Open letter on the Omnibus Bill on Job Creation

The statement is endorsed by 36 investors representing approximately USD $4.1 trillion in AUM

We, the undersigned global investors, are writing to express our concern over the proposed deregulation of environmental protections in the Omnibus Bill on Job Creation. While we appreciate the Indonesian government’s efforts to align regulations and address bottlenecks to attract more foreign direct investment, we are concerned by certain modifications which could be potentially detrimental from an environment, social, and governance perspective if implemented.

Specifically, we fear that proposed changes to the permitting framework, environmental compliance monitoring, public consultation and sanctioning systems will have severe environmental, human rights and labor-related repercussions that introduce significant uncertainty and could impact the attractiveness of Indonesian markets. We recognize Indonesia’s progress in protecting tropical forests in recent years, yet the proposed legislation could hamper these efforts.

Protecting tropical forests is vital for combating climate change, the degradation of ecosystems, and biodiversity loss, all of which pose systemic and material risks to our portfolios as well as to the health of our societies, economies, and environment. Additionally, the strong correlation between environmental degradation and the increased occurrence of zoonotic diseases like Covid-19 reinforces investors’ desire for a sustainable recovery from this pandemic that reduces the risk of future such events.

Furthermore, the proposed regulatory changes risk undermining Indonesia’s ability to meet its Nationally Determined Contribution to the Paris Agreement, with 60% of this contribution slated to come from the forestry sector. Failure to achieve the goals of the Paris Agreement poses a very real threat to the future stability and health of economies and society. Cutting emissions from land use change is key to meeting these goals and while Indonesia can play a pivotal role in this field it is currently at risk of failing to do so, threatening the success of the Agreement as a whole.

Efforts to stimulate foreign investment by weakening regulations, such as easing restrictions on clearing land in palm oil concessions, are counterintuitive in light of investors’ growing desire for environmental protections and rising international demand for responsible commodity production and regulation on imported deforestation. The European Parliament is moving towards a legal framework to ensure deforestation-free supply chains and concerns over supply chain deforestation almost derailed the approval of the EU-Mercosur trade deal this year.

Investors’ concern over the risks posed by deforestation is only growing; last year over 250 global investors representing $17.2 trillion in AUM called on companies to take urgent action to eliminate deforestation in their supply chains and across their industries.

While the proposed regulatory changes aim to increase foreign investment, they risk contravening international best practice standards intended to prevent unintended harmful consequences from

1 Of specific concern are: The OSS GR provision allowing projects to begin activities before an environmental and impact assessment is completed (Art. 38 OSS GR); Changes related to risk-based licensing that may lead to activities that carry significant risk being implemented without the required due diligence (Articles 9, 10, 11); The introduction of environmental approvals rather than environmental licensing (Article 14, 22 and 23 in the Omnibus Bill on Job Creation); Provisions that may prevent effective consultations and limit the capacity of affected communities and other stakeholders to provide feedback on proposed projects (Article 23 of Omnibus Bill on Job Creation, proposed deletion to Article 29, 30 and 31 of EPMA, proposed revision to Article 24 EPMA, proposed revisions to Article 36, 39 (1), 39 (2) of the 2009 EPMA, proposed revision to Article 1(2) and Art. 34 of the 2009 EPMA);
7 https://d8g8t13e9vf2o.cloudfront.net/Uploads/r/q/s/investorstatementondeforestationandforestfiresintheamazon_29_oct_2019_665598.pdf
business activities⁸ that could deter investors from Indonesian markets. As investors, we are concerned that this deregulation will negatively impact both investee companies and our portfolios overall by potentially increasing the reputational, operational, regulatory, and climate risks posed to companies operating in Indonesia. Robust policies to protect forests and human rights are key solutions to managing these risks and contribute to efficient and sustainable financial markets in the longer term. Instead of rolling back these regulations, we urge you to take a longer-term perspective and adopt a “green” recovery plan to address the economic devastation caused by the pandemic.

We urge the government of Indonesia to:

- Preserve and advance legislation that supports the conservation of forests and peatlands
- Retain and strengthen legislation that upholds human rights and the customary land rights of Indigenous peoples, honoring the principle of Free, Prior and Informed Consent
- Hold proper consultations with environmental and civil society groups and investors on the Omnibus Bill on Job Creation before further progressing its implementation
- Retain a long-term view when developing plans for economic recovery from Covid-19, ensuring social and environmental considerations are central to Indonesia’s recovery

Economic development and protection of the environment need not be mutually exclusive; however it is important for the country to demonstrate that the requisite checks and balances and necessary audits are in place under the Bill to ensure no negative impact on the environment through business activities.

To this end, we request a video call to discuss our position and how we can work together to develop a way forward on these issues.

Signed by:

a.s.r. asset management

ACTIAM

Aviva Investors

BMO Global Asset Management

⁸ Standards include International Finance Corporation Standards, OECD Due Diligence Guidance for Responsible Business Conduct and United Nations Guiding Principles on Business and Human Rights
Figure 8 Investment Strategies

Green Century Capital Management

Karner Blue Capital

Legal & General Investment Management

Maitri Asset Management

Future Super

Indép’AM

KLP

Local Authority Pension Fund Forum

NN Investment Partners