

**ANNEX I**  
**SCHEDULE OF INDONESIA**

**INTRODUCTORY NOTES**

**SECTION A**

Section A of Indonesia's Schedule to this Annex sets out, in accordance with Article 9.7 (Non-conforming Measures), Indonesia's existing measures that are not subject to some or all of the obligations imposed by:

- (a) Article 9.3 (National Treatment);
- (b) Article 9.4 (Most-Favoured-Nation Treatment);
- (c) Article 9.5 (Market Access); or
- (d) Article 9.6 (Local Presence).

**SECTION B**

1. Articles 14.4 (National Treatment), 14.5 (Most-Favoured-Nation Treatment), 14.6 (Prohibition of Performance Requirements), and 14.10 (Senior Management and Boards of Directors) apply only to the following sectors:

- (a) manufacturing;
- (b) agriculture;
- (c) fisheries;
- (d) forestry;
- (e) mining and quarrying;
- (f) energy infrastructure, specifically power plants of more than 10 Megawatts and geothermal power plants of less than or equal to 10 Megawatts; and

(g) transport infrastructure, specifically highway, bridge and tunnel concessions.

2. Section B of Indonesia's Schedule to this Annex sets out, in accordance with Article 14.14 (Non-conforming Measures), Indonesia's existing measures in the sectors listed in paragraph 1 that are not subject to some or all of the obligations imposed by:

- (a) Article 14.4 (National Treatment);
- (b) Article 14.5 (Most-Favoured-Nation Treatment);
- (c) Article 14.6 (Prohibition of Performance Requirements); or
- (d) Article 14.10 (Senior Management and Boards of Directors).

3. For greater certainty, in accordance with Article 14.3.3 (Relation to Other Chapters), for the purposes of the application of Article 14.14 (Non-Conforming Measures) to measures affecting the supply of a service by a service supplier of Australia through commercial presence in the territory of Indonesia, an entry listed against Article 9.3 (National Treatment) and Article 9.4 (Most-Favoured-Nation Treatment) in Section A, shall also be considered an entry in respect of Article 14.4 (National Treatment) and Article 14.5 (Most-Favoured-Nation Treatment) respectively in Section B.

4. The recognition of Australian permanent residents shall be limited to Australian permanent residents who have the nationality of a country that already has an investment agreement or a free trade agreement in force with Indonesia (with an investment chapter). Such recognition shall not apply to an Australian permanent resident who is also an Indonesian national. Furthermore, in accordance with Article XXVIII(k)(2) of GATS, Indonesia shall not be obliged to accord to such permanent resident's treatment more favourable than would be accorded by Australia to such residents.

## SECTION A

- 1. Sector:** : Professional Services
- Sub-sector:** : Legal Services (CPC 861)
- only for advisory services in foreign and international law
  - For greater certainty, advisory services shall not include:
    - Legal representation in an Indonesian court of justice or participation in legal proceedings under any circumstances.
    - Notarial activities.
- Obligations Concerned:** : National Treatment (Article 9.3)  
Market Access (Article 9.5)
- Level of Government:** : Central
- Source of Measure:** : Law No 18/2003 on Advocate.
- Description:** : Trade in Services

Commercial presence of foreign law firms are prohibited.

For greater certainty, cross-border supply and consumption abroad of advisory services on foreign law, including international law on business and arbitration, are permitted.

<b>2. Sector:</b>	: Communication Services
<b>Sub-sector:</b>	: Postal Services (CPC 7511) and Courier Services (CPC 7512) (Indonesia Standard Industrial Classification 2015, Code 53102-Commercial Postal) excluding Intercity delivery and Universal Post Services.
<b>Obligations Concerned:</b>	: National Treatment (Article 9.3) Market Access (Article 9.5)
<b>Level of Government:</b>	: Central
<b>Source of Measure:</b>	: Postal Law No. 38/2009.
<b>Description:</b>	: <u>Trade in Services</u>

Foreign service suppliers are not permitted to establish a commercial presence in Indonesia to supply postal or courier services, except through a joint venture with only one Indonesian postal service provider with foreign equity not exceeding 49 per cent. The Indonesian joint venture partner must be wholly Indonesian-owned.

The joint venture may only operate within a provincial capital that has an international airport or seaport and is prohibited from providing postal and courier services between cities in Indonesia.

For greater certainty, cross-border supply and consumption abroad of postal services and courier services are permitted.

- 3. Sector:** : Maritime Transport Services
- Sub-sector:** : International Passenger Transport (CPC 7211) and International Freight Transport (CPC 7212) excluding Cabotage
- Obligations Concerned:** : National Treatment (Article 9.3)  
Market Access (Article 9.5)  
Local Presence (Article 9.6)
- Level of Government:** : Central
- Source of Measure:** : - Law No. 17/2008 on Maritime Law  
- Government Regulation No. 20/2010 on Sea Transport as amended by Government Regulation No. 22/2011  
- Presidential Regulation No. 44/2016 on the list of business fields that are closed and business fields that are open with conditions in the field of capital investment.
- Description:** : Trade in Services

Foreign service suppliers are not permitted to establish a commercial presence in Indonesia for international passenger or freight maritime transport, except through a joint venture with foreign equity not exceeding 49 per cent.

The joint venture must operate at least one Indonesian-flagged vessel with a minimum 5,000 gross tonnage, and crewed by Indonesian nationals.<sup>1</sup>

Foreign shipping enterprises can only provide international passenger transportation services to and from seaports and special ports that are open for foreign trade<sup>2</sup> and are required to appoint an Indonesian shipping enterprise or shipping agent enterprise as its General Agent.

For greater certainty, consumption abroad of international passenger or freight maritime transport is permitted.

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<sup>1</sup> For greater certainty, the law does not specify a minimum number of Indonesian crew members.

<sup>2</sup> Seaports and special ports that are open to international trade subject to prevailing laws and regulations at the time of supplying services. However at the date of signature of this Agreement such ports are Tanjung Priok (Jakarta), Tanjung Perak (Surabaya), Makassar, Semarang, Dumai, Panjang, Batam, Balikpapan, Banjarmasin, Bitung, Pontianak, Ambon and Sorong. An International cruise ship that does not carry passengers solely between points in Indonesia may use any port facilities in Indonesia, to the extent permitted under the Minister of Transport Regulation No. 121 of 2015.

## SECTION B

- 1. Sector** : All Sectors
- Sub-Sector:** : Acquisition or Lease of Land
- Industry Classification** : -
- Obligations Concerned:** : National Treatment (Article 14.4)
- Level of Government:** : Central and Regional
- Source of Measure:** : - Article 33 of 1945 National Constitution  
- Law No.5 of 1960 Concerning Basic Regulations on Agrarian Principles  
- Government Regulation No. 40 of 1996 Concerning The Right of Cultivation of Land, The Right of Use of Structures, and The Right of Use of Land  
- Government Regulation No. 103 of 2015 concerning Residence or Housing Ownership for Foreigners Domiciled in Indonesia.
- Description:** : Investment

The right of ownership of land (*hak milik*) is restricted to Indonesian nationals only.

**Note:** Notwithstanding the above, foreign nationals and foreign companies incorporated and domiciled in Indonesia may acquire land and property on the basis of the following rights:

- a. Leasehold (*hak guna usaha*), granted to a foreign company for a maximum period of 35 years and may be extended for a further period of 25 years.
- b. Building rights (*hak guna bangunan*), granted to a foreign company for a maximum period of 30 years and may be extended for a further period of 20 years
- c. Right of use (*hak pakai*) granted to: (1) a foreign national for a maximum period of 30 years and may be extended for a further period of 20 years; (2) a foreign company for a maximum period of 25 years and may be extended for a further period of 20 years.

- d. Right of lease (*hak sewa*), granted to a foreign national or a foreign company for a definite period as may be agreed by the parties.

Such acquisitions of land and property must be approved by the relevant authority, subject to such conditions and restrictions as may be imposed by that authority.

- 2. Sector:** : All Sectors
- Sub-Sector:** : Registration Requirements for the Establishment of Foreign Investment
- Industry Classification:** : -
- Obligations Concerned:** : National Treatment (Article 14.4)
- Level of Government:** : Central
- Source of Measure:** : - Law No. 25 of 2007 Concerning Investment  
 - Law No. 20 of 2008 Concerning Micro, Small and Medium Enterprises  
 - Law No. 23 of 2014 Concerning Local Government  
 - Ministry of Industry Regulation No. 64 of 2016 Concerning Amount of Worker and Investment for Industrial Business Classification  
 - Investment Coordinating Board Regulation No. 13 of 2017 Concerning Guidelines and Procedures for Capital Investment Licensing and Facilities.
- Description:** : Investment

Foreign investment<sup>3</sup> shall have a total investment value of more than IDR 10 billion (excluding land and buildings), unless required otherwise by the specific sector in accordance with Indonesia's laws and regulations. In the case of large businesses in the industrial sector as defined in the relevant regulation, foreign investment shall have a total investment value of more than IDR 15 billion (including land and buildings).

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<sup>3</sup> For the purpose of this reservation, the term "foreign investment" has the meaning set out in Law No. 25 of 2007.

<b>3. Sector:</b>	: All Sectors
<b>Sub-Sector:</b>	: -
<b>Industry Classification:</b>	: -
<b>Obligations Concerned:</b>	: National Treatment (Article 14.4)
<b>Level of Government:</b>	: Central
<b>Source of Measure:</b>	: - Law No. 25 of 2007 Concerning Investment - Law No. 40 of 2007 Concerning Limited Liability Company.
<b>Description:</b>	: <u>Investment</u>

Foreign investment shall be in the form of a limited liability company based on the law of Indonesia.

A foreign investor<sup>4</sup> organised under the laws of another country seeking to make an investment in Indonesia must establish an Indonesian limited liability company ('Perseroan Terbatas') in accordance with Law No. 25 of 2007 Concerning Investment.

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<sup>4</sup> For the purpose of this reservation, the term "foreign investor" has the meaning set out in Law No. 25 of 2007.

- 4. Sector:** : All Sectors
- Sub-Sector:** : -
- Industry Classification:** : -
- Obligations Concerned:** : National Treatment (Article 14.4)
- Level of Government:** : Central
- Source of Measure:** : - Ministry of Trade issued Regulation No. 22 of 2016 on General Provisions on the Distribution of Goods  
- Ministry of Trade Regulation No. 11 of 2006 on Provisions and Procedures of Issuance of Agents or Distributor of Goods and/or Services Registration.
- Description:** : Investment

Foreign investment shall appoint local distribution agents to sell its products to end-users in Indonesia.

For greater certainty, “foreign investment” means a foreign investor or a legal entity established as ‘Perseroan Terbatas’ in accordance with the Source of Measures listed under entry 3.

- 5. Sector:** : All Sectors
- Sub-Sector:** : -
- Industry Classification:** : -
- Obligations Concerned:** : National Treatment (Article 14.4)  
Senior Management and Board of Directors (Article 14.10)
- Level of Government:** : Central
- Source of Measure:** : - Law No. 13 of 2003 Concerning Manpower  
- Presidential Decree No. 72 of 2014 Concerning the Employment of Expatriates and the Implementation of Education and Training for Labour Companion  
- Ministry of Manpower and Transmigration Decree No. 40 of 2012 Concerning Certain Positions that are Restricted for Foreign Workers  
- Presidential Regulation No. 20 of 2018 Concerning the Employment of Expatriates (not yet in force).
- Description:** : Investment

Foreign investments established under Indonesia's Corporate Law must have positions related to personnel affairs to be occupied by Indonesian nationals.

Based on the understanding that each foreign investment company established under Indonesia's Corporate Law may have different structures and job descriptions, the determination of positions to be occupied by Indonesian nationals shall be decided on a case-by-case basis.

- 6. Sector:** : Fishery
- Sub-Sector:** : Capture Fisheries
- Industry Classification:** : ISIC 0500
- Obligations Concerned:** : National Treatment (Article 14.4)
- Level of Government:** : Central
- Source of Measure:** : - Law No. 31 of 2004 as amended by Law No. 45 of 2009 Concerning Fishery  
- Law No. 5 of 1983 Concerning Indonesia's Exclusive Economic Zone  
- Presidential Regulation of The Republic of Indonesia No. 44 of 2016 Concerning Lists of Business Fields That Are Closed to Investment and Business Fields That Are Conditionally Open For Investment  
- Regulation of the Minister of Marine Affairs and Fisheries of the Republic of Indonesia No. PER.05/MEN/2008 as amended by No. PER.12/MEN/2009 regarding Capture Fishery Business.  
- Government Policy.
- Description:** : Investment
- Capture fisheries in Indonesia are prohibited for foreign investors.

- 7. Sector:** : Mining & Quarrying
- Sub-Sector:** : -
- Industry Classification:** : ISIC 1429
- Obligations Concerned:** : National Treatment (Article 14.4)
- Level of Government:** : Central
- Source of Measure:** : - Law No. 4 of 2009 Concerning Mineral and Coal Mining  
- Presidential Regulation of The Republic of Indonesia No. 44 of 2016 Concerning Lists of Business Fields That Are Closed to Investment and Business Fields That Are Conditionally Open For Investment.
- Description:** : Investment
- Foreign investors are prohibited from establishing or operating businesses in Sea Sand Extraction.

- 8. Sector:** : All Sectors
- Sub-Sector:** : Public Enterprise
- Industry Classification:** : -
- Obligations Concerned:** : National Treatment (Article 14.4)  
Senior Management and Board of Directors (Article 14.10)
- Level of Government:** : Central
- Source of Measure:** : - Government Regulation No. 13 of 1998 Concerning Public Enterprise  
- Administrative Guidelines.
- Description:** : Investment

National Treatment and Senior Management and Board of Directors shall not apply in the event where activities restricted to designated enterprises<sup>5</sup> are liberalised to those other than the designated entities, or in the event where such designated enterprises no longer operate on a non-commercial basis.

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<sup>5</sup> For illustrative purposes, this may include the State Forestry Public Enterprise denoted as Perum PERHUTANI and the National Money Printing Public Enterprise denoted as Perum PERURI.

- 9. Sector:** : All Sectors
- Sub-Sector:** : -
- Industry Classification:** : -
- Obligations Concerned:** : National Treatment (Article 14.4)  
Senior Management and Board of Directors (Article 14.10)
- Level of Government:** : Central
- Source of Measure:** : Presidential Regulation of The Republic of Indonesia No. 44 of 2016 Concerning Lists of Business Fields That Are Closed to Investment and Business Fields That Are Conditionally Open For Investment.
- Description:** : Investment

For companies/projects that are in existence prior to the date of entry into force of this Agreement, conditions imposed in their approvals for licenses/permits shall continue to apply. Any changes to these conditions shall be subject to approval.

- 10. Sector:** : Manufacturing
- Sub-Sector:** : -
- Industry Classification:** : ISIC (see below)
- Obligations Concerned:** : National Treatment (Article 14.4)
- Level of Government:** : Central
- Source of Measure:** : - Law No. 25 of 2007 Concerning Investment  
 - Law No. 39 of 2014 Concerning Plantations  
 - Presidential Regulation of The Republic of Indonesia No. 44 of 2016 Concerning Lists of Business Fields That Are Closed to Investment and Business Fields That Are Conditionally Open For Investment  
 - Presidential Decree No. 21 of 2001 Concerning Lubricant Supply and Services  
 - Regulation of the Minister of Agriculture No. 98 of 2013 Concerning Guidance of Plantation Business License j.o Regulation of the Minister of Agriculture No. 29 of 2016 on the Amendment of Regulation No. 98 of 2013  
 - Government Policy.
- Description:** : Investment

Foreign investors are prohibited from establishing the following lines of business in Indonesia:

- a. Reserved for Micro, Small, and Medium Enterprises:
- Manufacturer of the following agricultural products with an equal or exceeding a certain capacity limit as stipulated in the Regulation of the Minister of Agriculture No. 98 of 2013 and No. 29 of 2016:
    - Dried clove buds; crude vegetable and animal oils; copra, fiber, coconut shell charcoal, dust, nata de coco; coconut oil; palm oil; cotton fiber; cotton seeds; peeling, cleaning, drying, and sorting of plantation products (cocoa beans and coffee beans); cashews for dried cashew nut and cashew nut shell liquid (CNSL); peppercorns for dried white peppercorns and dried black peppercorns; cane sugar, sugar cane top and sugar cane bagasse; black

tea/green tea; dried tobacco leaves; rubber for sheets, concentrated latex; rude jatropha oil (ISIC 0111, 0140, 1513, 1514, 1531, 1542, 1549, 1600, 2429, 2519)

- Fish processing: boiling of fish (ISIC 1512)
- Manufacture of processed food from soybean in form of tempeh and tofu (ISIC 1513, 1514, 1549)
- Manufacture of foods from soybeans and beans other than soy sauce, tempeh, and tofu (ISIC 1513, 1549)
- Manufacture of perishable prepared cakes (ISIC 1513, 1514, 1549)
- Manufacture of crackers (krupuk), flakes (keripik), fried and flavoured biscuits (peyek) and the likes (ISIC 1513, 1514, 1549)
- Manufacture of palm sugar/Javanese sugar/red sugar (ISIC 1542)
- Milling (peeling and cleaning) or roots and tubers (ISIC 0140, 1531)
- Thread coloring from natural and artificial fiber to be patterned/dipped/tied thread, performed by hand-work tools ( ISIC 1711)
- Fabrics printing industry (ISIC 1712, 1729)
- Hand painted Batik industry (ISIC 1712, 1729)
- Knitted cloth industry especially Lace (ISIC 1730)
- Moslem woman's praying cloth, scarf, head scarf, and other traditional industries (ISIC 1810)
- Embroidery industry (ISIC 1729)
- Handicrafts industry: Rattan and bamboo plait industry; Plait industry with plant other than rattan and bamboo; Carving handicraft from wood, except furniture industry; Kitchen household industry from wood, rattan and bamboo; Wood, rattan, cork products industry that is not classified elsewhere (ISIC 2029, 3699)
- Traditional musical instruments (ISIC 3692)
- Rubber curing industry (ISIC 2519)
- Clay made household necessities industry especially pottery (ISIC 2691)
- Hand-tools industry needed for farming to prepare land, process production, post-harvest and processing except hoe and shovel (ISIC 2893)
- Manual or semi mechanical processed hand tool industry for handwork and cutting (ISIC 2893)

- Maintenance and repair of motorcycles other than those integrating with sale of motorcycles (agents/distributor) (ISIC 5040)
  - Repair of personal and household goods (ISIC 3610, 5260)
  - Primary industry of forests products processing: Pine Sap (*Oleo Pine Resin*) and Bamboo (ISIC 0200)
  - Saw Mill or Lumbering industry with production capacity of below or equal to 2.000 M<sup>3</sup>/year
  - Primary industry of processing rattan (ISIC 2010)
- b. 100% Domestic Equity Participation:
- Industry of main equipment for defense and security (ISIC 2520, 2893, 2927, 2929, 3530, 3610)
  - Traditional medicines and natural extracts processing and industry (ISIC 2423).

<b>11. Sector:</b>	: Agriculture
<b>Sub-Sector:</b>	: -
<b>Industry Classification:</b>	: ISIC (see below)
<b>Obligations Concerned:</b>	: National Treatment (Article 14.4)
<b>Level of Government:</b>	: Central
<b>Source of Measure:</b>	: <ul style="list-style-type: none"> <li>- Law No. 39 of 2014 Concerning Plantations</li> <li>- Law No. 18 of 2009 Concerning Livestock and Animal Health and Law No. 41 of 2014 Concerning the Amendment to Law No. 18 of 2009</li> <li>- Law No. 41 of 1999 Concerning Forestry</li> <li>- Law No. 5 of 1990 Concerning Conservation of Natural Resources and Its Ecosystems</li> <li>- Government Regulation No. 6 of 2007 as amended by Government Regulation No. 3 of 2008 Concerning Forest Administration and Compilation of Forest Management Planning and Utilization of Forest</li> <li>- Government Regulation No. 8 of 1999 Concerning Utilization of Plant and Wild Animal Species Government Regulation number 18 of 2010 Concerning Plant Cultivating Business</li> <li>- Presidential Regulation of The Republic of Indonesia No. 44 of 2016 Concerning Lists of Business Fields That Are Closed to Investment and Business Fields That Are Conditionally Open For Investment</li> <li>- Government Regulation No. 44 of 1995 Concerning Seeding of Plantations</li> <li>- Agriculture Minister Regulation No. 98 of 2013 Concerning Guidance of Plantation Business License Jo. Agriculture Minister Regulation No. 21 of 2017 Concerning the Second Amendment of Regulation No. 98 of 2013</li> <li>- Agriculture Minister Decree No. 404 of 2002 Concerning Guidelines for License and Registration on Livestock Sector</li> <li>- Agriculture Minister Regulation No. 70 of 2014 Concerning Licensing Guidelines for Horticulture Cultivation</li> <li>- Agriculture Minister Regulation No 2 of 2009 Concerning Guidelines of Veterinary Medical</li> </ul>

Services

- Agriculture Minister Regulation No. 39 of 2010 Concerning the Guidelines on Business Licensing for Staple Crops Cultivation
- Government Policy.

**Description:** : Investment

Foreign investors are prohibited from establishing the following lines of business in Indonesia:

a. Reserved for Micro, Small, and Medium Enterprises:

- For each individual crop cultivation in an area less than 25 hectares:
  - Staple food crops (rice, corn, soybeans, groundnuts, green beans, cassava and sweet potatoes) and other food crops not classified elsewhere (ISIC 0111, 0112, 0113, 0200).
- For each individual plantation seeding business in an area less than 25 hectares:
  - *Jatropha curcas*, other sweetener crops, sugar canes, tobacco, textile raw materials and cotton, other crops not elsewhere classified, cashews, coconut palms, oil palms, beverage crops (tea, coffee, and cocoa), peppercorns, cloves, essential oil crops, medicinal pharmaceutical crops (other than horticulture), other spice crops, rubber and other trees for extraction of sap (ISIC 0111, 0112, 0113, 0200).
- For each individual plantation business in an area less than 25 hectares:
  - Other sweetener crops, sugar cane, tobacco, textile raw materials and cotton, cashews, coconut palms, oil palms, beverage crops (tea, coffee and cocoa), peppercorns, cloves, essential oil crops, medicinal/pharmaceutical crops other than horticulture, other spice crops, rubber and other trees for extraction of sap, other plantation farming (ISIC 0111, 0112, 0113, 0200)

- Swine breeding and farming with quantity of less than or equal to 125 heads (ISIC 0122).
- Breeding and farming of native chicken “ayam buras” and its cross breeding and farming (ISIC 0122).

- 12. Sector:** : Forestry
- Sub-Sector:** : -
- Industry Classification:** : ISIC (see below)
- Obligations Concerned:** : National Treatment (Article 14.4)
- Level of Government:** : Central
- Source of Measure:** : - Law No. 41 of 1999 Concerning Forestry  
 - Law No. 5 of 1990 Concerning Conservation of Natural Resources and Its Ecosystems  
 - Government Regulation No. 6 of 2007 as amended by Government Regulation No. 3 of 2008 Concerning Forest Administration and Compilation of Forest Management Planning and Utilisation of Forest  
 - Government Regulation No. 36 of 2010 Concerning Natural Tourism Concession in the National Park Utilisation Zone, Grand Forest Park, Nature Tourism Park  
 - Government Regulation No. 8 of 1999 Concerning Utilisation of Plant and Wild Animal Species  
 - Presidential Regulation of The Republic of Indonesia No. 44 of 2016 Concerning Lists of Business Fields That Are Closed to Investment and Business Fields That Are Conditionally Open For Investment  
 - Government Policy.
- Description:** : Investment

Foreign investors are prohibited from establishing the following line of businesses in Indonesia :

- a. Reserved for Micro, Small, and Medium Enterprises:
  - Exploitation of other forest plants (sugar palms, candlenuts, tamarind seeds, charcoal raw materials, cinnamon) (ISIC 0200)
  - Exploitation of Swallow Nests in nature (ISIC 0122)
- b. 100% Domestic Equity Participation:
  - Exploitation of wood forest products from the natural forests (ISIC 0200)
  - Growing and trading of breeds and seeds of forests trees/plants (export and import of breeds and seeds of forests trees/plants) (ISIC 5121)

- Exploitation of water resources in forest area (ISIC 0200)
- Capturing and trading of wild plants and wild animal from the natural wildlife habitat (ISIC 0150).

- 13. Sector:** : All Sectors
- Sub-Sector:** : -
- Industry Classification:** : -
- Obligations Concerned:** : National Treatment (Article 14.4)
- Level of Government:** : Central
- Source of Measure:** : - Law No. 25 of 2007 Concerning Investment  
 - Law No. 4 of 2009 Concerning Mineral and Coal Mining  
 - Law No. 1 of 2014 Concerning the Amendment of Law No. 27 Concerning the Management of Coastal Areas and Small Islands  
 - Government Regulation No.20 of 1994 Concerning Share Ownership in Companies Set Up Under Foreign Capital Investments.  
 - Government Regulation No. 23 of 2010 Concerning the Implementation of Mineral and Coal Mining Activities Jo. Government Regulation No. 77 of 2014 Concerning Third Amendment Jo. Government Regulation No. 1 of 2017 Concerning Fourth Amendment.  
 - Ministerial Regulation No. 9 of 2017 Concerning Procedures of Divestment of Shares and Mechanism on Divestment Stock Pricing.
- Description:** : Investment
1. As may be required by the relevant regulatory authorities, a company in which foreign investors<sup>6</sup> own 100 per cent shares, subject to prior notification before the grant of the license, after a certain period since commencement of commercial production, the said foreign investors should sell a part of the company's share to domestic investors<sup>7</sup>.
  2. In the case of the Mineral and Coal Mining sub-

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<sup>6</sup> For the purpose of this reservation, the term "foreign investor" has the meaning set out in Law No. 25 of 2007.

<sup>7</sup> For the purpose of this reservation, the term "domestic investor" has the meaning set out in Law No. 25 of 2007.

sector<sup>8</sup>, a mining business license ('Izin Usaha Pertambangan') for foreign investment<sup>9</sup> shall be granted by the Minister of Energy and Mineral Resources of the Republic of Indonesia.

Subject to prior notification before the grant of a mining business license ('Izin Usaha Pertambangan'), five years after the commencement of production, foreign shareholders<sup>10</sup> of a foreign investment should sell their shares gradually to Indonesian shareholders<sup>11</sup> according to the following priorities :

- 1) central government,
- 2) provincial government,
- 3) regencies/municipalities,
- 4) state owned enterprises ('Badan Usaha Milik Negara' and 'Badan Usaha Milik Daerah'); and
- 5) national private business entity<sup>12</sup>.

The shares of the said Indonesian shareholders shall be at least as the following :

- a. 20 per cent of total shares in the 6<sup>th</sup> year;
- b. 30 per cent of total shares in the 7<sup>th</sup> year;
- c. 37 per cent of total shares in the 8<sup>th</sup> year;
- d. 44 per cent of total shares in the 9<sup>th</sup> year;
- e. 51 per cent of total shares in the 10<sup>th</sup> year.

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<sup>8</sup> For the purpose of this reservation, the scope of Mineral and Coal Mining sub-sector has the meaning set out in Law No. 4 of 2009 Concerning Mineral and Coal Mining and Government Regulation, Law No. 23 of 2010 Concerning the Implementation of Mineral and Coal Mining Activities Jo. Government Regulation No. 1 of 2017 Concerning fourth Amendment of Government Regulation No. 23 of 2010 on the Implementation of Mineral and Coal Mining Activities.

<sup>9</sup> For the purpose of this reservation, the term "foreign investment" has the meaning set out in Law No. 25 of 2007.

<sup>10</sup> For the purpose of this reservation, the term "foreign shareholders" has the meaning set out in Government Regulation No. 24 of 2012 Concerning Amendment of Government Regulation No. 23 of 2010 on the Implementation of Mineral and Coal Mining Activities.

<sup>11</sup> For the purpose of this reservation, the term "Indonesian shareholders" has the meaning set out in Government Regulation No. 23 of 2010 Concerning the Implementation of Mineral and Coal Mining Activities Jo. Government Regulation No. 24 of 2012 Concerning Amendment of Government Regulation No. 23 of 2010 on the Implementation of Mineral and Coal Mining Activities.

<sup>12</sup> For the purpose of this reservation, the term "national private business entity" has the meaning set out in Government Regulation No. 23 of 2010 Concerning the Implementation of Mineral and Coal Mining Activities.

- 14. Sector:** : Mining & Quarrying
- Sub-Sector:** : -
- Industry Classification:** : ISIC 1010, 1020, 1030, 1310, 1320
- Obligations Concerned:** : National Treatment (Article 14.4)
- Level of Government:** : Central
- Source of Measure:** : - Law No. 4 of 2009 Concerning Mineral and Coal Mining  
 - Government Regulation No. 23 of 2010 Concerning the Implementation of Mineral and Coal Mining Activities Jo. Government Regulation No. 1 of 2017 Concerning Fourth Amendment of Government Regulation No. 23 of 2010  
 - Regulation of the Minister of Energy and Mineral Resources No. 11 of 2018 Concerning the Procedure for Granting Area License, and Reporting on Mineral and Coal Mining Activities.

**Description:** : Investment

Mining Business Licenses are, hereinafter referred to as WIUP, which refers to an area given to the holder of a Mining Business License.

Foreign investors or legal entities organised under the laws of another country that are seeking to make an investment in Indonesia are prohibited from participating in the auction of metallic mineral and coal WIUP with the size under 500 Hectares.

- 15. Sector:** : Manufacturing, Agriculture, Fishery, Forestry
- Sub-Sector:** : -
- Industry Classification:** : -
- Obligations Concerned:** : National Treatment (Article 14.4)  
Most-Favoured Nation Treatment (Article 14.5)  
Prohibition of Performance Requirements (Article 14.6)  
Senior Management and Board of Directors (Article 14.10)
- Level of Government:** : Central
- Source of Measure:** : Presidential Regulation of The Republic of Indonesia No. 44 of 2016 Concerning Lists of Business Fields That Are Closed to Investment and Business Fields That Are Conditionally Open For Investment.
- Description:** : Investment

The following lines of business are prohibited for investment:

- Cultivation of marijuana (ISIC 0111)
- Catching of fish species listed in Appendix I to the *Convention on International Trade in Endangered Species of Wild Fauna and Flora* (“CITES”) (ISIC 0500)
- Lifting of valuable artefacts from shipwrecks (ISIC 6303)
- Utilisation (collection) of coral from nature for construction materials/lime/calcium, aquarium, and souvenirs/jewellery as well as living coral or dead coral (recently dead) coral from nature (ISIC 0500)
- Chloral alkali making industry under mercury process (ISIC 2411)
- Industry of pesticide active substances : Dichloro Diphenyl Trichloroethane (DDT), Aldrin, Endrin, Dieldrin, Chlordane, Heptachlor, Mirex, and Toxaphene (ISIC 2421)
- Industrial chemical industry and Ozone Depleting Substances (BPO) : Polychlorinated Biphenyl (PCB), Hexachlorobenzene and Carbon Tetrachloride (CTC), Methyl Chloroform, Methyl Bromide, Trichloro Fluoro

Methane (CFC-11), Dichloro Trifluoro Ethane (CFC-12), Trichloro Trifluoro Ethane (CFC-113), Dichloro Tetra Fluoro Ethane (CFC-114), Chloro Pentafluoro Ethane (CFC-115), Chloro Trifluoro Methane (CFC-13), Tetrachloro Difluoro Ethane (CFC-112), Pentachloro Fluoro Ethane (CFC-111), Chloro Heptafluoro Propane (CFC-217), Dichloro Hexafluoro Propane (CFC-216), Trichloro Pentafluoro Propane (CFC-215), Tetrachloro Tetrafluoro Propane (CFC-214), Pentachloro Trifluoro Propane (CFC-213), Hexachloro Difluoro Propane (CFC-211), Bromo Chloro Difluoro Methane (Halon-1211), Bromo Trifluoro Methane (Halon 1301), Dibromo Tetrafluoro Ethane (Halon-2402), R-500, R-502 (ISIC 2411)

- Industry of chemicals listed in Schedule I of the Chemical Weapons Convention as incorporated in Appendix I to Law Number 9 Year 2008 Concerning Use of Chemicals as Chemical Weapons (ISIC 2411)
- Alcoholic hard liquor industry (ISIC 1551)
- Alcoholic beverages industry : Wine (ISIC 1552)
- Malt beverages industry (ISIC 1553).

**16. Sector:** : All Sectors

**Sub-Sector:** : -

**Industry Classification:** : -

**Obligations Concerned:** : Prohibition of Performance Requirements (Article 14.6)

**Level of Government:** : Central and Regional

**Source of Measure:** : All existing non-conforming measures.

**Description:** : Investment  
All existing non-conforming measures.

<b>17. Sector:</b>	:	Energy Infrastructure
<b>Sub-Sector:</b>	:	-
<b>Industry Classification:</b>	:	-
<b>Obligations Concerned:</b>	:	National Treatment (Article 14.4)
<b>Level of Government:</b>	:	Central
<b>Source of Measure:</b>	:	
<b>Description:</b>	:	<u>Investment</u> <ol style="list-style-type: none"> <li>a. Foreign equity in a Power Plant &gt;10 MW (KBLI 35101) is restricted to no more than 95 per cent of the capital share.</li> <li>b. Foreign equity in a Geothermal Power Plant &lt;= 10 MW (KBLI 35101) is restricted to no more than 51 per cent of the capital share.</li> </ol>

**18. Sector:** : Transport Infrastructure

**Sub-Sector:** : -

**Industry Classification:** : -

**Obligations Concerned:** : National Treatment (Article 14.4)

**Level of Government:** : Central

**Source of Measure:** :

**Description:** : Investment

Foreign equity in highway, bridge and tunnel concessions is restricted to no more than 67 per cent of the capital share.

<b>19. Sector:</b>	: All Sectors
<b>Sub-Sector:</b>	: -
<b>Industry Classification:</b>	: -
<b>Obligations Concerned:</b>	: National Treatment (Article 14.4)
<b>Level of Government:</b>	: Central
<b>Source of Measure:</b>	: Income Tax Law No. 36/2008 concerning the fourth amendment to Law No. 7/1983 concerning Income Tax.
<b>Description:</b>	: <u>Investment</u>

Non-resident tax-payers will be subject to withholding tax of 20 per cent if they derive the following income from an Indonesian source:

- (a) interest;
- (b) royalties;
- (c) dividend;
- (d) fee from service performed in Indonesia.