>Materiality thresholds</p> <p>Rights of evocation</p>	<p>Describe the nature of the transactions that may be subject to FDI rules.</p> <p>In the case of share acquisition, specify if the FDI regime is triggered only beyond a certain threshold and, if so, describe such a threshold.</p>	<p>Types of transactions subject to FDI rules and materiality thresholds are as follows:</p> <ul style="list-style-type: none"> <li>• Direct equity investment by any foreign investor (individual or business entity) – even one share – is subject to the rules described in item 1 above.</li> <li>• Investments in publicly listed companies are generally exempted from the requirements described in item 1 above.</li> </ul>
		<p>Are indirect acquisitions of assets or shares in the jurisdiction subject to the relevant FDI rules (acquisitions in a parent company outside the jurisdiction)?</p> <p>Are share transfers involving a group company internal restructuring covered?</p> <p>Are greenfield investments covered?</p>	<p>Indirect acquisitions or shares are generally not subject to FDI rules as long as the existing direct shareholders in the company remain the same. However, there are some exceptions, for example, in the financial services sector, a change of ultimate controller (direct or indirect) would also be subject to authority (OJK) approval (eg, fit and proper test).</p> <p>Share transfers and greenfield investments must also observe the requirements as further described in item 1 above.</p> <p>Further, foreign-to-foreign (FTF) transactions that meet various threshold requirements under Indonesian competition law must be notified to the Indonesian Competition Authority (<i>Komisi Pengawas Persaingan Usaha</i> or KPPU). The threshold requirements are briefly as follows:</p> <ol style="list-style-type: none"> <li>1. the transaction has been carried out outside Indonesia between unaffiliated parties, resulting in a change of control;</li> <li>2. at least one of the parties to the transaction conducts business activities or sales in Indonesia;</li> <li>3. the transaction exceeds the following threshold value: <ul style="list-style-type: none"> <li>(i) combined (worldwide) assets of the acquirer (including the acquirer’s group of companies up to its ultimate business entity and the acquirer’s subsidiaries) and the target (and its subsidiaries) exceed IDR 2.5tn (approximately USD 172.5m;</li> <li>(ii) combined turnover (in Indonesia only) of the acquirer (including the acquirer’s group of companies up to its ultimate business entity and the acquirer’s subsidiaries) and the target (and its subsidiaries) exceed IDR 5tn (approximately USD 345m;</li> </ul> </li> </ol>

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			<ul style="list-style-type: none"> <li>(iii) for the banking sector in particular: <ul style="list-style-type: none"> <li>(a) the total assets of the parties exceed IDR 20tn (approximately USD 1,380m), if both parties are engaged in the banking sector; or</li> <li>(b) the total assets of the parties exceed IDR 2.5tn (approximately USD 172.5m), if only one of the parties is engaged in the banking sector;</li> </ul> </li> <li>4. the transaction has an impact on the Indonesian domestic market.</li> </ul>
		Does the FDI Authority (or another type of governmental authority) have a power of evocation/ex officio/call-in powers? If so, please describe.	In terms of compliance with the foreign investment restrictions, BKPM has a powerful enforcement tool in the form of the Online Single Submission (OSS) system, which regulates virtually all foreign investment registration and licensing matters. Upon receiving any licensing application from a foreign investment company licensing applicant, the OSS system first checks if the applicant company's business activities are currently open or restricted to foreign investment before issuing a business licence (Article 10 (8) of BKPM Regulation No 4 of 2021 on Guidelines and Procedures for Risk-Based Business Licensing Services and Investment Facilities ('BKPM Reg 4/2021')). If the target business activity is closed or the foreign investment exceeds the foreign investment percentage cap, in practice, the OSS system will not issue a business licence.
4.	<b>Sectors falling under the FDI scope</b>	<p>Describe the economic sectors for which the FDI regime will apply. If relevant, explain for each sector the level of flexibility that the authority may apply (or not) in evaluating whether FDI rules should apply.</p> <p>Are there sector-specific stricter limits on foreign investment that will apply, such as a lower threshold of investment by foreign interests or sectors for which no foreign investment is possible? If yes, which</p>	<p><b>Closed for foreign investment</b></p> <p>The business fields that are closed are listed under Article 12 (2) of Law No 25 of 2007 on Investment as amended by Law No 11 of 2020 on Job Creation (the 'Investment Law') and Article 2 (2) of Regulation No 10.</p> <p>The following seven business fields are closed to investment:</p> <ol style="list-style-type: none"> <li>1. type I narcotic cultivation and manufacturing;</li> <li>2. all forms of gambling and/or casino activities;</li> <li>3. catching fish species listed in Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES);</li> <li>4. using or taking coral and coral reefs for various purposes;</li> </ol>

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		sectors (eg, nuclear energy/agriculture)?	<p>5. chemical weapon manufacturing;</p> <p>6. industrial chemical and ozone-depleting industries; and</p> <p>7. the liquor industry.</p> <p><b>Foreign investment percentage caps</b></p> <p>Several business fields are subject to investment caps listed under Regulation No 10, such as:</p> <ol style="list-style-type: none"> <li>1. air transport activities (falling under KBLI No 51109) are capped at 49 per cent;</li> <li>2. liner and transport of overseas freight for goods (falling under KBLI No 50141) are capped at 49 per cent; and</li> <li>3. courier business activities (falling under KBLI No 53201) are capped at 49 per cent.</li> </ol> <p><b>Partnership with local cooperatives or UMKM</b></p> <p>Several business fields are available to foreign investors only in partnership with a local cooperative or UMKM. These business fields include:</p> <ol style="list-style-type: none"> <li>1. consultation in the field of electrical power installation (KBLI No 71102);</li> <li>2. construction of office and industrial buildings (KBLI No 41012 and KBLI No 41013);</li> <li>3. clinical health laboratory (KBLI No 86903); and</li> <li>4. class A medical device industry (KBLI No 21015).</li> </ol> <p><b>Open to foreign investment</b></p> <p>Business fields are generally open to foreign investment, unless specifically restricted under Regulation No 10 or other specific sectoral regulations.</p> <p>Apart from Regulation No 10, foreign investment caps that are not set out in Regulation No 10 can be set out under separate regulations, such as in the financial services sector (including banking, insurance and lending activities), the oil and gas sector, and the mining sector.</p>

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5.	<b>Qualified investors</b>	Describe the main characteristics of investors that fall under the FDI regime and if there are nuances depending on their origin (eg, EU v not EU).	Under the Investment Law, investment can be carried out by domestic investors or foreign investors (consisting of either individuals or legal entities).
6.	<b>Procedure</b>  6.1 Before or post-closing filing		<p><b>Before</b></p> <p>In general, the establishment of a foreign investment company (known as a ‘PMA Company’)<sup>1</sup> – or any conversion from a domestic company to a PMA Company through acquisition or share transfer – requires only Minister of Law and Human Rights approval (in the context of establishment) or notification (in the context of acquisition or share transfer), which is granted as a matter of general corporate administrative requirements.</p> <p>Prior clearance is no longer required by BKPM before investment completion. However, BKPM has the ability to impose additional requirements before issuing business licences (which should be done in a way that should not violate equality of treatment principles vis-à-vis foreign or domestic investors – please see our response in items 10 and 15 below on licensing). Other sectors may have specific rules dictated by their own agencies (eg, OJK, SKK Migas, BPH Migas, and the Ministry of Energy and Mineral Resources).</p> <p><b>Post-closing filings</b></p> <p>Certain acquisitions may require post-closing notifications to the KPPU within a maximum of 30 business days after the date when completion of the transaction is recognised under law.<sup>2</sup></p>
7.	6.2 In the case of pre-closing filing	Mandatory/optional filing	Acquisitions that satisfy the KPPU threshold requirements must be notified post-completion. (For details of the KPPU notification threshold requirements, please see our response in item 3 above).

1 A limited liability company that comprises foreign shareholders/investors is locally known as a PMA Company.

2 Recognised under law refers to the date on which the acquisition was notified to the Minister of Law and Human Rights, and receipt of notification was obtained from the Minister of Law and Human Rights.

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8.	6.3 In the case of post-closing, what are the powers of the authority?		<p><b>KPPU’s authority</b></p> <p>KPPU has the authority to determine whether there are any elements of alleged monopolistic practices or unfair business competition in a transaction. If KPPU finds an element of alleged monopolistic practice or unfair business competition in a transaction, KPPU may provide ‘conditional approval’ that can provide a chance for the business actors to remedy or resolve such alleged violations.</p> <p>If the business actors have not responded to or remedied the alleged violation set out in the ‘conditional approval’, the KPPU must investigate the alleged violation.</p> <p>Failure to comply with the notification requirement may result in administrative fines of IDR 1bn (approximately US\$70,000) for each day of delay, and a maximum of IDR 25bn (approximately US\$1.75m).</p> <p>If KPPU were to determine that a transaction resulted in monopolistic practices or unfair business competition, on a strict reading of the competition law, KPPU has the power to unwind the transaction and deem the transaction unlawful. However, at this stage, KPPU has never failed to approve a merger or acquisition.</p> <p><b>BKPM’s authority</b></p> <p>BKPM has the authority to conduct post-audit or supervision of business actor compliance with the competition rules.</p> <p>The types of supervision consist of:</p> <ol style="list-style-type: none"> <li>1. routine supervision; and</li> <li>2. incidental supervision.</li> </ol> <p>BKPM conducts routine supervision based on the business activities’ risk level and the business actors’ compliance, through field inspections and reviewing business actors’ reports.</p> <p>Field inspections are carried out a maximum of once a year for each business location (for low and medium-low-risk business licence) and twice a year for each business location (for medium-high and high-risk business licences).<sup>3</sup></p>

3 In Indonesia, business licences are classified into four types: (1) low-risk; (2) medium-low-risk; (3) medium-high-risk; and (4) high-risk. Each risk classification requires a different set of licences. For example, a company carrying out low-risk business activities only requires a Business Identification Number to operate its business. Other risk classifications require other types of licences. Please also refer to our explanation in item 10.

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			Incidental supervision is also carried out through field inspection or by virtual means at a certain time. However, such inspections must be based on complaints from the community and/or other business actors.
9.	6.4 Advance ruling	Explain if it is possible to obtain a pre-ruling from the authority as to whether the transaction falls under the FDI rules and, as the case may be, describe the process to be followed.	<p>In general, all foreign investment must be notified to BKPM through the OSS system and no prior approval is needed after notification, although it is possible that sector-specific ministries or other government agencies (eg, OJK) may perform compliance checks of the relevant investment.</p> <p>Certain sectors do, however, require approval from sector-specific ministries as a pre-requisite to investment. For example, a business actor that holds a Forest Product Processing Business License (<i>Perzinan Berusaha Pengolahan Hasil Hutan</i>, PBPHH) must apply for Ministry of Environment and Forestry (MoEF) approval as a pre-requisite for the investment (ie, relating to any change of shareholders).</p> <p><b>Voluntarily filings with KPPU</b></p> <p>In the context of Indonesian competition law, it is possible to obtain a pre-ruling from KPPU for transaction clearance.</p> <p>Under Indonesian competition law, this pre-ruling process is known as ‘written consultation’. Business actors or investors may engage in a written consultation with KPPU before carrying out the transaction in the form of submitting a voluntary filing with KPPU. The procedure is similar to post-closing filing but is not mandatory and does not eliminate the post-closing filing obligation.</p> <p>The result of the written consultation may be used by KPPU in the later post-closing notification, as long as the data and information on the filing remain the same, for a maximum of two years.</p>
10.	6.5 Timing of various steps  (i) Filing	How much lead time is required?	<p>Any foreign direct investment must be notified to BKPM through the OSS system.</p> <p>All foreign investment in Indonesia must be made either by way of establishing a new PMA Company or acquiring all or part of an existing PMA Company.</p> <p>The establishment of a new PMA Company requires Ministry of Law and Human Rights (MoLHR) approval to achieve legal entity status and subsequent registration with the OSS system to obtain a Business Identification Number (NIB) and the relevant business licences.</p>



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			<p>PMA Company establishment can take up to <i>30 business days</i> or longer (depending on the complexity of the relevant documentation (which is usually reflected in the relevant business activities' risk category), the notary's confirmation/timetable and MoLHR approval).</p> <p>In applying for relevant business licences through the OSS system, applicants must refer to the relevant business activities' risk category. For instance, for low-risk business activity, it is only required to obtain an NIB as its business licence (which would take approximately one to two business days); businesses with low-medium and high-medium-risk activities are required to have both the NIB and a 'standard certificate' (which sets out the standards with which the company must comply); and high-risk business activity is required to have both an NIB and a relevant business licence (which would usually take longer to obtain, depending on the complexity on the conditions the entity must fulfil in order to be eligible for such a business licence).</p> <p>Acquiring an existing PMA Company would also require the parties to notify MoLHR (usually by the relevant notary) and to subsequently notify BKPM through the OSS system, by way of applying for changes of registered data for the relevant company (eg, change of shareholders' data in the acquired company's OSS account). Applying for changes of registered data through the OSS system is relatively straightforward because the OSS system automatically registers the changes of shareholders in its system, once input correctly.</p> <p><b>Mandatory filing with KPPU</b></p> <p>In the context of Indonesian competition law, direct acquisitions must be notified to KPPU and certain indirect acquisitions that satisfy certain requirements and/or threshold may also require notification to KPPU (please see our explanation in items 3 and 6 above).</p> <p>Notification and all the relevant supporting documents for notification must be submitted to KPPU within <i>30 business days</i> from the time when a transaction is completed.</p>
11.	(ii) Review by the authority	Specify the timing available to the authority; indicate if the timeframe is mandatory or not and describe what other flexibility may exist de facto or <i>de jure</i> .	<p><b>Timeframe for BKPM's review and response</b></p> <p>BKPM administers the OSS notification system. In the context of compliance to FDI rules, OSS only carries out supervision as referred to in item 8 above.</p>

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			<p><b>Timeframe for KPPU's review and response</b></p> <p>KPPU must issue an opinion or response to the notification <i>no later than 150 business days</i> from the date that the filing is deemed complete. Following the notification filing, KPPU reviews the notification in the following two phases:</p> <ol style="list-style-type: none"> <li>1. clarification phase (within <i>60 business days</i> from the date that the filing is deemed to be complete): during this phase, KPPU may request additional information and documents; KPPU may also request the filing party to give a presentation to KPPU; and</li> <li>2. assessment phase (within <i>90 business days</i> from the date that the clarification phase is deemed to have been completed): KPPU will assess (at least) the following five areas: <ol style="list-style-type: none"> <li>(i) market concentration;</li> <li>(ii) barrier to entry;</li> <li>(iii) potential for anti-competition conduct;</li> <li>(iv) efficiency; and/or</li> <li>(v) bankruptcy.</li> </ol> </li> </ol>
12.	(iii) Negotiation with the authority	Describe how to handle the relationship with the authority, including when approval is subject to commitments from, or conditions imposed on, the investor.	<p>BKPM's main task is to facilitate investment into Indonesia, so it generally has a cooperative attitude towards potential investors and an 'investor-friendly' reputation, particularly in relation to investment that will engage many new employees.</p> <p>Typically, potential investors have already engaged in informal and/or formal discussions with BKPM before they file any investment application. During the consultation process BKPM informs a potential investor whether or not a proposed investment is legally viable.</p> <p>To the extent that an investment licence has been issued based on incorrect or incomplete information, there is a risk that such discrepancies will be discovered in a subsequent BKPM audit. This outcome is to be avoided because BKPM has considerable power to impose warnings (and/or other penalties) that could result in licence revocation for non-compliance with the relevant regulations.</p>

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			In their discussions with BKPM (or lawyers), potential investors would usually seek to clarify and confirm whether their business activities fit into one or more KBLIs. (Please see our explanation below on KBLIs.)
		Are there any guidelines issued by the authority?	<p>Currently, the guidelines for FDI are mainly regulated under Investment Law and Regulation No 10.</p> <p>As described in our response to item 1 above, business fields are open to foreign investment unless specifically restricted or closed for foreign investment (primarily regulated under Regulation No 10).</p> <p>The Investment Law also requires that foreign investment must be in the form of a limited liability company and located in Indonesia. However, there are certain sectors where there are exceptions, such as oil and gas, and construction.</p> <p>Under the prevailing regulations, a PMA Company must have a minimum:</p> <ol style="list-style-type: none"> <li>1. of two shareholders (each shareholder can be either an individual or legal entity);</li> <li>2. investment of more than IDR 10bn (excluding investment in land and buildings) for each line of business (ie, each five-digit KBLI code) in every project location; and</li> <li>3. paid-up and issued capital of IDR 10bn or more, unless stipulated otherwise under the prevailing law.</li> </ol> <p>To enable investors to determine the appropriate KBLI (the five-digit code) for their selected business investment, the government has compiled a KBLI book, which details the full range of businesses or business activities.</p> <p>Please see the following webpage to access more information relating to the available KBLIs: <a href="https://oss.go.id/en/informasi/kbli-berbasis-risiko">https://oss.go.id/en/informasi/kbli-berbasis-risiko</a>.</p>
13.	(iv) Filing fees	Is there a filing fee?	No.
14.	(v) Information needed for filing	What information about the investor is required? Are there any thresholds for the identity and nationality of minority passive shareholders?	<p><b>Information to be able to file through the OSS system</b></p> <p>The following information is required:</p> <ul style="list-style-type: none"> <li>• the investor's name, corporate identification (ID) number and address;</li> </ul>

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		Information on other FDI approvals by other authorities?	<ul style="list-style-type: none"> <li>• the KBLI for the business investment activities;</li> <li>• investment location;</li> <li>• investment amount; and</li> <li>• plan for the use of workers in the investment company to be established.</li> </ul> <p>All foreign individuals, business entities and governments that make capital investment in Indonesia (ie, essentially all types of foreign investors) are subject to the same FDI regime.</p> <p><b>Information and supporting documents for KPPU filings</b></p> <p>The supporting documents that must be submitted to KPPU (together with the notification) consist of at least:</p> <ol style="list-style-type: none"> <li>1. power of attorney (if the notification is not filed by the relevant party, eg, the acquirer);</li> <li>2. financial statements for the last three years;</li> <li>3. scheme of the group business structure before and after the transaction;</li> <li>4. the articles of association (AoA) of the parties and their Indonesian subsidiaries (if any) (for the acquirer, the AoA of its ultimate business entity or parent company is also required);</li> <li>5. company profiles of the parties (including information on the shareholders' structure, board of directors and board of commissioners, description of products produced by the company and market reach);</li> <li>6. document(s) indicating that the transaction is legally effective;</li> <li>7. transaction summary (ie, legal effective date, transaction value and agreements relating to the transaction);</li> <li>8. business plan for the next five years after the transaction has been completed by the parties; and</li> <li>9. impact analysis (including estimate of the parties' market share, the affected markets relating to the transaction, and the benefit of the transaction to the parties).</li> </ol>

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15.	(vi) Final decision	Indicate if the final decision is to be issued within a set timeframe and what are the consequences if the authority does not issue a decision within the set timeframe.	<p>For timing of the issuance of a final decision, please see our explanation in item 10 above.</p> <p>We explain below the consequences of the relevant regulators' failure to issue a final decision within the set timeframes.</p> <p><b>BKPM</b></p> <p>Because there are no statutory time limits for the review procedure, we are not aware of any consequences under the prevailing law if BKPM does not issue any final decision in response to licence application filing within a certain timeframe. In practice, licences are automatically generated through the OSS system once the required procedures have been completed. Therefore, BKPM would usually issue its final decision regarding a licence after the requirements set out under the regulations have been satisfied.</p> <p><b>KPPU</b></p> <p>As explained in our response to item 10 above, KPPU must issue an opinion or response to a notification filing by no later than 150 business days from the date the filing is deemed complete. However, similar to BKPM, the prevailing law does not regulate the consequences if KPPU fails to issue its final decision within the 150-business-day limit.</p>
16.	<p><b>Conditionality of approval</b></p> <p>(i) Type of conditions or commitments</p>	Describe the type of conditions or commitments to which FDI approval may be subject. Specify their usual duration. Specify what powers the authority may exercise to control/monitor the satisfaction of such conditions/commitments.	<p>In Indonesia, there is no requirement for prior FDI approval. However, for an investment to commence operational/commercial activities, it must fulfil the business licensing requirements, which may have certain conditions or commitments.</p> <p>For high-risk business activities, obtaining an NIB would allow a business to prepare for its business activities. However, in order to commence operational/commercial activities, high-risk businesses must obtain the relevant licence or licences, which are issued after the business has fulfilled certain conditions that have been verified by the relevant government agency or agencies.</p> <p>Indonesia also recognises a type of licence that may be required during the operational and/or commercial stage of business activities, depending on the business activities sector, which is known as a 'supporting licence' (<i>perizinan berusaha untuk menunjang kegiatan usaha</i> or UMKU).</p> <p>The forms of UMKU vary, such as a permit, approval, determination, ratification, appointment, registration, recommendation, certificate, certification, consultation and 'statement letter' (<i>surat keterangan</i>).</p>

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			<p>For example, Television Broadcasting and Programming Activities by Private Entities (KBLI No 60202) require several UMKUs, such as Satellite Anchoring Rights (<i>Hak Labuh Satelit</i>) and a Radio Station Permit (<i>Izin Stasiun Radio</i>).</p> <p>The duration of a licence and UMKU depends on the type of licence, as it requires verification by the relevant government agency or agencies.</p> <p>Under the risk-based licensing regime, the government performs inspections to supervise businesses to ensure compliance with the necessary business standards for conducting their business. The frequency of such inspections depends on the risk levels (ie, low, medium-low, medium-high and high).</p> <p>Each business is subject to at least a yearly field inspection for each of its business locations, but medium-high-risk and high-risk businesses are subject to two annual field inspections.</p>
17.	(ii) Level of discretionary power of the authority	Indicate if it exists and, if so, describe exceptional circumstances that have led to the use of such discretionary power.	<p><b>BKPM</b></p> <p>Although BKPM has broad discretion to interpret foreign investment legislation, we have not observed any case in which it has made an exemption to the prevailing regulatory or business licensing conditions. If a PMA Company engages in activities that are not permitted under its business licence, BKPM is empowered to send warning letters to the PMA Company to stop engaging in such activities, and also has the power to restrict the PMA Company's other activities until the prohibited activities have ceased.</p> <p><b>KPPU</b></p> <p>KPPU has the discretion to issue a 'statement of not requiring notification' within 60 business days after the notification submission date, provided that the transaction:</p> <ol style="list-style-type: none"> <li>1. does not meet the statutory thresholds;</li> <li>2. is a transaction between affiliated companies;</li> <li>3. does not result in a change of control;</li> <li>4. is for the establishment of a joint venture that does not involve a merger, consolidation or share acquisition;</li> <li>5. falls under the category of exempted asset transfer; or</li> </ol>

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			<p>6. is exempted from notification requirements under the implementing laws and regulations.</p> <p>Despite the above, businesses should be aware that KPPU has sole discretion to issue a ‘statement of not requiring notification’.</p>
18.	(iii) Risk of veto	Describe a topical case.  Statistics	We have not observed any case in which Indonesian authorities have exercised a ‘veto power’.
19.	<b>Role of other national authorities</b>	Indicate if other authorities or administrations (eg, Army or Defence Minister) can get involved and, if so, how (by the authority or otherwise) and how much influence it may exercise.	<p>Other than BKPM, the Coordinating Ministry for Maritime Affairs and Investment (the ‘Coordinating Ministry’) is also influential in terms of coordinating, synchronising and controlling government affairs in various investment sectors. For example, the Coordinating Minister recently led a delegation to a meeting with Tesla chief executive officer, Elon Musk, to talk about potential investment in Indonesia’s electric vehicle industry. Given his wide scope of authority, the Coordinating Minister appears to have a significant role in facilitating investment in Indonesia.</p> <p>Apart from the Coordinating Minister, other government agencies are also able to facilitate foreign investment in their respective business sectors at their discretion.</p>
20.	<b>Sanctions</b>	Describe the type of sanctions that may be imposed by the authority in the case of: <ul style="list-style-type: none"> <li>breach of conditions and/or commitments attached to the approval; and</li> </ul>	<p>In the case of breach of conditions and/or commitments attached to an investment approval, the authorities have the power to impose administrative sanctions in the form of:</p> <ol style="list-style-type: none"> <li>written warnings;</li> <li>temporary suspension of activities or the business licence;</li> <li>revocation of the business licence; and/or</li> <li>administrative fines.</li> </ol> <p>For certain sectors deemed to be high-risk, the administrative sanctions may differ. For example, a company that carries out oil and gas business supporting activities without UMKU(s) is subject to administrative sanctions in the form of:</p> <ol style="list-style-type: none"> <li>termination of the business and/or activity;</li> <li>administrative fines; and/or</li> </ol>

	Topic	Explanation/Description of what is expected	Indonesia
			<p>3. coercion from the central government.</p> <p>For the public works and public housing sector, failure to fulfil any conditions and/or commitments attached to the approval/licence may result in administrative sanctions in the form of:</p> <ol style="list-style-type: none"> <li>1. written warnings;</li> <li>2. administrative fines;</li> <li>3. temporary suspension of business activities;</li> <li>4. blacklisting; and/or</li> <li>5. revocation of the business licence.</li> </ol>
		<ul style="list-style-type: none"> <li>• investment carried out without prior approval.</li> </ul>	<p>The Indonesian regulatory regime generally imposes two types of sanctions, as follows:</p> <ol style="list-style-type: none"> <li>1. General sanctions: Conducting a business without the appropriate licence may result in the imposition of administrative penalties in the form of the revocation of the issued business licence.</li> <li>2. Specific sanctions depending on the relevant business sector: In addition to general sanctions, other sanctions vary depending on the business sector. For example, carrying out freight forwarding activities without a proper licence would expose a company to the risk of administrative sanctions (directly or in stages) in the form of written warnings, suspension of the business licence, revocation of the business licence and/or administrative fines.</li> </ol> <p>Government agencies that have authority over the relevant business sector may also regulate specific sanctions for businesses not complying with the prevailing sectoral regulations.</p> <p>In relation to competition issues, the failure to file a notification to the KPPU regarding a transaction that meets KPPU's threshold requirements within the set timeframe subjects the acquiring company to a fine of a minimum of IDR 1bn (approximately USD 70,000) per day of delay.</p>



	Topic	Explanation/Description of what is expected	Indonesia
21.	Covid – special regime	Please describe specific rules applicable as a result of the Covid-19 pandemic.	<p><b>General investment aspects</b></p> <p><i>Social restrictions</i></p> <p>During the Covid-19 outbreak, the Indonesian government imposed various social restrictions, that were introduced under two names: (1) Large-Scale Social Restrictions (<i>Pembatasan Sosial Berskala Besar</i> or PSBB); and (2) Public Activity Restrictions (<i>Pemberlakuan Pembatasan Kegiatan Masyarakat</i> or PPKM).</p> <p>Under the social restrictions policy, workplaces were required to close and implement a work-from-home policy, except those deemed to be ‘essential’ sectors, such as the financial, banking, capital markets, information technology, communications, fuel, food, medicine, retail, water and logistics sectors.</p> <p>These restrictions have been applied in different regions, and the government determines a specific level (from Level 1 to 3) based on the severity of the pandemic and vaccination coverage in such areas. Currently, most regions in Indonesia are at the PPKM Level 1 status, which allows 75 per cent work-from-office capacity for non-essential sectors.</p> <p>In 2020 and 2021, the government’s social restrictions policy significantly affected investment in Indonesia because many offices closed or significantly reduced their opening hours, including many ministries and other government agencies, thereby slowing down the investment approval process. However, the government has gradually relaxed its previously stringent public activity restrictions and is now returning to its pre-pandemic pace.</p> <p><i>Ease of licensing in the health sector</i></p> <p>In 2020, the Minister of Investment/BKPM Chairman and the Minister of Health agreed to provide accelerated licensing for medical equipment providers to help Indonesia cope with the Covid-19 pandemic. BKPM announced that all licences related to medical equipment could be completed within a day.</p> <p>Such business licence acceleration was regulated under BKPM Chairman Decree No 86 of 2020, which provided that certain business fields related to the handling of the Covid-19 outbreak (including the medical devices industry and pharmaceutical industry) may be given:</p> <ol style="list-style-type: none"> <li>1. reduction and/or easing of business licensing requirements;</li> <li>2. acceleration of the business licensing process; and</li> </ol>

	Topic	Explanation/Description of what is expected	Indonesia
			<p>3. special assistance services.</p> <p><i>Tax incentives</i></p> <p>In the wake of the Covid-19 outbreak, the Minister of Finance (MoF) offered numerous tax incentives. However, in 2022, only three tax incentives were extended under the latest regulation (MoF Regulation No 3/PMK.03/2022 of 2022), which are:</p> <ol style="list-style-type: none"> <li>1. 'Article 22 income tax' on imports by eligible taxpayers;</li> <li>2. 'Article 25 monthly income tax' instalments of eligible taxpayers will be reduced by 50 per cent; and</li> <li>3. final income tax on construction services income received by taxpayers under an Acceleration Programme to Improve the Utilisation of Irrigation Water will be borne by the government.</li> </ol> <p>The above incentives were only available up to June 2022.</p> <p><b>Competition and antitrust issues</b></p> <p>Due to the Covid-19 pandemic, KPPU 'relaxed' the post-effective date merger/acquisition KPPU filing deadline to become 60 business days (as of the merger/acquisition transaction effective date) from the original 30-business-day deadline. However, this relaxation was revoked, effective 30 April 2022, and the deadline is now back to 30 business days.</p>

<b>Theme</b>	<b>Relevant Item</b>
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Bank Indonesia .....	1
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Business Identification Number (NIB).....	10
.....	16
Change of control .....	3
.....	17
Coordinating Ministry for Maritime Affairs and Investment.....	19
Covid .....	21
Direct acquisitions .....	10
Direct equity investment.....	
Dividends.....	1
Domestic investors .....	5
.....	6
Downstream Oil and Gas Regulatory Agency (BPH Migas).....	2
.....	6
Financial service.....	2
.....	3
.....	4
Foreign investment company (PMA Company).....	1
.....	3
.....	6
.....	10
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<b>Theme</b>	<b>Relevant Item</b>
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.....	3
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General sanctions .....	20
Greenfield investments.....	3
Indirect acquisitions .....	3
.....	10
Indonesian Competition Authority (KPPU).....	3
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Indonesian Financial Services Authority (OJK) .....	2
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<b>Theme</b>	<b>Relevant Item</b>
Indonesia Investment Coordinating Board (BKPM).....	2
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.....	21
Indonesian Standard Business Classification (KBLI)	
.....	4
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Large-Scale Social Restrictions.....	21
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.....	6
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Ministry of Investment .....	2
Ministry of Law and Human Rights.....	10
Monopolistic practices.....	8

<b>Theme</b>	<b>Relevant Item</b>
Oil and gas .....	2
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Online Single Submission (OSS) .....	3
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Pre-ruling .....	9
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Specific sanctions.....	20
Supporting licence (UMKU).....	16
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Tax incentives .....	21

<b>Theme</b>	<b>Relevant Item</b>
Threshold.....	3
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<b>Theme</b>	<b>Relevant Item</b>
Transfer of funds .....	1
Ultimate business entity .....	3
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