

## NEWSLETTER

By : Law Office Yang & Co

### NEW NEGATIVE INVESTMENT LIST

The Presidential Regulation Number 39 of 2014 regarding List of Business Fields That Are Closed For Investment and Business Fields That Are Conditionally Open For Investment, or is also known as the Negative Investment List/*Daftar Negatif Investasi* (“**DNI 2014**”) was enacted on the 24<sup>th</sup> of April 2014.

The DNI 2014 is an amendment to the Presidential Regulation Number 36 of 2010 regarding the same (“**DNI 2010**”).

Same as the DNI 2010, DNI 2014 also consists of 12 (twelve) articles and 2 (two) Appendices, with Appendix 1: List of Business Fields That Are Closed For Investment, and Appendix 2 : List of Business Fields That Are Conditionally Open For Investment.

Unlike DNI 2010, an article in the DNI 2014 gives investors certainty regarding the status of the business fields that are not listed in any of the Appendices.

#### Article 3

“Business Fields that are not listed either in Appendix I or Appendix II as mentioned in article 1 and article 2 shall be declared to be unconditionally open for investment.” (unofficial translation)

The issuance of DNI 2014 officially revokes the DNI 2010. However, the implementing regulations of DNI 2010 which are not in contradiction with DNI 2014 shall remain valid.

The business fields outlined in the DNI 2014 fall under the following sectors:

1. Agriculture;
2. Forestry;
3. Marine and Fishery;
4. Energy and Mineral Resources;
5. Industry;
6. Defense and Security;
7. Public Work;
8. Trade;
9. Tourism and Creative Economy;
10. Transportation;
11. Communication and Informatics;
12. Finance;
13. Banking industry;
14. Manpower and Transmigration;
15. Education and Culture; and
16. Health.

DNI 2014 was issued to address specific domestic investment needs related to, and to accommodate, the soon to be operative 2015 ASEAN Economic Community (AEC). The AEC will be implemented under four main principles: free flow of goods, free flow of services, free flow of investment, and free flow of capital.

There are certain business fields which experience significant reduction in the maximum percentage of foreign ownership allowed, for example:

## **Agriculture**

Business fields in Horticulture Seeding/Germination and Horticulture Cultivation have been reduced from 100% maximum percentage of foreign investment to become 30%.

## **Energy and Mineral Resources**

Business fields in Oil and Gas Construction Services have been reduced from 100% maximum percentage of foreign investment to become 74% in platform, 49% in spherical tank and 49% in offshore pipelines installation. While Oil and Gas Construction Services in installation of upstream oil and gas production on land, onshore pipelines installation, horizontal/vertical tank, storage and marketing of onshore oil and gas installation are now closed for foreign direct investment.

## **Trade**

Business fields in Trade Services (distributor, storage and cold storage) have been reduced from 100% maximum percentage of foreign investment to become 33%. Specially for cold storage, maximum percentage of foreign investment can be up to 67%, provided that it is located in Kalimantan, Sulawesi, NTT, Maluku and Papua.

As for Survey Services, the maximum percentage of foreign investment has been reduced from 100% to become 51%.

DNI 2014 also provides special treatment for investment from ASEAN countries, for example:

### 1. Specialist/Sub-specialist Hospital Services, Clinic Specialized Medical Services and Clinic Specialized Dental Services:

For non-ASEAN countries investors, the maximum percentage of foreign investment is 67% and can be located anywhere in Indonesia. While for ASEAN countries investors, the maximum percentage of foreign investment is 70%, with special requirement that the hospital is established in the capital cities in eastern Indonesia (except Makassar and Manado).

### 2. Nursing Services:

For non-ASEAN countries investors, the maximum percentage of foreign investment is 49% and can be located anywhere in Indonesia. While for ASEAN countries investors, the maximum percentage of foreign investment is 70%, with the special requirement that the hospital is established in the

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capital cities in eastern Indonesia. If it is established in Makassar and/or Manado, the maximum percentage of foreign investment is 51