

Rödl & Partner

PRESENCE IN INDONESIA

How to gain a foothold in the land of 17,000 islands

2021
2022

Taking roots



Taking roots

“The Indonesian market continues to open its gates to foreign investors, creating an increasingly attractive environment for international business ventures.

In entering this specific and promising market, we draw on our local experience and, together with you, weigh its opportunities and risks. We accompany you from the first idea through to the implementation phase – providing well founded decision proposals and integral guidance.”

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PMA Companies

In general, foreign investors have two options in order to establish a presence in Indonesia, i.e. (i) establishing a foreign investment company (PMA Company); or (ii) establishing (or opening) a representative office.

PMA COMPANIES

The only corporate form to be chosen as vehicle for FDI is the so called Foreign investment company or PMA Company. Essentially, a PMA Company is an Indonesian Limited Liability Company (Perseoran Terbatas or “PT”) with foreign owned shares. The respective corporate regulations are provided by the Company Law.

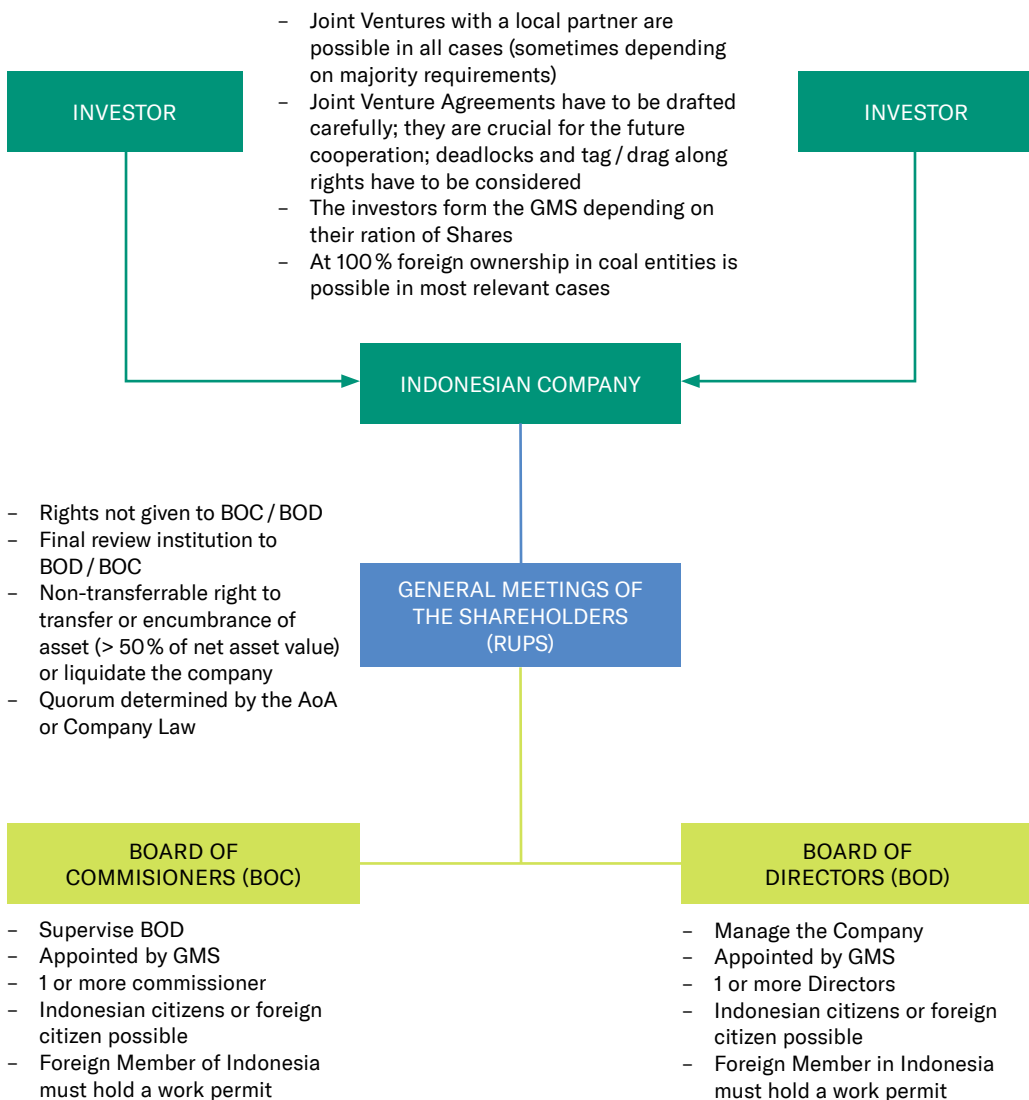
The Indonesian main investment coordinating board BKPM (Badan Koordinasi Penanaman Modal), which has recently changed into Ministry of Investment (Kementerian Investasi), requires domestic companies to convert their status into a PMA company, even if only some of their shares are purchased by foreign parties and the foreign investor does not hold the majority of the shares. As long as the line of business is open to FDI without restrictions, foreign companies and individuals may establish entirely foreign invested PMA companies, unless the respective line of business requires Indonesian participation. It should be noted that foreign companies are in general not permitted to establish branches in Indonesia, with exceptions only in the fields of banking and certain energy resource exploration projects.

1. Corporate Structure

Mandatory organs of a PT company include at least two shareholders (individual or corporate entity), one director and one commissioner. Any higher number is subject to the discretion of the shareholders.

According to the provisions of the Company Law, the Board of Directors (BOD) undertakes the corporate management in accordance with the goals and objectives of the company. Members of the Board of Directors have to be appointed by the general meeting of shareholders (RUPS). In case the Board of Directors consists of

two members or more, the sharing of tasks and managerial authorities among the members has to be stipulated on the basis of a RUPS decision. The Board of Commissioners (BOC) is a mandatory supervisory organ which monitors the activities of the BOD.



2. Minimum Total Investment

In general, the minimum total investment is IDR 10 billion per Indonesian Standard Business Classification (KBLI) code per project location, except if stipulated otherwise in the prevailing regulations. Issued and paid-up capital of at least IDR 10 billion or 25 percent of the authorized capital, whichever is larger, shall be injected as equity, and the remaining balance may be injected as shareholder loan.

3. Establishment Procedure

Foreign investors may establish a PMA company by signing a Deed of Establishment (“DOE”) which shall contain the Articles of Association (AOA) of the PMA company in the presence of a notary in Indonesia. The DOE, together with certain supporting documents and the proof of capital payment needs to be submitted by the notary to the Minister of Law and Human Rights (MOLHR) for approval. The PMA Company will obtain its legal entity status upon issuance of the approval on the DOA by the MOLHR (MOLHR Approval).

Subsequently to the company formation, the PMA Company needs to register itself in the OSS and apply for the required business and supporting license through the online system, obtain tax documentation which includes Taxpayer Identification Number (NPWP), Tax Registration Letter (SKT) and registration as Taxable Entrepreneur (PKP), open bank account, receive its capital injection and hold its first RUPS.

Representative Office

Foreign companies are permitted to set up representative offices of various types for certain timeframes, depending on the Department or Agency that issues the authorizing representative office license. Most representative offices are not permitted to conduct direct commercial activities, or to render profits in any other way. They are primarily used for promotional, liaison and market research purposes.

1. Types of Representative Office

Set out below are the types of representative offices currently permitted in Indonesia.

a. Trading Representative Office (Kantor Perwakilan Perusahaan Perdagangan Asing – “KP3A”)

The KP3A means an Indonesian or foreign national appointed by a foreign company or an overseas company group as representative in Indonesia for promotion and marketing of the company’s products in Indonesia.

b. Foreign Company Representative Office (Kantor Perwakilan Perusahaan Asing – “KPPA”)

Foreign companies not engaging in trading business may set up a KPPA for:

1. Handling interests of the company or its affiliated company; and / or
2. Preparing the establishment and business development of a foreign investment company operating in Indonesia or another country.

The KPPA is led by one or more Indonesian or foreign citizens being appointed by a foreign company or an overseas company group as representative in Indonesia.

It should be noted that KPPA and KP3A are not permitted to conduct direct commercial activities, or to render profits in any way. They are primarily used for promotional, liaison and market research / information gathering purposes.

- c. Foreign Construction Business Entity Representative Office (Kantor Perwakilan Badan Usaha Jasa Konstruksi Asing – “KPBUJKA”)

The KPBUJKA is a representative office of a foreign construction company operating in Indonesia, based on the license issued by OSS to provide construction services within Indonesian territory.

The types of construction services that can be provided by KPBUJKA comprises of (1) construction execution services; and /or (2) construction consultancy services.

The KPBUJKA is only allowed to provide services for complex, high risk and /or high technology construction projects and must have a joint operation agreement with a local construction company. It is also required to have more Indonesian workers than foreign workers inside a KPBUJKA, and the head of KPBUJKA must be an Indonesian citizen.

- d. Foreign Representative Office of Electric Power Support Services (Kantor Perwakilan Jasa Penunjang Tenaga Listrik Asing – “KPJPTLA”)

The KPJPTLA is a representative office of a foreign electric power support services provider operating in Indonesia, based on the license issued by the OSS to provide electric power support services within Indonesian territory.

The KPJPTLA may engage in the activities of (1) consultation; (2) construction and installation; and (3) maintenance of electric power installations.

The KPJPTLA is only allowed to provide high cost electric power support services (being at least IDR 100 billion for construction and installation work, and at least IDR 10 billion for consultation and maintenance work) and must have a joint operation agreement with a local electric power support services company. It is also required to have more Indonesian workers than foreign workers inside a KPJPTLA, and the head of KPJPTLA must be an Indonesian citizen.

2. Establishment Procedure

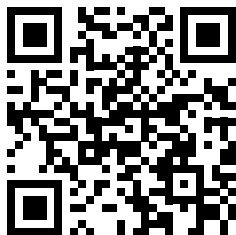
Unlike the PMA Company that requires a separate establishment procedure for the legal entity itself, a representative office can be established (or opened) by way of obtaining an NIB and the relevant business license through the OSS or the relevant ministry. The required licenses will vary based on the types of the representative office.



About us

Rödl & Partner – The agile caring partner for Mittelstand shaped world market leaders

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