

New Jobs Creation Omnibus Law Signed



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One of the hottest topics in the Indonesian news these days is the recently signed Jobs Creation Law, commonly referred to as the “[Omnibus Law](#)”. Indonesian parliament passed the Omnibus bill on 5 October 2020, which was signed by the President on 2 November 2020. In the final deliberations leading up to its passage, concessions were made to further change the originally proposed section relating to worker severance, which made some of the previously proposed changes less radical.

Nonetheless, there have been frequent public demonstrations against the Omnibus Law. We should keep an eye on the one remaining constitutional avenue through which the Law can still be challenged, being a judicial review in the Constitutional Court.

This Omnibus Flash is the first in what will be a series of “Omnibus Flashes” to be issued by PwC Indonesia’s thought leaders to help our readers understand and interpret the changes and potential related business and societal implications. We will of course also help you keep up with and decipher the myriad of forthcoming regulations that will be necessary for implementation.

Setting the Stage – How did we get here?

On Sunday 14 July 2019, in front of his supporters, President elect Joko Widodo unveiled his vision for Indonesia in the 2019-2024 period, which will be his second – and final – term as president of Southeast Asia’s largest economy. In his speech there were five (5) key inter-related subjects that will be his government’s main focus of attention in this period: reforming bureaucracy, infrastructure development, investment realization, development of human capital, and efficient use of the state budget.

Three months after that, on 20 October 2019, at his inauguration ceremony President Joko Widodo outlined his vision for Indonesia 2045 (the country’s centennial anniversary). He reiterated and highlighted five big initiatives: developing a dynamic and hardworking workforce, industry cooperation and technology, continuing infrastructure development and simplifying regulations by creating two omnibus laws, one on job creation and the other

on small business empowerment (these two subsequently were unified into one omnibus law and new features were added, covering a new risk-based assessment business licensing system, various measures for ease of doing business, as well as provisions on investment by Central Government through sovereign wealth fund and the acceleration of certain national strategic projects). The President also spoke on continuing government reforms by streamlining bureaucracy and pushing for economic transformation.



It is no secret that one of the big complications in the country's investment environment is excessive regulation, not only at the central government level but also at the regional level. In terms of investment, the ease of doing business must be changed. According to the latest World Bank ranking, Indonesia's level of ease of doing business is ranked at number 73 of more than 180 countries. The President's vision is for Indonesia to become a more efficient country, a more developed country, towards which he aims to reach below level 55 or even 40 in the ranking. In the government's view, if the current laws cannot be changed, Indonesia cannot become more efficient for business and investment and there is a danger that Indonesia will get stuck in the middle-income trap in 2030, as it misses out on its demographic-bonus.

In the current state many examples of overlapping regulations can be found, issued by different ministries or other government agencies at the central and regional government level. It is a situation that causes uncertainty for investors and businesses and quite often leads to delays – or even cancellations – of investment projects. It was estimated by BKPM that more than USD \$120 billion¹ worth of capital in the investment pipeline over the

¹ Antara 12 November 2019 published Chairman of BKPM's statement that IDR700 trillion investment plans were not realized because of regulations and other hurdles. Prior to that in early 2015, BKPM announced IDR 400 trillion of investment commitments had failed for the same reasons. (Kontan 22 January 2015). Also, in 2015 BKPM revoked 7.811 investment permits issued between 2000 to 2006 due what they called "unrealized plans", valued around 584 trillion. (BKPM's Presentation 7 July 2015)

past several years failed to materialize due to excessive regulation. Ineffective coordination and cooperation between government institutions make it very difficult for investors to manage their regulatory affairs. From this perspective, the President and the parliament endorsed the Omnibus Law after almost 20 previous reform packages that were launched by the President between 2015 to 2019 failed to achieve the desired results.

The Omnibus Law is designed and written to amend 76 existing laws and eliminate 4,451 central government regulations and 15,965 regional government regulations. Most of the content of the Law is intended to stimulate domestic and foreign investment by removing bureaucratic red tape that has long stalled competitiveness. Through the process of conventional law-making it would have taken years and perhaps decades to revise all laws and regulations. In an economy which is hindered by a recession, Indonesia needs huge investments to boost growth and create jobs, in order to reduce poverty and income inequality. While some argued that the timing is not ideal, reform to Indonesia's bureaucracy and regulatory system is long overdue. Also, one of the key factors in enabling jobs growth is policies that allow businesses to diversify or restructure.

Signing of the Omnibus Law and the Way Forward

This Omnibus Law has created heated debate and controversy in the public sphere since the Government submitted the bill to the parliament on 12 February 2020. Critics have been arguing that the Government has not involved all the stakeholders who will be impacted by these laws.

The parliament passed the Omnibus bill on Job Creation on 5 October 2020, including the aforementioned last-minute changes to the section relating to worker severance. In the deliberation, the bill received wide support from seven political parties compared to only two that were against it. It has now been signed by the President and has the full force of law from 2 November 2020.

However, this may not be the end of the story. There remains one constitutional avenue through which the Law can still be challenged. We are hearing that the opponents of the Law plan to submit a petition for judicial review in the Constitutional Court. The result of such judicial review may lead to modifications of the Law, so there remains a risk that the desired economic impact could be much less than initially anticipated.



The Omnibus Law consists of 11 clusters, 15 chapters and 186 articles. Clusters covered are:

1. Relaxation of licensing requirements;
2. Investment growth;
3. Employment and Labour;
4. Ease (in obtaining permits) for empowerment and protection of MSMEs;
5. Ease of doing business;
6. Research and innovation;
7. Government administration;
8. Imposition of sanctions and penalties;
9. Land procurement;
10. Government investment and national strategic projects;
11. Economic Zones.

The Omnibus Law is a bold initiative. It will need a massive process of synchronisation of existing laws, including the issuance of new implementing regulations² and revision of certain other regulations in the spirit of harmonization at central, regional and municipal levels. It is expected that a total of nearly 40 government regulations and presidential decrees or regulations could be passed within the next three (3) months (noting that while the actual law is silent on this point we assume the timescale would be three months after the Omnibus Law is signed by the President and takes full effect).

Because these implementing regulations will be key in ensuring that the Omnibus Law can be implemented effectively and achieve its intended purpose, supporting regulations will need to be issued in a timely manner. The Indonesian bureaucracy has never faced such a herculean task!

There is a long road ahead, and it is unfortunate that most headline stories in the media about the newly passed law mostly singled out the most controversial aspects among the hundreds of articles in the Omnibus Law, helping to increase public protest toward what could be lauded as the most comprehensive economic reform ever launched in Indonesia.

In fact, many of the details of the various laws which have been amended by the Omnibus Law are still not finalised, but as they become clear, PwC Indonesia plans to bring you objective explanations and analysis of the content of the Law and related regulations and the expected contribution to delivering President Jokowi's vision of increasing Indonesia's competitiveness.

² In Indonesia there is a hierarchy of regulations starting with law (*Undang-undang*) and Government Regulation In Lieu of Law (*Perpu*), then presidential regulation, government regulation, ministerial regulation and further layers at regional government level.

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