

Indonesia Quarterly Regulatory Updates

We provide herein our executive summary of 20 newly enacted regulations from various sectors in Indonesia, which have been enforced since 1 October – 31 January 2022.

| General Corporate Sector | | |
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| No | Regulation | Summary |
| 1. | <p>Minister of Law and Human Rights Regulation of the No. 38 of 2021 on Procedures on Prevention and Prohibition (“MoLHR Regulation 38/2021”)</p> <p>Enforcement Date: 31 December 2021</p> | <ul style="list-style-type: none"> MoLHR Regulation 38/2021 provides several immigration-related provisions, which address 1) the enforcement of temporary suspensions of individuals in Indonesia’s territory (“Prevention”) and 2) the prohibition for foreign citizens from entering Indonesia’s territory (“Prohibition”). MoLHR Regulation 38/2021 enforces preventive policies for both Indonesian citizens and foreign nationals, subject to the parties concerned, based on a number of reasons, including 1) Supervision of Immigration Officials and Decrees on Administrative Measures related to Immigration; 2) Decrees of the Minister of Finance and the Attorney General, in relation to their respective assignments; 3) Requests of the Chief of the Indonesian Police Force or the Head of the National Narcotics Board of the Republic of Indonesia; 4) Orders of the Head Corruption Eradication Commission; and/or 5) Decisions or orders or requests of the authorized ministries or agencies. |





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| | | <ul style="list-style-type: none">▪ The regulation is imposed by the Minister of Law and Human Rights, subject to requests of the following parties: 1) Representatives of the Republic of Indonesia, through the Minister of Foreign Affairs; 2) Other countries, to prevent the foreign nationals from avoiding the legal proceeding in their countries of origin; and/or 3) the International Court of Justice as a result of the parties' crimes against humanity or organized cross-border crimes. |
| 2. | <p>Constitutional Court Decision No. 23/PUU-XIX/2021 on Judicial Review of Law No. 37 of 2004 on Bankruptcy and Suspension of Debt Payment Obligation (“CC Decision 23/2021”)</p> <p>Enforcement Date: 1 December 2021</p> | <ul style="list-style-type: none">▪ PT Sarana Yeoman Sembada (“Petitioner”) appealed to the Constitutional Court (“MK”) stating that Article 235 (1), Article 293 (1), and Article 295 (1) of Law Number 37 of 2004 on Bankruptcy and Postponement of Debt Payment Obligation (“Law 37/2004”) were unconstitutional and should not be legally binding. The Petitioner claimed that these provisions were not in line with Article 28D (1) of the 1945 Constitution of the Republic of Indonesia (“UUD 1945”) and, as a result, causing injustice and legal uncertainty.▪ MK considered the petition for Suspension of Debt Payment Obligation (“PKPU”) submitted by the creditor and the reconciliation proposed by the debtor that was later rejected by the creditor potentially create conflict of interest, as well as possible errors with regard to the application of the law by the Judge. Thus, a legal action must be taken. MK concluded that the appropriate legal remedy is an appeal without the right to file a review. |



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| | | <ul style="list-style-type: none"> The Court then decided that Article 235 (1) and Article 293 (1) of Law 37/2004 contradict the 1945 Constitution if the interpretation is not adjusted: "It is permissible to take cassation against the PKPU decision submitted by the creditor and the rejection of settlements of the debtor." |
| 3. | <p>Constitutional Court Decision No. 91/PUU-XVIII/2020 on Formal Judicial Review of Law No.11 of 2020 on Job Creation ("Job Creation Law") ("CC Decision 91/2020")</p> <p>Enforcement date: 25 November 2021</p> | <ul style="list-style-type: none"> Based on this decision, the Job Creation Law is deemed conditionally unconstitutional. However, it will remain effective for two-years of the grace period. The Constitutional Court has also ordered the respective authority to revise the Job-Creation Law and failure to do so will make the law permanently unconstitutional. CC Decision 91/2020 also rules that all strategic and widespread measures and policies under the Job Creation Law shall be suspended. Moreover, no new implementing related-rules for the Job Creation Law shall be issued. On the contrary, the Coordinating Minister of Economic Affairs ("CMoEA") has issued a statement that all existing provisions of the Job Creation Law shall continue to be effective until the issuance of the revisions. |
| 4. | <p>Minister of State-Owned Enterprises ("MoSOE") Regulation No. PER-14/MBU/10/2021 on the Second Amendment to MoSOE Regulation No. PER-12/MBU/2012 on Supporting Bodies of the Board of Commissioners/ Board of</p> | <ul style="list-style-type: none"> MoSOE Regulation 14/2021 provides that secretaries of the Board of Commissioners ("BoC") or Board of Supervisors ("BoS") of State-Owned Enterprises (<i>Badan Usaha Milik Negara</i> or "BUMN") are given a post-service facility (<i>fasilitas purna jabatan</i>) worth the maximum amount of 25% of their honorariums. This provision would be effective starting the 2022 fiscal year. |





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| | <p>Supervisors of State-Owned Enterprises (“MoSOE Regulation 14/2021”)</p> <p>Enforcement Date: 29 October 2021</p> | <ul style="list-style-type: none"> MoSOE Regulation 14/2021 also stipulates that the honorarium for a member of the audit or other committees is a maximum of 20% of the salary of the president director of the relevant company. However, MoSOE may require certain BUMN companies to provide honorarium for a member of the audit or other committees worth 25% of the president director’s salary of the relevant company. Other committees must be formed by BUMN companies if ordered by MoSOE through a Ministerial Decree that must contain the following provisions: 1) the list of BUMN companies that are obliged to form such committees; 2) duties of said committees; 3) number of members; 4) terms of service; 5) membership requirements; and 6) incomes and facilities. |
| <p>Manpower Sector</p> | | |
| <p>5.</p> | <p>Minister of Manpower (“MoM”) Regulation No. 23 of 2021 on Revocation of MoM Regulations</p> <p>Due to the Promulgation of Job Creation Law and its Implementing Regulations (“MoM Regulation 23/2021”)</p> <p>Enforcement date:</p> | <ul style="list-style-type: none"> The regulation revoked numerous regulations issued by MoM. The repealed regulations under MoM Regulation 23/2021 are: 1) MoM Regulation 6/1990 on the Requirement for Businesses to Draw Up, Own, and Maintain Wage Books; 2) MoM Regulation 19/2012 on Conditions for the Submission of Partial Work to Other Companies, with MoM Regulation 27/2014 and MoM Regulation 11/2019 as its amendments; 3) MoM Regulation 3/2015 on Standard Operating Procedure for the Issuance of Permits for the Use of Foreign Workers through the One-Stop Services Facility at the Investment |





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| | 12 November 2021 | <p>Coordinating Board; 4) MoM Regulation 4/2015 on Standard Operating Procedure for Business Licensing for the Domestic Placement of Indonesian Migrant Workers through the One-Stop Services Facility at the Investment Coordinating Board; 5) MoM Regulation 5/2015 on Standard Operating Procedure for the Issuance of Business Licenses for Job Training through the One-Stop Services Facility at the Investment Coordinating Board; 6) MoM Regulation 6/2015 on Standard Operating Procedure for the Issuance of Business Permits for the Provision of Worker/Labourer Services through the One-Stop Services Facility at the Investment Coordinating Board; 7) MoM Regulation 20/2016 on Procedures for the Imposition of Administrative Sanctions under Government Regulation Number 78 of 2015 on Wages; 8) MoM Regulation 21/2016 on Decent Living Standards, and MoM Regulation No. 18/2020 as its amendment; 9) MoM Regulation 22/ 2017 on the Implementation of the One-Stop Services Facility of the Manpower Sector at the Investment Coordinating Board; 10) MoM Regulation 15/2018 on Minimum Wages; and 11) MoM Regulation 1/2006 on the Implementation of Article 3 of MoM Decree No. KEP.231/MEN/2003 on Procedure for the Suspension of the Implementation of the Minimum Wage.</p> <ul style="list-style-type: none">▪ Repealed decrees based on the regulation are: 1) MoM Decree No. KEP.150/MEN/2000 on the Settlement of Layoffs, Stipulation of Severance Pay, Work Time Bonus, and Compensation for Companies; 2) MoM Decree No. |
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| | | <p>KEP.231/MEN/2003 on Procedure for the Suspension of the Implementation of the Minimum Wage; 3) MoM Decree No. KEP.51/MEN/IV/2004 on Leave Periods in Certain Companies; 4) Decree No. KEP.100/MEN/VI/2004 on Terms for the Implementation of Defined Period Labour Contracts; 5) MoM Decree No. KEP.102/MEN/VI/2004 on Overtime Working Hours and Overtime Pay.</p> |
| 6. | <p>Indonesian Migrant Workers Protection Board Regulation No. 7 of 2021 on Provision of Assistance to Prospective and Troubled Indonesian Migrant Workers</p> <p>Enforcement date: 12 October 2021</p> | <ul style="list-style-type: none">▪ The Indonesian Migrant Workers Protection Council provides cash aids and other forms of assistance to Indonesian migrant workers facing financial or other difficulties at work if they have to deal with, among others: 1) Fraudulent acts related to their employment, making them unable to go to destination countries to work as migrant workers; or 2) Abuse and/or non-accidental maltreatment during the placement period.▪ Indonesian migrant workers would be given the needed supports if they are members of the social security program for Indonesian migrant workers, but face risks not covered by the program (e.g., unpaid wages, abuse and/or maltreatment not due to an accident at work, rape).▪ The assistance may be provided to the workers who are not members of any social security schemes described above, if they experience the following risks: 1) Abuse and depression; 2) Accident at work leading to incapacity to work; 3) Rape; 4) Death; and/or 5) Illness and/or other health conditions that need follow-up treatments. |





| Banking and Financial Services Sector | | |
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| <p>9.</p> | <p>The Financial Services Authority (<i>Otoritas Jasa Keuangan</i> or “OJK”) Regulation No. 1/POJK.03/2022 on Branchless Banking Services under the Inclusive Financial Framework (“OJK Regulation 1/2022”)</p> <p>Enforcement Date: 6 January 2022</p> | <ul style="list-style-type: none"> ▪ OJK Regulation 1/2022 lists out the product types that incorporate inclusive branchless banking services (<i>Layanan Keuangan Tanpa Kantor dalam Rangka Keuangan Inklusif</i> or “Laku Pandai”) offered by financial institutions, which are: 1) Basic Savings Accounts (“BSA”); 2) Microcredit and financing; and/or 3) Other financial services, as approved by OJK. ▪ As part of efforts to support government policies, parties can be excluded from fulfilling account and transaction limits for BSA products. Not only that, banks can also allow the maximum monthly and/or annual transactions to be temporarily exceeded under certain conditions. ▪ There are requirements that must be met by every prospective Laku Pandai operator, namely: 1) its profile shall be subject to risk profile, operational risk level, and the first, second, or third rank risk compliance; and 2) it must have the electronic transaction support infrastructure, including: a) Short Message Services (SMS) or cellular banking; and b) Internet or host-to-host banking. |
| <p>10.</p> | <p>OJK Regulation No. 26/POJK.03/2021 on the Maximum Limit for Fund Distribution and Large Exposures for Sharia Commercial Banks (“OJK Regulation 26/2021”)</p> | <ul style="list-style-type: none"> ▪ OJK Regulation 26/2021 regulates the maximum limit for fund distribution. First, the maximum limit for fund distribution to related parties is 10% of the Commercial Sharia Banks (<i>Bank Umum Syariah</i> or “CSB”) capital. Second, the maximum limit for fund distribution to individuals or groups of customers who are not related parties is 25% of the CSB core capital (for Tier 1). |



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| | <p>Enforcement Date: 1 January 2022</p> | <ul style="list-style-type: none"> Activities that can be carried out by CSB related to the distribution of funds, include: 1) Placements; 2) Sharia-hedging transactions; 3) Sharia securities; 4) Acceptance receivables; 5) Financing; and 6) Capital participation. |
| 11. | <p>OJK Regulation No. 14/POJK.03/2021 on the Amendment to Regulation of the Financial Services Authority No. 34/POJK.03/2018 on the Reassessment of the Primary Parties of Financial Services Institutions (“OJK Regulation 14/2021”)</p> <p>Enforcement Date: 27 December 2021</p> | <ul style="list-style-type: none"> OJK Regulation 14/2021 extends the broad definition of management’s primary parties to eventually include the management executives at the Financial Institution Pension Fund. Furthermore, officers operating at levels above of the division head other than members of the Board of Directors are now defined as executive officers of Conventional Commercial Banks and CSB. |
| Taxation Sector | | |
| 12. | <p>Directorate General of Customs and Excise (“DGoCE”) Regulation No. PER-20/BC/2021 of 2021 on Procedure for the Settlement of Imports Customs Notifications through the Voluntary Declaration Mechanism based on the</p> | <ul style="list-style-type: none"> DGoCE Regulation 20/2021 defines the voluntary declaration as notification provided by importers, business actors operating in free trade areas and ports, and business actors in bonded storage fields. They have to provide notification and estimation of the amount that must be paid in connection with transactions, undetermined at the time of submission of import customs notification. Concerned Business Actors may carry out import customs declarations with a voluntary declaration mechanism by submitting the following aspects: 1) Futures |





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| | <p>Findings of Customs and Excise Officials (“DGoCE Regulation 20/2021”)</p> <p>Enforcement Date: 31 December 2021</p> | <p>prices; 2) Royalties; 3) Proceeds; 4) Transportation; 5) Insurance; and/or 6) Assistance.</p> |
| 13. | <p>Minister of Finance (“MoF”) Regulation No. 152/PMK.010/2021 on the Determination of the Import Duty Rate under the Framework of the Comprehensive Economic Partnership Agreement between the Republic of Indonesia and EFTA Countries (“MoF Regulation 152/2021”)</p> <p>Enforcement Date: 1 November 2021</p> | <ul style="list-style-type: none"> MoF No. 152/2021 regulates tariff provisions for imports from European Free Trade Association (EFTA) countries to Indonesia resulting from the ratification of Indonesia - the EFTA Comprehensive Economic Partnership Agreement (“IE-CEPA”), which include: (1) applicable most-favoured-nation rates; and (2) special import duty rates, which are differentiated based on the type of product and the period of application. |
| 14. | <p>Law No. 7 of 2021 on the Harmonization of Taxation Regulations (“HPP Law”)</p> <p>Enforcement Date: 29 October 2021</p> | <ul style="list-style-type: none"> HPP Law has finally introduced a carbon tax, which regulates the Implementation of the Taxpayer's Voluntary Disclosure Program, and amends a number of tax provisions, including Law No. 6 of 1983 on General Provisions and Tax Procedures (and its amendment), Law No. 7 of 1983 on Income Tax (and its amendments), Law No. 8 of 1983 on Value Added Tax concerning |





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| | | <p>Sales Tax on Goods and Services and Luxury Goods (and its amendments), as well as Law No. 11 of 1995 on Excise (and its amendments).</p> <ul style="list-style-type: none"> ▪ According to HPP Law, the income tax rate (<i>pajak penghasilan</i>/PPH) for domestic corporate taxpayers and permanent establishments will be set at 22% as of the 2022 fiscal year. Meanwhile, the rate of value added tax (<i>pajak pertambahan nilai</i>/PPN) will be increased to 11% as of 1 April 2022, and 12% no later than 1 January 2025. ▪ HPP Law also stipulates that starting 1 April 2022, a carbon tax will be imposed on any individual or entity that purchases carbon-containing goods and/or engages in activities that produce carbon emissions. |
| <p>Energy and Natural Resources Sector</p> | | |
| <p>15.</p> | <p>Minister of Energy and Mineral Resources (“MoEMR”) Decree No. 199.K/HK.02/MEM.M/2021 on Guidelines for the Granting of Incentives for Upstream Oil-and-Gas Business Activities (“MoEMR Decree 199/2021”)</p> <p>Enforcement date:</p> | <ul style="list-style-type: none"> ▪ MoEMR Decree 199/2021 stipulates the incentives provided for contractors working under profit-sharing contracts (“Contractors”). The incentives are based on the schemes employed under said profit-sharing contracts. ▪ The provided incentives are: 1) the cost-recovery scheme that includes profit-sharing amount, First-Tranche Petroleum amount, investment credit, domestic-market obligation compensation, accelerated depreciation; and 2) the gross-split scheme that includes additional profit-sharing amounts. ▪ The procedure of securing any of the incentives requires the contractors to submit proposals to the Special Task Force for Upstream Oil-and-Gas Business |





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| | 18 October 2021 | Activities (<i>Satuan Kerja Khusus Pelaksana Kegiatan Usaha Hulu Minyak dan Gas Bumi</i> , better known as the “ Task Force ”). The Task Force then make the recommendation, which will be evaluated by MoEMR who will approve or refuse to give these incentives. |
| Trade Sector | | |
| 16. | Minister of Trade (“ MoT ”) Regulation No. 19 of 2021 on Export Policies and Arrangements Enforcement date: 19 November 2021 | <ul style="list-style-type: none"> ▪ To be able to carry out exports, business actors must meet several requirements: They (1) need NIB and/or other business licenses in the form of registered export approval or certificate, 2) provide the other necessary documents, and/or 3) undergo verification or technical inspection for certain goods. ▪ The specific goods include those potentially disruptive to the security, health, safety, or environment; require conformity, and/or consist of non-renewable products. ▪ Appendix I details certain mining products in the post processing and/or refining stages, which can only be exported until the deadline of 10 June 2023. |
| 17. | MoT Regulation No. 20 of 2021 on Import Policy and Provisions Enforcement date: 19 November 2021 | <ul style="list-style-type: none"> ▪ To be able to carry out import activities, a business actor is required to have an NIB, which is also used as the Importer Identification Number (<i>Angka Pengenal Impor / API</i>), and a general business license. ▪ A party carrying out imports for non-trade purposes must first obtain a statement letter valid for one or more imports. |





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| | | <ul style="list-style-type: none"> The business license or statement letter can be obtained by the importer after submitting an application to the Indonesia National Single-Window System (SINSW). |
| 18. | <p>Law No. 4 of 2021 on the Ratification of the ASEAN Agreement on Electronic Commerce (“Law No.4/2021”)</p> <p>Enforcement date: 6 October 2021</p> | <ul style="list-style-type: none"> Law No.4/2021 ratifies the ASEAN Agreement on Electronic Commerce, which was signed on 22 January 2019 in Hanoi, Vietnam. The agreement contains 19 Articles that regulate several measures that must be adopted or maintained by member countries regarding electronic commerce, except the ones for government procurement. |
| Miscellaneous | | |
| 19. | <p>Draft of Minister of Communication and Informatics (“MoCI”) Regulation No. 14 of 2021 on the Third Amendment to MoCI Regulation No. 13 of 2019 on the Organization of Telecommunication Services</p> <p>Enforcement date: N/A</p> | <ul style="list-style-type: none"> Telecommunication service providers who intend to provide Network Access Points (NAP) must secure Telecommunication Network Provider Licenses for Closed Fixed Network (“JARTUP License”) no later than 31 December 2025. Unlike the previous regulation requiring Telecommunication service providers to secure the JARTUP License within 60 days of the promulgation of MoCI Regulation No. 1 of 2021 as the Second Amendment to MoCI Regulation No. 13 of 2019 on the Organization of Telecommunications Services. Based on the draft, Internet Protocol Television (“IPTV”) providers that have secured IPTV service organization approval letters (“Approval Letters”) need |





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| | | to submit the application for amendments as organizers of IPTV services, no longer than 30 days before the expiration date of the relevant Approval Letters. |
| 20. | Minister of Industry (“ Mol ”) Regulation No. 27 of 2021 on Procedure for the Issuance of Recommendation for Approvals of Imports of Materials for Alcoholic Beverages for Control and Supervision of the Alcoholic Beverage Industry Enforcement date: 2 November 2021 | <ul style="list-style-type: none"> ▪ Industrial companies intending to import raw materials to produce alcoholic beverages are required to provide Mol recommendation before securing MoT import approvals. ▪ The companies can secure the recommendation by applying electronically to the Directorate General of Agroindustry at Mol (“DGoA”) through the National Industrial Information System (<i>Sistem Informasi Industri Nasional</i> or “SIINas”). ▪ The companies already securing the recommendation are required to submit their reports to DGoA once every three months or on a quarterly basis. Incompliance will prohibit the companies from applying for the recommendation for imports of raw materials to produce alcoholic beverages for a period of one year. |

Disclaimer: The information herein is of general nature and should not be treated as legal advice, nor shall it be relied upon by any party for any circumstance. Specific legal advice should be sought by interested parties to address their particular circumstances.



Authors



Marshall S. Situmorang (Partner)
marshall.situmorang@nusantaralegal.com



Andhitta Audria Putri (Senior Associate)
andhitta.putri@nusantaralegal.com

