

March 2014

Leks Newsletter



## The Firm

Leks&Co is a multi-services law firm, full of young, dynamic, and intelligent lawyers, operating at a definite quality management system, rendering preeminent and world-class legal services under a specified quality code and core values.

## Our Uniqueness

1. We are young, energetic, and creative lawyers, so that we can provide and deliver a fast and reliable legal service;
2. We emphasize the use of technology in delivering our service;
3. We emphasize our core values in providing and delivering our service;
4. Our office is strategically located at CBD area;
5. We have received numerous award from Global Law Expert, Corporate INTL and Finance Monthly;
6. We provide services to store client's legal document in the online



Dear {FIRST\_NAME},

This is the Leks Newsletter of March 2014. On this issue, you will see legal update and our blogs update. We hope that our newsletter is useful for you.

## Leks News

**Eddy Leks, founder of Leks&Co, presents on “Policy and Legal Framework Affecting Real Estate in Indonesia” at Four Seasons Hotel, Singapore**



server, accessible by our client password protected;

7. We provide useful legal update knowledge through Blogs, Twitter, Facebook, Slide Shares, and other resources;
8. We provide pro bono service for churches and social organizations, and international organizations through Trust Law Connect, run by Thomson Reuters Foundation and also through Mitra Klinik, group of pro bono providers at Hukumonline, leading legal news and education site in Indonesia;
9. We provide one (1) hour free consultation and free trial for retainer services within two (2) weeks;
10. We provide premium service with a cost efficient approach;
11. We are the International Partner of China-ASEAN Legal Cooperation Center;
12. We are member of (i) Eurojuris International, a leading worldwide network of law firms and (ii) International Chambers of Commerce.

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## International Network

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## Awards and Accolades

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**A Legal Column by Eddy Leks, titled “Tantangan Berbeda Bagi Pengembang Properti”, published in Property&Bank magazine, January 2014 edition.**

Eddy Leks wrote a legal column titled “Tantangan Berbeda Bagi Pengembang Properti”. The column is published in Property&Bank magazine January 2014 Edition.

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## Leks Legal Update

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### New Trade Law in 2014

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Finally, trade sector in Indonesia has a new legal framework after 80 years. All this time, the law product that is equivalent to the Law (Undang-Undang) is legal Dutch colonial *Bedrijfsreglementerings Ordonnantie* of 1934 which regulates business licensing. This Trade Law contains 19 Chapters and 122 Articles. The Law also mandates some Government Regulation (PP), Presidential Decree (Decree), and the Minister Regulation.

The definition of trade in this Law is the activities associated with the transaction of goods and/or services within the country and beyond the borders of the country with the purpose of transferring rights of the goods and/or services to obtain a reward or compensation.

### DOMESTIC TRADE

The Government regulates domestic trade activity through



policy and control. Domestic trade policy regulates at least:

- a. harmonizing regulations, standards, and procedures for trade activities between the central and regional and/or inter-regional;
- b. structuring the licensing procedures for the continuity flow of goods;

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## Leks Blog Update

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### Investment Agreement In International Trade Law In Relation To Developing Country

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#### Background



In the development of international law, there is the law that regulates investment efforts related to international trade, which is Trade – Related Investment

Measures or referred to TRIMs within the framework of the World Trade Organization (WTO).

#### Foreign Investment's Negative Impact

Foreign direct investment may incur negative impact to the economy of recipient countries. It has been recognized for a long time that foreign investment has incurred a dispute with the recipient country or the local indigenous people, particularly in developing countries. Another impact is multinational enterprises (MNE) can control or dominate local companies in relation to foreign investment. As a result, they can influence the economic policies or even political policies of the recipient country.

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## Land Ownership by Foreigner

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In the Law Dictionary (Gifis, Steven H.; 1984: 129), derivative action is explained as an action or claim based on the primary right of the company, but performed



by the shareholders for and on behalf of the company. This claim can be filed by the shareholders in the event of failure and losses on the company conducted by the member of directors.

With regards to the definition, the doctrine of law of Munir Fuady in his book “The Modern Doctrines in Corporate Law and its Existence in Indonesian Law” (Doktrin Modern dalam Corporate Law dan Eksistensinya dalam Hukum Indonesia), states that the element of derivative action is as follows:

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### **Summary of Minister of Energy and Mineral Resources Regulation No. 20 of 2013 on Second Amendment to the Minister of Energy and Mineral Resource Regulation No. 7 of 2012 on Added Value of Mineral Through Mineral Processing and Refinery**

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The annual report is regulated under chapter IV in Law No.40 of 2007 on Limited Liability Company (“Company Law”). The following will describe the delivery mechanism of an Annual Report to the GMS.

The directors will prepare an annual report of the company and then report it to the board of commissioners to be reviewed. Afterwards, the report will be submitted to the GMS. The maximum period of the delivery of an annual report to the GMS is no later than 6 (six) months after the company's accounting year ends. It is stipulated under Article 66 paragraph (1) of the Company Law.

Under Article 66 paragraph (2), the annual report shall at least contain the following:

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