

# CONSULTANCY SERVICES COMPANIES - NEW REGULATION

On 15 July 2015, the Indonesian Capital Investment Coordinating Board (Badan Koordinasi Penanaman Modal or “**BKPM**”) issued a circular letter on the new mechanism and procedures for obtaining Principle License applications, aimed particularly at businesses in the consultancy services sector, as an effort to boost investors’ commitment and investment realization (formally, Circular Letter No. 16 of 2015 concerning the New Mechanism and Procedures to Submit Foreign Investment Principle License Application at the Central One-Stop Integrated Services of BKPM for Consultation Services Other than Public Works Sector and Any Other Certain Business Sectors - “**New Certain Business Sectors Mechanism**”). This New Certain Business Sectors Mechanism is effective as of 3 August 2015. During the last few years, BKPM has been receiving numerous Principle License applications for investment in service businesses, particularly consultancy services, amounting to 7 out of 10 applications. Despite the wide variety of business activities that investors might seem to offer, the investment realization of those businesses is very low. As a result, until July 2015, BKPM has revoked more than 10.000 Principle Licenses between 2000 and 2006, due to the investors’ failure to proceed with the application of permanent business license (*Izin Usaha Tetap* or “**IUT**”) and submission of Investment Activities Report (*Laporan Kegiatan Penanaman Modal* or *LKPM*). Through the New Certain Business Sectors Mechanism, the BKPM expects investors to be ready to invest when they apply for investment licenses in order to create better investment realization.

**Principle License Application** In essence, the New Mechanism emphasizes and elaborates requirements for a presentation when investors apply for their Principle License. Investors in Certain Business Sectors must now perform a presentation during the Principle License Application process. Points to be covered by investors in their presentation are as follows:

a. Business Activity.

1. Timeline of business planning until it is ready to operate; 2. Legality of business activity including compliance with any existing limitation of foreign shares ownership; 3. The clarity in workflow and work division.

b. Service Products

1. Uniqueness/technology/added value compared to existing, similar service products;

2. Legality of service products; 3. Compatibility of service products with parties providing the services.

c. Human Resources

1. Competency of human resources in conducting business activities including the expert who will advise on the company's activities must have the skill, educational background and experience proven by documents such as curriculum vitae, education certificate, competence certificate and recommendation/statement letter. The investor must have an expert who is particularly competent for the chosen business line. It is also mandatory for the investor to be accompanied by the expert when attending the presentation; 2. Conformity of remuneration for human resources with competence, educational background and experiences. 3. Transfer of knowledge in the guidance given to local human resources.

d. Facilities and Infrastructure

1. Facilities and infrastructure, as well as the financial capability of the investor to obtain such facilities and infrastructure; 2. Suitability of the location for business activities (whether to rent or buy and other relevant considerations).

e. Business Opportunities.

1. Profitability of the income compared to investment necessities; 2. Specific strategy to achieve the proposed capacity.

f. Client target (1 client, minimum) 1. Validity of potential clients (proven by statement letter from the potential client);

2. Commitment of the target client; 3. Client's continual need of the services (long term); 4. Certain specification that potential clients might need the services for.

g. Investment Value

The investor's financial capability to fulfill the investment value. Upon presentation, a committee shall conduct an internal meeting to decide whether to approve or reject a Principle License application. Investors are given a one-time opportunity to repeat the presentation if the presentation is deemed insufficient. In its socialization in July, BKPM explained that the flow and timeline for Principle License issuance will be improved with the process now to take approximately 7 days upon the receipt of all relevant documents. Currently, there are 19 service business sectors that require a presentation, mainly in the services of information technology and other sectors of consultancy services.

#### h. Investment Realization

BKPM has also amended the time period for project realization from the Principle License issuance to the application of IUT from the previous 12 months to a strict 6 months, during which period the company must already have a paid-up capital of a minimum of IDR2,500,000,000 (two billion five hundred million Rupiah). Failure to fulfill the requirements during the 6-month time period shall result in the need to re-apply for the Principle License.