

Omnibus Law to Support Micro, Small, and Medium Enterprises

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Under the recently issued Law No. 11 of 2020 on Job Creation (“**Omnibus Law**”), Chapter V contains changes to : (i) Law No. 25 of 1992 on Cooperatives (“**Cooperatives Law**”); (ii) Law No. 20 of 2008 on Micro, Small, and Medium Enterprises (“**MSME Law**”); and (iii) Law No. 38 of 2004 on Road (“**Road Law**”). These changes are designed to further support MSME to build a stronger Indonesian grass roots economy.

MSMEs are one of the most important drivers of the Indonesian economy. Based on the Central Bureau of Statistics in Indonesia, MSMEs contributes 60.3% of Indonesia’s gross domestic product. They also absorb 97% of workers and provide 99% of the field of work in Indonesia. These figures make it clear that the growth and development of MSMEs shall have a significant impact on future Indonesian economic development.

However, the above quoted laws and/or regulations relating to MSMEs needed improvement to further support the establishment and development of MSMEs in Indonesia.

The changes in the laws and/or regulations as stipulated in the Omnibus Law are expected to provide a clearer path and better ecosystem for MSMEs to thrive in Indonesia.

We summarise below some of the highlights on MSMEs under Chapter V of the Omnibus Law.

MSME Criteria

There is an expansion of MSME criteria. Previously, there were only two criteria (i.e. net assets and sales revenue) for categorising a company as an MSME. Such previous criteria also stipulated the threshold of said net assets and sales revenue for each Micro, Small, and Medium Enterprises.

The Omnibus Law expands such criteria. This expansion includes the following to be added to the MSME criteria:

- a. Business capital;
- b. Turnover;
- c. Net worth indicators;
- d. Annual sales results;
- e. Investment value;
- f. Incentives and disincentives;
- g. Application of environmentally friendly technology;
- h. Local content; and
- i. The number of workers.

This expansion of criteria should mean that more businesses can be categorised as MSMEs. Having said that, it remains to be seen because more details on those criteria will be further regulated in a Government Regulation.

Easing the Path to Financing

The new law has a number of provisions that should make it easier for MSMEs to obtain financing. In particular:

- a. **Legal certainty on financing** – There is a clearer obligation for state-owned enterprises, national and foreign large enterprises to provide financing for Micro and Small Enterprises (“**MSE**”) in the form of loans, guarantees, grants, and other forms of financing. Previously, the former regulation used the word “may” in place of “to” provide. The use of “to” provides more certainty regarding this financing obligation. Moreover, such obligation also makes things clearer for the Central and Regional Governments, along with the business community, in terms of providing grants, seeking foreign assistance and other legal and non-binding sources of financing for MSE.
- b. **Ease of financing facilitation** – The Omnibus Law enables MSEs to use their business activity as a program credit guarantee in obtaining financing. This is one of the new special treatments given to MSEs.
- c. **Special Allocation Fund** – This is a new provision for MSMEs stipulated under the Omnibus Law, whereby the Central Government allocates a Special Allocation Fund to support funding for Regional Government in the context of MSME empowerment and development activities.

Other Special Treatments

The Omnibus Law contains a number of additional benefits for MSME’s, as follows:

- a. **Partnership** – An obligation for certain parties to partner or cooperate with MSMEs has been imposed. Such parties are as follows:
 - 1) Government
The Central and Regional Governments are obliged to facilitate partnerships between medium and large enterprises with MSEs and Cooperatives. This obligation aims to improve the competence and business level of MSEs and Cooperatives. Moreover, the Central and Regional Governments must not only facilitate, but also provide incentives and facilities in the framework of a partnership, as well as further supervising and evaluating the implementation of such partnerships.

2) Others

The Omnibus Law obligates that (i) public infrastructure companies; and (ii) toll road companies, provide space for the promotion and development of MSEs (for public infrastructure companies) and MSMEs (for toll road companies) of at least 30% of the total shopping/commercial area within their premises.

- b. Business Licensing** – The Omnibus Law emphasises the ease of Business Licensing by implementing a centralised system. All guidelines, requirements and/or procedures will be regulated by and centralised back to the Central Government in order to harmonise and synchronise Business Licensing and to avoid overlapping permits. Moreover, the Omnibus Law tries to alleviate the complicated procedure of Business Licensing for MSEs by simplifying the requirements. MSEs will only need to submit (i) national ID (*Kartu Tanda Penduduk*); and (ii) a business certificate (*surat keterangan berusaha*) from the neighbourhood level (*rukun tetangga* or RT) in order to obtain a business license. These documents are to be submitted online, and a single business number will be issued for MSEs upon registration and shall apply to all business activities (including Business Licensing, Indonesian National Standard, and halal product guarantee certification).



- c. Incentives** – Incentives are given for financing, taxation, and fiscal affairs, and in the form of free or fee relief, customs incentives and income tax incentives in accordance with applicable laws and regulations. For Micro Enterprises, they come in the form of tax administration facilities/simplifications in submitting financing facilities along with income tax incentives; and for MSEs, they take the form of free of charge or fee waivers for Business Licensing, customs incentives specifically for export-oriented MSEs, and ease of importing raw and industrial supporting materials for import-oriented MSEs.
- d. Intellectual Property Rights** – The Omnibus Law enables and authorises the Central and Regional Governments to simplify the process of registration and the financing of intellectual property rights. However, further details with regards to this provision will come with issuance of regulations.

- e. **Other assistance and/or special allocation** – There are a few other types of assistance or special treatment that shall be given by the Government, as follows:
- 1) Legal assistance;
 - 2) Central and Regional Government shall allocate at least 40% of domestically produced goods and services to MSEs and Cooperatives; and
 - 3) Financial accounting/accounting system/application training and assistance.

New Program: Incubation

The Omnibus Law creates an incubation program for MSMEs which aims to:

- a. Create new businesses;
- b. Strengthen and develop the quality of MSMEs in terms of economic value, and making them more competitive; and
- c. Increase the added value management of economic potential through science and technology utilisation.

The incubation program can be carried out by:

- a. Central Government;
- b. Regional Government;
- c. Universities;
- d. The business community; and/or
- e. Communities.

The stipulation of various stakeholders, as above, suggests that the Omnibus Law intends to create and develop MSMEs to achieve a higher level of competition. Moreover, the Omnibus Law also provides a clear obligation for the Central and Regional Governments and the business community to enhance the capacity of MSMEs and their ability to access:

- a. Alternative financing;
- b. Partnership funds;
- c. Government grants;
- d. Revolving funds; and
- e. Corporate social responsibility.

Cooperatives

Some of the provisions that apply to Cooperatives are as follows:

a. Establishment and Operation

- 1) **Member** – There is a reduction in the member requirement for the establishment of Primary Cooperatives, from 20 down to only 9 people.
- 2) **Ease of conducting meetings** – In order to accommodate the development of technology, whereby the utilisation of technology is aimed at enhancing the quality of businesses, the Omnibus Law provides a clearer legal basis for Cooperative member meetings to be held online.
- 3) **Purpose and objectives** – This provision enables Cooperatives to be either single-purpose or multi-purpose Cooperatives, aimed at attracting more people to join Cooperatives as members.

b. Sharia-based Cooperatives – The law provides a clearer legal basis for Cooperatives to apply Sharia principles, as follows:

- 1) There is a clear legal basis whereby Cooperatives can be carried out based on Sharia principles.

- 2) In addition to having the general organisational instruments (e.g. member meetings, management, and supervisors), Sharia-based Cooperatives are required to have a Sharia supervisory board consisting of one or more people who understand Sharia principles. The Sharia supervisory board must provide advice and suggestions to the management and is required to supervise in order to ensure that Sharia principles are being complied with by the Cooperatives in conducting their activities.

What it all means

The above outlined changes as stipulated under the Omnibus Law should create a better ecosystem for MSMEs in Indonesia and result in a surge of MSME establishment and development. However, the changes above will require more specialised implementing regulations in the respective fields in order to be implemented correctly. The intended end result is to advocate for a stronger Indonesian economy, decreased unemployment, and more accessible investment opportunities. MSMEs will have an enhanced opportunity to get the tools to better compete with the big players and grow to become large enterprises themselves.

In respect of the above, PwC Indonesia can help you work through the new rules and providing comprehensive regulatory and legal assistance for your business, which could include the establishment of legal entities, licensing assistance, preparing and finalising agreements and legal documentation, and other legal assistance services in relation to MSMEs.



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