

RESEARCH ARTICLE

Analysis of the Impact of Foreign Direct Investment: Solutions to The Indonesia Economy During The Covid-19 Pandemic

 OPEN ACCESS

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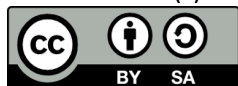
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Abstract

Foreign investment is one of the crucial instruments for a country in promoting economic growth for the sake of creating public welfare. Indonesia as a country with abundant economic potential, requires foreign investors to solve problems, especially related to sustainable development and suppress the high unemployment rate. Legal reform in increasing the realization of foreign investment entering Indonesia is realized through the Omnibus Law in the Job Creation Act to create a good and healthy investment climate. The presence of Covid-19 has caused the country's economy to experience a significant decline. The presence of the Job Creation Act in accelerating foreign investment into Indonesia is expected to encourage the strengthening of the national economy after the Covid-19 pandemic. However, there are problems in its implementation caused by the guarantee of legal certainty in running business activities and overlapping regulations in business licensing. The research method used is normative legal research. This study uses the Statute approach. The technique of tracing legal materials uses library research techniques, and analysis of studies using qualitative analysis. The results of this study indicate that the Government has made maximum efforts by issuing various regulations or policies to revive the investment climate in Indonesia so that the country's economic growth

can increase and is able to provide legal certainty in doing business in Indonesia.

Keywords: *Foreign Direct Investment, Pandemic, Legal Reform*

1. INTRODUCTION

The ideals of law (*rechsidee*) of the Indonesian nation are implicitly crystallized in the noble values of Pancasila. The Pancasila entity as a legal ideal is strengthened by the statement that Pancasila is the source of all sources of state law. (Prof. Dr. Jimly Asshiddiqie, 2016; Widayati, 2018) This means that all levels of law must be sourced and guided by the view of life contained in the values of Pancasila, including bringing prosperity to all Indonesian people. This is in line with the goals of the Indonesian nation in the concept of a *welfare state*. The concept of the *welfare state* asserts that the state is responsible for its citizens by ensuring the welfare of its people (Mishra, 1984, 1990).

The concept of a welfare state is needed in an economic democratic system as actualized in Article 33 of the 1945 Constitution of the Republic of Indonesia. (UUD Negara RI Tahun 1945, 2000) In accordance with the constitutional mandate, economic democracy should principally be implemented in every form of legislation. Especially during the Covid-19 pandemic which is currently having a massive impact on changing the economic climate throughout the world, including Indonesia. This is evidenced by data released by the International Monetary Fund (IMF) which states that there are crucial losses on a global scale up to 10.7% contraction of economic growth. (Junaedi & Salistia, 2020) Therefore, in suppressing the massive spread of Covid-19, the Government made several policies that were delegated in Law no. 6 of 2018 concerning Health Quarantine starting from *the Large-Scale Social Enforcement (PSBB), New Normal to the Enforcement of Community Activity Restrictions (PPKM)*.

The government policies that have been described above have become a boomerang for the impediment of the Indonesian economy, this is evidenced by the data reported by the Voce President Economist of Bank Permata which stated that there was a decrease of 0.8% to 4.5% when PPKM was implemented. the decline in the country's economy, foreign investment is needed that can restore the economic crisis for the community. However, the problem is exacerbated by the presence of business activities that overlap with regulations in business licensing. So that investors in this case are reluctant to invest in Indonesia.

Therefore, based on the conditions described by the author, *currently Foreign Direct Investment (FDI)* is needed as an optimization of economic potential as a form of implementing the ideals of a welfare state law mandated by the constitution. Therefore, the state must be present in achieving the welfare of all aspects of social society without exception. Based on the problems that have been described, the authors are interested in discussing comprehensively the impact of Foreign Direct Investment with the title "*Analysis of the Impact of Foreign Direct Investment: Solutions to the Indonesian Economy during the Covid-19 Pandemic*". By using the formulation of the problem including; **First**, *How is the Existence of Foreign Direct Investment in Positive Legal Arrangements in Indonesia?* **Second**, *How to Analyze the Impact of the Implementation of Law no. 11 of 2020 concerning Job Creation in Indonesia?*

2. METHOD

This article uses a type of normative juridical law research or also called doctrinal legal research.(Sukismo, 2008) This research uses *a statute approach*.(Ibrahim, 2006; Marzuki, 2005; Sukismo, 2008) which is used to examine the positive legal instruments and provisions that apply in Indonesia regarding *Foreign Direct Investment*. The technique of tracing legal materials uses *library research techniques*,(Soekanto, 2007) so that the data assessment is

carried out as well as the analysis using qualitative analysis methods. This study uses secondary data compiled from library data which includes archival data, published data, official documents, books, research results in the form of reports, theses, theses, dissertations, and statutory regulations (Irianto, 2009).

3. RESULT AND DISCUSSION

A. Definition of Foreign Direct Investment and Positive Legal Arrangements in Indonesia

Foreign Direct Investment is one of the most important capital financing for a country, especially for developing countries and developing countries. Foreign Direct Investment is one of the important factors in the country's economy (*besides taxes as the biggest contributor to state finances*) because FDI is able to make a sizeable contribution to development through asset transfers, management transfers, and technology transfers to encourage growth and improvement in the country's economy. (Asiamah et al., 2019; Erman Rajagukguk, 2019)

Foreign investors who want to invest their capital directly, the investors are physically present in running their business. The presence of *Foreign Direct Investment* provides legal consequences that the business entity must comply with the legal provisions in Indonesia. (Dickinson et al., 2021) In FDI, there are several main characteristics that form the basis for investors to invest, namely: *Ownership*, the internal advantages possessed by a company that make it advanced or stand out in certain sectors and can be utilized both domestically and abroad. consists of *tangible assets* and *intangible assets*, and *Location*, the advantages possessed in a certain area and can only be used in that area, but the use of these advantages is open to all companies (eg cheap labor, natural resources, a favorable climate). support) and *Internalization Advantages*, measures to avoid any *disadvantages* or pseudo capitalization of natural resources caused by the price system in the market and government policy systems.

Foreign direct investment (FDI) consists of inward and outward . Inward foreign direct investment is investment from abroad into the country, while outward foreign direct investment is investment to other countries. Foreign direct investment begins when a company from one country invests its long-term capital into a company in another country. In this way, companies in the home country can influence companies in the host country, either partially or completely. The host country for foreign direct investment will receive benefits , including technological excuses in the form of new varieties of capital inputs that cannot be achieved through financial investment or trade in goods and services. Foreign direct investment can also promote competition in the domestic market (domestic output market). Foreign Direct Investment recipients provide training for employees who contribute to human resource development in the host country . Profits generated by Foreign Direct Investment (FDI) also contribute to income tax. Indonesia can also be both, namely as home and host country . As a host country or destination country, investment in Indonesia continues to increase from year to year.

Foreign Direct Investment has a positive influence on the wages of workers in the receiving industries (receipt industry) . Foreign Direct Investment (FDI) can take the form of direct equity participation, technology and managerial skills or indirectly through knowledge spillover effects on local companies. Settings regarding entry.

B. Regulation of Foreign Direct Investment in Laws and Regulations

Legally, Foreign Direct Investment to Indonesia began with the promulgation of Law Number 1 of 1967 concerning Foreign Investment (Foreign Investment Law). After waiting for a long time, finally the investment provisions which for forty years are regulated in two laws, namely: first, law number 1 of 1976 concerning foreign investment and secondly, law number 6 of 1968 concerning investment in domestic investment. country, was revoked and replaced

by law number 25 of 2007 concerning investment. According to law number 25 of 2007 concerning foreign investment, it is the activity of investing in assets in the form of money or other forms that are not money owned by foreigners, both in business entities and individuals. Foreign investment is important for developing countries to help accelerate their economic growth. This is because the role of foreign capital helps in updating the technology and industrialization used in these developing countries.

C. Foreign Direct Investment in Law Number 11 of 2020 concerning Job Creation

Investment is the most important and strategic part that contributes to boosting economic development, besides that investment also plays a major role in impacting economic growth in order to achieve economic stability after the COVID-19 pandemic. The development of a country can be said to be successful if its economic growth is high. High economic growth is needed to accelerate changes in the structure of the national economy towards a balanced and dynamic economy (Atikasari, 2021).

In the current of globalization in the midst of the current COVID-19 pandemic, it is increasingly difficult to distinguish non-physical boundaries between countries and even tend to be borderless. With the closer the border between one country and another, it opens up greater opportunities for investment, especially now that many countries are opening themselves up to foreign investors. For this reason, it is quite reasonable to attract investors, especially foreign investors, to invest in a country. This is where the role of law is needed in terms of the need for regulations or rules that can regulate the course of investment, be it Domestic Investment (PMDN) or Foreign Investment (PMA).

The development of the investment climate in Indonesia, especially during the current COVID-19 Pandemic Era, can be carried out by carrying out regulatory reform policies in the investment sector to bring back the

desire and enthusiasm of investors in investing in Indonesia. The government through its policies continues to encourage the entry of foreign direct investment (*Foreign Direct Investment*) into the country, this can be seen from the regulations and the presence of the Omnibus Law regulation. The concept of the Omnibus Law became known in Indonesia after the President of the Republic of Indonesia conveyed it in his state speech before the MPR session on October 20, 2019. Omnibus Law is considered as a solution to overcome the problem of overlapping regulations and bureaucracy, especially in the realm of investing. This aims to provide legal guarantees and certainty for investors who want to invest in Indonesia, through simplifying regulatory arrangements and structuring legal apparatus through mental reform of bureaucrats.(Darmawan, 2020; Julianti, 2021) The issuance of this law is also inseparable from the development of society, especially the business community, which is very dynamic, both domestically and abroad in this era of globalization.

Law Number 11 of 20 20 concerning Job Creation which was passed on 5 October 2020 is a statutory provision that supports the emergence of an investment climate in Indonesia. In Law Number 11 of 2020 concerning Job Creation, various considerations regarding investment have been included. This is reflected in the consideration of the issuance of this Law on Job Creation, in which the preamble states:

- a. that to support job creation, it is necessary to adjust various regulatory aspects related to the convenience, protection, and empowerment of cooperatives and micro, small and medium enterprises, improvement of the investment ecosystem, and acceleration of national strategic projects, including increasing protection and welfare of workers;
- b. that arrangements relating to the convenience, protection, and empowerment of cooperatives and micro, small, and medium enterprises, improvement of

the investment ecosystem, and acceleration of national strategic projects, including increasing protection and welfare of workers spread across various sector laws are currently unable to meet the legal need for acceleration of work creation so that changes need to be made;

- c. that efforts to change regulations relating to the convenience, protection, and empowerment of cooperatives and micro, small and medium enterprises, improvement of the investment ecosystem, and acceleration of national strategic projects, including increasing protection and welfare of workers are carried out through changes to sector laws that do not yet support the realization of synchronization in ensuring the acceleration of work creation, so that a legal breakthrough is needed that can solve various problems in several laws into one law in a comprehensive manner.

The spirit of making this law implies that in facing changes and global economic growth and Indonesia's participation in various international cooperations, it is necessary to create a conducive investment climate, providing legal certainty, justice, convenience and efficiency while still taking into account the interests of the national economy. With regard to investment activities, the law as a regulatory tool and signs in its implementation, is needed so that investments carried out by the government can be more focused and guided by the interests of the community and the state, and create a new balance between the interests of consumers, investors, the community and the government, because the old balances have undergone a reshuffle and change.

There are several changes and conveniences contained in Law Number 11 of 2020, namely the *Ease of Doing Business* (EODB) which gradually continues to show significant improvements, where in 2016 it was ranked 106th, now it is ranked 91th.(Darmawan, 2020) Then efforts to uniform central and regional policies in supporting the investment climate, where this concept is a short way as a solution to

conflicting laws and regulations, both vertically and horizontally. There are several other facilities in Law Number 11 of 2020 (Abidin, 2017; Ansari, 2020; Undang Undang Republik Indonesia Nomor 11 Tahun 2020 Tentang Cipta Kerja, 2020) as an effort to improve the investment climate, namely:

1. There is no difference in the terms of Domestic Investment with the terms of Foreign Investment which previously contained differences in the Investment Law;
2. The provisions in Article 12 paragraphs (3), (4) and (5) of the Investment Law are omitted, so that the arrangements are simplified in the Job Creation Act ;
3. In Article 13 of the Job Creation Law, the provisions for implementing investment are stipulated by the Central Government;
4. In Article 13 of the Investment Law there are conditions for doing business, and in the Job Creation Law it provides ease of doing business ;
5. There are facilities provided by the Central Government and Regional Governments in accordance with their authority for cooperatives and micro, small and medium enterprises;
6. There is a simplification of the Investment provisions in the Job Creation Act and the ease of the form of facilities provided to investment is carried out in accordance with the provisions of the legislation in the field of taxation.

With the ease and simplification of foreign investment activities in Indonesia through the Job Creation Act, it is hoped that it will be able to attract the interest and desire of foreign investors to invest in Indonesia. With the increase in foreign investment in Indonesia, it is believed that increasing investment will contribute to boosting the economic development of a nation . If investment licensing is complicated and unclear, investors will be reluctant to invest and will prefer to invest in other countries. Based on the *Ease of Doing Business* 2020 report issued by the World Bank, Indonesia is ranked 73 out of 190 countries. In 2021 the

assessment indicator from EODB is the ease of investing in Indonesia.

The implication of the increasingly rapid pace of technological development is that each country continues to update applicable regulations, especially in the business sector. Including Indonesia, which needs to innovate in the process of drafting more effective laws and regulations and improving regulations related to investment activities so that they can compete and be integrated with the world economy so that the country's economic stability can be realized in the current COVID-19 Pandemic era and can provide business certainty for investors who will invest in Indonesia.

4. CONCLUSION

Based on the things above, it can be concluded that the need for regulatory reform in the investment sector, especially those related to licensing, is very urgent because it will have implications for the decline in the investment climate in Indonesia. With the presence of the Omnibus Law concept in Law Number 11 of 2020 concerning Job Creation, where this Law changes, revokes and enforces several provisions contained in several other regulations, so that it will produce a special regulation related to the ease of investment climate. such as the completion of long bureaucratic processes, regulations that overlap with one another and the many regulations that are not harmonious. The substance of the overlapping laws and regulations reflects the absence of legal certainty which will have implications for investors who feel burdened and are considered to be hampering investment activities due to more complicated procedures. The government has a strategic role to encourage investment through structuring investment regulations through the Omnibus Law concept which is expected to have a positive effect on the growth of Foreign Direct Investment (FDI) in the country. The presence of various investment facilities for investors will

certainly have an impact on improving the economy of the welfare state after the COVID-19 pandemic for the prosperity of the people.

5. DECLARATION OF CONFLICTING INTERESTS

The Authors declare that there is no potential conflict of interest in the research, authorship, and/or publication of this article

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*Any investment is
risky as long as
you've never done
any research.*

David Angway