

NEWSLETTER

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JOB CREATION LAW: IT IS NOW EASIER FOR FOREIGNER TO OWN APARTMENT UNIT IN INDONESIA

As Southeast Asia's largest economy and one of the world's fastest-growing economies, Indonesia offers plenty of career opportunities for locals and expatriates alike. Indonesia's booming economy is perfect for foreign professionals who wish to build their careers. Therefore, no wonder that in 2020 nearly 100,000 foreign professionals residing and working in Indonesia.

There has been an important transformation in major cities or regions in Indonesia such as Jakarta, Surabaya, Bandung, Bali and, others region. Among real estate for residential, commercial, retail, hotel, and industrial segment, skyscrapers dominate these cities in the form of office spaces and apartments.

Indonesian Government has recently issued Government Regulation No. 18 of 2021 concerning Right to Manage, Rights on Land, Apartment Unit, and Land Registration ("**GR No. 18/2021**") as the implementing regulation of Law No. 11 of 2020 concerning Job Creation ("**Job Creation Law**"). The GR No. 18/2021 has the objective to ease foreigners to own an apartment unit in Indonesia.

In this edition of the newsletter, we will discuss the relaxation provided by the Indonesian Government to foreigners who live in Indonesia to own an apartment unit.

The Requirements to Own Apartment Unit

1. Type of Ownership

Previously, based on the Government Regulation No. 103 of 2015 concerning Houses and Residential Ownership by Foreigner who Lives in Indonesia ("**GR No. 103/2015**"), the foreigner may own an apartment unit under the Right to Use for Apartment Unit Certificate ("**RTU Certificate/Sertifikat Hak Pakai atas Satuan Rumah Susun (SHPSRS)**") from the apartment which is built over the underlying Land with Right to Use title (*Hak Pakai*) and the RTU Certificate derives from the degradation of rights/*penurunan hak* from the Rights of Ownership of Apartment Unit Certificate ("**RTO Certificate/Sertifikat Hak Milik atas Satuan Rumah Susun (SHMSRS)**"). GR No. 103/2015 does not allow the foreigner to own an apartment with RTO Certificate.

The significant change under the new GR No. 18/2021 is, the Government now permitting the foreigner to own the apartment under RTO Certificate. Similar to the previous regime, GR No. 18/2021 also requires the foreigners who can hold RTO Certificate are those who bring benefits, do business, work or invest in Indonesia.

GR No. 18/2021 does not specify the type of immigration documents that a foreigner must hold to be eligible to hold the RTO Certificates. While the GR No. 103/2015 with its implementing regulation stated that the foreigners shall hold residency permit based on Law

No. 6 of 2011 concerning Immigration Law and Government Regulation No. 103/2015 *i.e.* Diplomatic Residency Permit, Work Residency Permit, Visit Residency Permit, Limited Residency Permit, and Permanent Residency Permit.

2. Minimum Price

According to the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency No. 29 of 2016 on Procedures for the Granting, Relinquishment and Transfer of Houses and Residential Ownership by Foreign Citizens Living in Indonesia (“**Regulation No. 29/2016**”), there are minimum prices of property that may be purchased by the foreigners. The minimum price of properties is varies depending on in which province the land is located.

The provision of minimum price thresholds under Regulation No. 29/2016 is still valid.

3. Number of Unit

According to the Article 71 and 72 of GR No. 18/2021, the foreigner who wants to own the apartment unit shall follow the requirements on the maximum number of apartment units that can be owned by the foreigner.

Regulation No. 18/2021 has not clarified the above requirements yet. Therefore, we shall wait for the implementation regulation of GR 18/2021.

4. Method of Acquiring

Regulation 29/2016 stipulates the mechanism for a foreigner to obtain an apartment unit in Indonesia. The foreigner may obtain an apartment unit through the sale and purchase, grant, exchange, auctions, or any other lawfully methods.

Conclusion

The Job Creation Law brings more opportunity and convenience for a foreigner to own an apartment unit. Previously GR No. 103/2015 only allows the foreigner to own an apartment with RTU Certificates. However, after the Job Creation Law and GR No. 18/2021 is enacted, a foreigner may also own an apartment with RTO Certificates and no longer be required to convert the RTO Certificate to RTU Certificate. We are now waiting for the implementing regulations to understand the additional requirements for a foreigner to own an apartment with RTO Certificates.

From the practical point of view, when the GR No. 18/2021 and its implementing regulation has been fully enacted, the Ministry of Agrarian Affairs and Spatial Planning/Head of the National Land Agency shall issue a circular letter (*surat edaran*) for all Land Offices in Indonesia regarding the implementation procedures, services, and requirements related to the apartment ownership by foreigners.

Note: The content of this article does not constitute legal advice and should not be relied upon since there will be implemented regulations to be further issued. The judge’s opinion may also be different, due to the facts relevant to the case. If you need specific advice related to this topic, please contact us by email at info@yangandco.com .