

INDONESIA

FOURTH
EDITION



SUCCESSFUL STRATEGIES FOR DOING BUSINESS IN ASIA





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SUCCESSFUL STRATEGIES FOR DOING BUSINESS IN ASIA

PREPARED BY MERITAS LAWYERS IN ASIA

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SUCCESSFUL STRATEGIES FOR DOING BUSINESS IN ASIA

This is the fourth revised edition of Successful Strategies for Doing Business in Asia, which was first published in 2006. Prepared by lawyers from 13 leading Meritas member law firms in the Asia region, this book targets foreign investors and business people looking to pursue investment opportunities throughout Asia. Each chapter contains general information and guidelines and offers practical insights as opposed to specific legal advice.

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The following currency notations are used throughout this book.

RMB	Chinese Renminbi	PHP	Philippine Peso
HKD	Hong Kong Dollar	SGD	Singapore Dollar
INR	Indian Rupee	TWD	New Taiwan Dollar
IDR	Indonesian Rupiah	THB	Thai Baht
JPY	Japanese Yen	USD	United States Dollar
KRW	Korean Won	VND	Vietnamese Đông
MYR	Malaysian Ringgit		

Please be aware that the information on legal, tax and other matters contained in this book is merely descriptive and therefore not exhaustive. As a result of frequent changes in legislation and regulations from country to country, the situations as described throughout this book do not remain the same. Meritas cannot and does not guarantee the accuracy or the completeness of information provided, nor the application and execution of laws as stated. Please do not rely solely on these materials without consulting with qualified legal advisors who are familiar with your particular areas of interest and geographic locations.

In 2008, the world experienced its worst financial crisis in 70 years. Today, while many countries and economic regions are still suffering, Asia continues to be a bright spot. Home to 3.8 billion people, Asia is playing a major role in driving the global economy back to healthier times. At first, China rebounded quickly, though this momentum has slowed somewhat recently. India exhibits signs of long-term growth potential, as do Singapore, Malaysia and others in Asia, but serious challenges remain.

For over 30 years I have worked on behalf of multinational companies in their pursuit of investment and business opportunities throughout Asia. What I have learned is that countries in the Asian region can appear similar and at the same time be remarkably different. While local legal systems and government regulations will vary, every country has universal opportunities and challenges that foreign investors will face. This book is designed to provide both practical and timely insights into the 12 most frequently-asked questions that potential investors in Asia should consider:

1. What role will the government play in approving and regulating opportunities for foreign direct investment?
 2. Is it possible for foreign investors to conduct business without involving a local partner? What corporate structure is most commonly used and best for foreign investors?
 3. How does the government regulate commercial joint ventures composed of foreign investors and local companies or individuals?
 4. What specific laws will influence the commercial relationship between local agents/distributors and foreign companies?
 5. In what manner does the government regulate merger and acquisition activities by foreign investors? Are there any specific areas or industries that are heavily restricted or completely prohibited to foreign investors?
 6. How do local labor statutes regulate the treatment of employees and expatriate workers?
 7. What role do local banks and government agencies play in regulating the treatment and conversion of local currency, repatriation of funds overseas, letters of credit, and other basic financial transactions?
 8. What types of taxes, duties and levies should a foreign investor expect to encounter in negotiating an inbound investment?
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9. Do comprehensive intellectual property laws exist, and do they provide the same levels of protection for foreign investors as local companies? Will local courts and tribunals enforce IP laws uniformly, regardless of the nationality of the parties?
10. If a commercial dispute arises, given the choice between local courts or an international arbitration venue, which would offer a more beneficial forum for fair dispute resolution for foreign investors?
11. What recommendations can you offer for how best to negotiate and conduct business in your country?
12. What practical advice can you share with investors who decide to do business in your country?

Thirteen Asian law firms within the Meritas alliance have generously contributed to this book. These firms are comprised of leading local lawyers who possess broad practical experience in advising international clients on how best to conduct business in their respective countries. Each law firm was presented with these “Twelve Questions” and invited to write a chapter providing an overview of the laws in their jurisdiction along with timely insights and advice. In a concise manner, this book hopes to provide readers with a clear understanding of the similarities and differences, strengths and weaknesses of countries in the Asian region.

One final thought: For those who are waiting for Asia to become more predictable or financially stable before pursuing business or investment opportunities, do not wait too long. Most successful multinationals are already actively conducting business throughout Asia. Those who delay will find themselves missing out on one of the greatest economic expansions in history. There are risks, certainly, but also great rewards for the savvy – and educated – investor.

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I. WHAT ROLE WILL THE GOVERNMENT OF INDONESIA PLAY IN APPROVING AND REGULATING FOREIGN DIRECT INVESTMENT?

The existing Indonesian Investment Act is Law No. 25 of 2007, passed by the Indonesian House of Representatives (DPR) in March 2007 and enacted on 26 April 2007. This Investment Act gives the Indonesian Capital Investment Coordinating Board (BKPM) broader authority and powers to regulate matters concerning investment in Indonesia to encourage the creation of a conducive national investment climate and to accelerate the increase in investment.

A primary feature of the law is the creation of one-stop integrated service centers (PTSP) to assist investors in obtaining licenses and fiscal facilities, in order to create a fast, simple, transparent, and integrated licensing process. With the existence of PTSP, investors will only need to submit an application for licenses along with the required documents to PTSP without going through the relevant ministries. Investors can then monitor the licensing process through an online system and will obtain certainty regarding the timeframe of the licensing process. This structure has so far involved 22 ministries/governmental bodies and reduced the number of bureaucratic difficulties often experienced by investors as well as expedited the process of investing in Indonesia.

BKPM also plays an important role in the issuance of what is called the Negative List for Investment in Indonesia, a list defining which sectors within the Indonesian economy are open or closed to foreign direct investment, and determines whether investment in those sectors that are open for foreign shareholding ownership require a local Indonesian partner or whether other conditions are applicable. The prevailing Negative List for Investment in Indonesia can be found in Presidential Regulation No.39 of 2014 concerning List of Business Fields Closed to Investments and Business Fields Conditionally Open to Investment.

Other than BKPM, the following government ministries and regulatory agencies also play roles in the business activities of a foreign investor.

Ministry of Finance. Any foreign direct investment in either the finance or financial institutions sector requires prior approval from the Ministry of Finance.

Ministry of Trade. In coordination with BKPM, this ministry issues non-fiscal facilities in the form of the issuance of Producer-Importer Identification Numbers (API-P) for imports of machinery, goods and/or materials needed by investors conducting business in Indonesia.

Ministry of Manpower. This ministry establishes labor regulations and approves company manpower plans for the use of expatriate workers. Companies seeking to employ expatriates will need to obtain the approval of their Foreign Labor Utilization Plan (RPTKA) and a Foreign Worker Employment Permit (IMTA) from this ministry.

Central Bank of Indonesia (BI). After the establishment of the Financial Services Authority (OJK), BI no longer plays a role in regulating and supervising the banking sector. In this matter, the roles of BI include maintaining monetary stability, payment system stability, and the financial system as a macro prudential aspect of the financial system in Indonesia.

Special Economic Zones (SEZ). These are not actual governmental bodies. Strategic areas within Indonesia are designated as SEZs with special incentives to promote trade and economic development.

Financial Services Authority (OJK). This newly established body was previously known as BAPEPAM-LK (Indonesian Capital Markets and Financial Institutions Supervisory Agency) and has been consolidated with the bank and financial institutions supervisory role of BI. This body has the function of administering the integrated regulatory and supervisory system for all activities in the financial sector, which has the task of regulating and supervising financial services in the banking, capital markets, and the non-bank financial industry sectors.

2. IS IT POSSIBLE FOR FOREIGN INVESTORS TO CONDUCT BUSINESS IN INDONESIA WITHOUT A LOCAL PARTNER? WHAT CORPORATE STRUCTURE IS MOST COMMONLY USED AND BEST FOR FOREIGN INVESTORS?

In general, investors may conduct business in Indonesia without a local partner if the prevailing Negative List for Investment in Indonesia allows the business to be wholly owned by foreign investors. Some businesses are closed or partly closed to foreign investors depending on the prevailing Negative List for Investment in Indonesia.

The Indonesian Investment Act requires all foreign investors seeking to establish a corporate presence in Indonesia through direct ownership to

form a foreign investment limited liability company called a PMA Company (foreign investment company). The incorporation of a limited liability company is governed by Law No. 40 of 2007.

In July 2014, the government of Indonesia issued Presidential Decree No. 72 of 2014 concerning Foreign Worker Utilization and Implementation of Education and Training of Indonesian Workers as Associates for Foreign Workers with the aim of better aligning government practice with the requirements under the Indonesian Manpower Act (currently Law No. 13 of 2003) and the latest Minister of Manpower and Transmigration Regulation No. 12 of 2013 on Procedures for Foreign Worker Utilization.

With the enactment of Presidential Decree No. 72 of 2014, the government of Indonesia has opened wide the recruitment of foreign workers to occupy the positions of directors and commissioners for both foreign and domestic companies. Previously, foreign commissioners could only be employed by foreign investment companies. However, the employment of foreign workers must take into account the Indonesian Manpower Act which prohibits positions in human resources from being occupied by foreign workers.

Foreign investors may also set up the following representative offices in Indonesia:

Foreign Company Representative Office. Established to manage the interests of the foreign company or its affiliate Indonesian companies or to prepare and develop a foreign investment company in Indonesia as provided by Regulation of Head of BKPM No. 5/2013, as amended by the Regulation of Head of BKPM No. 12/2013.

Foreign Bank Company Representative Office. Allows a bank domiciled abroad which is acting purely as an intermediary between the bank concerned and its customers to open a representative office in Indonesia as provided by Indonesian Law No. 7 of 1992, which has been amended by Law No. 10 of 1998.

Foreign Construction Services Company Representative Office. Allows foreign construction companies to participate in joint venture operations with Indonesian partners as provided by the Indonesian Construction Services Act.

3. HOW DOES THE INDONESIAN GOVERNMENT REGULATE COMMERCIAL JOINT VENTURES COMPOSED OF FOREIGN INVESTORS AND LOCAL COMPANIES OR INDIVIDUALS?

Under the prevailing Negative List for Investment in Indonesia, certain business sectors are closed for foreign investors. Those sectors include the alcohol beverage industry, gambling/casinos, marijuana cultivation, telecommunication/supporting facility of shipping navigation and vessel traffic information system (VTIS), and management and implementation of radio frequency and satellite orbit spectrum monitoring stations.

The presidential regulation also governs which industries are open to investment under condition of a joint venture between foreign and domestic capital, such as the telecommunications sector, the building and operation of seaports, power plants and commercial airlines.

The prevailing Negative List for Investment in Indonesia also partly accommodates the implementation of the commitment of the Indonesian government in relation to the Association of South East Asia Nations (ASEAN) Economic Community (AEC) by determining benefits for a foreign party coming from ASEAN countries willing to set up a joint venture with a local Indonesian party. The benefits given are, among others, higher share ownership limits and the ability to conduct business in certain areas within the Indonesian region, and apply for certain business fields such as motel and lodging services, overseas sea transportation for passengers and cargo (excluding cabotage), maritime cargo handling services, and nursing services.

Under the Regulation of Head of BKPM No. 5/2013 as amended by Regulation of Head of BKPM No. 12/2013, a foreign investment must (unless otherwise determined by legislative regulations) meet the following conditions:

- Total investment value of more than IDR10 billion or the equivalent in U.S. dollars beyond land and buildings;
- Subscribed capital and paid up capital value of at least IDR2.5 billion or the equivalent in U.S. dollars; and
- Each shareholder's participation in the company must be at least IDR10 million or the equivalent in U.S. dollars, and the percentage of ownership must be calculated based on the nominal value of shares.

4. WHAT SPECIFIC LAWS WILL INFLUENCE THE COMMERCIAL RELATIONSHIP BETWEEN LOCAL AGENTS/DISTRIBUTORS AND FOREIGN COMPANIES?

Regulation of the Minister of Trade No. 11/M-DAG/PER/3/2006 allows agencies or distributorships of foreign products and services in Indonesia. It makes a differentiation between agents and distributors as follows:

- Agents are those acting on behalf and in the name of the principal on the basis of an agreement to undertake marketing without the appointing principal transferring rights of goods
- Distributors are those acting for and on behalf of themselves on the basis of an agreement to purchase, store, sell and market goods and/or services owned

The ministerial regulation accommodates the possibility of a foreign principal appointing an Indonesian agent or distributor, and requires the agent or distributor to be registered at the Indonesian Ministry of Trade. Among the required documents included in the registration application are the agency or distributorship agreement legalized by a public notary, a letter from the Indonesian Trade Attache at the local Indonesian embassy/consulate confirming the legality of the principal's existence, and accordingly a registration identity certificate (STP) must be given by the ministry.

This registration is an important feature introduced by the Ministerial Regulation as a way to protect the local agent/distributor. In the event of early termination, the new agent/distributor will be given a registration by the ministry only if the principal achieves a clean break with the previous agent/distributor.

5. IN WHAT MANNER DOES THE INDONESIAN GOVERNMENT REGULATE PROPOSED MERGER AND ACQUISITION ACTIVITIES BY FOREIGN INVESTORS? ARE THERE ANY SPECIFIC AREAS OR INDUSTRIES THAT ARE HEAVILY RESTRICTED OR COMPLETELY PROHIBITED TO FOREIGN INVESTORS?

Mergers and/or acquisition by foreign investors are mainly subject to:

- The Investment Act (currently Law No.25 of 2007);
- The Negative List for Investment in Indonesia (currently Presidential Regulation No.39 of 2014);
- The Indonesian Company Act (currently Law No.40 of 2007 concerning Limited Liability Companies);
- The Banking Act (currently Law No. 7 of 1992 as amended by Law No. 10 of 1998) and its implementing regulations, if the target company is a bank;
- The Capital Markets Act (currently Law No. 8 of 1995) and its implementing regulations, if the target company is a public company;
- Regulations on Mergers, Consolidations, and/or Acquisitions. The present regulations are Government Regulation (GR) No. 27 of 1998 concerning Mergers, Consolidations and Acquisitions of Limited Liability Companies, GR No. 28 of 1998 concerning Mergers, Consolidations and Acquisitions of Banks;
- Regulations on Mergers, Consolidations, and/or Acquisitions from the perspective of business competition. The present regulations are GR No. 57 of 2010 concerning Mergers or Consolidations of Business Entities and Company Share Acquisitions Resulting in the Possibility of Monopolistic Practices and Unfair Business Competition, Regulation of Head of the Commission for the Supervision of Business Competition (KPPU Regulation) No. 10 of 2010 concerning Notification Form for Mergers and Consolidations of Business Entities and Company Shares Acquisitions, KPPU Regulation No. 11 of 2011 concerning Consultation for Mergers and Consolidations of Business Entities and Company Share Acquisitions, and KPPU Regulation No. 3 of 2012 concerning Guidelines for the Implementation of Mergers and Consolidations of Business Entities and Company Share Acquisitions Resulting in the Possibility of Monopolistic Practices and Unfair Business Competition.

There is no prohibition on areas of the economy in conducting a proposed merger or acquisition in Indonesia as long as the proposed merger or acquisition does not breach the limits of foreign ownership set for companies with certain line of businesses in the prevailing Negative List for Investment in Indonesia.

6. HOW DO LOCAL LABOR STATUTES REGULATE THE TREATMENT OF EMPLOYEES AND EXPATRIATE WORKERS?

Local Employees. General labor regulations are contained in the Indonesian Manpower Act and implemented by the central government through the Ministry of Manpower and Transmigration. The law ensures the equal rights and opportunities for every worker to choose a job, get a job, or move to another job and earn a decent income regardless of whether they are employed at home or abroad.

Indonesia has a minimum wage set by each provincial government, usually by regulation on an annual basis. The Regional House of Representatives (DPRD) must approve the rate before it receives final approval from the governor of the province.

When disputes between employees and their employers arise, disputes which cannot be settled through arbitration or mediation between the parties may be brought before the Industrial Relations Court. Decisions by the Industrial Relations Court are final and binding on both parties, and under Indonesian law no appeal against the decision will be allowed, not even to the Supreme Court.

Foreign companies engaged in business in Indonesia should follow closely all labor regulations, including maintaining detailed employee records throughout the employment of each individual within the company. A company's best defense in a labor dispute is accurate, contemporary records of an employee's performance.

Expatriate Workers. Foreign investors who wish to hire expatriate workers for their operations in Indonesia must ensure that the hiring company has fulfilled all manpower requirements. As in other countries, expatriates in Indonesia are required to have a number of permits approving their stays and employment in Indonesia as stated under the Indonesian Manpower Act. In this matter, the company is under an obligation to obtain written permission from the minister in the form of a Foreign Employees Utilization Plan (RPTKA) and Foreign Worker

Employment Permit (IMTA) from the Minister of Manpower and Transmigration.

Expatriates may only be employed for specific positions and for a specific period of time. In this matter, foreign workers whose working period has expired and cannot be extended may be replaced by other foreign workers. The Indonesian Manpower Act does not allow a foreign worker to occupy a position that deals with the human resources sectors and/or occupy certain positions stated in Annex I of the Ministry of Manpower and Transmigration Decree No. 40 of 2012 concerning Certain Positions that are Restricted for Foreign Workers.

In employing expatriate workers, the company must have a plan regarding the utilization of foreign workers and it must be legalized by the Minister or appointed official. Further, the Indonesian Manpower Act requires every company which employs expatriate workers to fulfill the following obligations:

- To appoint an Indonesian worker as an associate for the foreign worker whereby the foreign worker will transfer technologies and his/her expertise to his/her Indonesian associate; and
- To educate and train Indonesian workers until they have the qualifications required to occupy the position currently occupied by the foreign worker.

These obligations do not apply to foreign workers who occupy the position of director and/or commissioner in the company.

Employment visas of expatriate employees may be renewed, usually without the employee having to leave the country of Indonesia.

The ratio between the number of expatriate workers and local workers in a company is set based on the industry by BKPM and the Ministry of Manpower and Transmigration, and is subject to change.

7. WHAT ROLE DO LOCAL BANKS AND GOVERNMENT AGENCIES PLAY IN REGULATING THE TREATMENT AND CONVERSION OF LOCAL CURRENCY, REPATRIATION OF FUNDS OVERSEAS, LETTERS OF CREDIT, AND OTHER BASIC FINANCIAL TRANSACTIONS?

TREATMENT AND CONVERSION OF LOCAL CURRENCY

The Indonesian government issued the Currency Act (Law No. 7 of 2011 concerning Currency) that obliges the use of Indonesian local currency (IDR/rupiah) in every transaction aimed at making a payment, settling other transactions which must be fulfilled using money, and/or other financial transactions conducted in the territory of the Unitary State of the Republic of Indonesia, with the exception that the above obligations do not apply to: certain transactions in respect to the implementation of the state budget, the receipt or giving of donations from and to overseas, international trade transactions, bank deposits in foreign currencies, or international financing transactions.

REPATRIATION OF FUNDS OVERSEAS

Repatriation by foreign investors of certain funds from business ventures is specifically permitted under the Indonesian Investment Act. The types of funds eligible for repatriation as stated in this investment law include capital, profits, dividends, bank interest, other income, funds necessary for the purchase of raw and auxiliary materials, semi-processed or processed goods, or the replacement of capital goods in order to protect the survival of the investment, additional funds necessary for financing capital investment, funds for repayment of loans, royalties or fees payable, income of an individual foreign citizen working in the capital investment company, proceeds from the sale or liquidation of the capital investment, compensation for losses, compensation for expropriation, payments made for technical aid, fees payable for technical and management services, payments made under project contracts, and intellectual property payments, and proceeds from the sale of the investor's assets.

The above-mentioned rights of foreign investors to repatriate do not prejudice:

- The government's authority to apply provisions which require a report of fund transfers;
- The government's right to receive taxes and/or royalties and/or other government revenues from capital investments;

- The enforcement of laws protecting the rights of creditors; and
- The enforcement of laws preventing harm to the state.

In this regard, the Central Bank of Indonesia (BI) requires any company which transfers funds overseas to submit a report on the Flow of Foreign Exchange to Bank Indonesia. Such reports must include information and data on trades of goods, services, and other transactions between citizens and noncitizens, positions and changes in foreign financial assets and/or foreign loan plans and/or realization.

LETTERS OF CREDIT

Letters of Credit and other instruments of surety are issued by Indonesian banks subject to the regulations of the BI. The terms of payment of Letters of Credit must be executed on the basis of an agreement between the applicant and the issuing bank and must be stated clearly in the Letter of Credit concerned. The Letter of Credit must state the terms for payment at sight, acceptance, or negotiation. Prior approval from the BI for the issuance of an individual instrument of surety is not required. Nearly all basic financial transactions in Indonesia are also governed by regulations of the BI.

8. WHAT TYPES OF TAXES, DUTIES, AND LEVIES SHOULD A FOREIGN INVESTOR EXPECT TO ENCOUNTER IN NEGOTIATING AN INBOUND INVESTMENT IN INDONESIA?

Since the enactment of laws regarding Regional Autonomy (currently Law No. 32 of 2004 as amended by Law No. 8 of 2005 and lastly amended by Law No. 12 of 2008), there have been two classes of taxes in Indonesia: taxes that are collected by the central government and taxes collected by the provincial government. The taxes collected by the central government include Income Tax, Value Added Tax (VAT) and Sales Tax on Luxury Goods (STLG), Tax on Land and Building, Duty on the Acquisition of Rights on Land and/or Building and Stamp Duty.

The provincial governments collect taxes, which include, among others, Taxes on Motor Vehicle, Transfer of Title Tax, Taxes on Motor Vehicle Gasoline, Taxes on Hotels and Restaurants, Taxes on Entertainment, Taxes on Advertisements, Taxes on Street Lighting, and Taxes on Utilization of Ground and Surface Water.

There are tax treaties between Indonesia and 61 other countries to avoid double taxation and prevent fiscal evasion.

While import duties exist for goods and equipment brought into Indonesia, business conducted in Special Economic Zones (SEZ) is afforded special dispensation from many of these duties. Additionally, industrial equipment imported for use in certain sectors may be eligible to receive a specific exemption from excise duties.

9. DO COMPREHENSIVE INTELLECTUAL PROPERTY LAWS EXIST IN INDONESIA AND DO THEY PROVIDE THE SAME LEVELS OF PROTECTION FOR FOREIGN INVESTORS AS LOCAL COMPANIES? WILL LOCAL COURTS AND TRIBUNALS ENFORCE IP LAWS UNIFORMLY, REGARDLESS OF THE NATIONALITY OF THE PARTIES?

Indonesia has comprehensive laws on intellectual property. As a member of the World Trade Organization (WTO), Indonesia's intellectual property laws are in accordance with provisions of the Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement.

Enforcement actions that are brought to court in Indonesia receive a fair judicial hearing based upon the merits of the case. It can be safely stated that Indonesian intellectual property laws are followed and enforced by the Indonesian judicial system. The nationality of the parties is not a major issue in the enforcement, as long as the parties provide supporting documentation that may be required or necessary to uphold their interests.

One concern with intellectual property enforcement in Indonesia is the lack of self-initiated enforcement. However, when intellectual property rights owners initiate enforcement actions, they tend to be quite successful (subject to their having supporting evidence available in their favor). Foreign companies can engage local law firms to enforce their property rights in cooperation with the Indonesian police force.

Indonesian law recognizes copyrights protecting a company's work product, registered trademarks/service marks, and trade secrets associated with a company's business and business activities. In addition, industrial designs, integrated circuits layout designs, and plant variety protection rights are also afforded protection under Indonesian law as required under the TRIPS Agreement.

In the field of patent law, Indonesia is a party to the Patent Cooperation Treaty, which has procedures for filing patent applications to protect inventions in each of its member states.

10. IF A COMMERCIAL DISPUTE ARISES, GIVEN THE CHOICE BETWEEN LOCAL COURTS OR AN INTERNATIONAL ARBITRATION VENUE, WHICH WOULD OFFER A MORE BENEFICIAL FORUM FOR FAIR DISPUTE RESOLUTION FOR FOREIGN INVESTORS?

As in most countries, dispute resolution in Indonesia is most often handled through contractual clauses agreed to in advance by the parties. This principle applies to both local and foreign businesses and business ventures located in Indonesia.

The three most common methods of dispute resolution in Indonesia are

- Local Indonesian Courts,
- Indonesian National Arbitration Agency (BANI), and
- Singapore International Arbitration Center (SIAC).

Indonesia is a party to the New York Convention of 1958 recognizing Foreign Arbitral Awards. As a signatory to this treaty, foreign arbitration awards are to be recognized by Indonesian courts without rehearing the merits of the case. Furthermore, since Singapore is a very short distance from Indonesia, many foreign companies choose to resolve disputes through arbitration with SIAC.

However, just results, fairly decided and based upon the merits of the case, can be obtained in any of the three dispute resolution forums mentioned above, and companies will choose the forum that will bring them the most comfort. In reality, if the dispute involves foreign parties, international arbitration would be more advisable because of the language concern. Arbitration also offers more confidentiality in the proceedings, which is particularly beneficial for foreign parties who do not want to have unfavorable public exposure of their arbitration proceeding.

11. WHAT RECOMMENDATIONS CAN YOU OFFER FOR HOW BEST TO NEGOTIATE AND CONDUCT BUSINESS IN INDONESIA?

When considering investing in Indonesia, foreign investors and/or enterprises may take the following as preliminary guidance:

- Seeing good quality advice, particularly on the prevailing laws and regulations as the basis of their investment existence in Indonesia, delivered by qualified parties such as legal and strategic business advisors;
- Visiting the official websites of Indonesian governments engaged in the investment sector to know better the trends, policies, and current market opportunities;
- Studying the destination area of the investment to learn more about the community, including the habits and traditions compared to the corporate culture that will be brought in by the investors/enterprises, some of which can be obtained from online newspapers/magazines;
- Researching investment procedures in Indonesia.

12. WHAT PRACTICAL ADVICE CAN YOU SHARE WITH INVESTORS WHO DECIDE TO DO BUSINESS IN INDONESIA?

In addition to complying with the prevailing laws and regulations, maintaining good relationships with the relevant Indonesian government institutions/agencies will have positive implications for the foreign investors' business in Indonesia. Recognizing and studying the culture and practical habits of the community surrounding the foreign investors' businesses and of the work force will minimize the risk of conflict.

HANAFIAH PONGGAWA & PARTNERS

Beginning as the law office of Mr. L. Hanafiah in 1953, the law firm was one of Indonesia's first post-independence law firms. Reconstituted in 1990, it was later reorganized at various times before taking its present structure of Hanafiah Ponggawa & Partners (HPRP), based in Jakarta.

To meet expectations in the market, HPRP goes the extra mile to provide its clients with active advisory assistance, strategic advice, and creative support, in its practice areas of corporate and commercial, employment and litigation, financial services, intellectual property, real property, resources and infrastructure, and international trade.

To provide integrated legal services globally, HPRP has joined Meritas, an established global alliance of independent, full-service law offices. HPRP has entered into cooperation with RHTLaw Taylor Wessing LLP, a Singapore law office affiliated with Taylor Wessting LLP, an international law office based in the U.K. To offer greater regional accessibility and increased services, HPRP together with eight top law offices in Southeast and North Asia have initiated the establishment of the ASEAN Plus Group.

HPRP and its lawyers have been awarded accolades from high profile and well-known international organizations such as the Financial and Corporate Recommended Law Firm by IFLR1000 in 2015 Ed., and leading lawyers and rising star in Banking, Capital Market, Energy and Infrastructure, International Trade, and Project Finance.

Currently, HPRP is located on two floors (32nd and 41st) with total resources consisting of more than 70 advocates and/or legal consultants with 11 partners and more than 60 associates, supported by more than 50 staff.

For more information, please visit www.hplaw.co.id

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