

## New Regulations on Pension Funds Management

by Stanley Patria Armando

The Financial Services Authority (**OJK**) has issued new regulations on the governance of pension funds (**Regulation 15**).<sup>\*</sup> The OJK felt that Regulation 15 was necessary to provide greater certainty and guidance for successful pension fund management.<sup>\*\*</sup>



Image source: <https://www.pexels.com>

Regulation 15 defines a pension fund as a legal entity, that manages and runs programs that promise pension benefits, including pension funds that carry out all, or part of their business, in accordance with sharia principles.

Regulation 15 defines the following two types of pension funds:

- an Employer Pension Fund (DPPK), which is formed by an employer to carry out a defined benefit pension plan or defined contribution pension plan, for the benefit of some, or all of

its employees, and which creates obligations to employers; and

- a Financial Institution Pension Fund (DPLK), which is formed by a bank or life insurance company to carry out a defined contribution pension plan for individuals, both employees and independent workers, that is separated from the bank's/life insurance company's DPPK.

Regulation 15 requires the Pension Funds to be managed in accordance with good governance principles. Regu-

lation 15 introduces the requirement that pension funds must have two separate individuals to manage the funds. Other additional mandatory senior management personnel are also defined in Regulation 15. Similarly, all Pension Funds that have net assets greater than 500 billion Rupiahs must appoint a risk management committee.

<sup>\*</sup>Regulation No. 15/POJK.05/2019 on the Governance of Pension Funds. This regulation revokes its predecessor, the Financial Services Authority Regulation (POJK) No. 16/POJK.05/2016.

<sup>\*\*</sup>Both Regulation 15 (and the previous regulations) implement the principles in the Decree of the Chairperson of the Capital Market and Financial Institution Supervisory Agency Number KEP-136 / BL / 2006 concerning Guidelines for Pension Fund Management.



## New Licensing for Foreign Construction Services (BUJKA)

by Galih Adi Prasetya

The Minister for Public Works and Public Housing of the Republic of Indonesia (**PUPR**) has enacted a new Regulation on licenses required for foreign entities offering construction services in Indonesia (**BUJKA**).<sup>1</sup>



Image source: <https://www.pexels.com>

The Regulation has codified the process for the issuance of foreign representation permits (**Representation Permit**) and foreign investment permits (**PMA Permit**), that were regulated separately prior to the enactment of the Regulation.

All licences required for BUJKA may be applied for, amended and revoked, via the online submission system, known as the OSS. The Regulation removes several previously legislated requirements in relation to the application for

Representation Permits or PMA Permits including the need for audited financial statements, taxpayer registration numbers (NPWP), domiciled legality of relevant office and environment management documents.

The Regulation introduces the requirement that an Indonesian citizen must be the account executive of the BUJKA. In addition, Representation and/or PMA Permit holders must submit an annual report to the government authorities no later than 30 April,

relating to the previous year's activities. The Regulation limits the scope of industries in which BUJKA may operate to only those construction projects that are high risk, use advanced technology or have a very large budget.

The Regulation lists all information that must be submitted via the OSS in order for a BUJKA to obtain a Representation Permit and/or a PMA including a business number, a promissory statement, details of the company's capital, if applying for a PMA Permit.

Any commitments attached to permits must be completed by the BUJKA within 30 days after the date the permit was issued.

Any breach of the provisions of the Regulation may lead to administrative sanctions including revocation of the relevant permits and a suspension of being able to do business in Indonesia for 3 years, otherwise known as "black-listing".

<sup>1</sup> Minister for Public Works and Public Housing Regulation No. 09/PRT/M/2019 on the Licensing Service Guidelines for Foreign Construction Service Business Entities. This Regulation superseded the previous regulation that governed the licensing procedure for BUJKA, which is the Minister for Public Works and Public Housing Regulation No. 09/PRT/M/2019 on the Licensing Service Guidelines for Foreign Construction Service Business Entities.

## Implementing the “Know Your Beneficial Owner” Principle

by Fahres Lay

On 27 June 2019, the Minister for Law and Human Rights Affairs issued a new Regulation<sup>1</sup> requiring companies to know, and report to the relevant authorities, its beneficial owner. As a Result, all Legal entities in Indonesia are now required to declare the identity of beneficial owners and provide information on their beneficial ownership. The purpose of the Regulation is the enhance the government’s ability to identify and eradicate money laundering and terrorism funding.

The Regulation states that all corporations must comply with the new requirements and defines the term corporations very broadly to include:

- limited liability companies;
- foundations;
- cooperatives;
- CVs (*Commanditaire vennootschap*); and
- firms.

As a rule of thumb, the Regulation states that submitting details of the beneficial owner or a change in the beneficial owner of a corporation must be done as soon as possible. The Regulation provides specific submission deadlines for difference circumstances.

The covered legal entities must comply with the Regulation as it is their responsibility to disclosure of the beneficial owners through identification and verification. Legal entities are also obliged to update the information regarding the beneficial ownership annually and keeping it up to date that includes any changes and other date that is related.



Image source: <https://dollarsandsense.sg>

The Company’s representative has a responsibility to implement the beneficial ownership principle and to give related information to relevant authorized government agencies as well as law enforcement agencies;

Information about beneficial owners may be shared by the government with other institutions, particularly with law enforcement authorities.

<sup>1</sup> Regulation of the Minister of Law and Human Rights No.15 of 2019 implementing Procedures for the Application of the Know Your Beneficial Owner Principle by Corporations.



## Licensing for the Migrant Worker Placement Services Company

by Fahres Lay

On the 2 June of 2019, the Minister for Human Resources issued new Regulations<sup>1</sup> governing the licensing procedures for a company engaging in the placement of Indonesian migrant workers. Indonesian migrant workers are every citizen Indonesia that will, does or has done work by receiving wages outside the area Republic of Indonesia, while as the migrant placement company are an Indonesian agency that will place these migrant Indonesia workers in foreign lands by following the standard of this regulation that governed it.



Image source: <https://www.pexels.com>

These Indonesian migrant worker placement companies must be properly licensed by the government by holding, among other things, a Migrant Worker Placement Certificate, known in Indonesia as the SIP3MI. All certificates and licences may be applied for via the online services system, or the OSS. The Regulations list certain information that must be submitted with the Migrant Worker Placement Certificate application including, among other things;

- all standard incorporation documents and detail of the company structure;

- proof of paid up capital;
- a deposit;
- proof of ownership of the company's facilities; and
- plans relating to migrant worker placement and protection.

The Migrant Worker Placement Certificate is valid for 5 years and may be renewed for 5-year periods.

The person in charge of the Migrant Worker Placement Certificates must report to the Director General on the placement of Indonesian Migrant Workers periodically and on the establish-

ment and closure of branch offices. The Report that is submitted will be revised as part of the conditions for the ongoing validity of the certificate.

Director General or Head of the Provincial Department oversees the administration of the Regulations. Any violation of the Regulations or the Director General's instructions may result in the revocation of the Migrant Worker Placement Certificate.

<sup>1</sup>Ministry for Manpower Regulation No. 10 Of 2019 Procedures for the Granting of Licenses to Companies Engaging in the Placement of Indonesian Migrant Workers.

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