BUDIARTO
LAW PARTNERSHIP

blp.co.id

ISO 9001
BUREAU VERITAS
Certification

BUDIARTO Law Partnership
is recognised in the IFLR1000

IFLR 1000
RECOGNISED FIRM
2020

The LEGAL 500
ASIA PACIFIC
LEADING FIRM
2020

NEWSLETTER Issue 89

April 2021

Environmental Approvals: New Regulations

by Rahmi Intan

Image source: https://images.pexels.com/photos/2409022/pexels-photo-2409022.jpeg

The Omnibus law* changes Indonesia's environmental legal framework with comprehensive provisions on environmental protection and management. To implement those provisions, the Indonesian government has just issued new Regulation 22**.

One important change brought about by Regulation 22 relates to environmental licensing for businesses.

Now, instead of needing to acquire an environmental licence, in Indonesian, *Izin Lingkungan*, businesses must obtain an Environmental Approval, in Indonesian, (*Persetujuan Lingkungan*). An Environmental Approval must be obtained prior to obtaining a business licence.

An Environmental Approval will be valid for the term of the business licence. An Environmental Approval can be either:

- a feasibility decree for business activities that significantly impact the environment; or
- a statement of capability in environmental management for businesses whose activities do not significantly impact the environment and who must have an environment management and monitoring programme, in Indonesian, *Upaya Pengelolaan Lingkungan Hidup dan Upaya Pemantauan Lingkungan Hidup*.

Businesses that do not fall under the above categories do not need to obtain an Environmental Approval but must prepare their own statement of capability in environmental management and monitoring. This statement will be integrated with the Business Identification Number (*Nomor Induk Berusaha*) of the business.

Whether a business must obtain an Environmental Approval or prepare its own statement of capability will depend on various factors. Regulation 22 sets out the rules by which businesses may judge whether they need to get the approval and which type of approval they should apply for.

The Omnibus Law and Regulation 22 also set out means by which micro and small enterprises will be assisted by the government to make their environmental approval applications.

Any environmental licences and documents issued prior to Regulation 22 will remain valid.

*Law Number 11 of 2020 on Job Creation. This Law Number 11 amended the primary environmental regulation, Law Number 32 of 2009 on Environmental Protection and Management.

** Government Regulation Number 22 of 2021 on the Implementation of Environmental Protection and Management.

Risk Management for Non-bank Financial Institutions: New Rules

by Hans Thioso

In early March, the financial service authority (FSA) issued new regulations* (the ***Regulations***) that apply to non-bank financial institutions (the ***Institutions***) in specific sectors including insurance and pension funds. The new Regulations require any Institutions providing financial services through a technology platform to implement specific risk management procedures.

The risk management procedures set out in the Regulations are comprehensive and include internal supervision, reporting procedures, proper protection, control and management of information technology systems, among other things.

The new Regulations require certain Institutions to have data centers and disaster recovery centres and procedures, which must be physically located within Indonesia, unless approved by the financial services authority. Any Institutions that already have data/disaster recovery centres outside Indonesia must apply to the FSA for approval. If approval is not granted, then those Institutions must move all data centres/disaster recovery centres to a location within Indonesia within one year from the refusal. Institutions that do not comply with the Regulations may be subject to written warnings. If, after a written warning, Institutions continue to breach the Regulations, then they risk the FSA reevaluating their suitability to do business at all.

Under the Regulations, Institutions must report crimes causing financial loss or operational disruption to the FSA within 5 business days of their becoming aware of the loss or disruption. Breach of this obligation may attract fines of up to IDR 25 million (approx. USD1700).

Different obligations in the Regulations will come into force at different times – the time period ranging from March 2021 until March 2024.

*FSA Regulation No. 4/POJK.05/2021 concerning the Implementation of Risk Management in The Use of Information Technology By Non-Bank Financial Services Institutions

Indonesia Begins a Commodity Supercycle

by Rainy Regina Prianto

Image source: https://www.pexels.com/photo/view-of-factory-against-blue-sky-257700/

Indonesia is at the start of a commodity supercycle; so says Indonesia's Minister for Trade in a press release on 6 April 2021. Over the past year, commodity prices have dropped dramatically not only due to the impact of the coronavirus but also due to the trade war between USA and China.

With a number of viable vaccines being rolled out worldwide, the global economy is beginning to recover. This recovery includes an increased demand for core commodities such as oil, gas, iron ore, and copper. With limited supply and increased demand, prices are forecast to rise significantly – creating the start of a supercycle.

Indonesia may soon enter a bull market. The Minister for Trade has forecast three trade trends during this super cycle, these are the increase in:

- investment in Indonesia's automotive industry;
- Indonesia's competitiveness on the world market for the production of goods and services related to core commodities; and
- Indonesia's competitiveness on the world market for jewellery, given Indonesia's natural resources and highly skills human resources.

Various leading economists have stated that the economic momentum to create a supercycle takes at least 10 years – this supercycle is, therefore, a rare event.

BUDIARTO
LAW PARTNERSHIP

Acquisitions: New Laws on Employment Termination

by Jayalaksana Purnama

Image source: Box photo created by master1305 - www.freepik.com

In accordance with the introduction of the Job Creation Law[1], the Government has enacted new regulations on the termination of employment, by either the employee or the employer, in relation to a company acquisition.[2] The new regulations do not change the current laws[3] on the amount of severance pay, length of service pay and expense compensation rights. The new regulations do, however, decrease the amount of severance pay, by half, that a departing employee will be entitled to if they or their employer terminates their employment post acquisition.

[1] Law Number 11 of 2020 on Job Creation.

[2] Government Regulation Number 35 of 2021 on Temporary Employment Agreement, Outsourcing, Working Hours And Breaks And Termination Of Employment Relationships.

[3] Law Number 13 of 2003 on Manpower.

Covid-19 Stimulus Loans

by Sukhemadewi

The Government has initiated further relief for companies from the impact of COVID-19 by guaranteeing working capital loans of up to RP 1 trillion (approx. USD 68 million) with the minimum starting at RP 5 billion (approx. USD 340,000).* Applicants must satisfy a number of criteria to be eligible for the loans, including, among other things, that they must:

- have at least 50 employees;
- be negatively effected by COVID-19;
- be incorporated; and
- not be on a national blacklist.

Businesses may show that they are negatively effected by COVID-19 if:

- sales and/or profits have fallen during the pandemic;
- the business is in a sector deemed by the Government to be effected by COVID-19;
- the location of the business is deemed to be effected by COVID-19;
- there has been a business interruption due to COVID-19; and/or
- the business has had difficulty accessing other loans.

Applications may be submitted to a bank authorised by the Financial Services Authority.

*Finance Regulation 32/2021.

BUDIARTO
LAW PARTNERSHIP
The AXA Tower - Kuningan City, 28th Floor
Jl. Prof Dr. Satrio Kav.18, Kuningan - Setiabudi
Jakarta 12940, Indonesia
t : +6221-3048 0718
f : +6221-3048 0715
e : budiarto@blp.co.id