

## NEW REGULATION ON CAPITAL INVESTMENT LICENSING AND FACILITIES

### Introduction

In order to implement Government Regulation No. 24 of 2018 which introduced an online system for processing and issuing certain business licenses (known as the Online Single Submission "OSS" system), on 20 July 2018, the Investment Coordinating Board ("BKPM") issued 2 new regulations on investment, ie BKPM Regulation No. 6 of 2018 on the Guidelines and Procedure for Capital Investment Licensing and Facilities ("**Regulation 6/2018**") and Regulation No. 7 of 2018 on the Guidelines and Procedure for Capital Investment Supervision ("**Regulation 7/2018**").

Both Regulation 6/2018 and Regulation 7/2018 revoke previous BKPM Regulation No. 13 of 2017 on The Guidelines and Procedure for Capital Investment Licensing and Facilities and Regulation No. 14 of 2017 on The Guidelines and Procedure for Capital Investment Supervision.

Below is a summary of the key provisions of Regulation 6/2018 and Regulation 7/2018.

### Licenses issued and supervised by BKPM

Previously, BKPM in its Announcement No. 2/Pengumuman/A.8/2018 dated 10 July 2018 stated that regardless of the launching of the OSS system, BKPM remained authorized to issue business licenses in the energy and mineral resources sector, public works and housing sector and would also continue processing applications for:

- a. a Foreign Company Representative Office (*Kantor Perwakilan Perusahaan Asing* – "KPPA") for businesses in sectors other than trade and construction;
- b. a Branch Opening License for Business Actors whose business licenses were issued by the Central PTSP;
- c. a recommendation for a Limited Stay Visa (*Visa Terbatas* – a "VITAS") for shareholders;
- d. a recommendation for changing a Visit Stay Permit into a Temporary Stay Permit (*Izin Tinggal Sementara* – "ITAS"); and
- e. a recommendation for changing an ITAS to a Permanent Stay Permit (*Izin Tinggal Tetap* – "ITAP").

Now, since the issuance of Regulation 6/2018, BKPM has finally made it clear that even though the OSS System has been launched, it will continue to handle the following licenses and these licenses will remain under the authority of BKPM:

### **Makarim & Taira S.**

Summitmas I, 16<sup>th</sup> & 17<sup>th</sup> Fls.  
Jl. Jend. Sudirman Kav. 61-62  
Jakarta 12190  
Indonesia  
P: (62-21) 5080 8300, 252 1272  
F: (62-21) 252 2750, 252 2751  
www.makarim.com

M&T Advisory is an email publication prepared by the Indonesian law firm, Makarim & Taira S. It is only intended to inform generally on the topics covered and should not be treated as legal advice or relied upon when making investment or business decisions. Should you have any questions on any matter contained in M&T Advisory, or other comments generally, please contact [advisories@makarim.com](mailto:advisories@makarim.com)

August 2018

No.	Description
<b>Energy and Mineral Resources Sector</b>	
1.	Geothermal licenses; and
2.	Assignments for geothermal preliminary surveys and exploration
3.	Oil and gas' data utilization licenses
4.	Survey licenses
5.	Oil and gas storage business licenses
6.	Oil and gas processing business licenses
7.	Oil and gas transport business licenses
8.	Oil and gas sales business licenses
9.	Representative Offices of Foreign Oil and Gas Companies (KPA Migas)' licenses
10.	Mining exploration business licenses
11.	Termination of mining business licenses due to restoration
12.	Special production operations mining business licenses for transporting and selling minerals and coal and their extensions
13.	Production operations mining business licenses and their renewals
14.	Special production operations mining business licenses for processing and/or refining minerals and coal and their extensions
15.	Temporary licenses for transporting and selling minerals and coal
16.	Production operations mining business licenses for selling minerals and coal
17.	Mining services business licenses and their extensions
<b>Public Works and Housing Sector</b>	
18.	Property construction and development business licenses
19.	Housing sector business licenses
<b>Investment sector</b>	
20.	KPPA licenses
21.	Recommendations for a VITAS for shareholders
22.	Recommendations for changing a Visit Stay Permit into an ITAS
23.	Recommendations for changing an ITAS into an ITAP
<b>Custom and tax facilities</b>	
24.	Facilities for machinery, capital goods and materials for investors in the industrial sector and the industrial sector that provide services
25.	Facilities for importing machinery and capital goods in the electric power sector
26.	Facilities for importing machinery and capital goods importation for contracts of work and Coal Contracts of Work
27.	Tax holidays
28.	Tax allowances

## Procedure for Applying for a Business License

The procedure for applying for the above business licenses (as relevant) remains the same, ie submit an application through the BKPM online system. They should be issued within 3 business days of receipt of the correct and complete application and as a certificate with a digital signature, accompanied by an endorsement sheet.

The issued business license will remain valid for as long as the company continues to engage in its business unless stated otherwise in a sectoral regulation.

## **Representative Offices**

Since GR 24/2018 was issued, most representative office licenses which were issued by BKPM have migrated to the OSS system. Only KPPA and Representative Offices of Foreign Oil and Gas Companies ("KPA Migas") remain under the authority of BKPM.

Applications for a KPPA or KPA Migas license are submitted through the BKPM Online system. They should be issued within 3 business days of receipt of the complete and correct application and will remain valid for as long as the holder continues to engage in its business.

## **Activities Reports**

Under Regulation 7/2018, BKPM still continue to supervise the following:

1. LKPMs;
2. Import Realization Reports and/or Fiscal Facility Reports;
3. Activities Reports from KPPAs, Foreign Trading Representative Offices ("KP3A"), Representative Offices of Foreign Construction Services Enterprises ("BUJKA"), and KPA Migas; and
4. other business activities reports.

Although applications for a KP3A, BUJKA and KPA Migas must now be submitted to the OSS system, activities reports must still be submitted to BKPM through its online system.

## **Transitional Provisions**

Companies which already have an in-principle license, investment registration or investment license may apply for the licenses and investment facilities under Regulation 6/2018 without attaching their NIB (*Nomor Induk Berusaha*) within 6 months of the issuance of Government Regulation No. 24 of 2018, ie by 21 December 2018. Afterwards, we understand that they will need to obtain their NIB first before they can apply for a license to BKPM. Licenses for activities that are not subject to the authority of the BKPM, under Regulation 6/2018 and Regulation 7/2018, must be applied for or processed through the OSS system that was launched on 9 July 2018.

To be clear, all companies must still register in the OSS system and obtain a NIB. Their data and information must also be uploaded to the OSS system. According to Government Regulation No. 24 of 2018, is its business identity, a company's NIB also serves as its company registration certificate, importer's identification number and Customs access. A NIB is required for all business license and commercial or operating license applications submitted through the OSS system. Without it, the application will not be processed. Therefore, all applications for a business license, commercial license, a permit to expand a business, etc. must now be submitted through the OSS system as long as the business activities are under the authority of OSS (not the BKPM, as explained above). To date, the OSS system is already in operation but not yet fully operational. The OSS agency is still developing, making adjustments and updating the system to make it fully operational.

\* \* \* \* \*

M&T Advisory is an email publication prepared by the Indonesian law firm, Makarim & Taira S. It is only intended to inform generally on the topics covered and should not be treated as a legal advice or relied upon when making investment or business decisions. Should you have any questions on any matter contained in M&T Advisory, or other comments generally, please contact your usual M&T contact or [advisories@makarim.com](mailto:advisories@makarim.com).

## **Contacts:**

Maria Sagrado [maria.sagrado@makarim.com](mailto:maria.sagrado@makarim.com)  
Teddy Achmad Suprijadi [teddy.suprijadi@makarim.com](mailto:teddy.suprijadi@makarim.com)

Jonathan Tjenggoro [jonathan.tjenggoro@makarim.com](mailto:jonathan.tjenggoro@makarim.com)  
Mira Ayu Lestari [mira.ayu@makarim.com](mailto:mira.ayu@makarim.com)