

LAW OF THE REPUBLIC OF INDONESIA

NUMBER 25 OF 2007

ON

INVESTMENT

BY THE BLESSINGS OF ALMIGHTY GOD

THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

- Considering:
- a. that in order to realize a just and prosperous society founded on Pancasila and the 1945 Constitution of the Republic of Indonesia, it is necessary to carry out sustainable national economic development on the basis of economic democracy to pursue the state's goals;
 - b. that under the mandate set out in Resolution of the People's Consultative Assembly of the Republic of Indonesia Number XVI/MPR/1998 on Economic Politics in Pursuit of Economic Democracy, investment policies should at all times underlie a people's economy that is devoted to the development of micro, small, and medium enterprises and cooperatives;
 - c. that in order to accelerate national economic development and realize Indonesia's political and economic sovereignty, it is necessary to increase investment with the aim of turning economic potential into real economic strength in reliance upon both domestic and foreign capital;
 - d. that in order to deal with changes in the global economy and support Indonesia's participation in various international cooperation programs, it is necessary to create a conducive and promotive investment climate that provides legal certainty, justice, and efficiency with due regard to national economic interests;
 - e. that Law Number 1 of 1967 on Foreign Investment as amended by Law Number 11 of 1970 on Amendment and Supplement to Law Number 1 of 1967 on Foreign Investment and Law Number 6 of 1968 on Domestic Investment as amended by Law Number 12 of 1970 on Amendment and Supplement to Law Number 6 of 1968 on Domestic Investment need to be replaced, for they can no longer

comply with the need for accelerated development of the national economy and law, especially in the field of investment;

- f. that based on the considerations as referred to in point a, point b, point c, point d, and point e, it is necessary to establish Law on Investment.

Observing: Article 4 section (1), Article 5 section (1), Article 18 section (1), section (2), and section (5), Article 20, and Article 33 of the 1945 Constitution of the Republic of Indonesia;

With the Joint Approval of
THE HOUSE OF REPRESENTATIVES and
THE PRESIDENT OF THE REPUBLIC OF INDONESIA

HAS DECIDED:

To enact: LAW ON INVESTMENT.

CHAPTER I GENERAL PROVISIONS

Article 1

In this Law:

1. Investment means all forms of investing activities by both domestic investors and foreign investors to conduct business in the territory of the Republic of Indonesia.
2. Domestic investment means an investing activity performed by a domestic investor to conduct business in the territory of the Republic of Indonesia using domestic capital.
3. Foreign investment means an investing activity performed by a foreign investor to conduct business in the territory of the Republic of Indonesia whether by using full foreign capital or by establishing a joint venture with a domestic investor.
4. Investor means an individual or a business entity that makes an investment, being either a domestic investor or a foreign investor.
5. Domestic investor means an individual of Indonesian nationality, an Indonesian business entity, the state of the Republic of Indonesia, or a region that makes an investment in the territory of the Republic of Indonesia.
6. Foreign investor means an individual of foreign nationality, a foreign business entity, and/or a foreign government that makes an investment in the territory of the Republic of Indonesia.

7. Capital means assets owned by an investor taking the form of monetary or otherwise non-monetary assets that have economic value.
8. Foreign capital means the capital owned by a foreign country, an individual of foreign nationality, a foreign business entity, a foreign legal entity, and/or an Indonesian legal entity whose capital is partly or wholly owned by a foreign party.
9. Domestic capital means the capital owned by the state of the Republic of Indonesia, an individual of Indonesian nationality, or a business entity, whether incorporated or unincorporated.
10. One-stop integrated service means the activity of administering licensing and non-licensing service under delegation or transfer of authority from the competent agency or institution having the licensing and non-licensing authority, with all stages of the administrative procedure from the application to the issuance of the document carried out in one place.
11. Regional autonomy means the right, authority, and obligation of an autonomous region to independently administer and manage its own governmental affairs and the interests of the local people in accordance with the provisions of legislation.
12. Central government, hereinafter referred to as Government, means the President of the Republic of Indonesia, who holds the power of government over the Republic of Indonesia as referred to in the 1945 Constitution of the Republic of Indonesia.
13. Local government means the governor, regent, or mayor, and regional apparatus as elements of local government administrators.

Article 2

The provisions in this Law apply to investment in all sectors in the territory of the Republic of Indonesia.

CHAPTER II

PRINCIPLES AND PURPOSES

Article 3

- (1) An investment is administered based on the following principles:
 - a. legal certainty;
 - b. transparency;

- c. accountability;
 - d. equality and no discrimination by national origin;
 - e. togetherness;
 - f. fairness-based efficiency;
 - g. sustainability;
 - h. environment-oriented;
 - i. independence; and
 - j. balance in the progress and unity of the national economy.
- (2) The purposes of administering investment, among other things, include the following:
- a. increasing the growth of the national economy;
 - b. creating job opportunities;
 - c. increasing sustainable economic development;
 - d. increasing the competitiveness of national businesses;
 - e. increasing the capacity and capability of national technology;
 - f. encouraging the development of a people's economy;
 - g. turning economic potential into real economic strength using funds from both domestic and foreign sources; and
 - h. improving public welfare.

CHAPTER III

FUNDAMENTAL INVESTMENT POLICY

Article 4

- (1) The Government establishes fundamental investment policy in order to:
- a. encourage the creation of a conducive national business climate for investment to strengthen the competitiveness of the national economy; and
 - b. accelerate the increase of investment.
- (2) In establishing the fundamental policy as referred to in section (1), the Government:
- a. provides equal treatment to domestic investors and foreign investors with due regard to the national interest;

- b. ensures legal certainty, business certainty, and business security for investors from the licensing process until the termination of the investment activity in accordance with the provisions of legislation; and
 - c. opens opportunities for the development of and give protection to micro, small, and medium enterprises and cooperatives.
- (3) The fundamental policy as referred to in section (1) and section (2) is realized in the form of a General Plan for Investment.

CHAPTER IV

FORMS OF BUSINESS ENTITY AND DOMICILE

Article 5

- (1) Domestic investments can take the form of a business entity, whether incorporated or unincorporated, or a sole proprietorship, in accordance with the provisions of legislation.
- (2) Foreign investments are required to be in the form of a limited liability company (perseroan terbatas) incorporated under the Indonesian law and domiciled in the territory of the Republic of Indonesia, unless stipulated otherwise by law.
- (3) Domestic and foreign investors that make an investment in the form of a limited liability company may invest by means of:
 - a. subscribing for the shares of a limited liability company upon its establishment;
 - b. purchasing the shares of a limited liability company; and
 - c. investing in any other manner in accordance with the provisions of legislation

CHAPTER V

TREATMENT IN THE CONTEXT OF INVESTMENT

Article 6

- (1) The Government gives equal treatment to all investors from any country that make an investment in Indonesia in accordance with the provisions of legislation.

- (2) The treatment as referred to in section (1) does not apply to investors from a country accorded privileges under an agreement/treaty with Indonesia.

Article 7

- (1) The Government does not nationalise or expropriate an investor's proprietary rights, except as provided by law.
- (2) In the event the Government conducts the nationalisation or expropriation of proprietary rights as referred to in section (1), the Government awards compensation in an amount that is determined according to market value.
- (3) If the two parties fail to reach a consensus about the compensation as referred to in section (2), the settlement is resolved through arbitration.

Article 8

- (1) Investors can transfer their assets to any party the investor desire in accordance with the provisions of legislation.
- (2) The assets not considered as belonging to those as referred to in section (1) are assets determined by law as assets controlled by the state.
- (3) Investor are vested with the right to transfer and repatriate in foreign currency, inter alia, the following:
 - a. capital;
 - b. profit, bank interest, dividends, and other income;
 - c. the funds required to:
 1. purchase raw materials and auxiliary materials, intermediate goods, or finished goods; or
 2. replace capital goods for the purpose of ensuring the viability of an investment;
 - d. additional funds required for the financing of an investment;
 - e. funds for the repayment of a loan;
 - f. royalties or fees that must be paid;
 - g. income earned by an individual of foreign nationality working in an investment company;
 - h. proceeds from the sale or liquidation of an investment;
 - i. compensation for losses;
 - j. compensation for expropriation;

- k. payments for technical assistance, fees must be paid for technical and management services, payments made under project contracts, and payments related to intellectual property rights; and
 - l. proceeds from the sale of assets as referred to in section (1).
- (4) The right to transfer and repatriate as referred to in section (3) is exercised in accordance with the provisions of legislation.
- (5) The provisions as referred to in section (1) does not prejudice:
- a. the authority of the Government to put into effect the provisions of legislation that obligate the reporting of the transfer of funds;
 - b. the right of the Government to earn from taxes and/or royalties and/or other Government revenues from an investment that is in accordance with the provisions of legislation;
 - c. the enforcement of law to protect the rights of creditors; and
 - d. the enforcement of law to avoid losses to the state.

Article 9

- (1) In the event of any unresolved legal responsibility by an investor:
- a. an investigator or the Minister of Finance may request a bank or any other institution to suspend the right of transfer and/or repatriation; and
 - b. the court has the authority to issue an order to suspend the right of transfer and/or repatriation based on a lawsuit.
- (2) The bank or such other institutions execute the court order on the suspension as referred to in section (1) point b until the investor has fully discharged all responsibility.

CHAPTER VI

EMPLOYMENT

Article 10

- (1) An investment company in fulfilling its workforce needs must prioritize workers of Indonesian nationality.
- (2) An investment company has the right to use experts of foreign nationality for certain positions and expertise in accordance with the provisions of legislation.

- (3) An investment company is obligated to improve the competence of the workers of Indonesian nationality through job training in accordance with the provisions of legislation.
- (4) An investment company that employs foreign workers is obligated to provide training and technology transfer activities for workers of Indonesian nationality in accordance with the provisions of legislation.

Article 11

- (1) Any industrial relations dispute is required to be settled in an amicable manner between the investment company and the workers.
- (2) If the settlement as referred to in section (1) fails, the dispute is settled through a tripartite mechanism.
- (3) If the settlement as referred to in section (2) fails, the investment company and the workers settle the industrial relations dispute through an industrial relations court.

CHAPTER VII

BUSINESS SECTORS

Article 12

- (1) All business sectors or business types are open for investment activities, except for the business sectors or business types that are specified as either closed or open under certain requirements.
- (2) The business sectors that are closed to foreign investors are as follows:
 - a. production of weapons, gunpowder, explosive devices, and armaments; and
 - b. business sectors that are explicitly specified as closed by law.
- (3) The Government, under a Presidential Regulation, stipulates the business sectors that are closed for investment, whether foreign or domestic, based on the following criteria: health, morals, culture, environment, national defence and security, as well as other national interest.
- (4) The criteria and requirements for closed business sectors and open business sectors under certain requirements as well as the list of closed business sectors and open business sectors under certain requirements are regulated by a Presidential Regulation.

- (5) The Government stipulates the business sectors that are open under certain requirements based on the national interest criteria, namely the protection of natural resources, protection, development of micro, small, and medium enterprises and cooperatives, supervision of production and distribution, increase in the capacity of technology, domestic capital participation, and cooperation with business entities designated by the Government.

CHAPTER VIII

DEVELOPMENT OF INVESTMENT IN MICRO, SMALL, AND MEDIUM ENTERPRISES, AND COOPERATIVES

Article 13

- (1) The Government is obligated to stipulate the business sectors that are reserved for micro, small, and medium enterprises and cooperatives as well as the business sectors that are open to large businesses on condition that they must cooperate with micro, small, and medium enterprises and cooperatives.
- (2) The Government guides and develops micro, small, and medium enterprises and cooperatives by creating partnership programs, increasing competitiveness, encouraging innovation and market expansion, as well as disseminating information to the widest possible extent.

CHAPTER IX

RIGHTS, OBLIGATIONS, AND RESPONSIBILITIES OF INVESTORS

Article 14

Every investor is entitled to the following:

- a. certainties of rights, law, and protection;
- b. transparent information about the business sector of the business it carries on;
- c. right to services; and
- d. various forms of facilities in accordance with the provisions of legislation.

Article 15

Every investor is obligated to:

- a. implement the principles of good corporate governance;
- b. implement corporate social responsibility;
- c. prepare a report on investment activities and submit to the Investment Coordinating Board (Badan Koordinasi Penanaman Modal);
- d. respect the cultural traditions of the community around the location of the investment business activities; and
- e. comply with all the provisions of legislation.

Article 16

Every investor is responsible for:

- a. ensuring the availability of capital emanating from sources that are not against the provisions of legislation;
- b. assuming and discharging all obligations and compensating for any losses if the investor unilaterally terminates or abandons or neglects their business activities in accordance with the provisions of legislation. ;
- c. creating a business climate that promotes fair competition, preventing monopolistic practices, and other things that may cause losses to the state;
- d. maintaining environmental sustainability;
- e. creating the workers' safety, health, comfort, and welfare; and
- f. complying with all the provisions of legislation.

Article 17

Any investor engaging in a business involving non-renewable natural resources is obligated to allocate funds in stages for the purpose of site restoration in compliance with environmental standards, the implementation of which is regulated in accordance with the provisions of legislation.

CHAPTER X

INVESTMENT FACILITIES

Article 18

- (1) The Government provides facilities to investors that make investments.

- (2) The investment facilities as referred to in section (1) may be provided to an investment that:
 - a. expands a business; or
 - b. makes a new investment.
- (3) The investment eligible to obtain the facilities as referred to in section (2) is an investment that meets at least one of the following criteria:
 - a. absorbing a lot of manpower;
 - b. categorized as high in the priority scale;
 - c. falling under an infrastructure development;
 - d. conducting technology transfer;
 - e. engaging in a pioneer industry;
 - f. located in a remote area, underdeveloped area, contiguous area, or any other area deemed in need of investment;
 - g. maintaining environmental sustainability;
 - h. conducting research, development, and innovation activities;
 - i. partnering with micro, small, and medium enterprises or cooperatives; or
 - j. engaging in an industry that uses domestically produced capital goods or machines or equipment
- (4) The facilities provided to an investment as referred to in section (2) and section (3) may take the forms of:
 - a. income tax through a reduction in the net income to a certain extent for the amount of investment made within a certain period;
 - b. an exemption or relief on the import duty on the importation of capital goods, machinery or equipment for the purposes of production that still cannot be undertaken domestically;
 - c. an exemption or relief on the import duty on raw materials or auxiliary materials for production purposes for a certain period and under certain requirements;
 - d. an exemption or deferment of Value Added Tax on the importation of capital goods or machinery or equipment for the purposes of production that still cannot be undertaken domestically for a certain period;
 - e. accelerated depreciation or amortization; and

- f. relief on Land and Building Tax, especially for certain business sectors, in certain regions or areas or territories.
- (5) An exemption or reduction on corporate income tax in a certain amount and within a certain period can only be given to a new investment that constitutes a pioneer industry, namely an industry that has tremendous links, provides high added value and externalities, introduces new technology, and has strategic value for the national economy.
- (6) An ongoing investment that needs to replace machines or other capital goods may be given facilities in the form of import duty relief or exemption.
- (7) Further provisions on the grant of fiscal facilities as referred to in section (4) through section (6) are regulated by a Regulation of the Minister of Finance.

Article 19

The facilities as referred to in Article 18 section (4) and section (5) are provided according to the national industrial policy established by the Government.

Article 20

The facilities as referred to in Article 18 does not apply to foreign investment that does not take the form of a limited liability company (*perseroan terbatas*).

Article 21

In addition to the facilities as referred to in Article 18, the Government provides ease of services and/or licensing to investment companies to obtain:

- a. land rights;
- b. immigration service facilities; and
- c. import licensing facilities.

Article 22

- (1) The ease of service and/or licensing of land rights as referred to in Article 21 point a may be both granted and extended initially and it may be renewed at the investor's request, in the forms of:
 - a. Right to Cultivate (*Hak Guna Usaha*) may be granted for a cumulative period of 95 (ninety-five) years in a

way that it may be both granted and extended initially for 60 (sixty) years and may be renewed for 35 (thirty-five) years;

- b. Right to Build (*Hak Guna Bangunan*) may be granted for a cumulative period of 80 (eighty) years in a way that it may be both granted and extended initially for 50 (fifty) years and may be renewed for 30 (thirty) years; and
 - c. Right to Use (*Hak Pakai*) may be granted for a cumulative period of 70 (seventy) years in a way that it may be both granted and extended initially for 45 (forty-five) years and may be renewed for 25 (twenty-five) years.
- (2) The land rights as referred to in section (1) may be both granted and extended initially for investment activities, subject to, i.e., the following conditions:
- a. the investment is made for a long term and is related to a change in the Indonesian economic structure towards greater competitiveness;
 - b. the investment with a level of investment risk that requires long-term capital return that is appropriate with the type of investment activity;
 - c. the investment does not require a vast area;
 - d. the investment makes use of a land right over state land; and
 - e. the investment does not interfere with the sense of justice in the community and does not harm the public interest.
- (3) The land right may be renewed after an evaluation stating the land is still being used and is duly cultivated in the condition, nature and the purpose of the grant thereof.
- (4) The initial grant and extension of land rights at the same time and with the possibility of renewal as referred to in section (1) and section (2) may be terminated or revoked by the Government if the investment company abandons the land, harms public interest, uses or utilizes the land in a way that does not reflect the aim and purpose for which the land rights are granted, and violates provision of legislation on the land.

Article 23

- (1) The ease of services and/or licensing with respect to immigration facilities as referred to in Article 21 point b may be granted:
- a. for an investment that requires foreign workers in realizing the investment;

- b. for an investment that requires temporary foreign workers to repair machines, other production aids, and provide after-sales services; and
 - c. to a potential investor that desires to explore the possibilities for investment.
- (2) The ease of services and/or licensing with respect to immigration facilities to be granted to the investments as referred to in section (1) point a and point b are granted after the investor obtains a recommendation from the Investment Coordinating Board.
- (3) A foreign investor is granted the following facilities:
- a. a limited stay permit (*izin tinggal terbatas*) for a period of 2 (two) years;
 - b. a change in the stay permit status from a limited stay permit (*izin tinggal terbatas*) to a permanent stay permit (*izin tinggal tetap*) on condition that the foreign investor has stayed in Indonesia for 2 (two) consecutive years;
 - c. a multiple re-entry permit for a maximum period of 12 (twelve) months from the time the limited stay permit is granted, for the holder of a limited stay permit with a validity period of 1 (one) year;
 - d. a multiple re-entry permit for a maximum period of 24 (twenty-four) months from the time the limited stay permit is granted, for the holder of a limited stay permit with a validity period of 2 (two) years; and
 - e. a multiple re-entry permit for a maximum period of 24 (twenty-four) months from the time the permanent stay permit is granted, for the holder of a permanent stay permit.
- (4) The limited stay permits for a foreign investor as referred to in section (3) point a and point b is granted by the Directorate General of Immigration on a recommendation from the Investment Coordinating Board.

Article 24

The ease of services and/or ease of licensing with respect to import licensing facilities as referred to in Article 21 point c may be granted for the importation of:

- a. any goods as long as they are not against the provisions of legislation governing the trade in goods;
- b. any goods that do not have negative impact on the safety, security, health, environment and morals of the nation;
- c. any goods for the purpose of plant relocation from abroad to Indonesia; and

- d. any capital goods or raw materials for own production needs.

CHAPTER XI

COMPANY VALIDATION AND LICENSING

Article 25

- (1) Any investor that makes an investment in Indonesia must comply with the provisions of Article 5 of this Law.
- (2) The validation of the establishment of a domestic investment business entity, whether incorporated or unincorporated, is conducted in accordance with the provisions of legislation.
- (3) The validation of the establishment of a foreign investment business entity in the form of a limited liability company is conducted in accordance with the provisions of legislation.
- (4) Any investment company that will conduct its business is obligated to obtain a license/permit in accordance with the provisions of legislation from the competent institutions, unless provided otherwise by law.
- (5) The license/permit as referred to in section (4) is obtained through the one-stop integrated service.

Article 26

- (1) The one-stop integrated service is aimed at assisting investors in obtaining ease of services, fiscal facilities, and information on investment.
- (2) The one-stop integrated service is run by a competent agency or institution in the field of investment based on delegation or transfer of authority from the relevant agency or institution having the licensing and non-licensing authority at the central level or from the relevant agency or institution having the authority to issue licensing and non-licensing documentation at the provincial or regency/municipal level.
- (3) The provisions regarding procedure and implementation of the one-stop integrated service as referred to in section (2) are regulated by a Presidential Regulation.

CHAPTER XII

COORDINATION AND IMPLEMENTATION OF INVESTMENT POLICIES

Article 27

- (1) The Government conducts coordination in investment policies among Government institutions, between Government institutions and Bank Indonesia, between Government institutions and local governments, as well as coordination among local governments.
- (2) The coordination in the implementation of the investment policies as referred to in section (1) is conducted by the Investment Coordinating Board.
- (3) The Investment Coordinating Board as referred to in section (2) is led by a head and is directly responsible to the President.
- (4) The Head of the Investment Coordinating Board as referred to in section (3) is appointed and dismissed by the President.

Article 28

- (1) In respect of the coordination in the implementation of the investment policies and services, the Investment Coordinating Board has the following duties and functions:
 - a. carrying out the duties and coordination in the implementation of investment policies;
 - b. reviewing and proposing investment service policies;
 - c. establishing the norms, standards, and procedures for the implementation of the investment activities and services;
 - d. developing investment opportunities and potential in the regions by empowering business entities;
 - e. making an Indonesian investment map;
 - f. promoting investment;
 - g. developing the investment business sector through investment guidance by, among other things, increasing partnerships, increasing competitiveness, creating fair business competition, and disseminating information to the widest possible extent within the scope of investment;
 - h. assisting in finding solutions to various obstacles and giving consultation on the issues an investor may face in carrying out investment activities;
 - i. coordinating the domestic investors that carry out their investment activities outside the territory of Indonesia; and
 - j. coordinating and implementing the one-stop integrated service.

- (2) In addition to coordinating duties as referred to in Article 27 section (2), the Investment Coordinating Board has the duty to provide investment services in accordance with the provisions of legislation.

Article 29

In carrying out its duties and functions as well as the one-stop integrated service, the Investment Coordinating Board must directly involve the representatives of every sector and region with the competent and authorized officials.

CHAPTER XIII

ADMINISTRATION OF INVESTMENT AFFAIRS

Article 30

- (1) The Government and/or the local governments ensure business certainty and security in the implementation of investment.
- (2) The local governments administer the investment affairs that fall under their authority, except for the administration of investment affairs that fall within the domain of the Government.
- (3) The administration of government affairs in the field of investment that constitutes the mandatory affairs of the local governments is based on the criteria of externality, accountability, and efficiency in the implementation of investment.
- (4) The administration of investment with a cross-provincial scope becomes the Government's affairs.
- (5) The administration of investment with a scope that crosses regency/municipality becomes the provincial government's affairs.
- (6) The implementation of investment with a scope that's within one regency / municipality becomes the regency/municipal government's affairs.
- (7) The government affairs in the field of investment which fall within the authority of the Government are:
 - a. investment related to non-renewable natural resources with a high level of environmental damage risk;
 - b. investment in the industrial sector that constitutes a high priority on a national scale;
 - c. investment related to the function of unifying and connecting regions or whose scope is across provinces;

- d. investment related to the implementation of the national defence and security strategy;
 - e. foreign investment and investors using foreign capital from the government of another country under an agreement entered into by the Government and the government of another country; and
 - f. any other investment sectors that by law fall within the domain of the Government.
- (8) With regard to government affairs in the field of investment that fall within the authority of the Government as referred to in section (7), the Government administers them on its own, delegates them to a governor as the representative of the Government, or assigns the regency/municipal governments.
- (9) The provisions regarding distribution of government affairs in the field of investment are further regulated by a Government Regulation.

CHAPTER XIV

SPECIAL ECONOMIC ZONES

Article 31

- (1) To accelerate economic development in certain strategic regions for the development of the national economy and to maintain a balance in the progress of a region, special economic zones may be established and developed.
- (2) The Government has the authority to establish separate investment policies in special economic zones.
- (3) Provisions regarding special economic zones as referred to in section (1) are regulated by a law.

CHAPTER XV

DISPUTE SETTLEMENT

Article 32

- (1) In the event of a dispute in the field of investment between the Government and an investor, the parties initially settle the dispute in an amicable manner.
- (2) In the event that the dispute settlement as referred to in section (1) fails, the dispute may be settled through arbitration or alternative dispute resolution methods or in court in accordance with the provisions of legislation.

- (3) In the event of a dispute in the field of investment between the Government and a domestic investor, the parties may settle the dispute through arbitration upon mutual agreement between the parties, and if the dispute settlement through arbitration fails, the dispute will be settled in court.
- (4) In the event of a dispute in the field of investment between the Government and a foreign investor, the parties will settle the dispute through international arbitration, which must be mutually agreed upon by the parties.

CHAPTER XVI

SANCTIONS

Article 33

- (1) A domestic investor and a foreign investor that make an investment in the form of a limited liability company are prohibited from making an agreement and/or statement affirming that the share ownership in the limited liability company is for and in the name of another person.
- (2) In the event a domestic investor and a foreign investor make an agreement and/or statement as referred to in section (1), such agreement and/or statement are declared null and void.
- (3) In the event that an investor carrying on business under a cooperation agreement or contract with the Government is found to have committed a corporate crime in the forms of a tax crime, recovery cost markup, and any other form of cost markup to diminish the profit, resulting in losses to the state based on the findings or audits by the competent authorities and has obtained a final and binding court decision, the Government terminates the cooperation agreement or contract with the investor concerned.

Article 34

- (1) A business entity or a sole proprietorship as referred to in Article 5 that fails to fulfil the obligations as described in Article 15 may be subject to administrative sanctions in the forms of:
 - a. a written warning;
 - b. a restriction on their business activities;
 - c. freezing of their business activities and/or investment facilities; or

- d. revocation of their business license and/or investment facilities.
- (2) The administrative sanctions as referred to in section (1) are imposed by the competent institution or agency in accordance with the provisions of legislation.
- (3) In addition to the administrative sanctions, the business entity or sole proprietorship may be subject to other sanctions in accordance with the provisions of legislation.

CHAPTER XVII

TRANSITIONAL PROVISIONS

Article 35

Any international agreement on investment, whether bilateral, regional or multilateral, concluded by the Government of Indonesia prior to the entry into force of this Law remains effective until the termination thereof.

Article 36

Any draft international agreement on investment, whether bilateral, regional or multilateral, that has not been concluded by the Government of Indonesia at the time this Law enters into force is required to be adjusted to the provisions of this Law.

Article 37

- (1) At the time this Law comes into force, all the provisions of legislation, which are the implementing regulations of Law Number 1 of 1967 on Foreign Investment as amended by Law Number 11 of 1970 on Amendment and Supplement to Law Number 1 of 1967 on Foreign Investment and Law Number 6 of 1968 on Domestic Investment as amended by Law Number 12 of 1970 on Amendment and Supplement to Law Number 6 of 1968 on Domestic Investment, are declared to remain effective to the extent not contrary to and not yet regulated by new implementing regulations under this Law.
- (2) Any investment approval and operating permit that have been granted by the Government under Law Number 1 of 1967 on Foreign Investment as amended by Law Number 11 of 1970 on Amendment and Supplement to Law Number 1 of 1967 on Foreign Investment and Law Number 6 of 1968 on Domestic Investment as amended by Law Number 12 of 1970 on Amendment and Supplement to Law Number 6 of 1968 on Domestic

Investment remain valid until the expiry of such investment approval and operating permit.

- (3) Any application for investment and any other applications related to investment that have been submitted to the competent institution and by the date of the enactment of this Law have not obtained approval from the Government are required to be adjusted to the provisions of this Law.
- (4) An investment company that has been granted a business license by the Government under Law Number 1 of 1967 on Foreign Investment as amended by Law Number 11 of 1970 on Amendment and Supplement to Law Number 1 of 1967 on Foreign Investment and Law Number 6 of 1968 on Domestic Investment as amended by Law Number 12 of 1970 on Amendment and Supplement to Law Number 6 of 1968 on Domestic Investment, if its permanent business license expires, it may be renewed under this Law.

CHAPTER XVIII

CLOSING PROVISIONS

Article 38

Upon the enforcement of this Law:

- a. Law Number 1 of 1967 on Foreign Investment (State Gazette of the Republic of Indonesia of 1967 Number 1, Supplement to the State Gazette of the Republic of Indonesia Number 2818) as amended by Law Number 11 of 1970 on Amendment and Supplement to Law Number 1 of 1967 on Foreign Investment (State Gazette of the Republic of Indonesia of 1970 Number 46, Supplement to the State Gazette of the Republic of Indonesia Number 2943); and
- b. Law Number 6 of 1968 on Domestic Investment (State Gazette of the Republic of Indonesia of 1968 Number 33, Supplement to the State Gazette of the Republic of Indonesia Number 2853) as amended by Law Number 12 of 1970 on Amendment and Supplement to Law Number 6 of 1968 on Domestic Investment (State Gazette of the Republic of Indonesia of 1970 Number 47, Supplement to the State Gazette of the Republic of Indonesia Number 2944),

are repealed and declared ineffective.

Article 39

All provisions of legislation that are directly related to investment are required to be based on and adjusted to this Law.

Article 40

This Law comes into force on the date of its promulgation.

In order that every person may know hereof, it is ordered to promulgate this Law by its placement in the State Gazette of the Republic of Indonesia.

Enacted in Jakarta
on 26 April 2007

PRESIDENT OF THE REPUBLIC OF INDONESIA,

Dr. H. SUSILO BAMBANG YUDHOYONO

Promulgated in Jakarta
on 26 April 2007

MINISTER OF LAW AND HUMAN RIGHTS OF THE REPUBLIC OF INDONESIA,

HAMID AWALUDIN

STATE GAZETTE OF THE REPUBLIC OF INDONESIA OF 2007 NUMBER 67

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DIRECTOR GENERAL OF LEGISLATION,



ASEP N. MULYANA

ELUCIDATION
OF
LAW OF THE REPUBLIC OF INDONESIA
NUMBER 25 OF 2007
ON
INVESTMENT

I. GENERAL

One of the objectives of establishing state governance is to promote public welfare. This mandate has been stipulated, among other things, in Article 33 of the 1945 Constitution of the Republic of Indonesia and represents a constitutional mandate that underlies the formation of all legislation in the field of economy. The constitution mandates that national economic development must be based on democratic principles that are capable of realizing Indonesia's economic sovereignty. The link between economic development and people's economic actors is further affirmed by Resolution of the People's Consultative Assembly of the Republic of Indonesia Number XVI/MPR/1998 on Economic Politics in the Context of Economic Democracy as a source of the substantive law. Thus, the development of investment in micro, small, and medium enterprises and cooperatives become part of the fundamental policies on investment.

In this regard, investment must be made part of the national economy and seen as an effort to increase the national economic growth, create job opportunities, promote sustainable economic development, increase the capacity and capability of national technology, foster people's economic development, and realize public welfare in a competitive economic system.

The goals of investment can only be achieved if the supporting factors that may impede the investment climate can be solved, among other things, through improved coordination among institutions of the Central Government and the local governments, creation of an efficient bureaucracy, legal certainty in the investment sector, highly competitive economic costs, conducive business climate in employment, and business security. With the improvement of the various supporting factors, the investment realization is expected to improve significantly.

The formation of the Law on Investment is firmly based on the spirit of creating a conducive investment climate, and therefore the Law on Investment regulates matters deemed crucial, such as those related to the scope of the law, fundamental investment policies, forms of business entity, treatment in the context of investment, business sectors, as well as the link between economic development and people's economic actors, as manifested in the provisions regarding the development of investment in micro, small, and medium enterprises and cooperatives, the rights, obligations, and liabilities of investors, as well as investment facilities, validation and licensing, coordination and implementation of investment policies which regulate institutional matters, administration of investment affairs, and provisions regulating dispute settlement.

This Law encompasses all activities of direct investment in all sectors. This Law also guarantees equal treatment in the context of investment. In addition, this Law orders the Government to enhance coordination among Government institutions, among Government institutions and Bank Indonesia, and among Government institutions and the local governments. Coordination with the local governments must be in line with the spirit of regional autonomy. The local governments together with private and Government institutions or agencies must be further empowered, both in developing potential opportunities in the regions and in coordinating investment promotions and services. The local governments are vested with the widest possible autonomy to regulate and administer matters related to investment on their own based on the principles of regional autonomy and joint administration or de-concentration. Therefore, the extent of improvement in institutional coordination is measurable from the speed of issuance of investment permits and facilities at competitive costs. In order to implement the principles of economic democracy, this Law also orders the establishment of legislation regarding closed business sectors and business sectors that are open under certain requirements, including those in which the investment must be made in partnership with or is reserved for micro, small, and medium enterprises and cooperatives.

This Law addresses the key issues that may be faced by an investor in starting a business in Indonesia, and therefore it contains provisions regarding the procedure for validation and licensing of investment companies through the one-stop integrated service. With this integrated service system, it is hoped that permits and licenses at the central and regional levels can be simplified and the process can be expedited. In addition to providing investment services in the regions, the Investment Coordinating Board is assigned to coordinate the implementation of investment policies. The Investment Coordinating Board is led by a head, who is directly responsible to the President. From the description of its main duties and functions, it can be seen that the Investment Coordinating Board is basically given a stronger role in overcoming investment obstacles, increasing certainty in the grant of facilities to investors, and reinforcing the role of investors. The effort to increase the role of investment must remain within the corridor of national development policies, which is planned in stages by paying due regard to macroeconomic stability and economic balance among regions, sectors,

business actors, and community groups, supporting the role of national businesses, and implementing the principles of good corporate governance.

The investment facilities is granted with due regard to the level of economic competitiveness and the financial condition of the state and must be more promotive compared to the facilities granted by other countries. The importance of certainty in the grant of investment facilities encourages more specific regulation of the forms of fiscal facilities, land rights facilities, immigration facilities, and import licensing facilities. Furthermore, the investment facilities are also provided in an effort to encourage the absorption of manpower, a link between economic development and people's economic actors, export orientation, and greater incentives for the benefit of investors that use domestic capital goods or production machines or equipment, as well as other facilities for investment in the less developed areas and areas with limited infrastructure, which will be regulated in more detail in the provisions of legislation.

Subject to the foregoing, this Law also gives the Government room to adopt policies to anticipate various subsisting international agreements and at the same time to encourage further international cooperation to increase the potential of goods and services from Indonesia in both regional and international markets. The policy of developing the economy of certain regions is to be seen as a way of attracting potential international markets and as a driving force to increase the growth appeal of a special economic zone or area that is strategic for the development of the national economy. In addition, this Law also regulates the right to transfer assets as well as the right to transfer and repatriate with due observance of the investors' legal responsibilities, fiscal obligations and social obligations. This Law also anticipates potential disputes arising between an investor and the Government by regulating dispute settlement.

The rights, obligations, and responsibilities of investors are specifically regulated in order to provide legal certainty, affirm investors' obligation to implement the principles of good corporate governance, pay respect to the cultural traditions of the community, and carry out corporate social responsibility. Regulating investors' responsibilities is necessary to encourage a climate of fair business competition, increase environmental responsibility and fulfil investors' rights and obligations towards the workers, as well as effort to encourage investors' compliance with the legislation.

The world economy is marked by the increasingly fierce international competition, and therefore investment policies must be oriented towards the creation of national economic competitiveness in order to encourage the integration of the Indonesian economy into the global economy. The world economy is also characterized by trade blocks, common markets, and free trade agreements for the purpose of achieving synergy of

interests between parties or between countries that enter into agreements. Indonesia's entry into various international cooperation agreements related to investment, whether bilateral, regional, or multilateral (World Trade Organization/WTO), also potentially leads to various consequences that must be faced and obeyed.

In consideration of the above and the fact that the existing investment laws have been in operation for approximately 40 (forty) years, it is becoming increasingly urgent to issue the Law on Investment to replace Law Number 1 of 1967 on Foreign Investment as amended by Law Number 11 of 1970 on Amendment and Supplement to Law Number 1 of 1967 on Foreign Investment and Law Number 6 of 1968 on Domestic Investment as amended by Law Number 12 of 1970 on Amendment and Supplement to Law Number 6 of 1968 on Domestic Investment, which have hitherto served as the legal basis for investment activities in Indonesia, needs to be replaced because it is no longer consistent with the current challenges and the need to accelerate the development of the national economy through the construction of the national legal development in the investment sector to ensure competitiveness and orientation towards national interest.

II. ARTICLE BY ARTICLE

Article 1

Sufficiently clear.

Article 2

The term "investment in all sectors in the territory of the Republic of Indonesia" means direct investment and does not include indirect or portfolio investment.

Article 3

Section (1)

Point a

The term "principle of legal certainty" means the principle in a rule-of-law state that places law and the provisions of legislation as the basis for every policy and action in the investment sector.

Point b

The term "principle of transparency" means the principle of being receptive to the public's right to obtain true, honest, and non-discriminatory information about investment activities.

Point c

The term "principle of accountability" means the principle that every activity and final result of the implementation of

investment is subject to accountability to the public or the people as the holder of the highest sovereignty of the state in accordance with the provisions of legislation.

Point d

The term "principle of equality and no discrimination by national origin" means the principle of non-discriminatory treatment in providing services based on the provisions of legislation between a domestic investor and a foreign investor as well as between an investor from one foreign country and an investor from another foreign country.

Point e

The term "principle of togetherness" means the principle that encourages the role of all investors in jointly realizing public welfare in the conduct of their businesses.

Point f

The term "principle of fair-based efficiency" means the principle underlying the implementation of investment by prioritizing fair efficiency in an effort to create a fair, conducive, and competitive business climate.

Point g

The term "principle of sustainability" means the principle that strives to achieve the planned sustainable development through investment to ensure welfare and advancement in all aspects of life, both in the present and the future.

Point h

The term "principle of environment oriented" means a principle that investment is made by paying regard to and prioritizing the protection and conservation of the environment.

Point i

The term "principle of independence" means the principle that investment is made by giving priority to the potential of the nation and state and by not being unreceptive to the inflow of foreign capital to realize economic growth.

Point j

The term "principle of balance in the progress and unity of the national economy " means the principle that strives to maintain a balance in the economic advancement in territories within the national economic unity.

Section (2)

Sufficiently clear.

Article 4

Section (1)

Sufficiently clear.

Section (2)

Point a

The term "equal treatment" means that the Government does not discriminate in treating the investors that make an investment in Indonesia, unless stipulated otherwise by the provisions of legislation.

Point b

Sufficiently clear.

Point c

Sufficiently clear.

Section (3)

Sufficiently clear.

Article 5

Sufficiently clear.

Article 6

Section (1)

Sufficiently clear.

Section (2)

The term "privileges" include, among other things, privileges relating to customs unions, free trade zones, common markets, monetary unions, institutions of similar nature, and agreements between the Government of Indonesia and foreign governments, whether bilateral, regional or multilateral, relating to certain privileges in investment.

Article 7

Section (1)

Sufficiently clear.

Section (2)

The term "market value" means a price determined by an independent appraiser appointed by the parties according to internationally accepted methods.

Section (3)

The term "arbitration" means a way of settling a civil dispute out of court based on a written agreement made by the disputing parties.

Article 8

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Section (5)

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Point c

Sufficiently clear.

Point d

In the event of any losses to the state, the Government may take legal action in the forms of, among other things, a warning, suspension, revocation of business licenses, claims for compensation and other sanctions in accordance with the provisions of legislation.

Article 9

Sufficiently clear.

Article 10

Sufficiently clear.

Article 11

Sufficiently clear.

Article 12

Section (1)

The business sectors or business types that are closed and that are open under certain requirements are stipulated through a Presidential Regulation in a list created based on the standards for classification of business sectors or types applicable in Indonesia, namely the Indonesian Standard Classification of Business Fields (*Klasifikasi Baku Lapangan Usaha Indonesia*/KBLI) and/or the International Standard for Industrial Classification (ISIC).

Section (2)

The term "explosive devices" means devices used for defence and security purposes.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Section (5)

Sufficiently clear.

Article 13

Section (1)

The term "business sectors that are reserved" means business sectors that are specifically intended for micro, small, and medium enterprises and cooperatives in order to ensure their capability and equality with other economic actors.

Section (2)

Sufficiently clear.

Article 14

Point a

The term "certainty of rights" means the Government's guarantee to investors that investors will obtain their rights as long as they have fulfilled the specified obligations.

The term "certainty of law" means the Government's guarantee to place law and the provisions of legislation as the main basis for every measure and policy taken or made in relation to the investors.

The term "certainty of protection" means the Government's guarantee to investors that investors will obtain protection in carrying out the investment activities.

Point b

Sufficiently clear.

Point c

Sufficiently clear.

Point d

Sufficiently clear.

Article 15

Point a

Sufficiently clear.

Point b

The term "corporate social responsibility" means the responsibility inherent in every investment company to consistently create a harmonious, balanced and proper relationship with the environment, values, norms and culture of the local community.

Point c

A report on investment activities contains an update on the investment activities and the obstacles faced by the investors and is submitted periodically to the Investment Coordinating Board and the relevant local government in charge of the investment sector.

Point d

Sufficiently clear.

Point e

Sufficiently clear.

Article 16

Sufficiently clear.

Article 17

This provision is intended to anticipate damage of the environment caused by investment activities.

Article 18

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Point c

Sufficiently clear.

Point d

Sufficiently clear.

Point e

The term “pioneer industry” means an industry that has extensive relations, provides high added value and externality, introduces new technology, and has strategic value for the national economy.

Point f

Sufficiently clear.

Point g

Sufficiently clear.

Point h

Sufficiently clear.

Point I

Sufficiently clear.

Point j

Sufficiently clear.

Section (4)

Sufficiently clear.

Section (5)

Sufficiently clear.

Section (6)

Sufficiently clear.

Section (7)

Sufficiently clear.

Article 19

Sufficiently clear.

Article 20

Sufficiently clear.

Article 21

Sufficiently clear.

Article 22

Section (1)

Point a

The Right to Cultivate (*Hak Guna Usaha*) is obtainable by granted and extended initially for 60 (sixty) years and may be renewed for 35 (thirty-five) years.

Point b

The Right to Build (*Hak Guna Bangunan*) is obtainable by granted and extended initially for 50 (fifty) years and may be renewed for 30 (thirty) years.

Point c

The Right to Use (*Hak Pakai*) is obtainable by granted and extended initially for 45 (forty-five) years and may be renewed for 25 (twenty-five) years.

Section (2)

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Point c

The term "vast area" means the land size required for the investment activities by taking into account the population density, the business sectors, or the business types as stipulated by the legislations.

Point d

Sufficiently clear.

Point e

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Article 23

Section (1)

Sufficiently clear.

Section (2)

The recommendation is given after the investment has complied with the provisions concerning the engagement of foreign workers in accordance with the provisions of legislation on manpower.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Article 24

Sufficiently clear.

Article 25

Sufficiently clear.

Article 26

Sufficiently clear.

Article 27

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

The term “directly responsible to the President” means that the Investment Coordinating Board in carrying out its duties and functions submits responsibility directly to the President.

Article 28

Section (1)

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Point c

For the purposes of establishing the norms, standards and procedures, the Investment Coordinating Board coordinates with the related departments/institutions.

Point d

Sufficiently clear.

Point e

Sufficiently clear.

Point f

Sufficiently clear.

Point g

Sufficiently clear.

Point h

Sufficiently clear.

Point i

Sufficiently clear.

Point j

Sufficiently clear.

Section (2)

Sufficiently clear.

Article 29

Sufficiently clear.

Article 30

Sufficiently clear.

Article 31

Sufficiently clear.

Article 32

Sufficiently clear.

Article 33

Section (1)

This provision is intended to avoid a situation in which a company is formally owned by a particular person but is materially or substantially owned by another person.

Section (2)

Sufficiently clear.

Section (3)

The term "tax crime" means the act of providing incorrect information regarding any taxation report by filing a tax return containing false or incomplete information or enclosing false statements that may cause losses to the state and other offenses as stipulated by the law governing taxation.

The term "recovery cost markup" means any costs or expenses incurred in advance by an investor in an unreasonable amount and then calculated as the costs and expenses for the investment activities when making a profit-sharing calculation to determine the Government's share.

The term "findings by the competent authorities" means the findings showing indications of criminal elements based on the results of an audit conducted by the Audit Board of Indonesia (*Badan Pemeriksa Keuangan/BPK*) or any other person vested with the authority to conduct an audit, subsequently followed up in accordance with legislation.

Article 34

Sufficiently clear.

Article 35

Sufficiently clear.

Article 36

Sufficiently clear.

Article 37

Sufficiently clear.

Article 38

Sufficiently clear.

Article 39

Sufficiently clear.

Article 40

Sufficiently clear.

SUPPLEMENT TO THE STATE GAZETTE OF THE REPUBLIC OF INDONESIA
NUMBER 4724