

CORPORATE SERIES: KEY CONSIDERATION IN ESTABLISHING FOREIGN UNIVERSITY IN INDONESIA

A. INTRODUCTION

Indonesia, as a country with a population of more than 250 million, intends to attract many foreign education institutions to establish higher education such as universities or its equivalent, or make cooperation with local education institutions. This comes with some purposes, some of them are to escalate national education and to attract international students to pursue education in Indonesia.

The establishment of an educational institution must comply with the applicable regulations on the organization and management of educational institutions. In Indonesia, in establishing a Foreign University, its stakeholders (whether individual or legal entity) must form a foundation as a legal entity to run the educational activities. Since educational activities in Indonesia shall be owned by a Foundation, thus educational institution such as a school and university must not aim to generate profits.

B. KEY POINTS ON ESTABLISHING FOREIGN UNIVERSITY

I. Governing Laws

In Indonesia, in order to establish Foreign University, there are several regulations need to be complied with, ranging from the establishment until the operation as an active university.

Establishment of the Foreign University in Indonesia is subject to Law No. 12 of 2012 on Higher Education (“**Higher Education Law**”) and its implementing regulations. Still under the same law, Foreign University must be incorporated by the organizing body which must operate as a non-profit organization such as **foundation**¹. Foundation in Indonesia must be operated in compliance with the Law No. 28 of 2004 on the Amendment of Law No. 16 of 2001 on Foundation (“**Foundation Law**”) and Government Regulation No. 63 of 2008 on Enforcement of Foundation Law (“**GR 63/2008**”). Therefore, this provision has to be complied by the Foreign University stakeholders in order to establish Foreign University in Indonesia.

The Foreign University that will be established in Indonesia may locate in Special Economic Zones (*Kawasan Ekonomi Khusus* or “**KEK**”) area or non-KEK area. This has separate conditions, which for the Foreign University established in KEK area shall be complied to the Minister of Education and Culture Regulation No. 10 of 2021 on Norms, Standards, Procedures and Criteria Risk-Based Business Licensing for Formal Education Units In Special Economic Zones (“**MoEC Reg. 10/2021**”), whilst for Foreign University established

¹ Art. 60 (2) of Higher Education Law.

in non-KEK area will be complied to the Minister of Education, Culture, Research, and Technology Regulation No. 23 of 2023 on Organisation of Higher Education Institutions of Other Countries (“**MoECRT Reg. 23/2023**”).

II. Key Consideration

There are considerations that need to be taken by Foreign University stakeholders when establishing a Foreign University in Indonesia. The following are some of the considerations in order to fulfill the provisions under governing laws:

- (i) the Foreign University must to be established by a foundation **as a non-profit organization**. In order to incorporate a foundation, in case the stakeholder is a foreign national or foreign legal entity, the foundation is required to separate its stakeholder’s personal asset to be the foundation’s asset with minimum amount of IDR 100.000.000 (one hundred million Rupiah)² followed by notarial deed and evidence of the foundation’s wealth;
- (ii) foundation that established by foreign national or foreign legal entity shall have at least 1 (one) board member who is an Indonesian citizen either as chairman, secretary, or treasurer, and must resides in Indonesia;³
- (iii) after the establishment of the foundation, the foundation may be the organizing body of the Foreign University by establishing branch campus of such Foreign University in Indonesia;⁴
- (iv) the Foreign University has to meet the criteria, as follows:
 - Foreign University established in KEK area:⁵
 - i. Foreign University that is ranked among the world's best 100 (one hundred);
 - ii. Foreign University that has fields of study that are ranked among the world's top 100 (one hundred); and
 - iii. accredited and/or recognized by the origin country;
 - Foreign University established in non-KEK area:⁶
 - i. Foreign University that is ranked among the world's best 200 (two hundred); or
 - ii. Foreign University that has fields of study that are ranked among the world's top 200 (two hundred);

unless this is not the case, the competent minister may decide otherwise in accordance with national priorities; and
- (v) the Foreign University shall apply the same curriculum and/or learning outcomes with curriculum and/or learning outcomes that the Foreign University’s origin receives or applies.⁷

² Art. 9 (1) Foundation Law *jo.* Art 6 (2) GR 63/2008.

³ Art. 12 GR 63/2008.

⁴ Art. 5 (1) MoECRT Reg. 23/2023.

⁵ Art. 9 MoEC Reg. 10/2021.

⁶ Art. 2 MoECRT Reg. 23/2023.

⁷ Art. 10 MoECRT Reg. 23/2023.

C. CONCLUSION

The establishment of a Foreign University in Indonesia presents both opportunities and regulatory challenges. As Indonesia seeks to enhance its national education system and attract international students, foreign universities must carefully navigate the country's legal framework.

One of the key requirements is that a foreign university must be established through a non-profit foundation, with specific capital and governance structures in place. In addition, compliance with relevant regulations whether in KEK or non-KEK area is essential. Foreign universities must also meet global ranking criteria and adhere to their home country's academic standards while aligning with Indonesian regulations.

By fulfilling these requirements, foreign universities can successfully establish their presence in Indonesia, contributing to the nation's educational landscape while ensuring compliance with local laws.

Since the establishment of Foreign University in Indonesia has to be done through a non-profit foundation, PRP Law Firm has the experience that could assist the clients in guiding and structuring the best legal way for the benefit of the stakeholders on the establishment of Foreign University while contributing to the better education in Indonesia.

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