

## **Open Letter: An Investment Alert for International and Foreign Financiers responding the Omnibus Bill on Job Creation**

The ambition to boost development has jeopardized Indonesia's environmental and social safeguards, most notably during the past six years since President Joko Widodo took office. We,<sup>1</sup> a group of Indonesian environmental and social justice organizations, address this warning letter to investors, as an alert that Indonesian current laws and regulations will no longer comply with globally accepted environmental and social safeguards, including specific standards adopted by major financing institutions. Additionally, the pathway forward, especially with the introduction of the Omnibus Bill of Job Creation, will bring Indonesian environmental and social safeguards even further than the generally accepted global standards in financing sustainable developments.

Investors must pay extra cautions to the following red flags:

1. **Significant setback of environmental impact assessment**, likely in contrary with Financial Institutions' standard concerning environmental and/or social safeguards, including:
  - a. World Bank (WB) Environmental and Social Standard 1 on Assessment and Management of Environmental and Social Risks and Impacts;
  - b. International Finance Corporation (IFC) Performance Standards 1;
  - c. Asian Development Bank (ADB) Safeguard Requirement 1 on Environment;
  - d. Asian Infrastructure and Investment Bank (AIIB) Environmental and Social Standard 1;
2. **Reduction of meaningful participation opportunities in environmentally degrading projects**, likely in contrary with Financial Institutions' environment and/or social standards, including:
  - a. WB Environmental and Social Standard 10;
  - b. IFC Performance Standard 1;
  - c. ADB Safeguard Requirement 1 on Environment;
  - d. AIIB Environmental and Social Standard 2;
3. **Inconsistent spatial planning provisions, potentially causing disproportionate environmental burden to marginalized groups, accelerating biodiversity loss, endorsing state-sponsored land grabs, and discriminates impacted communities including indigenous people from access to justice opportunities.** The provisions undermine environmental standards and/or social standards of Financial Institutions to protect biodiversity and their habitat, to not conduct land grabbing and displacement/forced evictions, and to provide protection for indigenous peoples, including:

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<sup>1</sup> Indonesian environmental and social justice organizations signing this letter are: Greenpeace Indonesia, Indonesian Center for Environmental Law (ICEL), Indonesia for Global Justice (IGJ), Yayasan Lembaga Bantuan Hukum Indonesia (YLBHI), Lembaga Studi dan Advokasi Masyarakat (ELSAM), Auriga Nusantara, WALHI Eksekutif Nasional, WALHI Kalimantan Selatan, WALHI Jawa Barat, WALHI Jakarta, WALHI Sumatera Barat, Sajogyo Institute, Trend Asia.

- a. WB Environmental and Social Standard 5, 6 and 7;
  - b. IFC Performance Standard 5, 6, and 7;
  - c. ADB Safeguard Requirement 1, 2, and 3;
  - d. AIIB Environmental and Social Standard 1 and 3;
4. **The remaining root causes of environmental crisis and injustice that the Omnibus bill left intact.** Even worse, the bill does the opposite: enabling the conditions which likely deteriorate the crisis and injustice.

A more detailed elaboration of the points above is attached in **Appendix 1**, along with unofficial English translation of the relevant parts of Omnibus Bill on Job Creation, dated February 12, 2020 in **Appendix 2**.

We, the undersigned, strongly urge international financial institutions, especially those currently or contemplating to finance a development project in Indonesia, to:

1. Conduct a thorough review on how the Omnibus Bill on Job Creations' will directly or indirectly impact the environment and biodiversity, community and marginalized groups, indigenous people; especially when the bills' eases to development projects could aid land grabs and cause disproportionate environmental burden.
2. Taking a hard look at the bills' promised benefits, and weigh such promise with the Indonesian government's failure to maintain a stable, predictable legal and regulatory design, including its failure to:
  - a. Ensure finalization and operation of a fully performing integrated license and compliance information system, including guaranteeing proper access to information and participation for local governments and the general public, especially impacted community;
  - b. Delivering and maintaining an accurate, transparent, and updated one map and one data;
  - c. Reviewing and correcting, or revoking when necessary, regulations that weaken environmental and social safeguards, including but not limited to Government Regulation on Online Single Submission and its implementing regulations;
  - d. Resolving disharmonized regulation by thoroughly evaluating the existing regulations based on the most proper and accountable method to sufficiently reflect consideration of the sustainable development using the existing institutions and resources in transparent and accountable manner;
  - e. Enacting regulations to ensure compliance to following safeguards:
    - i. the protection of indigenous people and marginalized peoples' rights to safe and healthy environment and right to sound living in their respective wisdom,
    - ii. the restoration of degraded ecosystems to strengthen the capability of climate mitigation and adaptation.
  - f. Operating a strong monitoring and oversight system to ensure implementation of a-e;
  - g. We also advise to assess the likelihood of a successful judicial review against the Omnibus Bill, which can further deteriorate confidence to invest in Indonesian development projects, given various contradictions to the Indonesian Constitution and the Constitutional Court's past precedence.

3. Take appropriate measures to identify potential conflicts with globally accepted international environmental and social safeguards on financing sustainable development, including your institutions' environmental and social safeguards policy
4. Take note of the public concerns about the Omnibus bill, including rejection, condemnation, protests and specific concerns raised by different groups, including women and indigenous people. Particularly, how the bill, if enacted, would curtail public participation on particular projects. On the other hand, we encourage IFIs to openly communicate findings to investors and the general public, especially to ensure that any future IFI investment would have to remedy these deficiencies.
5. Restate commitment not to fund projects in countries with standards that do not align with IFI standards.
6. Plan and conduct economic recovery in accordance to UN Secretary General Recovery Packages that ensures every country's recovery financial decision must take account of environmental and social impacts, while considering climate risks in the decision-making process.