Indonesia’s Omnibus Law and New Investment List: New Opportunities for Foreign Investors

In cooperation with

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Webinar – May 27th, 2021
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Discussed today

- Why Indonesia
- Brief introduction to the Omnibus law
- New risk-based approach
### Why Indonesia?

#### Facts and Figures

<table>
<thead>
<tr>
<th><strong>10th</strong> the world’s 10th largest economy in terms of purchasing power parity</th>
<th><strong>4th</strong> most populous country in the world</th>
<th><strong>The world’s third largest market for Facebook</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>GDP of more than $1 Trillion</td>
<td>Population of 260 million, with more than 50% of the population reside in Java</td>
<td>More than 100 Million internet users</td>
</tr>
<tr>
<td>The only ASEAN member in the G20</td>
<td><strong>44%</strong> of Indonesians are aged under 25</td>
<td>Consumer class twice the size of the population in Australia</td>
</tr>
</tbody>
</table>
Top 5 Sectors Receiving Investment

1. Transportation, Warehouse and Telecommunication
2. Housing, Industrial Estate and Office Building
3. Metals, except Machinery and Equipment Industry
4. Mining
5. Electricity, Gas and Water Supply

Top 5 Countries Investing in Indonesia

1. Singapore
2. China
3. Japan
4. Hong Kong
5. Netherlands

Source: BKPM
Top 5 GLOBAL Import & Export Partners (US$ Billion)

**TOP 5 IMPORT PARTNERS**
- China: 44.9
- Singapore: 17.1
- Japan: 15.6
- Thailand: 9.4
- USA: 9.3

**TOP 5 EXPORT PARTNERS**
- China: 27.8
- USA: 17.6
- Japan: 15.9
- Singapore: 12.9
- India: 11.1

Source: Tradingeconomics.com
Top 5 Imports by product

- Machinery including Computers: US$156.7 B (50.7%)
- Electrical Machinery and Equipment: US$19.9 B (12.7%)
- Mineral Fuels including Oil: US$15.9 B (10.2%)
- Plastics and Plastic Articles: US$7.9 B (5.1%)
- Iron and Steel: US$7.9 B (5.1%)
- Others: US$4.7 B

Source: World’s Top Export

Top 5 Exports by product

- Mineral Fuels including Oil: US$39 B (55.8%)
- Animal and Vegetable Fats, Oils and Waxes: US$13.8 B (21.3%)
- Electrical Machinery and Equipment: US$13.3 B (21.3%)
- Footwear: US$7.4 B (13.2%)
- Iron and Steel: US$7.1 B
- Others: US$3.9 B

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Introduction to the **Job Creation Law** (Omnibus Law)

*What Prompted These Sweeping Changes?*
TIMELINE OF THE JOB CREATION (Omnibus) LAW

- **20 October 2019**: Discussions
- **2 April 2020**: 64–65 Discussions
- **7 February 2020**: Ratified by the Legislative Body
- **5 October 2020**: The Omnibus Law is signed by President Jokowi and become effective to public
- **2 November 2020**: The Implementing Regulations of the Omnibus Law are issued, consists of:
  - 45 Government Regulation
  - 4 Presidential Regulation
- **21 February 2021**: Revision of 73 Laws Consist of 1,203 articles
Job Creation Law as an **accelerator** to recovery and growth

- **Job Creation Bill**
  - FDI
  - Land Procurement
  - Strategic National Projects
  - Ease of Doing Biz
  - Employment
  - Economic Zones
  - R&D

- **Economic Transformation**
  - Deregulation
  - Competitiveness
  - Employment
  - FDI improvement

- **National Economy**
  - Growth
  - Equity
  - Security and Safety
  - Competitiveness

- **Indonesia “Maju” 2045**
  - Human development and mastery of science and technology
  - Sustainable economic development
  - Equitable development
  - Strengthening national resilience and governance
Omnibus Law

Law No. 11 of 2020 about Job Creation Law

Government Regulation (GR)

GR No. 5 of 2021 on the Implementation of Risk-Based Business Licenses

Investment Coordinating Board Regulation (Perka BKPM)

Perka BKPM No. 3 of 2021 on the Electronic Integrated Risk-Based Business Licensing System

Perka BKPM No. 4 of 2021 on the Guideline and Procedure for Risk-Based Licensing Services and Investment Facilities

Perka BKPM No. 5 of 2021 on the Guideline and Procedure for the Supervision of Risk-Based Business Licensing
EX – ANTE
To satisfy all requirement in advance

EX – POST
The requirements are verified afterwards
Business sectors affected by the new implemented risk-based approach

<table>
<thead>
<tr>
<th>Energy and Mineral Resources</th>
<th>Health, Medicine, and Food</th>
<th>Education and Culture</th>
<th>Tourism</th>
</tr>
</thead>
<tbody>
<tr>
<td>Religion</td>
<td>Employment</td>
<td>Transportation</td>
<td>Trade</td>
</tr>
<tr>
<td>Agriculture</td>
<td>Marine and Fisheries</td>
<td>Environment and Forestry</td>
<td>Nuclear Energy</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Industry</td>
</tr>
</tbody>
</table>

Postal, Broadcasting, and Telecommunications, Electronic System and Transaction

Public Works and Housing
Risk Level and Licensing Requirements
FACTORS ASSESSED BY THE CENTRAL GOVERNMENT IN DETERMINING THE RISK LEVEL

- Identification of business activities
- Hazard level assessment
- Assessment of potential hazards
- Determination of risk level and business scale rating
- Determination of the business licensing type

FACTORS ASSESSED BY THE CENTRAL GOVERNMENT IN DETERMINING THE RISK LEVEL
**LICENSING REQUIREMENTS BASED ON THE RISK LEVEL**

<table>
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<tr>
<th>Risk Level</th>
<th>Requirements</th>
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</table>
| Low Risk         | • Business Identification Number (NIB) for operational and commercial activities.  
                    • NIB also serves as: Importer Identification Number, Customs Access Right, Halal Guarantee Statement (only for low-risk small and medium enterprises), Environmental Management and Monitoring Capability Statement Letter (for low-risk only).  
                    • Example: wholesale distributor |
| Medium-low Risk  | • Shall obtain a NIB and Standard Certificate before commencing the business operation.  
                    • Standard Certificate is a statement and/or evidence of the fulfillment of certain business implementation standard.  
                    • For medium-low risk business, the Standard Certificate is in the form of a self-statement.  
                    • Example: Consulting activity and the design of Internet of things |
| Medium-high Risk | • Shall obtain a NIB and an unverified Standard Certificate before commencing the business’ preparation stage.  
                    • The Government Agency will verify the Standard Certificate, whether the business has fulfilled specific business standards.  
                    • After a verified Standard Certificate is issued, the business is allowed to commence its operation/commercial activities.  
                    • Example: Freight forwarding, building construction |
| High-Risk        | • NIB for preparation stage.  
                    • Licenses, in the form of approval by the Central or Regional Government for the implementation of business activities.  
                    • The license will be issued after the satisfaction of all requirements for the relevant business activities has been verified (e.g. Environmental Impact Analysis – AMDAL), and thus may commence its operational and commercial activities.  
                    • Please note that for some business activities, a Standard Certificate may also be required.  
                    • Example: web portal/e-commerce platform operator for large business scale (minimum authorized capital IDR 10 B/USD 720,000), private hospitals |

Note: the categorization of business and its risk level are listed under annexes of GR 5/2021
Preparation Stage

- Land acquisition
- Building construction (after the environmental license has been issued)
- Procurement of tools or facilities
- Recruitment of manpower
- Fulfilment of business standards
- Conducting feasibility studies
- Financing operations during the construction phase

Operational & Commercial Stages

- Production/provision of goods/services
- Logistics and distribution of goods/services
- Marketing of goods/services
- Other operational and commercial stage activities
## SUPERVISORY MEASUREMENT OF THE RISK-BASED BUSINESS LICENSING

<table>
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<tr>
<th>Regular Supervision</th>
<th>Incidental Supervision</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Will be carried out periodically based on the level of risk of the relevant business activities with due consideration of the level of compliance by the business.</td>
<td>• The incidental supervision will be conducted based on the report from community and/or business actors.</td>
</tr>
<tr>
<td>• Will be conducted through company’s business report (realisation of investment and manpower, and an annual report on the realisation of production, corporate social responsibility, partnership, training and technology transfer) and field inspection.</td>
<td>• Incidental supervision will be carried out by the relevant ministries, governmental agencies, provincial regions, regency/city governments, Special Economic Zone administrators, and/or Free Trade Zone Free Port (FTZFP) on an ad-hoc basis.</td>
</tr>
<tr>
<td>• Field inspection:</td>
<td>• The incidental supervision can be conducted through a field inspection or through virtual.</td>
</tr>
<tr>
<td>➢ Low &amp; Medium-low Risk: once a year/business location</td>
<td></td>
</tr>
<tr>
<td>➢ Medium-high &amp; High Risk: twice a year/business location</td>
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