

28 December 2009

**MINISTER OF ENERGY AND MINERAL  
RESOURCES REGULATION ON  
INVESTMENT CHANGES PURSUANT TO  
CONTRACTS OF WORK AND COAL CONTRACTS  
OF WORK**

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**SUMMARY AND ANALYSIS**

**OF**

**KEY ARTICLES**

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## INTRODUCTORY NOTES

This Summary & Analysis is intended as an overview only of the newly introduced Regulation re Changes of Investment pursuant to Contracts of Work and Coal Contracts of Work (“**CoW/CCoW COI Regulation**”).

This Summary & Analysis reflects our current understanding only of the CoW/CCoW COI Regulation and is subject to change as that understanding develops and evolves.

Many of the points made in this Summary & Analysis are necessarily speculative in nature and subject to further clarification and confirmation. Accordingly, it would be prudent not to rely solely on this Summary & Analysis but, rather, to seek specific legal advice with respect to any issue concerning the CoW/CCoW COI Regulation before making a material business decision regarding the same. **CHRISTIAN TEO & Associates** would be pleased to assist you in this regard. Our contact details are set out below.

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## EXECUTIVE SUMMARY

1. Minister of Energy and Mineral Resources Regulation No. 18 Year 2009 regarding the Change/Alteration of Investment under CoW and CCoW (“**CoW/CCoW COI Regulation**”) was enacted on 19 August 2009.
2. The CoW/CCoW COI Regulation sets out procedures for changing/altering the investment and/or shareholding structure of CoW/CCoW Companies.
3. Pursuant to the CoW/CCoW COI Regulation, CoW/CCoW Companies may change/alter their investment/shareholding structure as follows:
  - (i) change investment and financing source;
  - (ii) change legal status from PMA to become PMDN or vice versa;
  - (iii) change AoA;
  - (iv) change BoD and BoC; and/or
  - (v) change shareholder composition.
4. Each of the changes identified in 3. above requires prior approval from DGoMCG on behalf of MoEMR.
5. In order to obtain the required approval from DGoMCG, the CoW/CCoW company must, first submit to MoEMR cq DGoMCG an application in the form provided in the CoW/CCoW COI Regulation along with certain supporting documents (“**Application**”).
6. DGoMCG will issue either an approval or rejection of the Application within 14 business days.
7. If the Application is rejected, DGoMCG, on behalf of MoEMR, will notify the applicant, in writing, specifying the reason for rejection.
8. Any application to change a CoW/CCoW Company’s investment and financing source, legal status, AoA, BoD/BoC or shareholder structure, that was received by the relevant government authority before the enactment of the CoW/CCoW COI Regulation is to be processed pursuant to the provisions of CoW/CCoW COI Regulation.
9. The CoW/CCoW COI Regulation is intended to (i) provide a clear procedural “path” for CoW/CCoW companies to follow in changing their investment/shareholding structure and (ii) give MoEMR a major supervisory role in overseeing those changes.

## SUMMARY AND ANALYSIS

### 1. ALTERATION OF INVESTMENT

Legal Basis	Remarks
Article 2-3	<p>A. In carrying out its business activities, the Contract of Work (“<b>CoW</b>”) Company and the Coal Contract of Work (“<b>CCoW</b>”) Company may change/alter its investment/shareholding structure.</p> <p>B. The changes to/alterations of investment/shareholding structure referred to above comprise:</p> <ul style="list-style-type: none"> <li>(a) change of investment and financing source;</li> <li>(b) change of company’s legal status from foreign investment company (“<b>PMA</b>”) to become domestic investment company (“<b>PMDN</b>”) or vice versa;</li> <li>(c) change of Articles of Association (“<b>AoA</b>”);</li> <li>(d) change of Board of Directors (“<b>BoD</b>”) and Board of Commissioners (“<b>BoC</b>”); and/or</li> <li>(e) change of shareholder composition.</li> </ul> <p>C. The CoW/CCoW Company must obtain approval from the Director General of Minerals, Coal and Geothermal (“<b>DGoMCG</b>”), on behalf of the Minister of Energy and Mineral Resources (“<b>MoEMR</b>”), for any changes to its investment/shareholding structure referred to in 1 B above.</p>

### 2. CHANGE OF INVESTMENT AND FINANCING SOURCE

Legal Basis	Remarks
Article 4	<p>A. An application (“<b>Application</b>”) for a change of investment and financing source is to be submitted to MoEMR <u>c.q</u> DGoMCG using the standard form of application attached as Annex I A to the CoW/CCoW COI Regulation (“<b>Application</b>”), accompanied by the following supporting documents/information:</p> <ul style="list-style-type: none"> <li>a. basis of/reason for change;</li> <li>b. evidence of payment of fixed fee/deadrent and royalty/Coal Production Fund contribution (<i>Dana Hasil Produksi Batubara</i> or “<b>DHPB</b>”); and</li> <li>c. financial reports for the last 2 years, which have been audited by a public accountant.</li> </ul> <p>B. Provided that the Application and the supporting documents/information are complete and in good order, DGoMCG will issue either an approval or rejection of the Application not later than 14 business days from the date of the receipt of the Application and the supporting documents/information.</p>

Legal Basis	Remarks
	<p>C. If the Application is approved, DGoMCG, on behalf of MoEMR, will approve the change of investment and financing source, using the standard form of approval attached as Annex I B to the CoW/CCoW COI Regulation.</p> <p>D. If the Application is rejected, DGoMCG, on behalf of the MoEMR, will notify the applicant, in writing, specifying the reason for rejection.</p>

**3. CHANGE OF COMPANY'S LEGAL STATUS FROM PMA TO PMDN OR VICE VERSA**

Legal Basis	Remarks
<p>Article 5</p>	<p>A. An Application to change the company's legal status is to be submitted to MoEMR <u>c.g</u> DGoMCG using the standard form of application attached as Annex II A or Annex II B to the CoW/CCoW COI Regulation, accompanied by the following supporting documents/information:</p> <ul style="list-style-type: none"> <li>a. General Meeting of Shareholders' resolution;</li> <li>b. evidence of payment of fixed fee/deadrent and royalty/DHPB;</li> <li>c. financial reports for the last 2 years, which have been audited by a public accountant;</li> <li>d. draft of share sale and purchase deed; and</li> <li>e. deed of establishment and profile of the new shareholders (if the new shareholder(s) is (are) company(ies).</li> </ul> <p>B. Provided that the Application and supporting documents/information are complete and in good order, the DGoMCG will issue, either an approval or rejection, not later than 14 business days from the date of the receipt of the Application and supporting documents/information.</p> <p>C. If the Application is approved, DGoMCG, on behalf of MoEMR, will approve the change of company legal status using the standard form of approval attached as Annex II C or Annex II D to the CoW/CCoW COI Regulation.</p> <p>D. If the Application is rejected, DGoMCG, on behalf of MoMEMR, will notify the applicant, in writing, specifying the reason for rejection.</p>

**4. CHANGE OF ARTICLES OF ASSOCIATION**

Legal Basis	Remarks
<p>Article 6</p>	<p>A. Changes of AoA may comprise:</p> <ul style="list-style-type: none"> <li>(a) Change of company's name and/or domicile;</li> <li>(b) Change of the amount of authorized capital;</li> <li>(c) Change of the amount of issued and paid-up capital;</li> </ul>

Legal Basis	Remarks
	<p>(d) Change of the company's status from private company to become a publicly listed company or vice versa.</p> <p>B. The Application to change the AoA is submitted to MoEMR <u>c.g</u> DGoMCG using the standard form of application attached as Annex III A to the CoW/CCoW COI Regulation, accompanied by the following supporting documents/information:</p> <ul style="list-style-type: none"> <li>a. General Meeting of Shareholders' resolution;</li> <li>b. evidence of payment of fixed fee/deadrent and royalty/DHPB;</li> <li>c. financial reports for the last 2 years, which have been audited by public accountant; and/or</li> <li>d. financing source and the description of the use of the increased authorized and/or issued/paid-up capital (for the change of authorized and/or issued/paid-up capital).</li> </ul> <p>C. Provided that the Application and supporting documents/information are complete and in good order, DGoMCG will issue, either an approval or rejection, not later than 14 business days after the date of the receipt of the Application and supporting documents/information.</p> <p>D. If the Application is approved, DGoMCG, on behalf of MoEMR, will approve the change of AoA using the standard form of approval attached as Annex III B to the CoW/CCoW COI Regulation.</p> <p>E. If the Application is rejected, DGoMCG, on behalf of MoEMR, will notify the applicant, in writing, specifying the reason for rejection.</p>

**5. CHANGE OF BOD AND BOC**

Legal Basis	Remarks
Article 7	<p>A. The Application to change the BoD and BoC is submitted to MoEMR <u>c.g</u> DGoMCG using the standard form of Application attached as Annex IV A to the CoW/CCoW COI Regulation, accompanied by the following supporting documents/information:</p> <ul style="list-style-type: none"> <li>a. General Meeting of Shareholders' resolution;</li> <li>b. evidence of payment of fixed fee/deadrent and royalty/DHPB; and</li> <li>c. financial reports for the last 2 years, which have been audited by a public accountant.</li> </ul> <p>B. Provided that the Application and supporting documents are complete and in good order, DGoMCG will issue, either an approval or rejection, not later than 14 business days for the date of the receipt of the Application and supporting documents/information.</p> <p>C. If the Application is approved, DGoMCG, on behalf of MoMEMR, will approve the change of BoD and BoC, using the standard form of approval attached as Annex IV B to the CoW/CCoW COI Regulation.</p>

Legal Basis	Remarks
	D. If the Application is rejected, DGoMCG, on behalf of MoMEMR, will notify the applicant, in writing, specifying the reason for rejection.

<b>6. CHANGE OF SHAREHOLDER COMPOSITION</b>
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Legal Basis	Remarks
Article 8	<p>A. Change of shareholding composition may be the result of a sale, merger, consolidation, acquisition and/or spin-off of shares.</p> <p>B. The Application to change the shareholding composition is to be submitted to MoEMR <u>c.g</u> DGoMCG using the standard form of application attached as Annex V A to the CoW/CCoW COI Regulation, accompanied by the following supporting documents/information:</p> <ol style="list-style-type: none"> <li>a. General Meeting of Shareholders' resolution;</li> <li>b. evidence of payment of fixed fee/deadrent and royalty/DHPB; and</li> <li>c. financial reports for the last 2 years, which have been audited by a public accountant;</li> <li>d. draft of share sale and purchase deed; and</li> <li>e. deed of establishment and profile of the new shareholders (if the new shareholder(s) is (are) company(ies)).</li> </ol> <p>C. Provided that the Application and supporting documents/information are complete and in good order, DGoMCG will issue, either an approval or rejection, not later than 14 business days from the date of the receipt of the Application and supporting documents/information.</p> <p>D. If the Application is approved, DGoMCG, on behalf of MoMEMR, will approve the change of shareholder composition, using the standard form of approval attached as Annex IV B to the CoW/CCoW COI Regulation.</p> <p>E. If the Application is rejected, DGoMCG, on behalf of MoEMR, will notify the applicant, in writing, specifying the reason for rejection.</p>

<b>7. TRANSITIONAL PROVISIONS</b>
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Legal Basis	Remarks
Article 9	Applications for changes of investment and financing source, legal status, AoA, BoD and BoC and/or shareholder composition, that were received by the relevant government authority before the enactment of the CoW/CCoW COI Regulation, are to be processed pursuant to the provisions of the CoW/CCoW COI Regulation.

**8. CLOSING PROVISIONS**

<b>Legal Basis</b>	<b>Remarks</b>
Article 10	<p>A. The Provisions on the change of shareholders, recommendation for the amendment of the deed of establishment of a company, recommendation for the change of investment and recommendation for expense consolidation, in MoEMR Decree No. 1453 K/29/MEM/2000 dated 3 November 2000, and the provisions on the changes of shareholder composition, as provided for in MoMEMR Decree No. 812 K/40/MEM/2003 dated 23 May 2003, are revoked and deemed to be no longer valid.</p> <p>B. The CoW/CCoW COI Regulation becomes effective as of the date of its enactment.</p>