

# **ANNEX I**

## **SCHEDULE OF INDONESIA**

### **EXPLANATORY NOTES**

1. Articles 7.4 (National Treatment), 7.5 (Most-Favored-Nation Treatment), 7.8 (Performance Requirements), and 7.9 (Senior Management and Boards of Directors) apply only to the following sectors:

- (a) manufacturing;
- (b) agriculture;
- (c) fisheries;
- (d) forestry;
- (e) mining and quarrying.

2. This Annex sets out, in accordance with Article 7.10 (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 7.4 (National Treatment);
- (b) Article 7.5 (Most-Favored-Nation Treatment);
- (c) Article 7.8 (Performance Requirements); or
- (d) Article 7.9 (Senior Management and Boards of Directors).

<b>1. Sector</b>	: <b>All Sectors</b>
<b>Sub-Sector</b>	: Acquisition of Lease of Land
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central and Regional
<b>Type of Obligation</b>	: National Treatment (Article 7.4)
<b>Description of Measure</b>	: The right of ownership of land ( <i>hak milik</i> ) is restricted to Indonesian nationals only.

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

- a. Leasehold (*hak guna milik*), granted to foreign company for a maximum period of 35 (thirty-five) years and may be extended for another period of 25 (twenty-five) years.
- b. Building rights (*hak guna bangunan*), granted to foreign company for a maximum period of 30 (thirty) years and may be extended for another period of 20 (twenty) years.
- c. Right of use (*hak pakai*) granted to: (1) foreign national for a maximum period of 30 (thirty) years and may be extended for another period of 20 (twenty) years; (2) foreign company for a maximum period of 25 (twenty-five) years and maybe extended for another period of 20 (twenty) years.
- d. Right of lease (*hak sewa*), accorded to foreign national and 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.

**Source of Measure** : Article 33 of *the 1945 Constitution of the Republic of Indonesia*;

*Law No. 5 of 1960 concerning Basic Provisions 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*; and

*Government Regulation No. 103 of 2015 concerning Residence or Housing Ownership for Foreigners Domiciled in Indonesia*.

<b>2. Sector</b>	: <b>All Sectors</b>
<b>Sub-Sector</b>	: Registration Requirements for the Establishment of Foreign Investment
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment (Article 7.4)
<b>Description of Measure</b>	: Foreign Investment <sup>1</sup> shall have investment of more than IDR 10 billion (excluding land and building), unless required otherwise by the specific sector in accordance with Indonesia’s laws and regulations.
<b>Source of Measure</b>	: <i>Law No. 25 of 2007 concerning Investment;</i>  <i>Law No. 20 of 2008 concerning Micro, Small and Medium Enterprises;</i>  <i>Minister of Industry Regulation No. 64/M-IND/PER/7/2016 concerning Number of Worker and Value of Investment for Industrial Business Classification; and</i>  <i>Chairman of Investment Coordinating Board Regulation No. 6 of 2018 concerning Guidelines and Procedures for Investment Licensing and Facilities.</i>

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<sup>1</sup> For purpose of this reservation, the term “foreign investment” is established in accordance with *Law No. 25 of 2007 concerning Investment.*

<b>3. Sector</b>	: <b>All Sectors</b>
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment (Article 7.4)
<b>Description of Measure</b>	: Foreign investment <sup>2</sup> shall be in the form of limited liability company based on the law of the Republic Indonesia.  Foreign investor <sup>3</sup> organized under the laws of the other Party seeking to make direct investment in Indonesia must establish as an Indonesian limited liability company ( <i>Perseroan Terbatas</i> ) in accordance with <i>Law No. 25 of 2007 concerning Investment</i> .
<b>Source of Measure</b>	: <i>Law No. 25 of 2007 concerning Investment</i> ; and  <i>Law No. 40 of 2007 concerning Limited Liability Company</i> .

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<sup>2</sup> For purpose of this reservation, the term “foreign investment” is established in accordance with *Law No. 25 of 2007 on Investment*.

<sup>3</sup> For purpose of this reservation, the term “Foreign Investor” can be found in *Law No. 25 of 2007 on Investment*.

<b>4. Sector</b>	: <b>All Sectors</b>
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment (Article 7.4)
<b>Description of Measure</b>	: Foreign investment shall appoint local distribution agents to sell its products to the end-users in Indonesia.  For greater certainty, foreign investment means foreign investor or legal entity established as <i>'Perseoran Terbatas'</i> in accordance with the source of measures listed under entry 3.
<b>Source of Measure</b>	: <i>Law No. 20 of 2008 concerning Micro, Small and Medium Enterprises;</i>  <i>Ministry of Trade Regulation No. 22 of 2016 concerning General Provisions on the Distribution of Goods;</i>  <i>Ministry of Trade Regulation No. 11 of 2006 concerning Provisions and Procedures of Issuance of Agents or Distributor of Goods and/or Services Registration; and</i>  <i>Chairman of Investment Coordinating Board Regulation No. 6 of 2018 concerning Guidelines and Procedures for Investment Licensing and Facilities.</i>

<b>5. Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment (Article 7.4) Senior Management and Board of Directors (Article 7.9)
<b>Description of Measure</b>	: Foreign investments established under Indonesia's Corporate Law are required to have any positions related to personnel affairs to be occupied by Indonesian nationals.
<b>Source of Measure</b>	: <i>Law No. 13 of 2003 concerning Manpower;</i>  <i>Presidential Decree No. 74 of 2014 concerning the Employment of Expatriates and the Implementation of Education and Training for Labor Companion;</i>  <i>Minister of Manpower and Transmigration Decree No. 40 of 2012 concerning Certain Positions that are Restricted for Foreign Workers; and</i>  <i>Presidential Regulation No. 20 of 2018 concerning the Employment of Expatriates.</i>

<b>6. Sector</b>	: <b>Fishery</b>
<b>Sub-Sector</b>	: <b>Capture Fisheries</b>
<b>Industry Classification</b>	: ISIC 0500
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment (Article 7.4)
<b>Description of Measure</b>	: Capture fisheries in Indonesia are prohibited for foreign investors.
<b>Source of Measure</b>	: <i>Law No. 31 of 2004 as amended by Law No. 45 of 2009 concerning Fisheries;</i>  <i>Law No. 5 of 1983 concerning Indonesia's Exclusive Economic Zone;</i>  <i>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;</i>  <i>Minister of Marine Affairs and Fisheries Regulation No. PER.05/MEN/2008 as amended by Minister of Marine Affairs and Fisheries Regulation No. PER.12/MEN/2009 concerning Capture Fishery Business;</i> and  Government policy.



<b>7. Sector</b>	: <b>Mining &amp; Quarrying</b>
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: ISIC (see below)
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment (Article 7.4)
<b>Description of Measure</b>	: The establishment and operation of foreign investment in Sea Sand Extraction (ISIC 1429) are prohibited for foreign investors.
<b>Source of Measure</b>	: <i>Law No. 4 of 2009 concerning Mineral and Coal Mining; and</i>  <i>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.</i>

<b>8. Sector</b>	: <b>All Sectors</b>
<b>Sub-Sector</b>	: <b>Public Enterprise</b>
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment (Article 7.4) Senior Management and Board of Directors (Article 7.9)
<b>Description of Measure</b>	: National Treatment and Senior Management and Board of Directors may not apply in the event where activities restricted to designated enterprises <sup>4</sup> are liberalized to those other than the designated entities, or in the event where such designated enterprise no longer operate on a non-commercial basis.
<b>Source of Measure</b>	: <i>Government Regulation No. 13 of 1998 concerning Public Enterprise.</i>

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<sup>4</sup> For illustrative purposes, this may include State Forestry Public Enterprise, denoted as Perum PERHUTANI, and National Money Printing Public Enterprise, denoted as Perum PERURI.

<b>9. Sector</b>	: <b>All Sectors</b>
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment (Article 7.4) Senior Management and Board of Directors (Article 7.9)
<b>Description of Measure</b>	: For companies/projects that are in existence before the entry into force of this Agreement, conditions imposed in their approvals for license/permits shall continue to apply. Any changes to these conditions shall be subject to approval.
<b>Source of Measure</b>	: <i>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.</i>

<b>10. Sector</b>	: <b>Manufacturing</b>
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: ISIC (see below)
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment (Article 7.4)
<b>Description of Measure</b>	: Foreign investors are prohibited from establishing the following line of businesses in Indonesia: <ul style="list-style-type: none"> <li>a. Reserved for Micro, Small, and Medium Enterprises: <ul style="list-style-type: none"> <li>• Manufacturer of the following agricultural products with an equal or exceeding a certain capacity limit as stipulated in the <i>Minister of Agriculture Regulation No. 98 of 2013 concerning Guidance of Plantation Business License</i> and <i>Minister of Agriculture Regulation No. 29 of 2016 concerning the Amendment of Minister of Agriculture Regulation No. 98 of 2013</i>: <ul style="list-style-type: none"> <li>- 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</li> </ul> </li> </ul> </li> </ul>

bagasse; black tea/green tea; dried tobacco leaves; rubber for sheets, concentrated latex; rude jatroptha 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 flavors 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 2,000m<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)

**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;*

*Minister of Agriculture Regulation No. 98 of 2013 concerning Guidance of Plantation Business License j.o. Minister of Agriculture Regulation No. 29 of 2016 concerning the Amendment of Minister of Agriculture Regulation No. 98 of 2013; and*

Government policy.

- 11. Sector** : **Agriculture**
- Sub-Sector** : -
- Industry Classification** : ISIC (see below)
- Level of Government** : Central
- Type of Obligation** : National Treatment (Article 7.4)
- Description of Measure** : Foreign investors are prohibited from establishing the following line 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)

**Source  
Measure**

**of** : *Law No. 39 of 2014 concerning Plantations;*

*Law No. 18 of 2009 concerning Livestock and Animal Health as amended by Law No. 41 of 2014;*

*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 Utilization of Forest;*

*Government Regulation No. 8 of 1999 concerning Utilization of Plant and Wild Animal Species;*

*Government Regulation No. 18 of 2010 concerning Plant Cultivating Business;*

*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 Regulation No. 44 of 1995 concerning Seeding of Plantations;*

*Minister of Agriculture Regulation No. 98 of 2013 concerning Guidance of Plantation Business License j.o. Minister of Agriculture Regulation No. 21 of 2017 concerning the Second Amendment of Regulation No. 98 of 2013;*

*Minister of Agriculture Decree No. 404/Kpts/OT.210/6/2002 concerning Guidelines for License and Registration on Livestock Sector;*

*Minister of Agriculture Regulation No. 70/Permentan/PD.200/6/2014 concerning Licensing Guidelines for Horticulture Cultivation;*

*Minister of Agriculture Regulation No. 2 of 2009 concerning Guidelines of Veterinary Medical Services;*

*Minister of Agriculture Regulation No. 39/Permentan/OT.140/6/2010 concerning the Guidelines on Business Licensing for Staple Crops Cultivation; and*

Government policy.

<b>12. Sector</b>	: <b>Forestry</b>
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: ISIC (see below)
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment (Article 7.4)
<b>Description of Measure</b>	: Foreign investors are prohibited from establishing the following line of business in Indonesia: <ul style="list-style-type: none"> <li>a. Reserved for Micro, Small and Medium Enterprises: <ul style="list-style-type: none"> <li>• Exploitation of other forest plants (sugar palms, candlenuts, tamarind seeds, charcoal raw materials, cinnamon) (ISIC 0200).</li> <li>• Exploitation of Swallow Nests in nature (ISIC 0122)</li> </ul> </li> <li>b. 100% Domestic Equity Participation: <ul style="list-style-type: none"> <li>• Exploitation of wood forest products from the natural forests (ISIC 0200)</li> <li>• Growing and trading of breeds and seeds of forests trees/plants (export and import of breeds and seeds of forests trees/plants) (ISIC 5121)</li> <li>• Exploitation of water resources in forest area (ISIC 0200)</li> <li>• Capturing and trading of wild plants and wild animals from the natural wildlife habitat (ISIC 0150)</li> </ul> </li> </ul>
<b>Source of Measure</b>	: <i>Law No. 41 of 1999 concerning Forestry;</i>  <i>Law No. 5 of 1990 concerning Conservation of Natural Resources and Its Ecosystems;</i>

*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;*

*Government Regulation No. 36 of 2010 concerning Natural Tourism Concession in the National Park Utilization Zone, Grand Forest Park, Nature Tourism Park;*

*Government Regulation No. 8 of 1999 concerning Utilization 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; and*

Government policy.

**13. Sector** : **All Sectors**

**Sub-Sector** : -

**Industry Classification** : -

**Level of Government** : Central

**Type of Obligation** : National Treatment (Article 7.4)

**Description of Measure** : 1. As may be required by the relevant regulatory authorities, a company in which foreign investors<sup>5</sup> own 100% shares, subject to prior notification before the grant of the license<sup>7</sup> after certain period since commencement of commercial production, the said foreign investors should sell a part of the company's share to domestic investors<sup>6</sup>.

2. In the case Mineral and Coal subsector<sup>7</sup>, mining business license (*Izin Usaha Pertambangan*) for foreign investment<sup>8</sup> shall be given by the Minister of Energy and Mineral Resources of the Republic of Indonesia.

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<sup>5</sup> For purpose of this reservation, the term "foreign investor" can be found in *Law No. 25 of 2007 concerning Investment*.

<sup>6</sup> For purpose of this reservation, the term "domestic investor" can be found in *Law No. 25 of 2007 concerning Investment*. For greater certainty, the requirement set out in paragraph 1 of this reservation is based on *Government Regulation No. 20 of 1994 concerning Share Ownership in Companies Set Up Under Foreign Capital Investments* and it will not be applied to investment made after the stipulation of *Law No. 25 of 2007 concerning Investment*.

<sup>7</sup> For purpose of this reservation, the scope of Mineral and Coal Mining subsector is defined in *Law No. 4 of 2009 concerning Mineral and Coal Mining* and *Government Regulation No. 23 of 2010 concerning the Implementation of Mineral and Coal Mining Activities j.o. Government Regulation No. 1 of 2017 concerning Fourth Amendment of Government Regulation No. 23 of 2010 concerning the Implementation of Mineral and Coal Mining Activities*.

<sup>8</sup> For purpose of this reservation, the term "foreign investment" can be found in *Law No. 25 of 2007 concerning Investment*.

Subject to prior notification before the grant of mining business license (*Izin Usaha Pertambangan*), 5 (five) years after the commencement of production, foreign shareholders<sup>9</sup> of foreign investment should sell their shares gradually to Indonesian shareholders<sup>10</sup> according to the following priorities:

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<sup>9</sup> For purpose of this reservation, the term “foreign shareholders” can be found in *Government Regulation No. 24 of 2012 concerning Amendment of Government Regulation No. 23 of 2010 concerning the Implementation of Mineral and Coal Mining Activities*.

<sup>10</sup> For purpose of this reservation, the term “Indonesian shareholders” can be found in *Government Regulation No. 23 of 2010 concerning the Implementation of Mineral and Coal Mining Activities j.o. Government Regulation No. 24 of 2012 concerning Amendment of Government Regulation No. 23 of 2010 concerning the Implementation of Mineral and Coal Mining Activities*.

- 1) central government;
- 2) provincial government;
- 3) regencies/municipalities;
- 4) state owned enterprises (*Badan Usaha Milik Negara* and *Badan Usaha Milik Daerah*);
- 5) national private business entity<sup>11</sup>.

The shares of the said Indonesian shareholders shall reach majority after 10 (ten) years after the commencement of production.

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<sup>11</sup> For purpose of this reservation, the term “national private business entity” can be found in *Government Regulation No. 23 of 2010 concerning the Implementation of Mineral and Coal Mining Activities*.

**Source  
Measure**

**of** : *Law No. 25 of 2007 concerning Investment;*

*Law No. 4 of 2009 concerning Mineral and Coal Mining;*

*Law No.1 of 2014 concerning 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 j.o. Government Regulation No. 77 of 2014 concerning Third Amendment j.o. Government Regulation No. 1 of 2017 concerning Fourth Amendment;*

*Minister of Energy and Mineral Resources Regulation No. 9 of 2017 concerning Procedures of Divestment of Shares and Mechanism on Divestment Stock Pricing;*  
and

*Minister of Energy and Mineral Resources Regulation No. 25 of 2018 concerning Mineral and Coal Mining Business.*



<b>14. Sector</b>	: <b>Mining &amp; Quarrying</b>
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: ISIC 1010, 1020, 1030, 1310, 1320
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment (Article 7.4)
<b>Description of Measure</b>	: Mining Business License Area, hereinafter referred to as WIUP, refers to an area given to the holder of a Mining Business License.  Foreign investor or legal entity organized under the laws of the other Party seeking to make investment in Indonesia is prohibited from participating in the auction of metallic mineral and coal WIUP with the size under 500 Hectares.
<b>Source of Measure</b>	: <i>Law No. 4 of 2009 concerning Mineral and Coal Mining;</i>  <i>Government Regulation No. 23 of 2010 concerning the Implementation of Mineral and Coal Mining Activities j.o. Government Regulation No. 1 of 2017 concerning Fourth Amendment of Government Regulation No. 23 of 2010; and</i>  <i>Minister of Energy and Mineral Resources Regulation No. 11 of 2018 concerning the Procedure for Granting Area License, and Reporting on Mineral and Coal Mining Activities.</i>

<b>15. Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment (Article 7.4)
<b>Description of Measure</b>	: Non-resident taxpayers will be subject to withholding tax of 20%, if they derive the following income from an Indonesian source: <ul style="list-style-type: none"> <li>a. Interest;</li> <li>b. Royalty;</li> <li>c. Dividend;</li> <li>d. Fee from service performed in Indonesia.</li> </ul>
<b>Source of Measure</b>	: <i>Law No. 36 of 2008 concerning the Fourth Amendment to Law No. 7 of 1983 concerning Income Tax.</i>

<b>16. Sector</b>	: All Sectors
<b>Sub-Sector</b>	: -
<b>Industry Classification</b>	: -
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: Performance Requirements (Article 7.8)
<b>Description of Measure</b>	: Obligation under Article 7.8 (Performance Requirements) shall not apply to all existing non-conforming measures, which include measures related to these requirements: <ul style="list-style-type: none"> <li>a. Local content;</li> <li>b. Trade balancing;</li> <li>c. Foreign exchange restrictions related to the foreign exchange inflows attributable to an enterprise;</li> <li>d. Export controls; and</li> <li>e. Transfer of technology.</li> </ul>

For specific purpose, foreign investor or legal entity established as ‘*Perseroan Terbatas*’ in accordance with *Law No. 40 of 2007 concerning Limited Liability Company*, which is employing foreign experts, are required to provide trainings and transfer of technology to workers of Indonesian citizen pursuant to the rules of law.

<b>Source of Measure</b>	: <i>Law No. 25 of 2007 concerning Investment;</i>  <i>Law No. 40 of 2007 concerning Limited Liability Company;</i> and  Government policy.
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<b>17. Sector</b>	: <b>Agriculture, Manufacturing</b>
<b>Sub-Sector</b>	: Horticulture
<b>Industry Classification</b>	: ISIC 0111, 0112, 0113, 0140, 1513, 1514, 1531, 1549, 2423
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment (Article 7.4) Senior Management and Board Directors (Article 7.9)
<b>Description of Measure</b>	: National Treatment and Senior Management and Board Directors may not apply to the establishment and operation of horticulture business activities in Indonesia, which include the following activities: <ul style="list-style-type: none"> <li>a. Germination;</li> <li>b. Cultivation;</li> <li>c. Harvest and postharvest;</li> <li>d. Processing;</li> <li>e. Distribution, trading, and marketing;</li> <li>f. Research; and</li> <li>g. Agro tourism.</li> </ul>

Transition period of four years is provided for existing investors<sup>12</sup> in the Horticulture subsectors to make adjustment to comply with measures stated in the *Law No. 13 of 2010 concerning Horticulture and its implementing regulation*.

The definition of Horticulture subsectors can be found in the *Law No. 13 of 2010 concerning Horticulture*.

**Source of Measure** : *Law No. 13 of 2010 concerning Horticulture*; and  
Government policy.

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<sup>12</sup> Existing investors refer to the existing investors before the enactment of Law No. 13 of 2010 concerning Horticulture.

<b>18. Sector</b>	: <b>Energy</b>
<b>Sub-Sector</b>	: Small Scale Power Plant with Renewable Energy (1 MW – 10 MW)
<b>Industry Classification</b>	: ISIC 4010
<b>Level of Government</b>	: Central
<b>Type of Obligation</b>	: National Treatment (Article 7.4)
<b>Description of Measure</b>	: Foreign equity participation in Small Scale Power Plant with Renewable Energy (1 MW-10 MW) is restricted no more than 49 percent of the capital share.
<b>Source of Measure</b>	: <i>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.</i>