

## NEWSLETTER

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### BILL ON PLANTATION

The House of Representative has initiated to amend Law No. 18 of 2004 concerning Plantation (“**Law No. 18 of 2004**”). The purpose of the issuance of the new law is because the government considers that Law No. 18 of 2004 is no longer in compliance with the current plantation business in Indonesia.

The Bill on Plantation itself (“**Bill**”) has been approved by the Indonesian House of Representative on 29 September 2014. Such draft will amend and revoke the Law No. 18 of 2004.

One of the amendments incorporated in the Bill is concerning a stipulation that a plantation company shall work its Plantation area within certain periods as follows:

1. At least 3 (three) years after the grant of the right of land, plantation company shall work on a minimum of 30% (thirty percent) of its plantation area being the total area as provided in the right of land; and
2. At least 6 (six) years after the grant of the right of land, plantation company shall work on all of its plantation area being the total area as provided in the right of land, which technically can be planted with crops.

If the plantation company does not comply with the above, the plantation area which has not been managed /worked on will be taken by the government.

Furthermore, the Bill allows the government to limit direct foreign ownerships, but nothing inside the Bill is mentioning about the percentage value. The following are the provisions in the Bill that we have highlighted for foreign investment in the plantation business:

1. The Bill stipulates that for conducting Plantation Business, the foreign investor shall cooperate with local business party by establishing an Indonesian legal entity.
2. The Bill stipulates that the limitation of foreign direct investment, type of crops, the scale of company business and certain geographical conditions will be regulated by a Government Regulation.

The Bill stipulates that the foreign direct investment companies, which have not complied with this regulation, shall adjust with this regulation after the expiry of the Land Cultivation Right /HGU granted to them.

This Bill clearly states that the plantation company which holds plantation business license or cultivation business license must facilitate the development of a community plantation (*Kebun Masyarakat*/Plasma Area) at least 20 % (twenty percent) from the total plantation area which is managed by the plantation company. The mandatory nature of such facilitation shall be conducted within 3 (three) years from the right of land being granted. Further, the facilitation shall be

reported to the central government and the local government in accordance with their respective authority.

The sanctions of any incompliance of the above are:

1. Penalty(ies);
2. Temporary freeze of the plantation business; and/or
3. Revocation of the plantation business license.

All plantation companies which have been conducting plantation business, but have not obtained plantation business licenses, must follow this Bill and obtain plantation business licenses within 1 (one) year from the enactment date of the Bill.

All plantation companies which have been conducting plantation business and have obtained plantation business licenses, but not in accordance with this Bill, are given a maximum period of 5 (five) years to adjust themselves with this Bill.

The Bill will enter into force when it is signed by the President, or automatically come into force 30 days after the Bill is approved by House of Representative and the President, whichever comes first.