New Regulation on Foreign NGOs

To further regulate the permits and validation of nongovernmental organizations (NGOs) established by foreign parties, as stipulated under Law No. 17 of 2013 on Social Organizations, the Government of Indonesia has issued Regulation No. 59 of 2016 on Social Organizations Established by Foreigners.

❖ Regulated Organizations

The regulation applies to organizations established by foreigners that are formed as:

a. Foreign Foundations, or similar designation, headquartered in a country that has diplomatic relations with Indonesia, which may either manage their funds independently or serve as Implementing Agencies to implement programs on behalf of a foreign donor;

b. Indonesian foundations (yayasan) established by foreign citizens or foreign citizens together with Indonesian citizens; and

c. Indonesian foundations (yayasan) established by foreign entities.

Both independent Foreign Foundations and Implementing Agencies shall be registered at the Ministry of Foreign Affairs (“MOFA”) and will be assigned to cooperate with a specific technical ministry or government institution. For example, an organization working on deforestation may be assigned to cooperate with the Ministry of Environment and Forestry.

❖ Permits Required

In order to operate in Indonesia, Foreign Foundations must obtain the following permits:

a. A principal license issued by the MOFA after obtaining consideration from the Permit Team, which consists of various ministries and government institutions. A principal license is valid for up to three years and can be extended; and

b. An operational license based on a memorandum of understanding (MOU) between the Foreign Foundation and the technical ministry/institution designated by the Permit Team and an annual work plan with the local government. The work plan is not required for Foreign Foundations whose only work will be with the cooperating ministry/institution. Foreign Foundations that already have an MOU and annual work plan with the local government shall be deemed to have an operational license. The validity of an operational license may not exceed the validity period of the principal license.

Indonesian foundations formed by foreign citizens (with or without Indonesian citizens) or by foreign legal entities must obtain a consideration from the Permit Team before being registered as legal entities with the Ministry of Law and Human Rights. The point of requesting the consideration is to ensure that the organization’s purpose and objectives align with the welfare of Indonesians and social good.

❖ Limitations on Personnel

A Foreign Foundation may assign a maximum of three foreign national staff members to support its activities
in Indonesia. Prior to the assignment, the Foreign Foundation shall submit an application for assignment of foreign staff to the ministry/government institution designated by the MOFA. The assignment of foreign staff shall not exceed five years, which may be extended, subject to the provisions of prevailing laws and regulations on manpower and immigration.

Indonesian foundations established by foreign citizens (with or without Indonesian citizens) or by foreign legal entities that intend to employ foreign personnel shall adhere to the prevailing laws and regulations on manpower and immigration.

February 7, 2017

ARFIDEA KADRI SAHETAPY-ENGEL TISNADISAstra

Please contact Johannes C. Sahetapy-Engel [jsahetapyengel@aksetlaw.com] for further information.

Disclaimer:

The foregoing material is the property of AKSET and may not be used by any other party without prior written consent. The information herein is of general nature and should not be treated as legal advice, nor shall it be relied upon by any party for any circumstance. Specific legal advice should be sought by interested parties to address their particular circumstances.

Copyright © 2017 AKSET. All rights reserved.