



## Foreign Direct Investment Company Establishment

As stipulated in Article 5 paragraph (2) of Law Number 25 Year 2007 concerning Investment ("**Law No. 25/2007**"), any business conducted by foreigner in Indonesia shall be in the form of company established under the law of Indonesia. Furthermore, the form of company is classified as "**FDI Company**" or "**PT PMA**" (stands for limited liability Company with foreign direct investment). A company becomes a PT PMA as long as any of the shares are owned by foreigners.

As mentioned earlier that before a foreign investor decides to register a PT PMA in Indonesia, he has to investigate his exact business activities based on Positive Investment list, which notes foreign ownership limits in certain business classifications. It is classified under Head of Statistical Board Regulation Number 2 Year 2020 concerning Standard Business Classification Field/*Klasifikasi Baku Lapangan Usaha Indonesia* ("KBLI") ("**SB Reg. No. 2/2020**") which categorized under certain classification number.

There are List of Business Field which is Closed for Investment and Opened with Requirement, which specifically stipulated in the Investment Law and Positive Investment List. The list outlines the business fields that are: (i) closed, (ii) conditionally open for investment. The business fields that are open for investment subject to certain conditions, including foreign ownership limitations. Which are (i) shall be in a form of 100% local, (ii) partnership between foreign and local investor with certain limitation of shares percentage. Some other requirement also depends on the sector which requires certain licensing from the ministry of the concerning sectors.

Furthermore, hereby the general information regarding establish on the FDI company:

1. Business entity shall be made in a form of Limited Liability Company.
2. Foreign person(s) and/or foreign Company can establish a Company in Indonesia in the form of FDI Company.
3. Specifically, for FDI Company, pursuant to Law Number 40 Year 2007 concerning Limited Liability Company ("**Law No. 40/2007**"), a Limited Liability Company/*Perseroan Terbatas* ("PT") shall be established by minimum 2 (two) shareholders.
4. Shareholders may be consisting of (i) individual persons or (ii) individual person and (iii) Company or Company and Company. Therefore, FDI Company shall be established by minimum of 2 (two) shareholders, both persons and/or legal entity.
5. The establishment of FDI Company required approval from the relevant ministry through One Stop Service – Risk Based Approach System (OSS-RBA) portal via Investment Coordinating Board (BKPM) database.
6. There is List of Business Fields which are Closed for Investment and Conditionally open for investment. This is based on Law No. 25/2007 *jo.* Presidential Regulation No. 10 Year 2021 concerning Investment Business Fields ("**PR No. 10/2021**") as amended by Presidential Regulation No. 49 Year 2021 concerning Amendment to President Regulation No. 10 Year 2021 on Investment Business Fields.

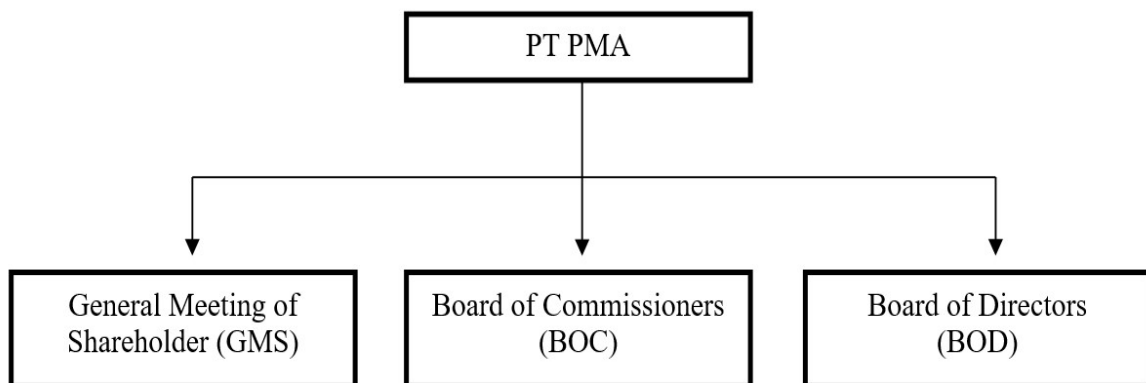
7. Based on BKPM Regulation No. 4 Year 2021 concerning Guidelines and Procedures for Risk-Based Business Licensing Services and Investment Facilities ("**BKPM Reg No. 4/2021**") regarding minimum investment set by the BKPM through the OSS-RBA portal shall be a total investment of more than IDR 10.000.000.000,- (ten billion Rupiah), excluding land and buildings per 5 (five) digit of KBLI business sector per project location.

Foreign investors must invest at least IDR 10.000.000.000,- (ten billion Rupiah) outside of land and buildings. The minimum capital requirement for FDI Company shall be issued/paid-up capital of at least IDR 10.000.000.000,- (ten billion Rupiah), unless stipulated otherwise by laws and regulations

The paid-up capital is usually deposited at the opening of Company's Bank Account. Neither the BKPM nor Notary requires companies to provide the evidence. **The purpose of applying Minister's approval towards the Deed of Establishment, the Notary requires for the shareholders to provide statement letter that the paid-up capital has been subscribed.**

Furthermore, after the company has been established, the FDI Company is required to submit an Investment Activity Report and monthly tax reports, even if the company does not have any activities and owes no taxes.

Furthermore, below is the Organ of FDI Company as Limited Liability Company or known also as PT PMA:



Furthermore, there are also advantages of establishment the FDI Company/PT PMA in Indonesia, as follows:

1. Through establishing a PT PMA, the organ of PMA/PMA will have equal rights and responsibilities as any Local Company in Indonesia. This allows you to legally do business and explore your business perspectives in Indonesia.



2. Indonesia has one of the world's fastest developing economies, with a burgeoning consumer market driving its economic expansion.
3. Brand recognition and loyalty are highly valued in Indonesia.
4. Directors and commissioners of PT PMA are eligible to receive working and residence.
5. PT PMA can participate to join tenders in Indonesia.

However, a FDI Company or PT PMA in Indonesia also has disadvantages, such as:

1. The company must make monthly tax reports;
2. The company is required to provide reports on business activities to the BKPM through OSS online every 6 (six) months, so that the BKPM may monitor the company's activities development;
3. The large investment capital is in the amount of IDR 10 billion Rupiah.

### **Other Business Licenses**

FDI Company or PT PMA is required to obtain business license in order to perform its business activities:

1. Nuisance Permit;
2. Building Permit;
3. Business License;
4. Business license, from the relevant ministry having task and responsibilities in the business sectors concerned (if any).

***Note: The above business licenses shall be obtained after incorporation of FDI Company or PT PMA.***

### **HOW CAN TJAGER RURU & REKAN ("TRR") LAW FIRM HELP YOU?**

TRR Law firm is as one of Leading Indonesian Corporate Legal Services and commercial consulting in Indonesia. TRR Lawfirm have extensive experience in corporate and commercial law, investment law, capital market law, banking law, Merger and Acquisition, labor law, intellectual property law and versatile legal matter. We assist foreign investors in establishing their business in Indonesia through various forms of investment pursuant to the prevailing laws and regulations in Indonesia. Our knowledge, experience, and connections will help you to protect your business and avoid any legal troubles and business interruption.

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