

The Indonesian Government Mandates BPJS Membership to Buy Lands and Properties



Starting from 1 March 2022, property buyers have one more item on their to-do list when purchasing properties in Indonesia. Pursuant to Ministry of Land Affairs/National Land Agency Circular Letters (No. HR.02/153-400/II/2022, No. HR.02/164-400/II/2022, and No. 5/SE-400.HK.02/II/2022), buyers must have an active membership in the nation's social security program or BPJS Kesehatan before they can register the right over land or apartment that they have purchased.

In doing so, the government aims to boost the implementation of BPJS Kesehatan and simultaneously enhance public access to quality healthcare. Thus, going forward, the Ministry of Land Affairs/National Land Agency will verify the status of an applicant's membership in BPJS Kesehatan before registering any right over land, pending the implementation of an integrated system between the Ministry and BPJS Kesehatan.

Application

Under the Circular Letters, the membership requirement applies to an individual buyer or recipient of rights over lands and properties regardless of nationality and Indonesian legal entities. For legal entities, they must submit evidence of BPJS Kesehatan membership of its appointed director. The evidence can be a screenshot printout of the buyer's membership status, which is to be delivered when the buyer registers the right over the land or property to the local land office. The buyer must also submit these other documents:

- a. the application form;
- b. a power of attorney (as applicable);
- c. a copy of the applicant's identity details;
- d. a copy of the deed of establishment and legalisation of legal entity status (as applicable);
- e. the original land certificate;
- f. the deed of land sale and purchase;
- g. a copy of the buyer and purchaser's identities;
- h. the land transfer permit (as applicable); and

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- i. evidence of payment of SPPT PBB (land and building tax returns), BPHTB (land and building title transfer fee), and registration service fee.

Buyers with inactive membership or those who are not yet a member of BPJS can still register their right by including a statement letter that states their willingness to activate their membership or evidence of BPJS Kesehatan application. However, bearing in mind the varying practices between land offices, some land offices may not accept these two documents. In any event, buyers can only pick up their registration results by showing evidence of their active BPJS Kesehatan membership.

Upon receipt of the registration application, the head of the land office will coordinate with the local BPJS Kesehatan office to verify the buyer's membership status. While the Circular Letters indicate that such verification is to be done electronically (via a host-to-host electronic system between the Ministry of Land Affairs and BPJS Kesehatan), this is not possible for now, pending the creation of such a system. In the meantime, local land offices are likely to check the membership status based on the printed evidence submitted by the applicants and assisted by the local BPJS Kesehatan office.

Application to Foreigners

As mentioned above, the BPJS Kesehatan membership requirement also applies to foreign citizens. However, it only applies if such an individual has worked in Indonesia for at least six months. Therefore, foreigners who do not work in Indonesia and are not registered as a member of BPJS Kesehatan are ineligible to acquire properties in Indonesia.

This, in our view, resolves the ambiguity regarding the eligibility of foreign citizens to purchase properties in Indonesia, namely under Government Regulation No. 18 of 2021 and Ministry of Land Affairs/National Land Agency Regulation No. 18 of 2021 (which only requires immigration documents such as a visa as prerequisite to purchase properties in Indonesia).

In the case of foreign legal entities with representatives in Indonesia, while they can acquire rights over lands and properties in the country, the Circular Letters do not specify whether the BPJS Kesehatan membership requirement would apply to them.

Key Takeaways

The Circular Letters were a follow-up to President Joko Widodo's instruction to optimise the implementation of BPJS Kesehatan in the country. However, it is difficult to see how an active membership in the social security program is related to the land registration regime. Moreover, the lack of an integrated system to verify membership status may also cause delay and uncertainty in the land registration process.

Further, while this new requirement resolves ambiguity regarding the eligibility of foreign citizens to purchase properties in Indonesia by limiting the qualification of foreign citizens, it may contradict the overarching purpose of simplifying foreign investment under the Omnibus Law. For now, it would seem prudent for buyers to ensure that their membership (or its directors', as applicable) in BPJS Kesehatan is active to prevent any hurdle in the registration process.

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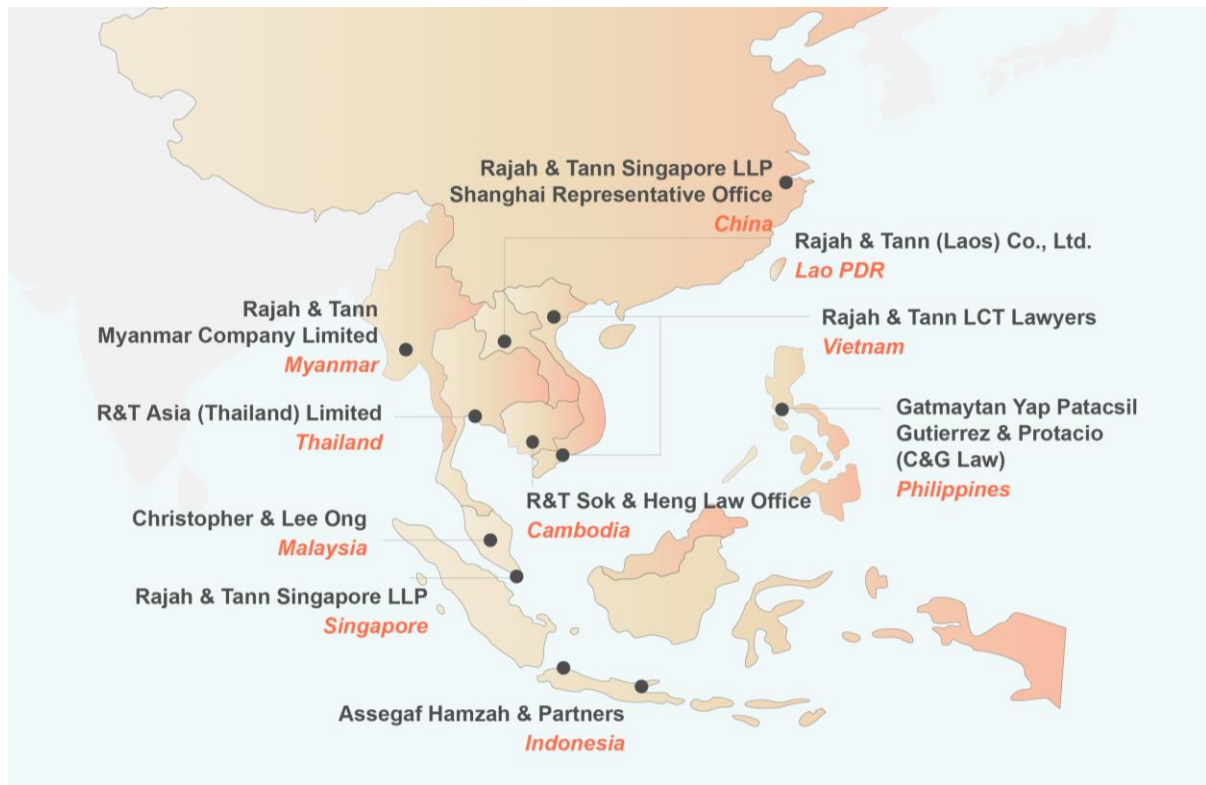
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