

NEW PROCEDURES FOR ESTABLISHING FOUNDATIONS

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On 26 March 2014, the Minister of Law and Human Rights ("**Minister**") issued Regulation No. 5 of 2014 on Validation of Foundations ("**Regulation**").

Briefly, the Regulation redefines the procedures and requirements for securing approval for the name of a foundation and its validation by the Minister. All applications for the establishment of foundations are now processed electronically through the Legal Entities Administration System (Sistem Administrasi Badan Hukum – "**SABH**") under the Directorate General of Law Administration ("**Directorate General**").

The Regulation is relevant to notaries authorized to submit applications for the validation of foundations to the Minister through SABH.

Approval for a Foundation's Name

In order to be validated, a foundation must first obtain the Minister's approval for its name. Only then may it continue the establishment procedure.

An application for approval of a name must be submitted using the electronic form available in the SABH. For this application a non-refundable administration fee must be paid in advance through an appointed bank.

Upon receiving an application, the Minister will assess whether the proposed name satisfies all the requirements under Government Regulation No. 63 of 2008 on the Implementation of the Law on Foundations. If it does, the Minister will issue an approval letter with the following information:

- a. Registration number of the name of the foundation;
- b. Approved name of the foundation;
- c. Date of registration;
- d. Expiration date; and
- e. Code for the administration fee payment.

The applicant must start using the name within 60 days of receiving the approval.

Validation as a Legal Entity

Once the name has been approved, the applicant submits an application for validation of the foundation as a legal entity to the Minister using the electronic form provided; in the SABH. This application must be submitted within 10 days of the signing of the deed of establishment and must be accompanied by the following documents:

1. The foundation's deed of incorporation;
2. A written statement providing the address of the foundation, acknowledged by the local village head (lurah);
3. Proof of a capital deposit or a written statement from the founders stating the value of the foundation's initial assets. This statement must be supported by a separate letter from the founders confirming the initial assets;
4. Proof of payment for approval of the foundation's name;
5. A recommendation from the Minister of Foreign Affairs or Minister of Defense, if the foundation is established respectively by foreign and domestic legal entities; and
6. The deed of the last will and testament if the foundation was established under a will or testament.

Upon receiving the application, the Minister will verify whether it complies with applicable laws and regulations. If all the requirements are satisfied, the Minister will notify the applicant of his/her approval for the establishment of the foundation as a legal entity. Afterwards, the Minister has 14 days to issue an official decree confirming his/her approval.

Offline Submission of Applications

Applications for name approval and validation of the legal entity status of a foundation can be submitted directly to the regional office of the Ministry of Law and Human Rights if: the a notary does not have internet access, or the Minister announces that the SABH is temporarily out of order.