

Sharia Hotel in Indonesia

By: Meitha Ria

On January 9 2014, the Indonesian government issued a new regulation in the field of tourism, namely the Minister of Tourism and Creative Economy Regulation No.2 year 2014 concerning Guidelines for the Implementation of Sharia Hotel Business ("**Permen Parekraf No.2/2014**") to support the development of Sharia hotels in Indonesia. This ministerial regulation is intended to provide guidance and an understanding of the implementation and certification of Sharia hotel business in Indonesia.

Clearly, both conventional hotels and Sharia hotels are businesses that provide a place to stay for their guests. The main difference between a conventional hotel and a Sharia hotel can be seen in the nature of their services. The main business of a Sharia hotel is, like a conventional hotel, to provide accommodation in the form of rooms in a building that serves food and beverages and offers entertainment or other facilities on a daily basis. However, the Sharia hotel aims to make its profit still based on Islamic principles: principles of Islamic law as approved by Majelis Utama Indonesia.

The Scope of this ministerial regulations include:

1. The classification of Sharia hotel business:
Pursuant to article 5 Permen Parekraf No. 2/2014, Sharia hotel can be divided into two types, namely:
 - a. Sharia Hotel Hilal-1 is a classification for any Sharia hotel business that fulfills all the criteria of Sharia hotels required to serve the minimal needs of Muslim travelers;
 - b. Sharia Hotel Hilal-2 is a classification for any Sharia hotel business that fulfills all the criteria of Sharia hotels required to serve the moderate needs of Muslim travelers.
2. Assessment for the certification of Sharia hotels;
Pursuant to article 6 Permen Parekraf No. 2/2014, the certification of a Sharia hotel is based on an assessment according to specific "absolute criteria" (see below) that apply to certain aspects of sharia hotel business, which include products, services, and management.
3. The implementation of Sharia hotel business certification;
4. Coaching and supervision;

With regard to the above, hotel owners can only run Sharia hotel businesses if they have obtained a hotel business certificate issued by the LSU (certification agent) of Tourism based on the terms and conditions set forth in the ministerial regulation.



For the classification of a hotel as a Sharia hotel hilal-1 or Sharia hotel hilal-2, the absolute criteria mentioned above must be fulfilled. The absolute criteria for Sharia hotel hilal-1 cover:

1. aspect of products: consisting of 8 elements and 27 sub-elements;
2. aspects of service: consisting of 6 elements and 20 sub-elements;
3. aspects of management: consisting of 2 elements and 2 sub-elements.

The absolute criteria that must be fulfilled by a Sharia hotel hilal-2 cover:

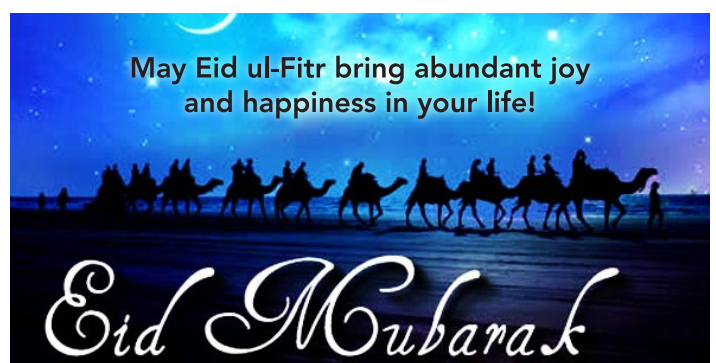
1. aspect of products: consisting of 11 elements and 40 sub-elements;
2. aspects of service: consisting of 10 elements and 28 sub-elements;
3. aspects of management: consisting of 3 elements and 6 sub-elements.

(This absolute and not-absolute criteria can be found in the Appendix of Permen Parekraf No. 2/2014).

In Indonesia nowadays, Islamic-based development is experiencing significant growth, as can be seen by the number of Sharia Banks, Sharia insurance companies, Sharia Hotels and other commercial institutions based on Islamic law. But the development of Sharia hotel business in particular appears is less significant, because of:

1. The lack of self-promotion of Sharia hotels;
2. The comparative lack of facilities in Sharia hotels which would attract more guests;
3. The fact that many people think that Sharia hotels are exclusively for Muslims.

The foregoing are some of the reasons that make the Sharia hotel business in Indonesia less conspicuous than other Islam-based business. The government has therefore issued Permen Parekraf No.2/2014 to support the development and growth of Sharia hotel business in Indonesia.



The Certification of Tourism Business

By: Athalia Devina

The Minister of Tourism and Creative Economy (“**MoTCE**”) has enacted MoTCE Regulation No. 1 of 2014 regarding the Certification of Tourism Business (“**MoTCE Regulation No. 1/2014**”) as mandated in Government Regulation No. 52 of 2012, namely, the Certification of Competency and Certification of Tourism Business (“**PP No. 52/2012**”). According to PP No. 52/2012, there is an obligation to implement standardization of tourism business in (a) tourist attractions, (b) tourism areas, (c) tourist transportation services, (d) tour services, (e) food and beverage services, (f) accommodation, (g) entertainment and recreational activities, (h) meetings, incentive tours, conferences and exhibitions, (i) tourism information services, (j) tourism consultation services, (k) tour leader services, (l) water tourism, and (m) spas.

The enactment of MoTCE Regulation No. 1/2014 aims to regulate and supervise the certification of tourism business by an independent and professional certification institution (“**LSU**”) with objective, credible, and transparent evaluation. The obligations of LSU are to (a) audit, (b) keep tracking the auditors’ performances, and (c) expand the scheme of the certification. There are 6 (six) principles that are implemented by LSU, which are (a) neutrality, (b) competency, (c) responsibility, (d) transparency, (e) confidentiality, and (f) responsiveness.

The procedures for the certification of tourism business as stipulated in article 10 of MoTCE Regulation No. 1/2014 are as follows:

1. the applicant will apply to LSU for the registration form for certification in tourism business, with a copy to Authorization Commission;
2. LSU will assign the auditor team to audit the applicant;
3. the auditor will report the audited report to LSU;
4. LSU will assess the audited report and decide whether to provide a tourism business certificate or not;

Each tourism business which has already obtained a tourism business certificate must exhibit the certificate to the public. The tourism business certificate



will be valid for 3 (three) years from the date of enactment. The certificate must be renewed once it is no longer valid.

MoTCE Regulation No. 1/2014 also makes stipulations about the certification of Sharia tourism business. The certification of Sharia tourism business will be undertaken by *Dewan Syariah Nasional-Majelis Ulama Indonesia*. Requirements and procedures for this certification will also be implemented in the certification of Sharia tourism business.

Mari Elka Pangestu, MoTCE, said there are 54 business activities in tourism that require standardization in relation to the ASEAN Economic Community, and only 3 business activities in tourism had already standardization until 27th February 2014.¹ The purpose of this new standardization is to improve and enhance the tourism industry in Indonesia.

¹ <http://www.tempo.co/read/news/2014/02/28/090558174/AEC-2015-Baru-3-Usaha-Pariwisata-Penuhi-Standar>

Procedures for the Determination of Indicative Map Directions for the Utilization of Production Forest Areas Unencumbered by a Forest Timber Products Utilization Business License

By: Athalia Devina

There are now 130.68 million hectares (“ha”) of extensive forests and waters throughout Indonesia, due to the development and renewal of these areas since April 2011, as observed in a publication by the Ministry of Forestry regarding the National Forestry Plan. Accordingly, these areas are composed of 26.82 million ha of conservation forest, 28.86 million ha of protected forest, 32.60 million ha of production forest, 24.46 million ha of limited production forest, and 17.94 million ha of convertible production forest. The total length of the forest area including outer limits and boundaries between the functions is 281.873 km. The realization of this limit has reached 74,67% or about 222.452 km, predetermined forest area being 14.24 million ha in 2010.¹



The Minister of Forestry (“MoF”) has enacted MoF Regulation No. P.19/Menhut-II/2014 regarding Procedures for the Determination of Indicative Map Directions of the Utilization of the Forest on Production Forest Area which Unencumbered with Forest Timber Products Utilization Business License (“IUPHHK”) (“**MoF Regulation No. P.19/Menhut-II/2014**”). The enactment of MoF Regulation No. P.19/Menhut-II/2014 revoked MoF Regulation No. SK.3803/Menhut-VI/BRPUK/2012 regarding Determination of Provisioning Production Forest Area Indicative Map for the Activity of the Utilization of Forest Timber Products, which was specifically about procedures for determining the indicative map.

The indicative map as stipulated in article 2 (1) of MoF Regulation No. P.19/Menhut-II/2014 is obtained from the results of overlaying the following maps:

1. Provincial forest map provided by the Ministry of Forestry;
2. Distribution map of IUPHHK;
3. Distribution map of the usage of forest (Land-use of Forest Area License);
4. Land coverage map;
5. Indicative map for the postponement of new licenses (“PIPIB”) for forest utilization, the usage of forest area, and changes in the allocation of forest area and other designated area; and
6. topographical map of Indonesia

Article 2 (2) of MoF Regulation No. P.19/Menhut-II/2014 stipulates that the limited production forest is designated for IUPHHK in natural forest or ecosystem restoration IUPHHK, village forest, or community forest. If it is determined that the area of the village forest or community forest is located in a limited production forest area, it will be designated for the cultivation of natural forest. Furthermore, article 2 (3) of MoF Regulation No. P.19/Menhut-II/2014 also stipulates that permanent production forests are designated for IUPHHK in industrial or community plantation forests, in natural forests, village forests, community forests, or for IUPHHK ecosystem restoration.

The limited production forests on PIPIB which are in the form of primary natural forest and/or peat are not included in the direction for utilization, except for IUPHHK ecosystem restoration. In the event that the submission of an IUPHHK application in respect of natural forests, industrial plantation forests or ecosystem restoration has not resulted in a designation of utilization or provisioning, an analysis of macro and/or micro factors must be conducted in the requested area in accordance with prevailing regulations. The result of the analysis of macro and/or micro can be used to give basic directions for the partial utilization or provisioning of forest.

¹ http://www.dephut.go.id/uploads/files/DitRenHut_RKTN_2011.pdf

OJK improves regulations regarding the Assessment of the Soundness Level of Sharia Banks and Sharia Business Units

By: Vinton Rasil Taris

Soundness level assessment is needed for the purpose of keeping the banks' and business units' trust of its clients. Other than that, the soundness level is also an indicator of a bank's performance. By the assessment stipulated in the POJK 8/POJK.3/2014, banks can maintain their performance by evaluating their own soundness level. The assessment method in POJK 8/POJK.3/2014 is one of self-assessment, where Sharia commercial banks are required to assess their soundness both individually and on a consolidated basis (Article 2 point 3 POJK 8/POJK.3/2014).

POJK Number 8/POJK.3/2014 was issued in order to increase assessment effectivity and to adjust to the new assessment approach applied internationally, namely, the Risk-based Bank Rating approach. The assessment of the soundness of banks in Indonesia used to apply the CAMELS approach that examined six factors (Article 6 PBI No. 9/1/PBI/2007): they were; capital adequacy, asset quality, management quality, earnings, liquidity, and sensitivity to market risk. Based on the assessment of those six factors, BI sets the banks rating into 5 ranks in accordance with this following indication (Article 9 POJK No. 8/POJK.3/2014):

Rank 1: Banks and Business Units classified as 'very good' and able to overcome the negative effect of economic conditions and the finance industry.

Rank 2: Banks and Business Units classified as 'good' and able to overcome the negative influence of economic conditions but still have minor weaknesses which can be overcome by daily action.

Rank 3: Banks and Business Units classified as 'quite good' but there are some weakness that may lead to a ratings deterioration if the Banks and Business Units do not immediately take corrective action.

Rank 4: Banks and Business Units classified as 'poor' and 'sensitive' to the negative influence of economic conditions and the finance industry; they also have serious financial weaknesses, or there are a combination of several factors that could jeopardize business continuity.

Rank 5: Banks and Business Units classified as 'very sensitive' to the negative influence of economic conditions and the finance industry: their business continuity is also endangered.

Under POJK Number 8/POJK.3/2014, the assessment is not based on the six CAMELS factors, but rather an assessment of banks and business units based on risk. Article 6 POJK Number 8/POJK.3/2014 states that the assessment scope is based on several factors, which are, risk profile, good corporate governance, earnings, and capital. As mentioned above, the regulation currently issued by OJK is based on a risk factors' assessment, and pursuant to Article 7, point 1, that risk profile is classified or measures on 10 risk categories.



The differences in assessment factors is one of the changes that has been made by OJK to improve the regulation of soundness levels of Sharia banks and Sharia business units. Based on the description above, these changes made by the OJK concerning assessment methods and factors are aimed at creating better governance structures for Sharia commercial banks and business units.

New MoLHR Procedures

By: Rio Rahmat Hidayat



On March 24, 2014, Minister of Law and Human Rights of the Republic of Indonesia ("MoLHR") has issued Regulation No. 4 Year 2014 concerning Application Procedures for legalization of Legal Entities and Approval and Notifications of Amendments to the Articles of Association on Limited Liability Companies [hereafter referred to as "Application Procedures"] ("Permenkumham 4/2014")

This regulation was issued in order to enhance effectiveness in service delivery and to accelerate the process of legalization of legal entities and the approval and Notifications of Amendments to the Articles of Association of Limited Liability Companies.

In principle, the process that is governed by Permenkumham 4/2014 is similar to the MoLHR Regulation No. M-HH-02.AH.01.01 Year 2011 on Application Procedures ("Permenkumham 1/2011").

The application is filed by Legal Entity Administration System ("SABH") organized by the Directorate General of Legal Administration ("Dirjen-AHU"), any applications are now filed electronically to the MoLHR, except if there are conditions where internet facilities are inaccessible, with reference to the Article 31 Permenkumham 4/2014. In this case, the application can be done manually (non-electronically) by attaching a Statement Letter from the Head of the Local Telecom Office, stating that the domicile of the notary has no internet connection yet.

Matters set forth in the regulation are:

LEGAL ENTITY LEGALIZATION

Applications are filed after the applicant pays the cost of administration (which is non refundable) to the designated bank according to applicable law and regulation. After payment been made, the company has 60 days to apply for the use of the company's name.

After the name is approved, the company is entitled to use the name for another 60 days.

Through the SABH, the legalization application must be submitted by completing establishments' form ("Application") along with an electronic statement letter stating that the Application and all supporting document are in accordance with applicable law and regulations. The time limit for the submission of the Application is 60 days after the deed of establishment is signed.

The MoLHR then publishes the decision within 14 days after the approval statement has been electronically received by the applicant. Thereafter, the decree can be directly printed by notary public using a white sheet of paper size F4/Folio weigh 80 grams.

Note: the decree of legal entity legalization as referred above shall be signed, stamped (by related notary) and contains the phrase "Keputusan Menteri ini dicetak dari SABH" (the decree is printed from SABH).

APPROVAL AND NOTIFICATIONS OF AMENDMENTS TO THE ARTICLES OF ASSOCIATION ON LIMITED LIABILITY COMPANIES

The procedures for Legal Entity Legalization apply to the Approval and Notifications, (i.e. with changes as necessary), as follows:

- Applicant to pay the cost of administration fee;
- Applicant to submit the statement letter;
- Completing of the Application form (Amendment Form) along with the supporting documents;
- Observance of the time limits for MoLHR decree Issuance;
- Printing of the MoLHR decree by Public Notary.

The difference between the applications for Legal Entity Legalization and Approval and Notifications consists in the different types of supporting documents for each.

This regulation revokes the previous regulation issued in 2011.