



Pension Funds: New FSA Regulations

by Pratiwi Widyastuti



Image source: <http://www.af-advisors.nl>

- the pension fund’s business plan;
- risk management; and
- auditing.

The regulations require that pension funds must appoint at least 2 separate individuals to run the organization, who will be responsible for the implementation of good governance principles. The regulations prohibit these two managers from a number of behaviours primarily relating to conflicts of interest.

The new regulations require that all major decisions relating to the fund must be made in monthly management meetings. Further, the regulations require that the fund is supervised by a board, appointed by the founder.

The regulations revoke all previous regulations relating to governance and pension funds.

¹ FSA Regulation No. 15/2019.

The Financial Services Authority, or the FSA, has issued new regulations governing pension funds.¹ The regulations define the terms “Pension Fund” as a legal entity, which manages a promising program of pension benefits.

The regulations state that pension funds must apply the principles of good governance not only to the management of the program but to the management of the legal entity itself. The FSA’s aim is to encourage stability and reliability in the pension industry, which will contribute to the overall health of the economy.

A number of functions are specifically named in the regulations to which good governance principles must apply including, among other things:



Foreign Constructions Services: New Regulations

by Melisa Kristian



Image source: <https://www.mountprospect.org>

On 13 June 2019, the Minister for Public Works and People's Housing (the **Minister**) enacted new regulations.* The regulations set out new licensing requirements for foreign businesses that carry out constructions services (*badan usaha jasa konstruksi asing* or **BUJKA**).

Foreign entities must obtain a business licence if they wish to carry out construction and/or consultation services in Indonesia. The business licence is broken into the following two categories:

- a foreign investment licence, for a construction limited liability company formed by a BUJKA and a construction company in which the shares are mostly or fully owned by the Indonesian government, individuals or companies (**BUJKN**) (**BUJKA PMA**); and
- a representative office licence, for an office representing a BUJKA in Indonesia (**BUJKA Representative Office**).

The type of BUJKA and its planned activities dictates the type of licence it should apply for.

Application, amendment, and extension of a business licence may be done through the online single submission agency or OSS.

The regulations state that in order to operate in Indonesia, a BUJKA Representative Office must form a joint venture limited liability company with a BUJKN, which holds all the correct licences.

Other regulations dictate the minimum share percentage required for the Indonesian side of the joint venture.

The regulations state that BUJKA Representative Office and BUJKA PMA may only carry out construction services if the construction is high risk, using advanced technology or is a large project.

The regulations require a BUJKA Representative Office to transfer technology from foreign to Indonesian entities that must be contractually included in any joint venture.

BUJKA Representative Office and BUJKA PMA must report to the Minister annually. The regulations set out administrative sanctions for breach of its provisions.

*Regulation No. 09/PRT/M/2019.

Know Your Beneficial Owner: New Regulations for Corporations

by A. A. A. Reditha Saras



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

The Minister of Law and Human Rights (the **Minister**) has enacted Regulation No. 15 of 2019 concerning the “Know Your Beneficial Owner” Principle for Corporations (**Regulation 15**). Regulation 15 implements the principles in Presidential Regulation No. 13 of 2018 relating to the prevention and eradication of money laundering and terrorism financing.

The primary principle of Regulation 15 is that every corporation must determine its beneficial owner.

For the purposes of this principle, Regulation 15 provides a broad definition of “corporation” to include all types of companies including limited liability companies, foundations, associations, cooperatives, dormant partnership associations, and firms.

Regulation 15 defines “beneficial owner” to mean, an individual who is, among other things:

- able to appoint or dismiss members of senior management;
- able to control the corporation;
- entitled to and/or receives any direct or indirect benefit from the corporation; and/or
- the true owner of the funds or shares of the corporation.

Every corporation must submit details of its beneficial owner to the Minister after it has determined its beneficial owner no later than when it begins operations.

If the Corporation has not determined its Beneficial Owner yet, it shall submit a statement letter expressing its willingness to convey the Beneficial Owner information to the Minister. However, the Corporation must convey the details of its Beneficial Owner after it obtained any business license or registration certification. Details of a corporation’s Beneficial Owner shall be submitted electronically through AHU Online by notary, founder or management of the Corporation, or another party authorized by the founder or management of the Corporation.

The Minister may share information about beneficial owners with other government departments, with law enforcement agencies, government agency, and the competent authorities of other states or jurisdictions. The information may also be exchanged with a reporting party who has a legal obligation to report to the Financial Transaction Reports and Analysis Centre.

The implementation of the Know Your Beneficial Owner principle is under the supervision of the Minister through the Director General of General Law Administration. The Minister administers the implementation of Regulation 15 with the aim to eradicate money laundering and terrorism financing.

The Procedure to Become Indonesian Migrant Worker Placement Company

by Shaskia Putri Ramadhani



Image source: <http://atmta.ir>

The Ministry of Manpower issued a new Regulation No. 10 to govern a licenses for a company that engages in migrant placement services. The company that engages in placement services shall be in the form of limited liability company, which obtained licenses to provide migrant placement services by the Ministry of Manpower (in Indonesian known as SIP3MI). This regulation set out the details governing such licensing and to reconcile a number of related regulations.*

Regulation No. 10 requires that a company intending to apply for a placement services license must also have a business identification number and must provide several commitments to the Minister of Manpower as follows:

- details of the company's structure;
- proof of paid up capital in the company, with a minimum of five billion Rupiah;
- a one-year term deposit of 1.5 billion Rupiah. This deposit will be returned at the end of period;
- proof of ownership of the company's facilities and infrastructure; and
- a three-year protection and placement plan for Workers.

Any license issued will apply to the company's branch offices. The branch office will be authorized to distribute information about employment opportunities, to help recruit Workers and to resolve disputes related to the Workers.

The license will be valid for 5 years and may be extended for 5-year periods. It can no longer be valid if the License expired, upon the request of the company, or the License has been revoked.

Any company that has obtained an equivalent license under previous regulations will have six months to ensure that it complies with any additional requirements to ensure that its license remains valid under the new regulations.

Licenses are overseen by the Directorate General or Head of Provincial Service.

**The Minister of Manpower Regulation No. 10 of 2019 concerning Procedures for the Granting of Licenses to Companies Engaging in the Placement of Indonesian Migrant Workers, issued on June 28, 2019.*

This regulation revoked The Minister of Human Resources and Transmigration Regulation No. PER.09/MEN/V/2009 concerning Procedures for Establishing the Branch Offices of Private Owned Organizers of Indonesian Migrant Worker Placement, The Minister of Human Resources Regulation No. 41 of 2015 concerning Work Plan for the Placement and Protection of Indonesian Migrant Workers, Facilities and Infrastructure for Indonesian Migrant Workers Placement Services, and The Minister of Human Resources Regulation No. 42 of 2015 concerning Procedures for the Granting, Renewal and Revocation of License for Indonesian Migrant Workers Placement Operator.