



# TaxFlash

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New Negative List of  
Investment: Opening  
New Opportunities for  
Foreign Investment <sup>P1</sup>

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## **New Negative List of Investment: Opening New Opportunities for Foreign Investment**

The Government of Indonesia has just released Economic Policy Package XVI on 16 November 2018 which includes a plan to provide further relaxation to the Negative List of Investment (NLI) 2016.

Based on its public release, the Government noted that the relaxation afforded to 101 business sectors in the last NLI 2016 has been shown to have increased the foreign direct investment commitment by 108.6% and domestic direct investment by 82.5% in the past two years. Nevertheless, it is also noted that there is still room to invite more direct investment considering that only 18% of the relaxed business sectors seem to be attractive for investors whilst the remaining 82% or 83 relaxed business sectors have invited few or no new investment until now.

There are various reasons why these relaxed business sectors may not yet have attracted more investment, among others:

1. The need to improve the socialization of the NLI to investors;
2. The relaxation, especially on the maximum foreign ownership, is not yet seen as sufficiently attractive by foreign investors;
3. There is still a long and manual investment licensing process including the use of qualitative measures and discretion in the licensing process;
4. A significant amount of time was required to fully implement NLI 2016, especially to strengthen the supporting policies and stakeholders, e.g. Online Single Submission Agencies.

Considering the above, to optimize the NLI as a regulatory instrument to improve attractiveness and competitiveness for direct investment as well as to support the development of export and import substitution oriented business sectors, Economic Policy Package XVI has included revision to the NLI 2016 as one of the priorities.

In the new NLI, which the government indicated it plans to issue this year, it is expected that there will be a reduction of the number of regulated business sectors; at the same time, the NLI will widen investment opportunities for cooperative and small and medium enterprises, provide more support to the spread of investment through various economic zones, and offer simpler and clearer means of implementation.

Based on research and information that we have received, it is indicated that the revised NLI will include the following changes, particularly for foreign direct investment:

Status under NLI 2016	Proposed Status under new NLI	Number of Business Sectors
<b>Included in the NLI</b>	Taken out from NLI and therefore allow 100% foreign ownership	54
<b>Reserved for cooperative and small and medium enterprise</b>	Open for foreign investment with partnership/kemitraan requirement	16
<b>Reserved for domestic investors</b>	Open for maximum 51% foreign ownership	7
<b>Maximum 49% foreign ownership</b>	Maximum 51%/67%/75% foreign investment	6
<b>Maximum 67% foreign ownership</b>	Maximum 75% foreign investment	3
<b>Maximum 75% foreign ownership</b>	Require Special Condition for foreign investment	1

In the public release, it is also indicated that the business sectors afforded relaxation for foreign investors include among others the cigarette industry, e-commerce industry, oil and gas construction service, drilling service, power plants above 10 MW, quantity and quality surveyor services, construction machinery rental, data communication system services, fixed and mobile network operators, internet access services and the pharmaceutical industry.

We understand that the new NLI is still in the finalization process at the Coordinating Ministry of Economic Affairs.

We note however that despite the government's stated aim of issuing the new NLI regulation as soon as possible, there have been some reports that this could be delayed as a result of input from the business sector. Investors should therefore continue to monitor progress, and we will provide you with further updates as they become available, and once the new NLI is issued.

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