

“For Indonesian companies whose fiscal year follows the calendar year, the deadline of 30 June for holding this year’s AGM is fast approaching.”



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AGM Reminder 2016

For those companies who have completed their tax reporting responsibilities for the 2015 accounting year, it is time to turn the board’s attention to the Annual General Meeting (“AGM”). Corporate governance matters are becoming increasingly important in Indonesia and for many companies, the AGM is the most important embodiment of corporate governance for the year. It is also when final dividends, if any, are decided. For Indonesian companies whose fiscal year follows the calendar year, the deadline of 30 June for holding this year’s AGM is fast approaching.

The Board of Directors is required to submit an annual report to the shareholders at the AGM, after review by the Board of Commissioners. The annual directors’ report must cover a number of stipulated items including, amongst others the financial statements; an activity report; and a social and environmental responsibility report. The Board of Commissioners should also report to the AGM on its supervisory activities for the past year.

Certain companies have specific audit requirements which may require certain parts of the audited financial statements to be announced in the newspapers after being approved by the GMS. It is worth noting that in accepting the annual report, it is common for the GMS to acquit the Board of Directors and Board of Commissioners of their management and supervisory responsibilities to the extent that their activities are reasonably disclosed to the GMS in the report and not illegal.

So far as the AGM itself is concerned, many companies conduct this by way of circular written resolutions of all shareholders in lieu of a physical meeting which should be held at the company’s domicile or if otherwise unanimously agreed, anywhere else in Indonesia. At the AGM, the re-appointment or replacement of the company’s officers and auditors may also be undertaken, as necessary.

Preparation for the AGM is also a good opportunity to check compliance with other corporate requirements that may be relevant, for example the filing of LKPM reports to BKPM, offshore loan reports, manpower reports, and such like.

As a separate reminder, companies which have not yet updated their import licenses in accordance with Regulation of the Minister of Trade No. 70/M-DAG/PER/9/2015 TAHUN 2015, must apply for new import licenses before 30 June 2016.

In this regard, it would also be opportune to remind readers of three other recent corporate developments or imminent deadlines, as follows:

- (a) for companies which have not yet updated their **import licenses** in accordance with Regulation of the Minister of Trade No. 70/M-DAG/PER/9/2015, please remember that this must be done before 30 June 2016 (BKPM is now very busy in dealing with a deluge of such applications and this has delayed the issuance by BKPM of other approvals);
- (b) the Ministry of Law and Human Rights (**MOLHR**) now requires a company to **file evidence of its tax filing and other documents** when registering certain changes to corporate documents or officers, etc. If the company must audit its accounts then these must also be filed, as required by MOLHR Regulation No.1 of 2016 on Amendment to MOLHR Regulation No.4 of 2014 on the Procedure for Filing an Application for the Validation of Legal Entities and Approval of Amendments to the Articles of Association, and Notice of Amendments to the Articles of Association and Company Data; and
- (c) it is now possible to formally comply with the long-existing obligation to **register intellectual property license agreements** with the Directorate-General of Intellectual Property Rights at the MOLHR. Importantly, if registration does not occur, then this will affect the validity of the license arrangement. Although the registration infrastructure does not appear to be fully in place, licensors should certainly make themselves aware of the importance of the relevant MOLHR regulation.
