

## The Disguise of Cyber Crime in Illegal Investment Entities Post the Reformulation of Law No. 11 of 2020 Concerning Job Creation in Indonesia

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### ABSTRACT

*This research delves into cybercrime in the post-truth era, where falsehoods are often masked as truths. This phenomenon, known as "talbis talbis," gives rise to illegal activities in the cyber world that exploit cybercrime scams such as phishing, pharming, sniffing, money mule, and social engineering. Despite being harmful, online fraud crimes are sometimes perceived positively by the public. Data from the Ministry of Communication and Information of the Republic of Indonesia in 2022 indicates that a majority of respondents have experienced online digital fraud, especially through fake gift schemes and illegal online loans. The Financial Illegal Activity Eradication Task Force (PASTI) has blocked illegal financial entities, including bogus investments and illegal online loans. Illegal investment crimes primarily rely on duplicating licensed entity websites, deceiving the public with promises of high returns. This study reveals the modus operandi of domestic illegal investment crimes and compares them with regulations governing foreign direct investment. The conclusion emphasizes the need for assertiveness from PASTI and the Investment Alert Task Force of the Financial Services Authority in supervising and providing legal protection for legal foreign direct investment activities in Indonesia.*

**KEYWORDS** SMMA, Brand awareness, Brand image, Perceived quality, Brand loyalty



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### INTRODUCTION

One of the goals of establishing a state government is to promote the general welfare. This mandate is outlined, among other things, in Article 33 of the 1945 Constitution of the Republic of Indonesia and serves as a constitutional directive underlying the formation of all legal regulations in the economic field. The constitution mandates that national economic development must be based on democratic

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principles capable of achieving Indonesia's economic sovereignty. The connection between economic development and grassroots economic actors is further solidified by the People's Consultative Assembly Decree No. XVI of 1998 on Economic Politics in the Framework of Economic Democracy as a material legal source. Thus, the development of capital investment for micro, small, medium-sized enterprises, and cooperatives becomes part of the fundamental investment policy. In connection with this, capital investment must be an integral part of the management of the national economy and positioned as an effort to enhance national economic growth, create job opportunities, promote sustainable economic development, enhance the capacity and capabilities of national technology, encourage grassroots economic development, and realize the well-being of the community within a competitive economic system. The achievement of investment management goals can only be realized if supporting factors hindering the investment climate can be overcome, including improving coordination between central and regional government agencies, creating an efficient bureaucracy, ensuring legal certainty in investment, maintaining a high-competitive economic cost, and fostering a conducive business environment in labor and business security. With improvements in these various supporting factors, it is expected that the realization of capital investment will significantly improve.

In the development of legal principles in Indonesia, two types of law are known: general criminal law, special criminal law within the Criminal Code (KUHP), and special criminal law outside the KUHP. The KUHP is divided into three books: Book I contains general provisions, Book II covers crimes, and Book III addresses violations. Book II regulates all threats of criminal sanctions for crimes against national security, crimes against the dignity of the president and vice president, public order, fights, crimes endangering public safety, crimes against the government's power, false testimony, morality, defamation, and others. In the cluster of Book II of the Criminal Code (KUHP), there are articles on fraud and embezzlement, Articles 372-377, and fraud, Articles 378-395. From the development of special laws within the KUHP, laws outside the KUHP were created, related to fraud or embezzlement of investment funds regulated in Law No. 25 of 2007 concerning Investment. Because general law cannot address issues of changing crime and new modus operandi, special laws outside the KUHP are established to provide protection to the public. In the legal development, it turns out that Law No. 25 of 2007 is considered inadequate in addressing issues of foreign investment, and there are still many new regulations that need to be included in the legal text, as criminal methods continue to evolve with technological advancements (Agiyanto, 2018). Therefore, in 2020, the government amended the investment law with the omnibus law on Job Creation (Cipta Kerja Law) Law No. 11 of 2020. This omnibus law regulation is currently being implemented as a legal source for investment in Indonesia as a refreshing course.

One consideration for investors when investing in a country is legal certainty. Legal certainty encompasses the clarity of regulations in legislation and assurance in law enforcement. The Omnibus Law is a concept designed to streamline overlapping regulations by creating a new comprehensive regulation. Omnibus Law is intended to organize regulations to ensure clarity in legislation. This journal article

discusses "how to organize investment regulations with Omnibus Law" and "the impact of regulatory organization on investment growth." To address these issues, this research is conducted using the normative legal research method. In this normative legal research, primary legal materials and secondary legal materials are used (Barda Nawawi Arief, 2018).

The research findings indicate that the organization of investment regulations began with the enactment of Law Number 25 of 2007 concerning Investment, and the organization through Omnibus Law was prepared in 2020. The organization of investment regulations can provide legal certainty from a regulatory perspective, but it may not necessarily guarantee legal certainty from a law enforcement perspective. The scholarly legal approach can be interpreted as a method and procedure based on logical thinking or a specific thinking orientation. Legal perspectives can vary, leading to the frequent use of diverse terms such as juridical, normative, dogmatic, legalistic, empirical, sociological, historical, comparative, philosophical, policy-oriented approach, value-based approach, national perspective, global perspective, partial approach, and systemic and integral approach.

In the formation of investment legislation, now known as Omnibus Law, a combination of various legal regulations is consolidated into one legal cluster. The growth of investment is not only determined by the organization of regulations but is also influenced by a conducive climate for investment, including security, ease of doing business, incentives, and the economic conditions of a country. Amidst the organization of regulations for foreign and national investment, many new criminal methods involve entities that appear as legitimate businesses in the context of foreign and national investment funds, with many operating illegally by responsible parties (Arief, 2011).

Investment companies that were previously detected by the Financial Illegal Activities Eradication Task Force of the Indonesia Financial Services Authority revealed indications of crimes in the investment sector. The Task Force also received complaints about illegal financial entities, including 8,991 complaints about illegal online lending (pinjol) and 388 complaints about illegal investments. From 2017 to October 31, 2023, the Task Force has blocked 7,502 illegal financial entities, consisting of 1,196 illegal investment entities, 6,055 illegal online lending entities, and 251 illegal pawn entities. In addition to blocking, the Task Force also found 47 bank or virtual account accounts reported in connection with illegal online lending or pinjol activities (Solikin, 2014). The Secretariat of the Task Force, Hudiyanto, stated that they have requested the banking supervisory unit at the Financial Services Authority to block specific accounts and then instructed the relevant banks to carry out the blocking. This action is based on the provisions of the Law on the Prevention and Eradication of the Criminal Act of Money Laundering (UU PPSK), which empowers the Financial Services Authority (OJK) to instruct banks to block certain accounts. This effort is necessary to further suppress the development of illegal online lending in Indonesia, as stated by Hudiyanto in a written statement on Saturday (November 11, 2023). In addition to blocking bank accounts or virtual accounts, Hudiyanto mentioned that the Task Force also found phone numbers and WhatsApp accounts of debt collectors associated with illegal online lending who

were reported to have made threats, intimidation, and other actions contrary to regulations. In response to this, the Task Force has submitted requests to block 362 phone numbers and WhatsApp accounts to the Ministry of Communication and Information of the Republic of Indonesia (Sulaiman, 2016).

In the previous year, there was a list of 11 investment offers halted by the OJK SWI. The companies whose operations were stopped include the duplication of PT Overseas Commercial Future (the cessation of PT Overseas Commercial Future's activities was announced through a press release for engaging in forex trading without permission), <https://2021.co.id/aplikasi/aplikasi-dompet-ajaib/> (an illegal blog website impersonating and duplicating the activities of PT Takjub Teknologi Indonesia (Ajaib)), Btrado (unauthorized robot trading investment offer), PT Nofal Invesment (investment offer without permission with forged authorization from the Financial Services Authority), Cameto (Money Game), WPP Group berbagi/Shar-ing33.com, Sharing11.com, Sharing22.com (Money Game), SmartClicks.io/ PT AVA Sukses Sejahtera (unauthorized crypto asset investment offer). SYW (Step In Your Wealth) (Money Game/Crypto Asset without permission by impersonating SYW (Step In Your Wealth)), BTC-FINANCIALTRADING (unauthorized crypto asset investment offer by impersonating BTC-FINANCIAL TRADING), UMI CRYPTO INVESTASI (crypto asset investment offer with forged authorization from the Financial Services Authority), PT ZIV CRYPTO INDONESIA.

As a developing country, Indonesia faces a significant challenge in terms of capital. Capital is divided into two, namely domestic capital and foreign capital, commonly referred to as debt. In its development, Indonesia tends to opt for instant and quick methods to finance the economy by utilizing foreign debt. The use of foreign debt, both in the short and long term, will affect the economy. Another indicator related to capital is Foreign Direct Investment (FDI) as a symbol of direct investment by multinational companies, Domestic Savings as a symbol of domestic capital independence, and Debt Service Ratio as an indicator of Indonesia's ability to pay principal and interest on foreign debt (Manan et al., 2021). The purpose of this research is to determine how the variables of Foreign Debt, Foreign Direct Investment, Debt Service Ratio, and Domestic Savings influence Indonesia's economic growth from 2001 to 2011. The data analysis in this study uses the Multiple Linear Regression Method. Hypothesis testing is conducted partially (t-test), simultaneously (F-test), and Coefficient of Determination Test (R<sup>2</sup>). Classical Assumption Tests include Normality, Multicollinearity, Heteroskedasticity, and Autocorrelation. The data used in this research are Foreign Debt data (Government, Central Bank, and Private), Foreign Direct Investment, Debt Service Ratio, and Domestic Savings Levels for the years 2001–2011. The research results show that all independent variables, namely Foreign Debt, Foreign Direct Investment, Debt Service Ratio, and Domestic Savings, have a significant influence on Indonesia's economic growth represented by the GDP variable. Foreign Debt and Domestic Savings variables have a significant positive impact on GDP, while Foreign Direct Investment and Debt Service Ratio variables have a significant negative impact on GDP (Sugandhi & Penjelasannya, 1981).

Previously, the Financial Services Authority of the Republic of Indonesia's Investment Alert Task Force exposed illegal investments. Out of the 99 entities, 87

were involved in Illegal Futures Trading or Forex, 2 in Illegal Direct Selling, 3 in Illegal Cryptocurrency Investment, 3 in Illegal Money Investment, and 4 others. The public needs to be cautious about these illegal investments, even if they offer attractive and seemingly legal and logical returns. Inquiries about legal status and activities should be made, and the rationality of the returns should be examined. (Chairman of the Investment Alert Task Force Togam L Tobing, Friday (3/7/2020)). The Investment Alert Task Force has once again released the latest list of fraudulent investments in September 2020. At least 32 illegal investments are included in the list. These 32 illegal investments are suspected of operating without permission from the competent authorities. These entities are considered potentially harmful to the public as they engage in fraud by offering very high and unreasonable returns. Additionally, many of these entities duplicate the websites of authorized entities, creating an impression that these websites are officially owned by authorized entities. This information was officially reported by the Chairman of the Investment Alert Task Force, Tongam L. Tobing, in a press release held on Friday (25/9/2020). One of the entities closed down was the Alimama Indonesia application (almm.qdhtml.net), which gained attention due to suspected fraud involving the collection of funds to obtain shopping bonuses. In more detail, here is the list of 32 illegal entities handled by the Investment Alert Task Force. (Kompas.com-25/09/2020).

1. Koperasi Produsen Mitra Wira Terpadu (My Win Trade).
2. Lucky Star/Sian-Sian Fortune
3. Bossque
4. Perkumpulan Pengusaha Digital Aset Internasional (PT Digital Aset Development Indonesia
5. Streammity/Cannis
6. Lucky Trade Community (LTC)
7. PT Recovery Investasi Dana Online
8. Super-IBS (Super Ikhlas Berbagai Sosial)
9. Amethyst.asia Baca juga: Ini Jadwal dan Cara Pencairan SBR008 Sebelum Jatuh Tempo
10. Play 100 Club/<https://play100.club>
11. Speed Money Smart/[speedmoneysmart.com](https://speedmoneysmart.com)
12. Alimama Indonesia
13. Komunitas Jempol Preneur (KJP)
14. Peruskita/ [Peruskita.com](https://peruskita.com)
15. Duit Bomber/ [duitbomber.com](https://duitbomber.com)
16. Jadikaya/ [jadikaya.net](https://jadikaya.net)
17. Banjir Rizki Community (BRC)/[banjirrizki.com](https://banjirrizki.com)
18. [Duitmasukterus.com](https://duitmasukterus.com)
19. Path of Dream/ [pathofdream.com](https://pathofdream.com)
20. Program Ghaniyyu100/ Komunitas Ghaniyyu100/[www.ghaniyyu100.com](https://www.ghaniyyu100.com)
21. Sedekah 100
22. Yayasan Solusi Indonesia Sejahtera/ [2milyard.com](https://2milyard.com)
23. Automatic Profit Landing/[profitlanding.com](https://profitlanding.com)

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24. PT Berkah Silika Jaya (Silika Jaya/BSJ)
25. Himpunan Sosial Mandiri Indonesia / Play 100 Club
26. Midjobs/ Midjobs Indonesia
27. Netizen Charity/ netizenchar.com
28. PT Sasuka Online Indonesia/Sasuka Online/ sasuka.online
29. PT Inovatif Sinergi Indonesia (Affiliate Junction Indonesia)/Affiliatejunctionindonesia.id
30. Nge JOB/ ngejob.com
31. Autogajian/Real Sultan (Yayasan Indonesia Urun Berkah) King Poin (PT Forkom Digital Indonesia)

## RESEARCH METHOD

The implementation discrepancies of the omnibus law in Indonesia, between what ideally should happen and what actually happens. While the omnibus law is expected to be a powerful solution to address regulatory chaos in Indonesia, the reality transforms into a field of new problems that generate numerous negative responses from various sectors of society, legal practitioners, politicians, and academics. First, let's consider Gustav Radbruch's theory of three legal substances. As known, the three basic values mentioned above were proposed by Gustav Radbruch, with the orientation to create a harmonious implementation of the law. The goal of the law, as Radbruch outlined, is to protect humans actively and passively, based on the values of legal justice, legal certainty, and the usefulness of the law. In the legal concept, according to Gustav, there should ideally be three value systems within legislation.

The omnibus law, interpreted by the Government and DPR (People's Consultative Assembly) as a hopeful progressive breakthrough to address multi-sectoral issues, is perceived differently by some segments of society and academics as a law facing juridical problems, both formally and materially. Although the existence of the omnibus law is not a new concept in legal theory, its presence still sounds unfamiliar in the legal dialectics of Indonesia. Therefore, the purpose of this writing is to explore the nature of the omnibus law and its implementation in Indonesia, particularly regarding legal issues from the perspective of criminal law against foreign and domestic investment, which has become prevalent and is being addressed by the Task Force for the Eradication of Illegal Financial Activities and the Investment Alert Task Force of the Indonesian Financial Services Authority (SWI-OJK).

The Investment Coordinating Board (BKPM) believes that the enactment of Law No. 11 of 2020 concerning Job Creation (UU Cipta Kerja) will increase workforce absorption by promoting investment and providing ample space for the strengthening of Micro, Small, and Medium Enterprises (MSMEs). The Job Creation Law, consisting of 186 articles, was ratified and signed by President Joko Widodo on November 2, 2020. This law, summarizing 77 existing laws, is divided into 11 clusters, including ease of doing business and the enhancement of the investment and business environment.

### a. Ease of Doing Business

The Investment Coordinating Board (BKPM) believes that the enactment of Law No. 11 of 2020 concerning Job Creation (UU Cipta Kerja) will increase

workforce absorption by promoting investment and providing significant opportunities for the strengthening of Micro, Small, and Medium Enterprises (MSMEs). The Job Creation Law, consisting of 186 articles, was ratified and signed by President Joko Widodo on November 2, 2020. This law, summarizing 77 existing laws, is divided into 11 clusters, including ease of doing business and the enhancement of the investment and business environment.

BKPM notes that the investment realization for the period of January-September 2020 amounted to IDR 611.6 trillion, reaching 74.8% of the 2020 target of IDR 817.2 trillion. With this achievement, investment realization has created job opportunities for 861,581 Indonesian Workers (TKI) from a total of 102,276 investment projects. In the current COVID-19 pandemic situation, the global economy, including Indonesia, has experienced contraction leading to a recession. This has resulted in an increase in unemployment in Indonesia. The current workforce is approximately 7 million people, spanning from Aceh to Papua, actively seeking employment. Meanwhile, the annual labor force is around 2.9 million. The impact of the COVID-19 pandemic on workers is evident, with the Ministry of Manpower of the Republic of Indonesia reporting 3.5 million workers affected by Termination of Employment (PHK). On the other hand, the Indonesian Chamber of Commerce and Industry (KADIN) records around 5 million people affected by PHK. With this data, the total number of job opportunities that need to be provided by the government is approximately 15 million.

BKPM Head Bahlil Lahadalia stated that one of the steps taken by the Indonesian Government to address the growth of the workforce is to attract as many investors as possible to enter Indonesia. "The more investment that comes in, the larger the job opportunities that open up for the people," said Bahlil. Through Law No. 11 of 2020 concerning Job Creation (UU CK), the government aims to encourage investment by facilitating business permits for investors. The overlapping issues in business permits between central and regional authorities, as well as ministries/agencies (K/L), have made the permit process difficult for investors. This not only consumes a considerable amount of time but also subjects potential investors to prolonged processes. "Entrepreneurs need certainty, speed, ease, and transparency. These needs will be met with the UU CK, followed by the creation of NSPK (Norms, Standards, Procedures, and Criteria) to facilitate business permits," explained the former Chairman of HIPMI (Indonesian Young Entrepreneurs Association). Additionally, the government has implemented the Online Single Submission (OSS) system managed by the One-Stop Integrated Service (PTSP) at BKPM. Through the OSS system, all permits will be integrated, preventing overlaps between central and regional authorities. "With the OSS system, it is also expected to reduce Indonesia's Incremental Capital Output Ratio (ICOR), leading to an increase in our economic competitiveness," added Bahlil. Currently, Indonesia's ICOR is at the level of 6.8. The presence of UUCK is expected to reduce ICOR to below 4.

#### **b. Strengthening Micro, Small, and Medium Enterprises (MSMEs)**

Data from the Head of the Investment Coordinating Board, Bahlil, confirms that UUCK will provide significant opportunities for MSMEs. Currently, MSMEs

contribute around 60% to Indonesia's economic growth. With 64.2 million business units or 99.7% of the total business units, MSMEs have provided jobs for 120 million out of the total 133 million workforce. Unfortunately, the majority of these MSMEs are still in the informal sector due to complex licensing procedures and the high cost of establishing MSMEs. With UUCK, MSME actors will be given facilitation, starting from the establishment of permits. As a result, MSMEs will be in the formal sector, allowing them to access bank credit.

Furthermore, BKPM has committed to obligate every incoming investment to collaborate with local entrepreneurs and MSMEs at the investment location. This way, the benefits of investments can be directly felt by the local community. MSME actors have the opportunity to partner with large companies, both domestically and internationally. However, Bahlil emphasizes that these large companies are not allowed to take over MSME shares. "In Article 77 of UUCK, it is stipulated that large companies are not allowed to take shares in MSMEs. Instead, they are required to partner with MSMEs or national entrepreneurs in the region," stated Bahlil. Therefore, UUCK is a law that not only favors entrepreneurs/investors but also benefits the community, including MSME actors. It is no wonder that Bahlil refers to UUCK as the law of the future, given its ability to create jobs in the future and accommodate the demographic bonus that Indonesia will experience in 2035.

## **RESULT AND DISCUSSION**

Cybercrime in the era of post-truth civilization has concretely manifested in the form of deceptive disguises that, empirically, seem to distort "falsehood into the appearance of truth" within formal logic. This creates a sense of pride in behaviors and actions, fostering the belief that what is corrupt is straight in the path of righteousness, and what is disgraceful is something good and beneficial. Cybercrime deception, in the form and guise of various lies, falsehoods, and human actions of pride, such as phishing, pharming, mobile phone scams, sniffing, money mole, and social engineering, is prevalent in Indonesia.

According to the research conducted by the Ministry of Communication and Information of Indonesia in 2022, out of 1,672 respondents, 98.3% had experienced online digital fraud, with 91.2% disguised as gift giveaways. Furthermore, 78.9% experienced online loan scams, 65.2% fell victim to scams involving misinformation or links containing malware or viruses, and 59.8% faced scams disguised as family crises. Additionally, 56% encountered online investment scams.

The Financial Services Authority (OJK), through the Task Force for the Eradication of Illegal Financial Activities (Satgas PASTI), has blocked 1,641 illegal financial entities from January 1 to November 11, 2023. These blocked entities consist of 18 illegal investments and 1,623 illegal online loans (P2P lending). Friderica Widiasari Dewi, the Executive Head of Supervision of the Behavior of Financial Service Business Players at OJK, stated in a press conference on the results of the Monthly Board of Commissioners Meeting in November 2023, held on Monday, December 4, 2023.



Law No. 25 of 2007 concerning Investment is a mandate from the Decree of the People's Consultative Assembly of the Republic of Indonesia Number XVI/MPR/1998 regarding Economic Politics in the context of Economic Democracy. Investment policies should always underpin people's economy involving the development of micro, small, medium enterprises, and cooperatives. Law 25 of 2007 concerning Investment replaces Law No. 1 of 1967 concerning Foreign Investment, as amended by Law No. 11 of 1970 on the Amendment and Addition to Law No. 1 of 1967 concerning Foreign Investment, and Law No. 6 of 1968 concerning Domestic Investment, as amended by Law No. 12 of 1970 on the Amendment and Addition to Law No. 6 of 1968 concerning Domestic Investment. The replacement is necessary as the existing laws are no longer in line with the needs for accelerating economic development and the national legal framework, particularly in the field of investment. The main goal of Law 25 of 2007 concerning Investment is to achieve a just and prosperous society based on Pancasila and the 1945 Constitution of the Republic of Indonesia and to implement national economic development based on economic democracy to achieve national goals. To accelerate national economic development and achieve Indonesia's political and economic sovereignty, increased investment is required to harness economic potential into real economic strength, using both domestic and foreign capital.

The report from the Task Force for the Eradication of Illegal Financial Activities and the Investment Alert Task Force of the Financial Services Authority of the Republic of Indonesia reveals illegal investments. Out of 99 entities, 87 are involved in illegal futures trading or Forex, 2 in illegal Direct Selling, 3 in illegal Cryptocurrency Investment, 3 in money investment, and 4 in others. The public needs to be cautious about these illegal investments and carefully evaluate any attractive and seemingly legitimate offers. Inquiring about the legal status, activities, and rationality of the returns is essential.

This data indicates that the level of criminal activity in both foreign and national investment is quite high and poses a threat to the community's economy. Investment fraud with various methods and social media entities is increasing, posing a danger to the economic actors. A total of 35 global investors with assets under management (AUM) of USD 4.1 trillion wrote an open letter to President Joko Widodo regarding the Omnibus Law on Job Creation, which was recently passed by the parliament on October 5, 2020. In the open letter, it is explained that the Omnibus Law on Job Creation poses risks to environmental, social, and governmental conditions.

The global investors express concern about the changes in the licensing framework, various environmental management requirements, public consultations, and sanction systems that may negatively impact the environment, human rights, and employment. The Ministry of Finance assesses the Omnibus Law on Job Creation as a key to Indonesia's economic recovery in 2021. This is considered to create significant uncertainty that could affect Indonesia's market attractiveness.

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Although we acknowledge the need for business law reform in Indonesia, we have concerns about the negative impacts of specific environmental protection measures influenced by the Omnibus Law on Job Creation. Peter van der Werf from Robeco protested against the job creation law, as quoted from Reuters (5/10/2020). Earlier, Reuters reported that 35 investors who wrote the open letter included Aviva Investor, Legal & General Investment Management, Church of England Pensions Board, Robeco, and Sumitomo Mitsui Trust Assets Management. The Omnibus Law on Job Creation is feared to hinder efforts to protect Indonesia's forests. In the long term, the world will face increasing challenges in preventing biodiversity extinction and slowing down climate change, which is now a global issue. Although the law is enacted to boost foreign investment in Indonesia, it is seen as posing risks against international practice standards aiming to prevent undesired hazards from business activities.

The Omnibus Law on Job Creation encourages Indonesia to become an advanced country. Previously, Coordinating Minister for Economic Affairs Airlangga Hartarto stated that the Omnibus Law on Job Creation is one way for Indonesia to escape the middle-income trap. President Joko Widodo's ambition was previously expressed during his state address in October 2019. In his inauguration speech on October 20, 2019, Jokowi stated that Indonesia has the potential to break free from the middle-income trap. Airlangga, after the Omnibus Law on Job Creation was approved in the DPR RI Plenary Session, emphasized that to achieve this ambition, the government must provide job opportunities and improve the quality of the workforce. On the other hand, it is necessary to streamline domestic regulations or rules to make the domestic investment climate attractive. Thus, the Job Creation Law is introduced to simplify and improve bureaucratic activities. The Omnibus Law on Job Creation consists of 11 clusters, including Permit Simplification, Investment Requirements, Labor, Ease of Doing Business, Empowerment and Protection of MSMEs, Research and Innovation Support, Government Administration, Sanctions Imposition, Land Acquisition, Investment Facilitation and Government Projects, and Economic Zones. Conditions and investment permits will change according to the provisions stated in the Omnibus Law on Job Creation.

The Fifth Part: Simplification of Investment Requirements in Certain Sectors, Paragraph 1, General Article 76 To facilitate the public, especially business actors, in investing in certain sectors such as capital investment, banking, and Islamic banking, the Omnibus Law on Job Creation amends, removes, or establishes new regulations for several provisions governed by:

- a. Law Number 25 of 2007 concerning Investment (State Gazette of the Republic of Indonesia Year 2007 Number 67, Supplement to the State Gazette of the Republic of Indonesia Number 4721);
- b. Law Number 7 of 1992 concerning Banking (State Gazette of the Republic of Indonesia Year 1992 Number 31, Supplement to the State Gazette of the Republic of Indonesia Number 34721 as amended by Law Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 concerning

Banking (State Gazette of the Republic of Indonesia Year 1998 Number 182, Supplement to the State Gazette of the Republic of Indonesia Number 3790); and

- c. Law Number 21 of 2008 concerning Islamic Banking (State Gazette of the Republic of Indonesia Year 2008 Number 94, Supplement to the State Gazette of the Republic of Indonesia Number 4867).

Paragraph 2, Investment Article 77 Several provisions in Law Number 25 of 2007 concerning Investment (State Gazette of the Republic of Indonesia Year 2007 Number 67, Supplement to the State Gazette of the Republic of Indonesia Number 4724) are amended as follows: 1. Provision. . Presidential Decree No. 052028 A 2 President of the Republic of Indonesia -528 - 1 Article 2 is amended to read as follows: Article 2 The provisions in this Law apply and serve as the main reference for capital investment in all sectors within the territory of the Unitary State of the Republic of Indonesia. Article 12 is amended to read as follows: Article 12 (1) All business fields are open to investment activities, except business fields declared closed for investment or activities that can only be carried out by the Central Government. Article 21 Business fields closed for investment as referred to in paragraph (1) include: a. cultivation and industry of narcotic substances of Group I; b. all forms of gambling and/or casinos; c. capture of fish species listed in d. utilization or taking of coral and the utilization or taking of coral from nature used for building materials/lime (calcium), aquariums, and souvenirs/jewelry, as well as live coral or recently dead coral from nature; e. chemical weapon manufacturing industry; and f. industrial chemicals and ozone-depleting substances industrial.

Presidential Decree No. 052029 A (3) President of the Republic of Indonesia -529 - (3). Further provisions regarding investment requirements as referred to in paragraphs (1) and (2) are regulated in the Presidential Regulation. 3 Article 13 is amended to read as follows: Article 13 (1) The Central Government or Local Government, according to their authority, provides facilities, empowerment, and protection for cooperatives and micro, small, and medium-sized enterprises in implementing capital investment based on norms, standards, procedures, and criteria set by the Central Government. (2) Protection and empowerment as referred to in paragraph (1) in the form of coaching and development of cooperatives and micro, small, and medium-sized enterprises through: a. partnership programs; b. human resource training; c. improving competitiveness; d. providing innovation incentives and market expansion; e. financing access; and f. widespread information dissemination. (3) Protection and empowerment as referred to in paragraph (2) are carried out by the Central Government and/or Local Government according to their authority based on norms, standards, procedures, and criteria set by the Central Government. (4) The partnership as referred to in paragraph (2) letter a is a partnership as intended in the law in the field of micro, small, and medium-sized enterprises.

Presidential Decree No. 052030A 4. Presidential Decree No. 4 President of the Republic of Indonesia -530- Article 18 is amended to read as follows: Article 18 (1) The Central Government provides facilities to investors conducting capital investment. (2) Facilities for capital investment as referred to in paragraph (1) can be given to capital investment that: a. expands business; or b. makes new capital investments. (3) Capital investment that receives facilities as referred to in paragraph (2) must meet at least the criteria: a. absorb a lot of labor; b. included in the high-priority scale; c. included in infrastructure development; d. technology transfer; e. pioneering industry; f. in remote areas, underdeveloped areas, border areas, or other areas deemed necessary; g. maintain environmental sustainability; h. carry out research, development, and innovation activities; i. partner with micro, small, medium-sized enterprises, or cooperatives; j. industries that use capital goods or machines or equipment produced domestically; and/or k. included in tourism business development. (4) The form of facilities provided to capital investment as referred to in paragraphs (2) and (3) is carried out in accordance with the provisions of tax laws and regulations.

Presidential Decree No. 052031 A 5. Presidential Decree No. 5 President of the Republic of Indonesia -531 -5 Article 25 is amended to read as follows: Article 25 (1) Investors conducting capital investment in Indonesia must comply with the provisions as referred to in Article 5. (2) Approval of the establishment of domestic capital investment business entities that are legal entities or not legal entities is carried out in accordance with the provisions of laws and regulations. (3) Approval of the establishment of foreign capital investment business entities in the form of limited liability companies is carried out in accordance with the provisions of laws and regulations. (4) Investment companies that will carry out business activities must obtain Business Licenses from the Central Government or Local Government according to their authority based on norms, standards, procedures, and criteria set by the Central Government. This means that Law No. 25 of 2007 concerning Investment can still be used as a legal source when the Omnibus Law No. 11 of 2020 concerning Job Creation does not eliminate other provisions, including legal sanctions in the investment law that are not amended in the Omnibus Law on Job Creation No. 11 of 2020. The following are regulations on dispute resolution processes and sanctions against parties violating foreign and domestic investment according to the provisions of Law No. 25 of 2007 concerning Investment.

#### **Article 32**

1. In the event of a dispute in the field of investment between the Government and the investor, the parties shall first attempt to resolve the dispute through deliberation and mutual agreement.
2. If the resolution of the dispute as referred to in paragraph (1) is not achieved, the dispute may be resolved through arbitration or alternative dispute resolution or through a court in accordance with the provisions of laws and regulations.
3. In the event of a dispute in the field of domestic investment between the Government and the domestic investor, the parties may resolve the dispute

through arbitration based on the agreement of the parties, and if the resolution of the dispute through arbitration is not agreed upon, the dispute will be settled in court.

4. In the event of a dispute in the field of investment between the Government and foreign investors, the parties will resolve the dispute through international arbitration agreed upon by the parties.

#### **Article 33**

1. Domestic and foreign investors who conduct investment in the form of limited liability companies are prohibited from making agreements and/or statements asserting that the ownership of shares in the limited liability company is for and on behalf of others.
2. In the event domestic and foreign investors make agreements and/or statements as referred to in paragraph (1), those agreements and/or statements are declared null and void.
3. In the event an investor conducting business activities based on an agreement or cooperation contract with the Government commits corporate crimes such as tax offenses, cost recovery inflation, and other forms of cost inflation to reduce profits resulting in state losses based on findings or examinations by authorized officials and has obtained a final legal court decision, the Government terminates the agreement or cooperation contract with the respective investor.

#### **Article 34**

1. Business entities or individual businesses as referred to in Article 5 that do not fulfill the obligations as stipulated in Article 15 may be subject to administrative sanctions in the form of:
  - a. written warnings;
  - b. restrictions on business activities;
  - c. suspension of business activities and/or investment facilities; or
  - d. revocation of business activities and/or investment facilities.
2. Administrative sanctions as referred to in paragraph (1) are imposed by the authorized institution or agency in accordance with the provisions of laws and regulations.
3. In addition to administrative sanctions, business entities or individual businesses may be subject to other sanctions in accordance with the provisions of laws and regulations.

#### **Article 35**

International agreements, whether bilateral, regional, or multilateral, in the field of investment that have been approved by the Indonesian Government before this Law comes into effect, remain valid until the expiration of those agreements.

#### **Article 36**

Drafts of international agreements, whether bilateral, regional, or multilateral, in the field of investment that have not been approved by the Indonesian Government at the time this Law comes into effect must be adjusted to the provisions of this Law.

## CONCLUSION

In conclusion of this journal writing, the author's consideration on Law No. 25 of 2007 concerning Investment is that, to realize a just and prosperous society based on Pancasila and the 1945 Constitution of the Republic of Indonesia, sustainable national economic development needs to be implemented based on economic democracy to achieve national goals; that in accordance with the mandate stated in the People's Consultative Assembly Decree of the Republic of Indonesia Number XVI/MPR/1998 regarding Economic Politics in the context of Economic Democracy, investment policies should always be based on people's economy involving the development of micro, small, medium enterprises, and cooperatives; that to accelerate national economic development and achieve Indonesia's political and economic sovereignty, an increase in investment is needed to harness economic potential into real economic power using capital from both domestic and foreign sources; that in facing global economic changes and Indonesia's participation in various international collaborations, a conducive, supportive, legally certain, fair, and efficient investment climate needs to be created, while still considering national economic interests; that Law Number 1 of 1967 concerning Foreign Direct Investment, as amended by Law Number 11 of 1970 concerning Amendments to Law Number 1 of 1967 concerning Foreign Direct Investment, and Law Number 6 of 1968 concerning Domestic Direct Investment, as amended by Law Number 12 of 1970 concerning Amendments to Law Number 6 of 1968 concerning Domestic Direct Investment, need to be replaced as they are no longer in line with the needs for accelerating economic and legal development at the national level, especially in the field of investment; that based on considerations as mentioned in points a, b, c, d, and e, it is necessary to form a Law concerning Investment. The Job Creation Law is an effort to create jobs through facilitating, protecting, and empowering cooperatives and micro, small, and medium enterprises, improving the investment ecosystem and ease of doing business, and government investment and accelerating national strategic projects. The implementation discrepancy of the omnibus law in Indonesia, between what ideally should happen and what actually occurs. While the omnibus law is expected to be an effective solution to address regulatory chaos in Indonesia, in reality, it transforms into a field of new problems that generate many negative responses from various sectors of society, legal practitioners, politicians, and academics. The omnibus law, interpreted by the Government and the DPR as a progressive breakthrough to address multi-sectoral issues, is perceived differently by some sectors of society and academics as a law facing juridical problems, both formally and materially. Although the existence of the omnibus law is not a new concept in legal theory, its presence still sounds unfamiliar in the legal dialectics in Indonesia.

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