

2023: A Year in Review and Looking Forward to 2024

9 February 2024

2023 proved to be a busy year for President Joko “Jokowi” Widodo’s government both on the global stage and domestically, as the President nears the end of his decade-long tenure. The Indonesian constitution restricts Presidents to two terms and so for the first time in a decade, there will be a new leader of the world’s 4th most populous country.

Following the conclusion of Indonesia’s G20 chairmanship in 2022, Indonesia hosted the 43rd ASEAN Summit with the theme “ASEAN Matters: Epicentrum of Growth” in 2023. Indonesia’s chairmanship of the ASEAN Summit reiterated the priorities announced during its G20 presidency of developing added-value industries, promoting sustainable economic integration, and accelerating digital transformation. In line with these commitments, major legal frameworks were introduced in 2023.

Foreign Investment

Investment trends in 2023 were positive as Indonesia garnered a total of IDR 1.418 trillion (around USD 90.2 billion) in combined investments, surpassing the government’s target of IDR 1.4 trillion. The overall investment showed a 17.5% year-on-year growth according to the Investment Minister. Moreover, Indonesia maintained its sovereign credit rating with a stable outlook in 2023 as affirmed by Moody’s (Baa2) and Fitch (BBB).

Elections

Political interest was on the rise during the last months of 2023 as candidates began their campaign tours for the Presidential and Parliamentary elections, with polling day set romantically for 14 February 2024.

Three Presidential contenders have entered the race:

- **Anies Baswedan**, a former Governor of Jakarta, and his running mate for Vice President **Muhaimin Iskandar** (leader of a nationalist Muslim party, National Awakening Party (PKB)), who are backed by the National Democratic Party (NasDem), the National Awakening Party (PKB) and the Prosperous Justice Party (PKS) - amounting to approximately 29% of the current Parliament seats;
- **Prabowo Subianto**, the current Minister of Defense and Chairman of the Great Indonesia Movement Party (Gerindra) and his running mate for Vice President, **Gibran Rakabuming Raka** (President Jokowi’s eldest son, who is also currently serving as the Mayor of Solo in Central Java), who are backed by among others, the Democratic Party

(Demokrat) and Golkar Party - amounting to approximately 45% of the current Parliament seats; and

- **Ganjar Pranowo**, a former Governor of Central Java, and his running mate for Vice President, **Mahfud MD**, the former Coordinating Minister for Political, Legal and Security Affairs and former Chief Justice of the Constitutional Court, backed by, among others, the Indonesian Democratic Party of Struggle (PDI-P) and the United Development Party (PPP) - amounting to approximately 25% of the current parliament seats.

Regulatory Highlights

Some notable regulatory highlights during 2023 as well as key takeaways on the upcoming elections are as follows:

New Criminal Code

2023 began with the enactment of Law No. 1 of 2023 on the Criminal Code (the “**New Criminal Code**”), a highly anticipated but long overdue piece of legislation, to update the previous colonial era-Criminal Code which began more than 5 decades ago. The New Criminal Code is set to take effect three years after its promulgation, which will be on 2 January 2026. One notable change for corporations under the new Criminal Code is the introduction of corporate criminal liability (a concept previously unrecognized by the old Criminal Code) where corporations may now be subject to criminal liability and face sanctions.

Omnibus Law on the Financial Sector

The promulgation of Law No. 4 of 2023 on the Development and Strengthening of the Financial Sector (the “**Omnibus Financial Law**”) marked an extensive revitalization in the financial sector in early 2023. Taking effect on 12 January 2023, the Omnibus Financial Law amends and revokes a whopping total of 17 Laws across the financial sector, including the Currency Law, Banking Law, Capital Market Law, Insurance Law, and Pension Funds Law.

The Omnibus Financial Law brought about various changes aimed at encouraging a more environmental-friendly economy and supporting financial digitalization. Carbon exchange, a market-based mechanism to reduce greenhouse gas emissions through carbon unit trading was recognized and will be regulated and monitored by the Financial Services Authority (*Otoritas Jasa Keuangan/OJK*). The Omnibus Financial Law also introduces a digital form of the Rupiah currency as a means of payment in Indonesia, which will be under the sole authority and management of Bank Indonesia. It also lays out ground rules for a wide-reaching scope of fintech activities (including cryptocurrencies), thereby providing more

balance between innovation and consumer protection. Significantly, the Omnibus Financial Law introduces personal liability (joint or several) for parties on the stock market who commit unlawful actions or in bad faith cause losses to investors or customers.

Recognizing the vital role of micro, small and medium enterprises in Indonesia's economy (who contribute more than 60% of the country's GDP), the Omnibus Financial Law also expands the authority of rural banks (i.e. People's Economy Bank (*Bank Perekonomian Rakyat*)) to also include foreign currency exchange and fund transfer activities, activities which were previously prohibited for such banks.

Return of Omnibus Law

The first quarter of 2023 also saw the ratification of Government Regulation in lieu of Law No. 2 of 2022 on Job Creation ("**Perppu 2/2022**") - an emergency regulation issued at the closing of 2022 following the Constitutional Court's unfavorable ruling of Law No. 11 of 2020 on Job Creation ("**Omnibus Law**"). By virtue of Law No. 6 of 2023 (enacted on 31 March 2023), Perppu 2/2022 now applies as a proper Law replacing the defunct Omnibus Law. To a large extent, Perppu 2/2022 replicated the Omnibus Law but with various changes, particularly in the area of employment law.

Rules on outsourcing and subcontracting that were previously revoked by the Omnibus Law were reinstated under Perppu 2/2022. While it was promised that further regulations would be issued to clarify the types of works that can be outsourced, nothing further was issued in 2023.

Perppu 2/2022 also introduced a new provision whereby a Regional Governor could determine a higher Regency/City Minimum Wage than the Provincial Minimum Wage. This higher minimum wage will be calculated based on a formula containing a new but undefined variable of "certain indexes".

Omnibus Law on Health Sector

Against the backdrop of the Covid-19 recovery, Law No. 17 of 2023 on Health (the "**Omnibus Health Law**") sought to achieve a resilient national healthcare system increasing access to healthcare services, strengthening pharmaceutical and medical device supply chains, and tackling health workforce shortage. Enacted on 8 August 2023, the Omnibus Health Law repealed 11 laws, such as Law on Drugs Ordinance, Law on Outbreaks of Infectious Diseases, Law on Medical Practice, Law on Hospitals, and Law on Healthcare Workers. Some key highlights from the Omnibus Health Law are the establishment of a National Health Information System, recognition of telehealth and telemedicine practices, facilitating of overseas medical graduates and foreign medical professionals to practice in Indonesia.

Amendment to Electronic Information and Transactions

Another highlight coloring the end of 2023 was the approval by the House of Representatives of the highly anticipated Bill on the Second Amendment to Law No. 11 of 2008 on Electronic Information and Transactions (the “**ITE Law**”). (As a note, the ITE Law was previously amended by Law No. 19 of 2016). The draft Bill marks a pivotal move towards refining Indonesia’s digital legal framework, and has been passed early this year into Law No. 1 of 2024 (taking effect as of 2 January 2024). The ITE Law addresses some key issues relating to mandatory electronic signatures and international online contracts.

Indonesia’s New Capital City

With the impending threats of Jakarta’s overpopulation and various ecological crises, Law No. 3 of 2022 on State Capital was issued with the ambitious plan of building a new capital city (in Kalimantan) from the ground up to replace Jakarta. The new capital city (*Ibu Kota Nusantara* (“**IKN**”)) is designated to be the center for government operations. The government has since provided fiscal and non-fiscal incentives to attract investments in IKN through Government Regulation No. 12 of 2023 on the Provision of Doing Business Licenses, Ease of Business, and Investment Facilities for Enterprises in Nusantara Capital City. These incentives include various reductions to corporate and individual income taxes, elimination of value-added taxes, provision of lands or locations and infrastructure for investors, and ease of access to skilled workforce.

A Brief on 2024 Elections

The running theme of the 2024 presidential contest appears to be whether to continue or improve the incumbent’s policies.

While Prabowo and Gibran advocate to safeguard the continuity of Jokowi’s development legacy, Anies and Iskandar are campaigning for “change”. The duo for instance, often voice their skepticism about the urgency of the government’s IKN plans and instead pledge to develop new economic centers in existing municipalities as an alternative. Ganjar and Mahfud, appear to opt for a middle ground, promising to retain certain policies and change others. Ganjar particularly promises for faster and more reliable public services and also emphasizes a free and active foreign policy. Meanwhile, his running mate, Mahfud campaigns for redoubling efforts to eradicate corruption.

Notwithstanding the contrasting campaign themes, the three Presidential contenders appear to share several common views. These include pledging to continue the current down-streaming (refining and value adding) agenda, with Prabowo in particular promising to intensify the down-streaming of 21 types of commodity, including in the coal, nickel, bauxite,

copper, oil and gas, palm oil, rubber and the fisheries sectors. Although generally in agreement, Anies nonetheless criticizes the government's implementation of its downstreaming policies, alleging that they prioritize capital-intensive production over labor-intensive industries. Further, all three Presidential candidates also pledge to continue the prioritization of local content as well as retaining the current sustainability policies, such as limiting new developments of and retiring coal-based power plants in favor of green energy-based power producers. The three Presidential hopefuls also affirm the importance of digitalization in public services, emphasizing digital inclusion and affordability.

2024: An Outlook

2023 was indeed an eventful year in terms of regulatory developments. Reforms and major new policies were introduced across several sectors, with the common theme of "creating a supportive legal environment for investments and businesses". Given the broad scope of the omnibus laws for the financial and healthcare sectors, various implementing regulations are expected to be issued as follow-up. Forty-seven draft bills are targeted for the 2024 National Legislation Priorities, including the long-awaited bills on new and renewable energy, consumer protection, and a new civil procedural code.

Indonesia, as the world's third largest democracy, is also faced with the challenging task of ensuring a smooth transition of power in 2024. A peaceful and stable election year becomes all the more important as the nation's economy is still reeling from Covid-19. The nation's new capital IKN is also scheduled to be inaugurated on 17 August 2024, coinciding with Indonesia's Independence Day. Amid the political uncertainties, in an investment forum, the Investment Minister has nevertheless expressed his optimism on Indonesia's bold investment strategies to tap into green economic opportunities for 2024, where the government will be focusing on the development of ecofriendly industries and utilization of new and renewable energy sources. The government also remains confident on the positive growth of the automotive sector in 2024, where Indonesia has the potential to be a key player in the electric vehicle (EV) industry due to the abundant availability of raw materials (particularly nickel).

Ultimately, while the year 2024 presents great opportunities for Indonesia's economy, political uncertainties pose a critical risk for investors as political dynamics unfold and campaign activities intensify. It thus remains to be seen whether the government will retain its political will to continue churning out policies to accelerate Indonesia's post-pandemic economic recovery.

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