

Indonesia in focus

New regulations on hiring

October 2015

Minister of Manpower Regulation No. 16 of 2015 regarding the Procedure for the Utilisation of Foreign Manpower ("**Regulation 16/2015**") requires non-resident directors and commissioners to obtain a License to Utilise Foreign Manpower ("**IMTA**"). Regulation 16/2015 also requires a 1:10 foreigner-to-Indonesian employee ratio, among other things. Effective from 29 June 2015, this has implications for any investor seeking to establish an Indonesian representative office or other local presence.

Key highlights are as follows:

1. **Employers:** Government institutions, private companies, and foundations may employ foreign workers. Unless provided otherwise in sector specific regulations, cooperatives and certain business entities such as sole traders and partnerships are prohibited from hiring foreigners.
2. **Ratio:** A company may employ one foreigner if it employs at least 10 Indonesian workers. This 1:10 ratio does not apply to foreigners who hold top managerial positions such as directors and commissioners in limited liability companies, and advisors, managers and supervisors in foundations. Foreigners who are hired temporarily or on an urgent basis are also excluded from the calculation of the ratio.
3. **Online application:** Applications for the Foreign Manpower Utilisation Plan ("**RPTKA**") and License to Utilise Foreign Manpower ("**IMTA**") must be submitted online by employers to the Ministry of Manpower and Transmigration ("**MoMT**").
4. **RPTKA:** Application of RPTKA by the employer is the initial step by a company in order to obtain work permit for the foreign employee. Based on the RPTKA application, the MoMT will approve, among other things, the number of foreign employees, the positions or titles of the foreigner employees, their work locations, salaries, and employment periods. RPTKA approval is valid for a maximum period of five years and it may be extended subject to the condition of the domestic labour market.

After the RPTKA approval is obtained, the company can proceed to process the IMTA application.
5. **IMTA:** Among other requirements, the following documents must be provided to the MoMT for IMTA applications:
 - a) evidence of a compensation fund payment for the utilisation of foreign employee in the amount of US\$100 per position per month;
 - b) draft employment contract;
 - c) foreign employee's qualification certificate or evidence of five year work experience in the area of expertise which is in line with the position that the foreign employee will hold; and
 - d) insurance policy issued by an Indonesian insurance company.

IMTA is valid for a maximum period of one year and may be extendable subject to the RPTKA and the relevant ministerial regulation on the positions that may be held by expatriates. IMTAs for directors and commissioners in limited liability companies or for advisors, managers and supervisors in foundations may be granted for a period of up to two years.

Once granted, the IMTA can then be used to apply for the following:

- a) visa application;
- b) temporary residence permit ("ITAS");
- c) conversation of visitor status ("ITK") to ITAS;
- d) conversion of ITAS to permanent residence permit ("ITAP"); and
- e) ITAP extension.

IMTA must be obtained by any companies that employ foreigners, including non-resident directors and commissioners.

- 6. **One foreigner one position restriction:** An employer may not hire a foreigner for more than one position in the same company. Additionally, a company is restricted to hire a foreigner if he/she is still under employment with a different company.
- 7. **Requirements for foreign workers:** Regulation 16/2015 requires all foreign workers:
 - a) to have the education background relevant to their job position;
 - b) to obtain the relevant qualification certificate or to have at least five year working experience in the relevant field;
 - c) to produce a statement letter that they will transfer the knowledge to the Indonesian associates, evidenced by a training and education realisation report.
 - d) to obtain an Indonesian tax payer registration number (NPWP) for foreigners who have worked for more than six months;
 - e) to have an insurance policy issued by an Indonesian insurance company; and
 - f) to participate in the national social security scheme for foreigners who have worked for more than six month.
- 8. **Effective date:** Regulation 16/2015 revokes the previous ministerial regulation regarding the same subject matter, i.e. Regulation No 12 of 2013, and it is effective from 29 June 2015. There is no transition period provided for in the Regulation 16/2015.

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