



Indonesia Immigration Alert

Recent Changes in Immigration – Minister of Manpower regulation No.35 of 2015 concerning amendment of Minister of Manpower regulation No.16 of 2015

Background

The Indonesian Minister of Manpower (“MoM”) has issued a new Regulation number 35/2015 (“MoM number 35/2015”) as an amendment of the recent MoM Regulation number 16/2015 (“MoM number 16/2015”), regarding General Procedures and Requirements for Employing Expatriates in Indonesia. This new regulation provides some important changes, including eliminating some types of activities that require a work permit, abolishing the ratio of expatriates to national employees, etc., which were previously required under MoM number 16/2015.

Changes

Summarized below are the salient points of the amendments:

No.	Subject Matter	MoM No. 16/2015	MoM No. 35/2015
1.	Expatriate to National Employee Ratio	Need to have at least 10 Indonesian national employees for every 1 expatriate employee.	Abolishes 1:10 ratio

No.	Subject Matter	MoM No. 16/2015	MoM No. 35/2015
2.	Foreigner Manpower Utilization Plan (“RPTKA”) and Work Permit (“IMTA”) for Work under Temporary Classification	<p>A temporary RPTKA and IMTA is required for the following 8 activities:</p> <ol style="list-style-type: none"> 1. Providing guidance, counselling, and training in the application and innovation of the technology for the purpose of improving the quality and design of the products for the export market; or 2. Commercial film production which has been granted approval by the relevant government agencies; or 3. Giving a lecture; or 4. Attending meeting with representative / branch office in Indonesia; or 5. Conducting audit, production quality control, or inspection at a company branch in Indonesia; or 6. Expatriate who is still under probation period with the company; or 7. One time job; or 8. Work related to machine installation, electrical, after sales services, or products that are in business exploration stage. 	<p>Reduces the types of activities that require a temporary RTPKA and IMTA to the following 3 activities only:</p> <ol style="list-style-type: none"> 1. Commercial film production which has been granted approval by the relevant government agencies; or 2. Conducting audit, production quality control, or inspection at a company branch in Indonesia for longer than 1 (one) month; or 3. Work related to machinery installation, electrical, after-sales service, or products that are in business exploration stage.
3.	Work Permit (“IMTA”) for non-resident directors and commissioners	Must apply for IMTA for the non-resident directors and /or commissioners of the Indonesian Company	Removes the requirement for non-resident directors and commissioners to obtain work permits in Indonesia
4.	SDF Payment	SDF payment should be converted into IDR currency for payment purpose	This provision is deleted. (Note: MoM requires SDF payment in USD currency)

No.	Subject Matter	MoM No. 16/2015	MoM No. 35/2015
5.	Domestic investment company (“PMDN”) cannot appoint foreigner as commissioner	Not regulated	Specifically regulated – PMDN is not allowed to appoint a foreigner as commissioner

Deloitte’s View

The recent MoM Regulation number 16/2015 was viewed as burdensome and not friendly to foreign investors as it required business travellers and non-resident commissioners and directors to have work permits. This new MoM rule will help to regain the attractiveness of Indonesia for foreign investments, which the current government is promoting.

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