Presidential Regulation Number 44 of 2016 concerning List of Business Fields Closed to Investment and Business Fields Open, with Condition, to Investment

DNI Seminar (2nd) For Japanese Companies | Jakarta, 6th September 2016
“Protecting Small Businesses, People's Welfare”

Economic Package X Target:

- Empowering Micro, Small, Medium Enterprises and Cooperatives (MSME)
- Encourage Economic Competitiveness
- Expanding Job opportunities
- Logistic Cost Efficiency

Investment Climate
Economic Package X
Negative List Revision – Presidential Regulations 44/2016
Open & Competitive
INDONESIA

The New Negative Investment List 2016
(Presidential Regulation No.44/2016):

• More open to foreign investments
• Simpler investment procedure
• More protection for investors
• Easier to understand
The revision of the negative list covers 141 business fields. The diagram (left) is the highlight of the revision.

<table>
<thead>
<tr>
<th>No.</th>
<th>Sectors</th>
<th>Rev.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Agriculture</td>
<td>8</td>
</tr>
<tr>
<td>2</td>
<td>Forestry</td>
<td>5</td>
</tr>
<tr>
<td>3</td>
<td>Marine &amp; fishery</td>
<td>6</td>
</tr>
<tr>
<td>4</td>
<td>Energy</td>
<td>6</td>
</tr>
<tr>
<td>5</td>
<td>Industry</td>
<td>4</td>
</tr>
<tr>
<td>6</td>
<td>Defense</td>
<td>3</td>
</tr>
<tr>
<td>7</td>
<td>Public works</td>
<td>5</td>
</tr>
<tr>
<td>8</td>
<td>Trade</td>
<td>9</td>
</tr>
<tr>
<td>9</td>
<td>Tourism &amp; creative economy</td>
<td>37</td>
</tr>
<tr>
<td>10</td>
<td>Transportation</td>
<td>14</td>
</tr>
<tr>
<td>11</td>
<td>ICT</td>
<td>7</td>
</tr>
<tr>
<td>12</td>
<td>Finance</td>
<td>6</td>
</tr>
<tr>
<td>13</td>
<td>Banking</td>
<td>3</td>
</tr>
<tr>
<td>14</td>
<td>Workforce</td>
<td>2</td>
</tr>
<tr>
<td>15</td>
<td>Education</td>
<td>1</td>
</tr>
<tr>
<td>16</td>
<td>Health</td>
<td>25</td>
</tr>
</tbody>
</table>

Total 141
The Investment Coordinating Board of the Republic of Indonesia

**Stimulating retails**

**Department Store**

**100% FDI**

with >2,000 m² of retail area

**67% FDI**

with 400-2,000 m² of retail area

From previously closed to FDI.

**Requirements:**

- Licence from Ministry of Trade;
- Located inside a shopping mall;
- Outlet store expansion based on export performance.

**Large & Growing Market**

- In Southeast Asia, Indonesia represents 41% of its 618 million population and 34% of its 190 million middle-income class.
- By 2030, there will be 135 million members of the consuming class in Indonesia.
- This offers USD1.3 trillion of market opportunity in consumer services.

Trade Sector – Department Store

As stated in Negative List for Department stores with retail space of 400 m² - 2,000 m² is restricted with these conditions:

a. Foreign capital ownership max 67%;

b. Special Licenses/permit from Ministry of Trade with the following requirements:
   1. Located inside the mall and not standalone;
   2. Addition of extra outlet stores based on export performance (pay performance)

BKPM has taken several steps to confirm the implementation of Negative Investment List Related to the department store by conducting meetings with the Ministry Of Trade that has been carried out several times.
Reducing logistic costs

100% FDI
Distribution affiliated with production
67% FDI for distributor without affiliation

100% FDI
Cold storage
From previously 33% FDI

67% FDI
 Warehousing
From previously 33% FDI

67% FDI
Transport infras. & services
Including cargo handling, air transport, renting & leasing

<table>
<thead>
<tr>
<th></th>
<th>2010</th>
<th>2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sea</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Passenger (million)</td>
<td>37</td>
<td>44</td>
</tr>
<tr>
<td>Goods (million tons)</td>
<td>856</td>
<td>1,040</td>
</tr>
<tr>
<td>Rail</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Passenger (million)</td>
<td>203</td>
<td>278</td>
</tr>
<tr>
<td>Goods (million tons)</td>
<td>19</td>
<td>33</td>
</tr>
<tr>
<td>Air</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Passenger (million)</td>
<td>58</td>
<td>85</td>
</tr>
<tr>
<td>Goods (million tons)</td>
<td>0.6</td>
<td>0.8</td>
</tr>
</tbody>
</table>

[Source: Indonesian Statistics Center, 2016]
### Negative Investment List 2016

#### Trade Sector

**2 (two) requirements**
- affiliation in the sense of similarity between distributor company shareholders and manufacturer company shareholders *(1 layer).*
- have a domestic production base

### Distribution

<table>
<thead>
<tr>
<th>Scenario</th>
<th>affiliated shares</th>
<th>Not-affiliated shares</th>
<th>Domestic Production Base</th>
<th>Overseas Production Base</th>
<th>The percentage of the maximum foreign shareholding</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>✓</td>
<td></td>
<td>✓</td>
<td>✓</td>
<td>100%</td>
</tr>
<tr>
<td>2</td>
<td>✓</td>
<td></td>
<td>✓</td>
<td>✓</td>
<td>67%</td>
</tr>
<tr>
<td>3</td>
<td></td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>67%</td>
</tr>
<tr>
<td>4</td>
<td></td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>67%</td>
</tr>
<tr>
<td>5</td>
<td></td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>67%</td>
</tr>
<tr>
<td>6</td>
<td></td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>67%</td>
</tr>
</tbody>
</table>

Note: Excluding **Distributor for Medical Equipment** which follow conditions stipulated in the health sector.
## Indonesia Investment Coordinating Board

### Negative Investment List 2016

## Trade Sector - Rental

<table>
<thead>
<tr>
<th>Business Field</th>
<th>KBLI</th>
<th>Condition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Other machines rental, and equipments, that are not classified in other location (generator, textile machine, metal/ wood processing/ manufacturing machine, printing machine, and electronic welding machine)</td>
<td>77309</td>
<td>Domestic capital: 100%</td>
</tr>
</tbody>
</table>

**Indonesian Standard Industrial Classification (Klasifikasi baku Lapangan Usaha Indonesia) 2015**

**KBLI 77309**

**RENTAL ACTIVITIES AND OPERATIONAL LEASE FOR MACHINERY, EQUIPMENT AND OTHER INTANGIBLE GOODS THAT ARE NOT CLASSIFIED ELSEWHERE**

This group includes the activities of rental and lease without rights option (operational leasing) for machinery, equipment and tangible goods that are not classified elsewhere in sub-class 7730 which is generally used as capital goods, such as containers for residences or offices, pallets (container lifter) and like. Also includes Rental of livestock, racehorses and the like. Lease with option rights (financial leasing) for machinery, equipment and tangible goods that are not classified elsewhere in 64910.
Increasing the production of drugs

Large & Growing Market
• Indonesia's pharmaceutical market is worth USD6.5 billion in 2015.
• The industry grew at an average 12.5% per year.
• Healthcare spending per capita increased from USD61 (2008) to USD108 (2012).
• The spending is still lower than Thailand (USD215) and Malaysia (USD410).

New Health Security Program
• Demand for generic drugs will increase in 3-5 years since the new health security program has only reached half of the population.
• Local producers are operating at full capacity to meet the current needs.

[Source: pharmtech.com, 2016]
Health Sector

Distributor of medical equipment (KBLI 46693)

- allowed foreign investment up to 49% and special permits from the Ministry of Health (MoH).
- The business does not refer to a maximum of 67% Distributor rules for foreign investment because there is a special permission from the Ministry of Health and at the time of issuance of business license (IU) did not use the Business License (SIUP) but IU Health sector namely “Izin Penyalur Alat Kesehatan” (IPAK).
- IPAK is categorized as Business License.

Legal Basis:
Regulation of Ministry of Health Number 1191/MENKES/PER/VII/2010 on Distribution of Medical Equipment

Article 8
Pharmaceutical wholesaler which will conduct business as PAK must have PAK license (IPAK).

Article 9 paragraph (1)
Each PAK (Penyalur Alat Kesehatan – Distributor of Medical Equipment), PAK Branch, and Medical Equipment store are required to have a permit.
Spurring digital economy

Growing Digital Economy

• Online shoppers jumped by 28% last year, from 4.6 million to 5.9 million.
• Online sales is amounted to USD18 billion, grew by 40% last year.

Social Media Nation

• 88.1 million active internet users, up +15% (y/y).
• The 4th largest Facebook user and the 5th largest Twitter user in the world.

Government’s Supports

• Mobile broadband will cover 100% urban population and 52% rural population by 2019.
• Government will create 1,000 digital technopreneurs (USD10 billion business value) by 2020.

### E-Commerce

#### Foreign Capital Ownership max. 49%

E-Commerce Transactions through an electronic system (market place, daily deals, price grabber) with investment less than **Rp. 100,000,000,000**

<table>
<thead>
<tr>
<th>Marketplace</th>
<th>Classified Adds</th>
<th>Retail Online</th>
</tr>
</thead>
</table>
| **Marketplace** is an activity that provides a place of business activities in the form of Internet shop in the Internet as an online mall, Marketplace Merchant selling goods and/or services. **Example: Tokopedia, Bukalapak**  
- Goods not belong to itself  
- Company owner of the platform, only manage who trade and whether the goods are sold already according to the rules or not  
- Company owner of the platform, cooperating with payment partner and can manage payments from the buyer to the seller  
- Delivery of goods is done directly by the seller (not on behalf of the owner of the platform) using logistic partners who already cooperated | Including daily deals and price grabber **Classified Ads** is an activity to provide a place and/or time to display content (text, graphics, video explanations, information, etc.) of the goods and/or services for advertisers to place ads aimed at users through the site provided by the Classified Ads Operator. **Example: OLX, Kaskus, Berniaga.com** | **Online Retail** is the activity of selling goods and/or services through the website, either proprietary or partnership/consignment goods with SMEs  
**Example: Lazada, blibli.com, tiket.com, mataharimall.com**  
- goods that are sold both their own and can be combined with goods belonging to SMEs  
- the company manages its own platform (in the form of a website / domain) in carrying out its activities  
- platform may be owned or leased  
- SMEs in partnership/consignment is not directly involved in the transaction and delivery of goods, the transaction is done entirely by online retail company  
- must have a warehouse |

The definition of activities listed as e-commerce can be found on Directorate General of Taxation Circular Letter No. SE-06 / PJ / 2015 about the cutting and / or Collection of Income Tax on Transactions E-Commerce.
## Public Works Sector

<table>
<thead>
<tr>
<th>Presidential Regulation No. 44/2016</th>
<th>Regulation Of Minister Of Public Works And Public Housing No. 3/2016</th>
</tr>
</thead>
</table>
| Construction services (construction contractors) with high technology and/or high risks and/or work value of more than Rp50,000,000,000 | Chapter VI  
Right and Obligation of Foreign Direct Investment Constructions Companies |
| Foreign capital ownership max 67%, 70% for FDI from ASEAN | Article 15  
(3) Foreign Investment in Construction Service Legal Entity obliged to:  
b. Only responsible for doing construction projects that meet the criteria of high-tech, high-risk, and high-cost works.  
(6) High cost construction work as referred to in paragraph (3) letter b is the work of the construction implementation with construction value of at least Rp.100.000.000.000, - (one hundred billion rupiah) and the work of construction planning work and/or supervision at least Rp.10.000.000.000, - (ten billion rupiah). |

Over these differences, BKPM has submitted the existing issues to “Satuan Tugas Pelaksanaan Paket Kebijakan Ekonomi” through “Pokja Percepatan dan Penuntasan Regulasi Kebijakan Ekonomi (Pokja II)”

BKPM will invite the Ministry of Public Works and Housing to further discuss the revision Regulation Of Minister Of Public Works And Public Housing No. 3/2016 on Technical Guideline for Granting of Construction Service Business License for Foreign Investment Construction Service Legal Entity.

Ministry of Public Works and Public Housing matters that had been agreed, among others:
- Provision in Article 15 paragraph (6), the definition of High cost is the minimum threshold of construction work value and consultation will be regulated with inclusion of "in accordance with the the prevailing regulations" in this case, Presidential Regulation No. 44/2016.
- The minimum limit value of construction work described in Presidential Regulation 44/2016 applies only to the main contractor on the job, so this does not apply to subcontractors
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Operation of toll roads</td>
<td>Foreign capital ownership max 95%</td>
<td>Foreign capital ownership 100% (deleted from negative list)</td>
</tr>
<tr>
<td>2.</td>
<td>Treatment and disposal of non-hazardous waste</td>
<td>Foreign capital ownership max 95%</td>
<td>Foreign capital ownership 100% (deleted from negative list)</td>
</tr>
<tr>
<td>3.</td>
<td>Construction services (construction contractors) with low-cost technology and/or low risks and/or work value of up to Rp1,000,000,000:</td>
<td>Reserved for micro, small, medium business and cooperatives</td>
<td>Construction services (construction contractors) with low-cost and mid-level technology and/or low or medium risks and/or work value of up to Rp50,000,000,000 Reserved for micro, small, medium business and cooperatives</td>
</tr>
<tr>
<td>4.</td>
<td>Construction services (construction contractors) with high technology and/or high risks and/or work value of more than Rp1,000,000,000:</td>
<td>Foreign capital ownership max 67%</td>
<td>Construction services (construction contractors) with high technology and/or high risks and/or work value of more than Rp50,000,000,000: Foreign capital ownership max 67%, 70% for FDI from ASEAN</td>
</tr>
<tr>
<td>5.</td>
<td>Construction consultancy services</td>
<td>Foreign capital ownership max 55%</td>
<td>Divide the activities into:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- Construction consultancy services with low-cost and mid-level technology and/or low or medium risks and/or work value of up to Rp10,000,000,000 Reserved for micro, small, medium business and cooperatives</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>--Construction consultancy services with high technology and/or high risks and/or work value of more than Rp10,000,000,000 Foreign capital ownership max 67%, 70% for FDI from ASEAN</td>
</tr>
</tbody>
</table>
Additional new lines of business for SMEs are as many as 58 areas of business, namely:

- 19 business of the field of business services / construction consultancy services whose value is below Rp10,000,000,000 (attached)
- 39 fields of construction service business whose value above Rp1,000,000,000 up to Rp50,000,000,000 billion, which was originally 13 business areas that are not regulated in the DNI and 26 areas of business with foreign shareholding up to 67% (attached)

19 Business Field Of Business Services / Consulting Construction whose value is less than Rp10,000,000,000 (2/3)

Construction consultancy services:
1. Advisory and predesign architectural services
2. Architectural design Service
3. Contract administration services
4. Combined architectural design and administration services
5. Other architectural Services
6. Engineering design services for the construction of foundation and building structures
7. Engineering design services for the construction of civil engineering works
8. Other engineering services during the construction and installation phase
9. Other engineering services during the construction and erection phase
10. Integrated engineering for transportion infrastructure turnkey projects
11. Integrated engineering and management services for water supply and sanitation works turnkey projects
12. Integrated engineering for the construction of manufacturing turnkey projects
13. Integrated engineering for other turnkey projects
14. Urban planning services
15. Landscape architectural services
16. Composition and purity testing and analysis services of physical properties
17. Testing and analysis of integrated mechanical and electrical systems
18. Technical inspection systems
19. Other technical testing and analysis services
# 39 Business Field Construction Services whose value more than Rp 1 Billion Up to Rp 50 billion (3/3)

Construction services (construction contractors) with low-cost and mid-level technology and/or low or medium risks and/or work value of up to Rp50,000,000,000

<table>
<thead>
<tr>
<th>Existed in previous Negative list (Construction Services&gt; 1 billion)</th>
<th>Not Existed in previous Negative list (Construction Services&gt; 1 billion)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Construction work for Warehouse and industrial plant</td>
<td>1. Cleaning and preparing land work for one or two-storey building</td>
</tr>
<tr>
<td>2. Construction work for commercial building</td>
<td>2. Construction work for Sports and recreation</td>
</tr>
<tr>
<td>3. Construction work for health facility building</td>
<td>3. Construction work for Stadia and sports grounds</td>
</tr>
<tr>
<td>4. Construction work for education facility building</td>
<td>4. Construction work for Sports and leisure installation (inter alia, swimming pools, tennis courts, golf courses)</td>
</tr>
<tr>
<td>5. Construction work for Hotels, restaurants and similar buildings</td>
<td>5. Assembly and erection of prefabricated Construction</td>
</tr>
<tr>
<td>6. Construction work for Public entertainment facility buildings</td>
<td>6. Construction work for Waterways, harbor, dams, and other water works</td>
</tr>
<tr>
<td>7. Construction work for water transmission pipe line</td>
<td>7. Construction work for Other engineering works</td>
</tr>
<tr>
<td>8. Construction work for telecommunication line and electrical Line (cable)</td>
<td>8. Demolition works</td>
</tr>
<tr>
<td>10. Construction work for robbery alarm system</td>
<td>10. Site preparation works for mining</td>
</tr>
<tr>
<td>11. Construction work for fire alarm</td>
<td>11. Local pipelines and cables, ancillary/related works</td>
</tr>
<tr>
<td>12. Construction Work for gas pipe line</td>
<td>12. Foundation work, including pile driving</td>
</tr>
<tr>
<td>13. Construction Work for elevator and escalator</td>
<td>13. Other special construction works:</td>
</tr>
<tr>
<td>14. Window glass installation work</td>
<td>o Heating, ventilation, and air conditioning works</td>
</tr>
<tr>
<td>15. Installation work for ceramic/wall and floor marble</td>
<td>o Residential antenna construction works</td>
</tr>
<tr>
<td>16. Wall and other floors coating work</td>
<td>o Other electrical construction works</td>
</tr>
<tr>
<td>17. Plastering work</td>
<td>o Insulation works (electrical wiring, water, heat, sound)</td>
</tr>
<tr>
<td>18. Painting work</td>
<td>o Other installation works</td>
</tr>
<tr>
<td>19. Interior Decoration work</td>
<td>o Other installation works not elsewhere classified</td>
</tr>
<tr>
<td>20. Ornament work</td>
<td></td>
</tr>
</tbody>
</table>
Thank You

Terima Kasih

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United Nations Statistics Division - Classifications Registry

Hierarchy
Section: 5 - Construction work and constructions; land
Division: 51 - Construction work
Group: 511 - Pre-erection work at construction sites
  • 5111 - Site investigation work
  • 5112 - Demolition work
  • 5113 - Site formation and clearance work
  • 5114 - Excavating and earthmoving work
  • 5115 - Site preparation work for mining
  • 5116 - Scaffolding work
Group: 512 - Construction work for buildings
  • 5121 - For one- and two-dwelling buildings
  • 5122 - For multi-dwelling buildings
  • 5123 - For warehouses and industrial buildings
  • 5124 - For commercial buildings
  • 5125 - For public entertainment buildings
  • 5126 - For hotel, restaurant and similar buildings
  • 5127 - For educational buildings
  • 5128 - For health buildings
  • 5129 - For other buildings
Group: 513 - Construction work for civil engineering
  • 5131 - For highways (except elevated highways), streets, roads, railways and airfield runways
  • 5132 - For bridges, elevated highways, tunnels and subways
  • 5133 - For waterways, harbours, dams and other water works
  • 5134 - For long distance pipelines, communication and power lines (cables)
  • 5135 - For local pipelines and cables; ancillary works
  • 5136 - For constructions for mining and manufacturing
  • 5137 - For constructions for sport and recreation
  • 5139 - For engineering works n.e.c.
Group: 514 - Assembly and erection of prefabricated constructions
Group: 515 - Special trade construction work
  • 5151 - Foundation work, incl. pile driving
  • 5152 - Water well drilling
  • 5153 - Roofing and water proofing
  • 5154 - Concrete work
  • 5155 - Steel bending and erection (incl. welding)
  • 5156 - Masonry work
  • 5159 - Other special trade construction work
Group: 516 - Installation work
  • 5161 - Heating, ventilation and air conditioning work
  • 5162 - Water plumbing and drain laying work
  • 5163 - Gas fitting construction work
  • 5164 - Electrical work
  • 5165 - Insulation work (electrical wiring, water, heat, sound)
  • 5166 - Fencing and railing construction work
  • 5169 - Other installation work
Group: 517 - Building completion and finishing work
  • 5171 - Glazing work and window glass installation work
  • 5172 - Plastering work
  • 5173 - Painting work
  • 5174 - Floor and wall tiling work
  • 5175 - Other floor laying, wall covering and wall papering work
  • 5176 - Wood and metal joinery and carpentry work
  • 5177 - Interior fitting decoration work
  • 5178 - Ornamentation fitting work
  • 5179 - Other building completion and finishing work
Group: 518 - Renting services related to equipment for construction or demolition of buildings or civil engineering works, with operator
  • 5180 - Renting services related to equipment for construction or demolition of buildings or civil engineering works, with operator