

# Rödl & Partner

## CLIENT ALERT INDONESIA

## TAPPING PERSPECTIVES

Issue:

August 14,  
2019

LEGAL UPDATE ON CONSTRUCTION SERVICES  
BUSINESS IN INDONESIA

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## → Regulation Update on Construction Services Business in Indonesia

### REGULATION 09

The Government of Indonesia has recently enacted the General Works and Housing Ministry Regulation No. 09/PRT/M/2019 (**REGULATION 09**) affecting the business activities of foreign Construction Services (*Badan Usaha Jasa Konstruksi Asing/BUJKA*) in Indonesia. The enactment of Regulation 09 thus revokes several previous regulations governing BUJKA activities, namely:

1. General Works Ministry Regulation No. 10/PRT/M/2014 concerning the Guideline of Licensing Issuance Requirements for BUJKA Representative Offices (**REGULATION 10**);
2. General Works and Housing Ministry Regulation No. 03/PRT/M/2016 concerning Technical Guideline on the Issuance of Construction Services Business Licenses, which was last amended with General Works and Housing Ministry Regulation No. 30/PRT/M/2016 concerning the Technical

Guideline of the Issuance of Construction Business Licenses for Foreign Investment Construction Services Companies (**REGULATION 03**);

3. General Works and Housing Regulation No. 22/PRT/M/2014 concerning Business License Issuance Authority Delegation in the General Works and Housing Sector in relation to the Implementation of One-Door Integrated Services at the Indonesian Capital Investment Coordinating Board (**REGULATION 22**), regarding the authority delegation on the following areas:
  - a. Business License for foreign contractor services;
  - b. Business License for foreign construction consultancy services;
  - c. BUJKA Representative Office License.

In what follows is a table providing some key features of the new Regulation 09:

NO.	SUBJECT	BUJKA REPRESENTATIVE OFFICE	BUJKA COMPANY
1.	Type of Business License	Representative License ( <i>Izin Perwakilan</i> )	Foreign Investment License ( <i>Izin PMA</i> )
2.	Commitment Fulfillment to effectuate Business License	Large-scale Business Enterprise certificate ( <i>Sertifikat Badan Usaha/SBU</i> )  *Note: However, the requirements for complying with both, <i>Izin Perwakilan</i> and <i>Izin PMA</i> , may not be limited to obtaining an SBU. A full list of commitments is yet to be enacted in another new regulation related to Regulation 09. Hitherto, the only commitment applicable under Regulation 09 is the obligation to obtain an SBU.	
3.	Authority in Charge	Online Single Submission ( <b>OSS</b> ) system	
4.	Validity of the License	3 years and extendable	Unlimited

5.	Joint Operation ( <i>Kerja Sama Operasi/KSO</i> )	<p>a. Establishing a KSO with a local BUJKA (<i>Badan Usaha Jasa Konstruksi Nasional/BUJKN</i>)</p> <p>b. The BUJKN should meet the following criteria:</p> <ul style="list-style-type: none"> <li>- It is established as a Limited Liability Company (<i>Perseroan Terbatas</i>);</li> <li>- Having a large-scale SBU and engaging in the same business activity as the BUJKA;</li> <li>- Having an IUJK for business enterprises; and</li> <li>- It is either a state-owned or privately-owned enterprise that is wholly (100 %) owned by an Indonesian person or company.</li> </ul>	N/A
6.	Chief Officer ( <i>Penanggungjawab BUJKA/PJBU</i> )	<p>a. An Indonesian national;</p> <p>b. Should this not be possible, an Indonesian national should at least be hired as a Technical Chief Officer;</p> <p>c. Not holding any double positions in the same BUJKA company.</p>	N/A
7.	Technical Chief Officer ( <i>Penanggungjawab Teknis BUJKA/PJTBU</i> )	<p>Possessing the following qualifications:</p> <ul style="list-style-type: none"> <li>- Grade 9 Professional Expert Competence certificate;</li> <li>- ASEAN Architect certificate; <u>or</u></li> <li>- ASEAN Chartered Professional Engineer certificate.</li> </ul>	<p>Possessing the following qualifications:</p> <ul style="list-style-type: none"> <li>- Grade 8 Professional Expert Competence certificate;</li> <li>- ASEAN Architect certificate; or</li> <li>- ASEAN Chartered Professional Engineer certificate.</li> </ul>
8.	Double office position	PJBU and PJTBU are barred from holding a directorship and commissioner position as well as from holding both, PJBU and PJTBU positions in the same BUJKA or BUJKN at the same time.	Directors, Commissioners, PJBU, and PJTBU are barred from holding double offices for the same or different position in a different BUJKA or BUJKN at the same time.
9.	Applying for license revocation	N/A	<ul style="list-style-type: none"> <li>- Can be applied to the OSS system.</li> <li>- Revocation will only be effective after the BUJKA company has settled all its legal obligations, i.e. taxation, debts, etc.</li> </ul>
10.	Evaluation result	For <i>Izin Perwakilan</i> extension, the applicant may obtain the evaluation result through the online Construction Services application.	N/A

11.	Yearly Business Report	<ul style="list-style-type: none"> <li>- Report to the Ministry of General Works and Housing through the online Construction Services application.</li> <li>- Reports have to be delivered by 30 April of the following year, at the latest.</li> </ul>	
12.	Technology Transfer Obligation	<ul style="list-style-type: none"> <li>- Hiring an Indonesian assistant to a foreign expert</li> <li>- Hiring an Indonesian national as an assistant for management and technical positions at not less than the same level of the position held by a foreign national.</li> </ul>	
13.	Process of obtaining the license	<ul style="list-style-type: none"> <li>- Applying for a Business Registration Number (<i>Nomor Induk Berusaha/NIB</i>).</li> <li>- Applying for <i>Izin Perwakilan</i> (ineffective).</li> <li>- Applying for large-scale SBU.</li> <li>- Effective <i>Izin Perwakilan</i>.</li> </ul>	<ul style="list-style-type: none"> <li>- Applying for NIB;</li> <li>- Applying for <i>Izin PMA</i> (ineffective).</li> <li>- Applying for large-scale SBU.</li> <li>- Effective <i>Izin PMA</i>.</li> </ul>

## TRANSITIONAL REGULATIONS OF REGULATION 09

- Construction Services Business Licenses that have been issued by the BKPM prior to the effective enactment of Regulation 09 shall be valid until their expiry date.
- Construction Services Business Licenses based on commitment(s) that have been issued by the OSS prior to the effective enactment of Regulation 09 shall only be effective upon the applicant having fulfilled all relevant commitments within 30 (thirty) days from the date of enactment of Regulation 09, at the latest.
- Izin Perwakilan* that have been issued by the OSS prior to the effective enactment of Regulation 09 shall be effective upon the applicant having fulfilled all relevant commitments within 90 (ninety) days from the date of enactment of Regulation 09 is enacted, at the latest.

The commitment(s) mentioned above refer to the commitments as contemplated under REGULATION 09.

## CONTACT FOR MORE INFORMATION



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