

MUCH ANTICIPATED NEW BKPM REGULATION ON PERMIT AND NON-PERMIT INVESTMENT GUIDELINES AND PROCEDURES

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On 12 April 2013, the Indonesian Capital Investment Coordinating Body (BKPM) issued a new Regulation of the Head of the BKPM No. 5 of 2013 on the Guidelines and Procedures for Permit and Non-Permit Capital Investment ("Reg. 5/2013") which will come into force 30 days after the registration date for BKPM's one-stop-integrated-investment-services (Pelayanan Terpadu Satu Pintu di Bidang Penanaman Modal - PTSP), and 90 days for PTSP in provincial and regency/city offices. However, in practice, BKPM only started applying this new regulation in late May 2013. Reg. 5/2013 revokes a previous Head of BKPM Regulation Decree.

The most important feature in Reg. 5/2013 is that it reduces the Registration procedure as there is no longer any requirement to apply for Investment Registration.

There are no major changes to non-license or investment facility (fiscal and non-fiscal) classifications. Fiscal facilities, such as Income Tax facilities for certain business fields and/or places, import duties for machinery, goods and materials are still provided for under Reg. 5/2013. However, Reg. 5/2013 includes an addition to the procedure for applying for a General Importer's Identification Number (API-U) for a non-fiscal facility, aside from the Producer Importer Identification Number (API-P), Foreign Manpower Utilization Plan (RPTKA), Work Visa Recommendation (TA.01) and Foreign Manpower Utilization Permit (IMTA).

Signing, and Submitting an Application to BKPM

Under Reg. 5/2013 the whole permit or non-permit application process is undertaken directly by the company. The application must be signed by the authorized representative(s) of the company according to its articles of association (eg the President Director, or another Director), or an employee of the company whose position is one level below under a power of attorney (POA) from the authorized representative(s) of the company.

Submitting and processing the application to BKPM can be conducted by an attorney of the Board of Directors. The POA can be given to a person other than the company's employees.

Reg. 5/2013 is the topic of a separate M&T Advisory circulated in June 2013 which can be obtained from your usual M&T contact or from newsletter@makarim.com.