The Law Firm
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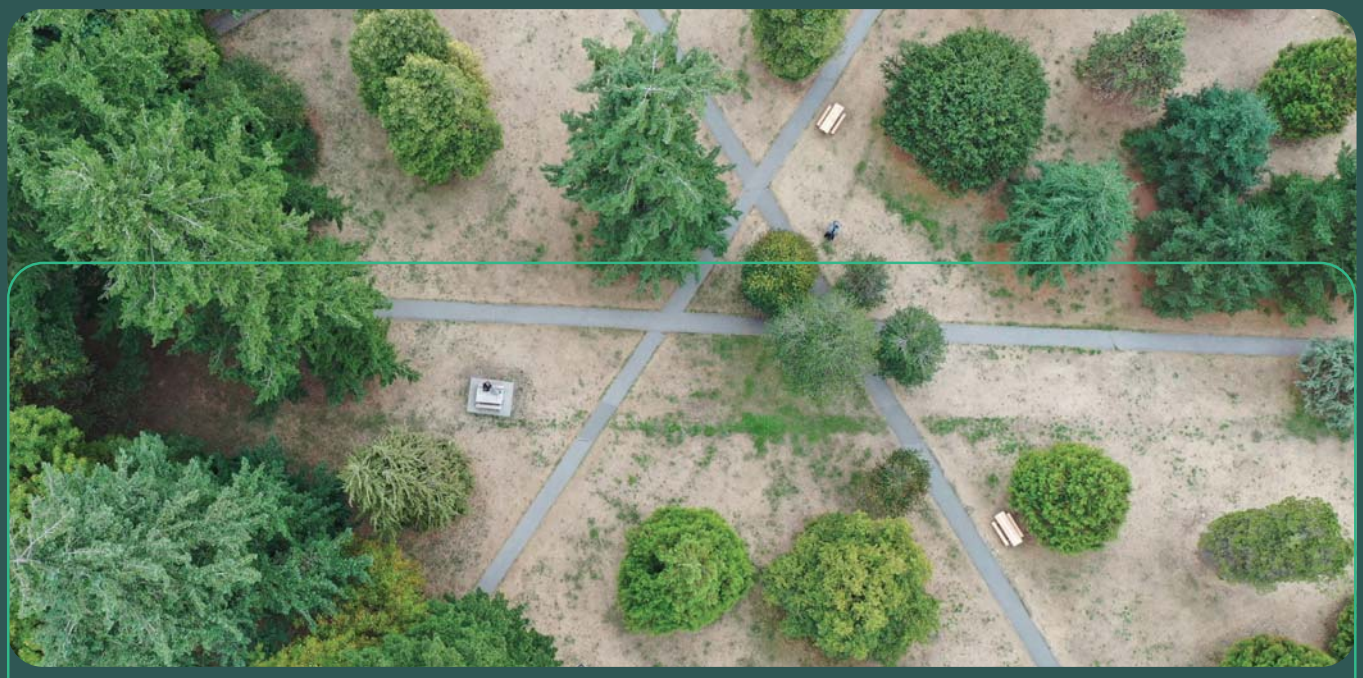
2025

Frequent Questions relating to

M&A Transactions and Corporate Matters

Legal Guide



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Introduction

In an increasingly interconnected world, cross-border mergers and acquisitions and international corporate activity continue to grow in scale and complexity. For legal professionals and businesses engaged in global transactions, understanding the diverse legal landscapes across jurisdictions is both a strategic necessity and a practical challenge.
To support clarity and informed decision-making in this dynamic environment, the Corporate and M&A Group of the Law Firm Network is proud to present this compilation: Frequent Questions Relating to M&A Transactions and Corporate Matters. This publication draws on the insights of expert practitioners from 20 jurisdictions, offering a comparative overview of key legal issues that regularly arise in M&A transactions and general corporate practice.

Each country's contribution follows a uniform structure of practical questions and answers, addressing topics such as governmental authorizations, foreign investment controls, competition clearance, legal documentation, buyer protections, language requirements, corporate structures, incorporation procedures, and compliance obligations. The aim is to provide a concise, yet informative guide to the local rules, requirements, and market practices that shape corporate and transactional law in each participating country.

The responses have been prepared by experienced lawyers practicing in their respective jurisdictions, ensuring both accuracy and relevance. By compiling these contributions, we hope to offer a valuable reference for legal advisors, investors, financial institutions and companies navigating international transactions—whether conducting due diligence, negotiating deal terms, or managing corporate structures abroad or keen to establish a corporate structure abroad.

We extend our gratitude to all participating firms and colleagues for their thoughtful contributions and collaboration. The extent and quality of the content reflects the values and strength of our network and the way we interact amongst ourselves notably in the Corporate and M&A Group.

We hope this publication serves as a trusted resource for practitioners and businesses engaged in international M&A and corporate law. We will of course remain at your disposal for any queries you may have in relation to this publication or the LFN Network in general, or its Corporate and M&A Group in particular.

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The Law Firm Network

The Law Firm Network is a strong, non-exclusive association of independent law firms from around the world, whose principal lawyers have close personal and professional relationships. Its roots can be traced back to 1989. The network has members in more than 53 countries, and we have an extended global network with quality law firms in additional jurisdictions.

The Corporate and Mergers and Acquisitions (M&A) Practice Group, augmented by our specialized focus on Private Equity transactions, with a profound understanding of the intricate dynamics of corporate law and the nuanced landscape of M&A, is prepared to guide clients through the complexities of business transactions, both domestically and cross border.

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Indonesia
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Key Questions on M&A Transactions

Q1 Governmental Authorizations

What approvals are required in respect to M&A transactions in your jurisdiction?

a) Foreign Investment control

Yes

If yes, please provide details:

Generally, different business sectors have different foreign investment limitations.

Foreign investment limitations on most business activities are provided under Presidential Regulation No. 10 of 2021 regarding Investment Business Fields, dated February 2, 2021, as amended by Presidential Regulation No. 49 of 2021 regarding Amendment to Presidential Regulation No. 10 of 2021 regarding Investment Business Fields, dated May 25, 2021.

More specific limitations on foreign control are also provided in the relevant ministry regulations pertaining to the specific sector. For example, companies in the coal and mineral mining business sector are subject to divestment obligations whereby the shares held by foreign shareholders shall be divested to Indonesian participants gradually until the Indonesian participants hold 51% of the total shares in the company at the 10th year after the start of production. And financial sector companies (banks and non-bank intitutions) are subject to foreign limitations specified in Financial Services Authorities (Otoritas Jasa Keuangan or "OJK") regulations.

If yes, which authority grants such approval:

The Ministry of Law (**"MOL"**) and the Investment Coordinating Board (Badan Koordinasi Penanaman Modal or **"BKPM"**) grants such approval for general foreign investment. A sectoral approval shall also be obtained for foreign investment, for example from the OJK for financial services companies.

b) National competition clearance requirements

Yes.

If yes, please provide details (thresholds / criteria)

Certain mergers, consolidations, or share acquisitions require a post-merger filing to comply with antitrust laws and regulations in Indonesia. However, not all mergers, consolidations, or share acquisitions are subject to this merger filing obligation. Pursuant to Article 3(1) of Indonesian Competition Commission (Komisi Pengawas Persaingan Usaha or "**KPPU**") Regulation No. 3 of 2023 regarding Assessment of Merger, Consolidation, or Acquisition of Shares and/or Assets Which May Result in Monopolistic Practices and/or Unfair Competition, dated March 31, 2023 ("**KPPU Reg. 3/2023**"), a merger filing to the KPPU is required when certain tests are cumulatively satisfied, namely:

1. the combined asset value and/or turnover value of the parties to the transaction exceeds the specified threshold (the "Threshold Test");
2. the transaction must result in a change of control over the target (the "Control Test");
3. the transaction does not involve affiliated entities ("Affiliate Exemption"); and
4. the parties to the transaction have a nexus to Indonesia (the "Local Nexus Test").

Threshold Test

Pursuant to Article 6 of KPPU Reg. 3/2023, the threshold test mandates a post-merger filing if the transaction meets one of the following conditions:

a) The combined asset value of the involved parties in Indonesia exceeds IDR2.5 trillion (about US$159 million); or

b) The combined sales or turnover value of the parties in Indonesia exceeds IDR5 trillion (about US$318 million). The KPPU Guidelines on Merger Filing, dated October 6, 2020 ("KPPU Guidelines"), further provide that in calculating the combined turnover in Indonesia, exports from Indonesia should be excluded.

Control Test

Pursuant to Article 5(4) of Government Regulation ("GR") No. 57 of 2010 regarding Mergers, Consolidations of Business Entities, and Company Share Acquisitions that Could Lead to Monopolistic Practices and/or Unfair Business Competition, dated July 20, 2010 ("GR 57/2010"), and Article 9(2) of KPPU Reg. 3/2023, a post-merger filing is necessary if there is a change of control.

Control occurs if either of the following circumstances prevails:

1. Ownership of more than 50% of shares or voting rights in the target company.
2. Ownership of 50% or less of shares or voting rights in the target company but has the capacity to influence the target company's management and/or policies.

Affiliate Exemption

Article 10(1) of KPPU Reg. 3/2023 exempts transactions between affiliated entities from the post-merger filing obligation in Indonesia. For clarity, an affiliated transaction refers to any transaction: (i) between a company and its direct or indirect controller or controlled subsidiary, (ii) between two companies under, either directly or indirectly, the common control of the same controller, or (iii) between a company and its ultimate controller.

The affiliate relationship as mentioned above refers to the control that occurs due to ownership of more than 50% of shares, or ownership of less than 50% shares, but accompanied by the ability to affect and/or determine the management policy and/or affect and determine the management of an entity.

Local Nexus Test

The Local Nexus Test is stipulated under Article 11 of KPPU Reg. 3/2023. It provides that a transaction is notifiable to the KPPU only if it is conducted between parties that have assets and/or turnover, whether directly or indirectly, in Indonesia.

If yes, which authority grants such clearance:

Antitrust in Indonesia is overseen by the KPPU, which acts as both regulator and enforcer of competition law in Indonesia.

Q2 Legal Documentation for M&A Transactions

a) What are the main legal documents typically executed during an M&A acquisition in your jurisdiction? For example: Is a single Sale and Purchase Agreement (SPA) commonly used, or are separate agreements preferred? Are additional documents for specific representations, such as a separate agreement for tax representations, standard?

In M&A transactions in Indonesia, the legal documentation process follows internationally accepted standards, tailored to local laws and regulatory requirements. The structure and type of documents depend on factors such as the complexity of the deal, transaction structure (share or asset purchase), regulatory requirements, and risk allocation between the parties. Generally, the share acquisition of a company is done using a conditional Sale and Purchase Agreement ("**SPA**")
.
Prior to the acquisition process, the buyers (or their appointed counsel) shall identify any issues that must be rectified by the sellers, which will be addressed as conditions precedent in the SPA resulting from the due diligence exercise. These conditions precedent must be fulfilled (or waived) before the closing of the transaction.

After the fulfilment/waiver of the condition precedents, the share acquisition is finalized by way of the signing of a share transfer deed before a notary in a notarial deed.

However, if the transaction does not only cover shares, a separate deed of sale and purchase would need to be executed. For example, the transfer of land or a building would require a notarial Sale and Transfer Deed of Land and Building to be executed before a Land Deed Official having jurisdiction where the land is located.

b) Is it common to use an escrow? If so, which professionals can / usually do provide the escrow?

Not really in the past, but it is becoming more common to use an escrow agent in Indonesia for M&A transactions these days.

The most common escrow service providers in Indonesia are banks, due to their high credibility and neutrality, and their experience in handling large transactions. Notaries and law firms also often provide services related to escrow documents, such as share transfer deeds and share certificates.

Q3 Remedies / protection of a purchaser beyond Contractual Representations and Warranties

Does your local law offer remedies / protection to a purchaser beyond contractual representations and warranties drafted in SPA (For example in cases of misrepresentation, fraud, or dishonesty)?

Yes. The Indonesian Civil Code provide remedies in the event of fraud.

Beyond contractual representations and warranties in the SPA, a purchaser can also use the services of an insurance company for Warranties and Indemnities Insurance (W&I Insurance). W&I Insurance provides recourse for warranty breaches without requiring action against the seller. Some Indonesian insurance companies offer this type of coverage.

In addition to W&I insurance, buyers commonly use escrow accounts to hold funds for potential post-closing claims or a holdback mechanism, where a portion of the purchase price is retained and released only if no claims arise within a specified period. These mechanisms help protect purchasers.

Q4 Representations and Warranties

How are representations and warranties typically structured in M&A documentation in your jurisdiction? Include details on:

- Common methods for seller disclosures (For examples schedules, disclosure letters).
- The process for organizing disclosures against these representations and warranties.

Generally, representations and warranties of the parties are contained in the provisions or schedules of the SPA, subject to the preference of the parties. To limit liability and clarity the scope of the representation and warranties, the seller typically uses formal disclosure mechanisms, typically in the form of:

a) **Disclosure Letter**

The disclosure letter shall be delivered at the closing of the transaction, where the seller lists any known issues or discrepancies against the representations and warranties provided in the SPA.

b) **Disclosure Schedules**

The schedules are typically attached as annexes to the SPA and are integrated into the agreement. They detail factual matters affecting the representations and warranties, for example, litigation matters, material contracts, and a list of subsidiaries.

The process of organizing the disclosure against representations and warranties consists of:

1. **Drafting the Representations and Warranties:** The representations and warranties typically are prepared by the buyer's counsel to be included in the draft SPA based on the due diligence findings, while the seller negotiates the scope, materiality qualifiers, and time limits for claims.
2. **Preparation of the Disclosure Letter and Schedules:** The seller typically identifies exeptions to each warranty clause, which shall refer to specific documents in the data room. There shall be a collaboration between the appointed counsel for the transaction (such as legal, financial, tax, IT counsel, as appropriate) to ensure comprehensive disclosure.
3. **Review and Verification:** the buyer shall conduct a thorough review, which may often require clarifications or additional information/ disclosures from the seller. Disputes often arise over whether certain items should be disclosed or omitted.
4. **Finalization of Disclosures:** Disclosure letters are signed and delivered on closing (or signing, depending on the deal structure), which then shall be attached to the SPA, ensuring they are binding contractual documents.

Q5 Language for M&A Documentation

Can M&A all documentation be drafted in English in your jurisdiction, or is a local language required? For which documents a local language is required?

An Indonesian version must be executed together with any foreign language version.

Pursuant to Article 31(1) of Law No. 24 of 2009 regarding the National Flag, Language, Emblem and Anthem, dated July 9, 2009 ("**Language Law**"), and Article 26(1) of Presidential Regulation No. 63 of 2019 regarding Use of the Indonesian Language, dated September 30, 2019 ("**PR 63/2019**"), the Indonesian language must be used in memoranda of understanding or agreements involving state institutions, government agencies or the Republic of Indonesia, Indonesian private institutions, or individual Indonesian citizens. Should the memoranda of understanding or agreements be entered into with a foreign party, Articles 26(2) and 26(3) of PR 63/2019 open the possibility of the agreement to be made in English or another foreign language alongside the Indonesian language to achieve a common understanding on the agreement with the foreign party.

In the event a foreign party is named as a party in the agreement, the parties are free to choose the governing language if there is any inconsistency or conflict between the English or other foreign language and Indonesian versions of the agreement.

M&A documentation is typically drafted bilingually, in Indonesian and English, so that the Indonesian and foreign party have the same understanding of the documentation.

Q6 Involvement of Additional Professionals

Does the transfer of shares in your jurisdiction require the involvement of additional professionals, such as notaries? If yes, does is affect the timeline of the transaction?

Yes, the transfer of shares in Indonesia often requires the involvement of additional professionals, depending on the type of company and the nature of the transaction. Their involvement can affect the timeline of the transaction.

The most commonly used professionals in share transfers in Indonesia are notaries. Based on the Indonesian Company law, the share transfer must be formalized through a deed of share transfer drawn up before a notary. The involvement of a notary in the transfer of shares includes the preparation of the deed, attending the signing of the share transfer deed, and filing the necessary report and notification with the MOL to obtain approval or receipt of notification.

Tax consultants also are often used in share transfer transactions to advise on potential tax implications related to the transfer of shares.

In some cases, a share transfer transaction might also require the involvement of a Public Appraisal Company (Kantor Jasa Penilai Publik or "**KJPP**") to appraise the value of the shares.

The involvment of a tax consultant and KJPP may add one or two weeks to the transaction timeline to assess any tax implications or share valuation.

Q7 Choice of Governing Law and Dispute Resolution

Can parties to an M&A transaction choose a governing law and a court jurisdiction other than the local one? Is arbitration an available option for disputes arising from international SPAs?

Yes, transfer of shares in Italy requires the involvement of a Notary Public as the final deed is a notarial one.

The timeline of the transaction is usually not affected when the Notary Public deals with these kinds of transactions on a regularly basis.

It is important to avoid delays by preparing in advance the ancillary documents (such us the Companies Register excerpt of the buyer and its article of association, which should be translated into Italian, notarized and apostilled or legalized) and the necessary power of attorneys to be granted to the individual who will appear in front of the notary in order to execute the deed of transfer.

Q8 Registration Duties

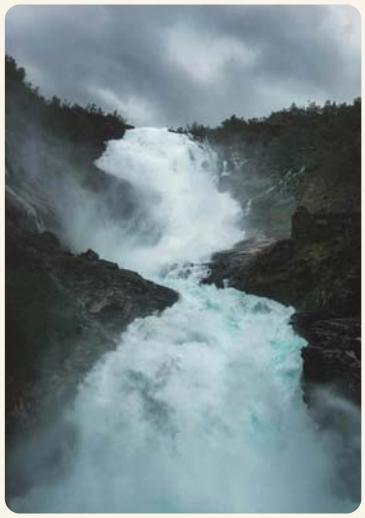
What are the registration duties, if any, that apply to the transfer of shares in your jurisdiction? Who is responsible for fulfilling them?

A transfer of shares is only effective after the share transfer is reported to the MOL, after which the MOL will issue an acknowledgement receipt. This process is completed after the notary submits an application to the MOL with the relevant deeds and other supporting documents.

Q9 Employees of the Target Company

How does the change of ownership affect the employee's of the target company? Can their employment be terminated by the new owners? Is there any consent required in the Target Company (Worker's council or any similar organization)?

The change of ownership of a company is one of the reasons for the termination of employment. Pursuant to Article 36 (a) of Government Regulation No. 35 of 2021 regarding Fixed-Term Contracts, Outsourcing, Working Hours and Resting Hours, and Employment Termination ("**GR 35/2021**"), the new owners may terminate none, some, or all employees following an acquisition.



Under Articles 41 and 42 of GR 35/2021, termination of an employee following an acquisition will trigger the employee's right to severance, calculated as follows: (a) 1x severance, (b) 1x service pay, and (c) specified compensation (e.g., unused annual leave, the cost of returning the employee and/or their family to their home country, etc.).

Under Article 42(2) of GR 35/2021, if a change of ownership results in a change to the terms of employment, employees have the right to resign and demand the following: (a) 0.5x severance, (b) 1x service pay, and (c) specified compensation (e.g., unused annual leave, the cost of returning the employee and/or their family to their home country, etc.). Note that the above applies to a change of ownership only if there are changes to the employment terms and conditions.
Pursuant to the Elucidation of Article 42(2) of GR 35/2021, "changes to the employment terms and conditions" refers to adverse changes to the rights and obligations of the employee. These rights and obligations are commonly contemplated in employment agreements and/or a company regulation.

The new owners must therefore assess whether they intend to change the terms of the employment agreement and/or company regulation and whether the proposed changes will adversely affect employees' rights.

No consent is required in the target company for terminating employees. However, if the target company has any worker's council or labor union, a discussion pertaining to the termination plan must be conducted with the union, if any.

Key Questions on Corporate Matters

Q1 Company Incorporation Process

What are the main procedural steps required to incorporate a company in your jurisdiction?

Under the Indonesian Company Law, a company shall be established by at least two shareholders. A Deed of Establishment ("DOE") will typically be prepared by the notary appointed by the shareholders. The Articles of Association of the company shall be included in the Deed of Establishment. The shareholders or their proxies shall execute the DOE before a notary. The notary will then conduct the registration/filing, which will be done electronically through the MOL's system. After a few days, the MOL will issue an approval ratifying the establishment of the company as a legal entity.

After the issuance of the MOL approval, the company will need to prepare the share certificates and shareholder register of the company. Further, the company will need to apply for corporate housekeeping documents, such as a Tax Identification Number (NPWP) from the tax office and Business Identification Number (NIB) via Online Single Submission (OSS) System and obtain sectoral license depending on the business activities of the company. The company also must open a corporate bank account at its chosen bank.

Q2 Governmental Authorization for Incorporation

Is any governmental authorization needed to establish a company?

The approval of the MOL is required to effectuate the establishment of a company.

Q3 Entity Forms / Types of Companies

What types of entities / companies can be created in your jurisdiction? Provide basic information on how they differ from each other and state which one is the most common for commercial companies.

Examples of legal entities include the following forms:

1. **Limited Liability Company (Perseroan Terbatas or "PT"):** A PT can be in the form of a (i) Local Company/PT Lokal, where 100% of the shares are held by Indonesian citizens and/or Indonesian legal entities, or (ii) Foreign Investment Company or "PT PMA", in which foreign individuals or foreign entities are shareholders. Under the PT form, the liabilities of the shareholders are limited to the capital injected into the PT.

2. **Limited partnerships (Comanditer Venootschap or "CV"):** A CV shall consist of active partners and silent partners. Active partners manage the operations of the CV with unlimited liability, while the liability of silent partners is limited to their capital injected into the CV.
3. **Representative Offices:** The purpose of a representative office is market research, liaison activities, and promotional/marketing activities without generating any revenue.
4. **Cooperatives (Koperasi):** A cooperative is a business entity based on the principle of mutual cooperation and collective ownership among the members.
5. **Foundation (Yayasan):** The purpose of a foundation is non-profit activities for social, religious and/or educational purposes.

Q4 Foreign Statutory Body

Can foreign individuals or foreign entities be elected as members of a statutory body of a company in your jurisdiction?

Yes.

a) If yes, are there any requirements they need to fulfil? Do the requirements differ depending on whether the individual / entity is from the EU or a third country?

Yes, foreign nationals can be elected to the Board of Directors ("BOD") or Board of Commissioners ("BOC") of a PT PMA. The BOD and BOC must be comprised of individuals, meaning foreign entities cannot serve as members of either board.

However, appointment to the BOD or BOC is subject to specific legal requirements, sectoral regulations, and immigration laws, such as obtaining a temporary stay permit (KITAS), limited stay visa (VITAS) and work permit (IMTA) in Indonesia. Note that foreign nationals are prohibited from assuming any role relating to the management of human resources, pursuant to Article 11(1) of GR No. 34 of 2021 regarding the Utilization of Foreign Manpower, dated April 1, 2021 ("GR 34/2021"). Further, Indonesian law does not differentiate between individuals from the European Union (EU) and those from other countries (third countries). Requirements are uniform for all foreign nationals, regardless of their country of origin.

b) If yes, are there any documents they need to present in order to be registered as a member of a statutory body?

As the appointment of BOD or BOC members is effectuated through a notarial deed, the notary may need information and documents from the foreign national, such as their full name, passport number, date of birth, address and a copy of their passport. The notary may also ask for immigration documents, such as the KITAS and IMTA of the foreign national.

Q5 Publicly Available Documentation

What legal documentation related to commercial companies is publicly accessible in your jurisdiction?

The Directorate General of General Legal Administration of the MOL maintains a database of commercial companies from which anyone can purchase the company profile of an Indonesian company.

Q6 Share Registration and Ownership Documentation

How are shares registered in your jurisdiction? Are there specific documents or certificates that formally acknowledge share ownership? Is it the information on the owners of the shares publicly available? Are there any differences in respect to different types of companies?

Under the Company Law, every company may issue share certificates, which each shareholder keeps as proof of ownership in the company. The BOD of the company is responsible for preparing and maintaining a shareholders register, which must include details such as the names of shareholders, the number and class of shares, the date of shares acquisition, details of any share transfers, and information on any pledges over the shares. Closed companies typically issue and maintain physical share certificates and shareholders register. For public companies, the shares shall be in scripless form, and no physical certificate is issued by the public company. The shareholders registers of public companies are maintained by the Administrative Securities Bureau (Biro Administrasi Efek).

Information on the shareholders of companies can also be found in the company profile of the relevant company, which can be purchased from the website of the Directorate General of General Legal Administration of the MOL, as discussed above. Specifically for public companies, information on shareholders is publicly available on the website of the Indonesia Stock Exchange ("IDX") at no cost.

Q7 UBO Registration

Every company is required to identify and register its Ultimate Beneficial Owners ("UBO") with the MOL during the time of incorporation, as provided under Presidential Regulation ("PR") No. 13 of 2018 regarding the Implementation of Know Your Beneficial Owners of the Corporation for the Purpose of Prevention of Criminal Acts of Money Laundering and Terrorism Financing, dated March 5, 2018 ("PR 13/2018"), and Ministry of Law and Human Rights Regulation No. 15 of 2019 regarding Procedures for Implementing Know Your Beneficial Owner Principles by Corporations, dated June 27, 2019 ("MOLHR Reg. 15/2019"). This requirement is the embodiment of Indonesia's commitment to combat money laundering and terrorism financing and to ensure corporate transparency.

These regulations define a beneficial owner as an individual who meets any of the following criteria:

a) Owns more than 25% of shares in the company as provided in the company's Articles of Association;

b) Owns more than 25% of the total voting rights as provided in the company's Articles of Association;

c) Receives more than 25% of the profit generated by the company per year;

d) Has the authority to appoint, replace, or dismiss members of the BOD and BOCs;

e) Has the authority to control the company without obtaining any authorization from any other party;

f) Receives benefit from the company; and/or

g) Is the actual owner of the funds used to issue the company's shares.

Is the register of UBOs publicly available?

For private companies, the information on UBO is not publicly available. For public companies, this information is available on the website of the IDX.

c) Who is responsible for fulfilling the obligation and what are the consequences for not complying?

The obligation to fulfil the UBO reporting requirement falls on the company. However, the party that can conduct the reporting can be the company's founder or management, a notary, or other parties authorized by the founder or management of the company. We note that there are presently no explicit sanctions under the relevant laws and regulations for not fulfilling the UBO reporting obligation.

Q8 Annual Compliance Obligations

What are the annual compliance requirements for companies, such as the approval of accounts and required filings? What are the deadlines?

Below are the general annual compliance requirements for Indonesian companies:

1. **Financial Statements:** Companies must prepare annual financial statements (including balance sheet, profit and loss, cash flow statements). The financial year is typically 1 January – 31 December. The financial statement shall be made at the latest four months after the end of the financial year.

   Audited financial statements are mandatory for the following companies:

   a) Companies with assets of or more than IDR 50 billion;

   b) Companies in specific sectors, such as the financial sector (banks and non-bank intitutions); and

   c) Public companies.

2. **Annual Corporate Tax Return:** All companies must prepare and file their annual corporate tax return with the relevant tax office. The filing deadline is 30 April of the following year.

3. **Capital Investment Activity Report (Laporan Kegiatan Penanaman Modal or "LKPM"):** Every company in Indonesia must submit an LKPM for each of its business lines and/or locations to the BKPM through the OSS system, based on Article 32 of BKPM Regulation No. 5 of 2021 regarding Guidelines and Procedures for the Supervision of Risk-Based Business Licensing, dated June 2, 2021 ("BKPM Reg. 5/2021"). The LKPM shall be reported quarterly by the end of the month following each quarter. For example, reporting for the first quarter shall be made at the latest by 30 April.

4. **Annual Report:** Pursuant to Article 66 of the Company Law, the BOD of a company is required to prepare an Annual Report to be approved by the shareholders during the Annual GMS. That said, in practice, many private companies do not strictly comply with this requirement, as there are no express sanctions under the Company Law, which makes the perceived risks relatively remote.

5. Additionally, companies in specific industries might also be required to submit a report to their relevant ministry or regulator, pursuant to industry-specific regulations.

6. There are filing requirements specific for public companies, inter alia:

   a) annual report that must be submitted to the Financial Services Authority (Otoritas Jasa Keuangan or "OJK") by the end of April for the preceding year;

   b) annual financial statement that must be prepared by the end of March for the preceding financial year; and

   c) corporate governance report that must be prepared annually and submitted together with the annual report to the OJK.

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