

# BLP NEWSLETTER

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In August's newsletter we outline developments in Indonesia's regulatory framework that are relevant to our clients. There have been a number of compliance related developments that introduce, enhance or implement regulatory frameworks around areas that have not traditionally been heavily regulated. These areas include streamlining tax payment for micro and small enterprises, the use of intellectual property as loan collateral and new rules for overseas investments by Indonesians. Further, new rules have been introduced relating to various financial methods and transactions including relating to domestic non deliverable forward transactions, P2P information-based services as well as in relation to structured warrants. Our articles provide a high-level overview of the new rules and, as always, we are more than happy to provide you with further details on any of the issues raised.

## New Regulation on Indonesian Investment Abroad

by Rahmi Intan Jeyhan



The Indonesian government has recently issued new Regulations that apply to overseas investment by Indonesian citizens or legal entities.\*

The Regulations cover three broad areas, which are:

- protection;
- services; and
- documenting.

In relation to protection, the Indonesian government will provide assistance to Indonesian citizens or legal entities who are undertaking overseas investment either through the Ministry of Foreign Affairs or through the relevant diplomatic or consular representatives. Assistance may come in various forms, including advice and advocacy.

The government offers a broad range of services to the Indonesian investor abroad, including advice on the geographical, economic and legal framework of the relevant country and information on, and assistance with, investment opportunities.

Finally, under the new Regulations, the representatives of the Indonesian government in the relevant region must record any investments made by the Indonesian investors. Consequently, Regulation 15 requires all Indonesian investors to report their overseas investments to their relevant regional government representatives.

\* Minister for Foreign Affairs Regulation Number 10 of 2022 concerning the Protection, Facilitation, and Recordation of Indonesian Investment Abroad.

## P2P Business in Indonesia: New Regulations

by Valya Hermayrani S



Indonesia's Financial Services Authority, in Indonesian, Otoritas Jasa Keuangan (OJK), has issued new regulations providing a regulatory framework for peer to peer, information technology based, funding services (the New Regulations).<sup>\*</sup> The New Regulations set out detailed restrictions on the distribution of funds from institutional lenders, covering areas such as the required minimum paid-up capital and equity, limits on foreign ownership of jointly funded ventures, and maximum lending limits.

The New Regulations revoked Regulation No. 77 of 2016 on Information Technology based Lending Services. The New Regulations came into effect on 4 July 2022.

<sup>\*</sup>OJK Regulation No. 5/POJK.03/2022 on Credit Information Management Agencies

## Domestic Non-Deliverable Forward Transactions: New Regulations

by Melisa Kristian

In July 2022, the Board of Governors of Bank Indonesia issued new regulations on domestic non-deliverable forward (**NDF**) transactions (**New Regulations**).<sup>1</sup> The New Regulations create a comprehensive framework, which govern domestic NDF transactions.

The New Regulations require that a domestic NDF transaction must be based on a contract that requires a written confirmation on the completion of the transaction. Another requirement is that domestic NDF transactions exceeding a certain value, must be based on specific underlying transactions, listed in the New Regulations.

The New Regulations also rule that the nominal value and term of each domestic NDF transaction must not exceed the nominal value and term of its underlying transaction. While the New Regulations allow domestic NDF transactions to be extended or terminated, they cannot be settled earlier.

Parties to a foreign exchange domestic NDF transaction must submit the relevant underlying transaction documents and/or other supporting documents to the relevant banks.

<sup>1</sup> Members of Board of Governors Regulation No. 24/11/PADG/2022 on Domestic Non-Deliverable Forward Transactions.

## Registration of Structured Warrants: New Rules

by Luisa Srihandayani

The Indonesian Central Securities Depository has issued a circular relating to the registration of structured warrants (the **Circular**).<sup>\*</sup> The purpose of the Circular is to aid in the implementation of recent Financial Services Authority Regulations relating to structured warrants and securities (the **Regulations**).<sup>\*\*</sup> Together the Regulations and the Circular create a comprehensive regulatory framework relating to the registration of structured warrants and includes detailed information such as the:

- requirement to register structured warrants;
- documents that must be included with the registration submission;
- registration procedures that must be followed; and
- registration fees.

The registration of structured warrants will be an administrative rigorous task. Consequently, if you would like help or further information, then please reach out to your usual contact at our company who would be happy to help.

<sup>\*</sup>Circular No. 0002/DIR-EKS/KSEI/0622 on Mechanisms for Registration, Storage, and Settlement of Structured Warrants Through KSEI and the Registration Structured Warrants Registration Procedure.

<sup>\*\*</sup>Financial Services Authority Regulation No. 8/POJK.04/2021 on Structured Warrants.

## Citizen Identification Number as Taxpayer Identification Number

by Jayalaksana Purnama



The Minister of Finance has recently issued new regulations allowing Indonesian citizens to use their citizen identification number, in Indonesian, *Nomor Induk Kependudukan*, as their taxpayer identification number, in Indonesian, *Nomor Pokok Wajib Pajak*.<sup>1</sup> This change came into effect on 14 July 2022. Citizens who wish to do this will need to update their data, recorded at the Ministry of Home Affairs, through the Directorate General of Population and Civil Registration.

<sup>1</sup> Regulation Of The Minister Of Finance Of The Republic Of Indonesia Number 112/PM-K.03/2022

## Intellectual Property Can Be Debt Collateral Starting Next Year

by Hans Thioso



With the introduction of a recent law\*, creative entrepreneurs will soon be able to use their intellectual property as collateral for loans with financial institutions. The Government has introduced this law to stimulate the creative economy – making it easier for creatives to add value to the economy by allowing past successes to help fund future enterprises.

Not all IP can be used as collateral. Only IP that has been recorded or registered with the government and has been commercialised. The collateral can be in the form of a fiduciary security, the right to collect royalties, or an IP contract (e.g. license agreement).

The new law also stipulates that the party assessing the value of the IP to be used as collateral must have a permit and be registered with the government. Any entrepreneur who obtains financing in this manner, must register the fact with the government.

This regulation will take effect on 12 July 2023.

\*Government Regulation No. 24 of 2022 on Implementing Regulation of Law No. of 2019 on Creative Economy.



## Taxpayer Identification Numbers for Companies set up by Individuals

by Faudzan Eka Putra

Recent changes to the law have broadened the definition of a limited liability company.\* New changes include allowing individuals to incorporate a limited liability company as a micro or small enterprise.\*\*

Prior to the latest Circular Letter, issued by the Directorate General of Taxes,\*\*\* there was no guidance on how to obtain a Taxpayer Identification Number for companies set up by individuals (**Small Companies**). Yet, if these Small Companies reach the income threshold and meet certain criteria, they must pay corporate tax.

The recent Letter states that Small Companies may obtain a Taxpayer Identification Number by submitting an application (either electronically or in writing), together with an electronic registration certificate issued by the Ministry of Law and Human Rights, and, for Small Companies only, a photocopy of the Taxpayer Identification Number card.

\* Law Number 11 of 2020 concerning Job Creation.

\*\* Regulation Number 8 of 2021.

\*\*\* Directorate General of Taxes issued a Circular Letter of the Director General of Taxes Number SE-20/PJ/2022.

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