

Investment Facility

1. Introduction

The Indonesian Government has a strong commitment to increase investment realization in Indonesia. To attract investors, the Indonesian Government grants Investment Facility to the investors.

Investment Facility in Indonesia is all forms of fiscal and non-fiscal incentives and ease of investment services, in accordance with laws and regulations.

2. Main Legislation

The main legislation for Investment Facility in Indonesia are as follows:

- a. Law No. 25 of 2007 on Investment as amended by Law No. 11 of 2020 on Job Creation (“**Investment Law**”); and
- b. BKPM Regulation No. 4 of 2021 on Guidelines and Procedures for Risk-Based Business Licensing Services and Investment Facilities (“**PERKA BKPM 4/2021**”).

3. General Overview

Based on Investment Law, the Indonesian Central Government may grant Investment Facility to investors who conduct business expansion or conduct a new investment, which investment meets at least the following criteria:

- a. Absorb many manpower;
- b. Include as high-priority scale;
- c. Include as infrastructure development;
- d. Conduct technology transfer;
- e. Conduct pioneer industry;
- f. Locate in remote regions, underdeveloped regions, border regions, or other regions deemed necessary;
- g. Preserve environmental sustainability;
- h. Conduct research, development, and innovation activities;
- i. Partner with micro, small, and medium enterprises, or cooperatives;
- j. For industries that use capital goods or machines or equipment domestically produced; and/or
- k. Include as tourism business development.

4. Fiscal Investment Facility

The Fiscal Investment Facility based on PERKA BKPM 4/2021 is as follows:

- a. Import duty exemption facility (the “**Masterlist**”);
- b. Income tax facility for investment in certain business fields and/or certain regions;

- c. Corporate income tax reduction facility;
- d. Corporate income tax reduction and income tax facility in certain business fields and/or certain regions in Special Economic Zones;
- e. Gross income reduction facility for certain research and development activities in Indonesia;
- f. Gross income reduction for carrying out work practices, internships, and/or learning activities in the framework of fostering and developing human resources based on certain competences; and
- g. Net income reduction facility for new investment or business expansion in certain business fields which are labor-intensive industries.

This Legal Update will only focus to Fiscal Investment Facility in the form of Masterlist.

For business actors applying for Investment Facilities as mentioned in points 4a, 4b, 4c, and 4d above shall convey a commitment to a plan on business activity cooperation with micro, small, and medium business actors (UMKM) and/or national entrepreneurs in the regions through the Online Single Submission Risk Based Approach system (“**OSS-RBA system**”).

4.1 Masterlist

Masterlist includes the following facility:

- a. Masterlist for importation of machine, not including spare parts for industrial construction or development;
- b. Masterlist for importation of goods and materials for industrial construction or development;
- c. Masterlist for importation of capital goods in the framework of the construction or development of the electricity power generation industry for public purposes; and
- d. Masterlist or relief and/or value-added tax exemption for importation of goods in the framework of a contract of work (*kontrak karya* – “**KK**”) or coal mining concession work agreement (*perjanjian karya perusahaan pertambangan batubara* – “**PKP2B**”).

The Masterlist is granted if the machines, goods, materials and capital goods:

- a. Not yet produced domestically;
- b. Have been produced domestically but have not met the specifications required; or
- c. Have been produced domestically but the amount is not sufficient for the industrial needs;

based on the list of machines, goods and materials, and capital goods determined by the ministry that organizes government affairs in the field of industry (the “**Ministry**”). To obtain a Masterlist of machines, goods, materials, and capital goods that: (i) have been produced domestically but have not met the specifications required; or (ii) have been produced domestically but the amount is not sufficient for the industrial needs, business actors shall upload recommendation from the Ministry in OSS-RBA system.

4.1.1 Facility Recipient Object

Masterlist for the importation of machines for industrial construction or development; and Masterlist for the importation of goods and materials for industrial construction or development are granted to business actors conducting business activities in the field of: (i) industries that produce goods; and/or (ii) industries that produce services, such as: (i) industrial service; (ii)

tourism and culture; (iii) transportation/transportation (for public transportation services); (iv) public health services; (v) mining; (vi) construction services; (vii) telecommunication industry; and (viii) port.

Masterlist for the importation of capital goods in the framework of the construction or development of the electricity power generation industry for public purposes is granted to: (i) state-owned electricity liability company (Persero) (PT PLN (Persero)); or (ii) other business actors in electricity business field.

Masterlist or relief and/or value-added tax exemption for the importation of goods in the framework of KK or PKP2B can be granted to business actors/contractors who have KK or PKP2B.

4.1.2 Provision of Facilities

a. Masterlist for Importation of Machine for Industrial Construction or Development

Business actors who submit this Masterlist can be granted in the framework of construction or development. The development includes: (i) capacity addition in the framework of business expansion; and/or (ii) modernization, rehabilitation, and/or restructuring of production equipment for the purpose of maintaining and improving the quality of production results for business activities that already had risk-based business licensing and have already produced commercially. This submission is made no later than 3 (three) years as of: (i) the issuance of Business License Number (*Nomor Induk Berusaha* - "NIB") for new business actors; or (ii) the inclusion of business activities for which facilities will be submitted in the NIB in the framework of business activities addition.

Import period with respect to the Masterlist is granted for 2 (two) years as of the validity of decision on the Masterlist and can be extended for 2 (two) years, except for the importation of machines in the framework of development with the intention of modernization, rehabilitation and/or restructuring. The Masterlist is not applicable for importation of spare parts.

Business actors are obliged to use the machines that have obtained a Masterlist in accordance with the purpose of their entry, and the machines can be used in different locations if they are still controlled by the business actor for the same business activities in accordance with the risk-based business licensing owned by the business actor.

b. Masterlist for Importation of Goods and Materials for Industrial Construction or Development

Business actors who have completed industrial construction and are ready for production, except for industries that produce services, can be granted this Masterlist, which submission is submitted no later than 1 (one) year as of the business actors have produced commercially.

Business actors who have completed industrial development, as long as add capacity at least 30 (thirty percent) of the capacity of business license/expansion license and/or risk-based business licensing, can be granted this Masterlist. Industries that produce services is not eligible to receive Masterlist for importation of goods and material.

The above Masterlist is granted for production purposes for 2 (two) years according to the installed capacity. The import period with respect to the above Masterlist is granted for 2 (two) years as of the validity of decision on the Masterlist and can be extended for 1 (one) time for 1 (one) year as of the end of the validity of the Masterlist.

Masterlist of goods and material over importation of machine and/or use imported production machine which is purchased domestically, can be granted to business actors who have completed industrial construction or development and ready for commercial activity except for industries that produce services.

Business actors who conduct construction and development by using local production machine at least 30% (thirty percent) of the total machine value, can be granted this Masterlist for the purpose of production or production addition for 4 (four) years according to the installed capacity with import period for 4 (four) years as of the validity of decision on the Masterlist and can be extended for 1 (one) time for 1 (one) year as of the end of the validity of the Masterlist.

Goods and materials that have received a Masterlist must be used in accordance with the purpose of their entry by the business actors.

4.1.3 Submission of Masterlist

Submission of Masterlist is submitted and issued in the OSS-RBA system. The relevant business actor must fill out the application data, upload, and send the required documents. There shall be a technical clarification for this submission at the latest 5 (five) days. For submissions in the framework of rehabilitation/restructuring/modernization and goods and materials, technical clarification is carried out in the form of a field visit, or in case of certain conditions, it can be carried out through other electronic media.

The results of technical clarification shall be in the form of the following:

- a. The submission is declared complete and correct in accordance with the provisions, can be processed further. Then the OSS-RBA system will send a notification and then within 5 (five) days, a decision on Masterlist will be issued;
- b. The submission is returned online to the business actor to complete, correct deficiencies and/or errors in the documents in accordance with the results of the technical clarification. Then the OSS-RBA system will send a notification and then the business actor shall complete the documents through the OSS-RBA system; or
- c. The submission is rejected if it does not comply with the provisions. Then within 3 (three) days the OSS-RBA system will provide a rejection notice accompanied by reasons for rejection.

5 Non-Fiscal Investment Facility

Ease of services and/or licensing with respect to immigration facility can be granted to:

- a. Investment company which: (i) needs foreign manpower in the investment realization; and (ii) temporarily needs foreign manpower for repairing machine, other production supporting tools, and after-sales services; and
- b. Candidate investment company who will conduct investment research.



Yoga Partnership
Legal Consultant

Yuliani Yoga, *Managing Partner*

+62 815 8875 021 

yuliani.yoga@ylc-law.com 

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Yoga Partnership - Legal Consultant

The Vida Building, 3A Floor, Unit 4
Jl. Raya Perjuangan No. 08
Kebon Jeruk – DKI Jakarta
Phone: + 62 21 2966 1375
Email: info@ylc-law.com

YOGA PARTNERSHIP
www.ylc-law.com