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Corrigendum to "A Comparative Analysis of Investment Legal Policies in Post-Omnibus Law Indonesia and Malaysia"

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Abstract

Government The investment climate of Indonesia remains affected by regional regulatory overlaps, land disputes, and complex licensing despite the enactment of the Job Creation or Omnibus Law. Therefore, this study aimed to evaluate the post-Omnibus Law regime (Law No. 6 of 2023) through a comparative legal analysis with the investment framework of Malaysia. Structural barriers to investment were examined through normative legal study grounded in progressive theory and incorporating statutory, conceptual, and comparative approaches, with particular attention to two contrasting regulatory paradigms. The results showed that while Indonesia centralized authority and implemented risk-based licensing to streamline procedures, this model frequently conflicted with regional legal realities, such as Aceh's Qanun and Yogyakarta's land restrictions. In contrast, Malaysia operated a decentralized, sector-specific model governed by specialized industry authorities without an overarching single investment statute. An extensive Omnibus legislative approach is insufficient since progressive investment policy must balance centralized administrative efficiency with regional legal certainty to achieve equitable welfare

Introduction

The Preamble to the 1945 Constitution establishes the Unitary State of the Republic of Indonesia with the primary objective of advancing public welfare. In this mandate, sustained economic growth serves as a foundational framework. However, abundant natural resources and accessible human capital are insufficient to drive economic development (Sirwanto, 2020). Active public participation and strategic resource management remain crucial for generating the necessary funds for national development. In this context, the state is obligated to formulate investment policies that guarantee legal certainty and justice, as targeted investments in key economic sectors directly shape the financial trajectory (Anisa, 2016). To enhance a conducive investment climate for foreign capital, the government provides various incentives, including tax reliefs, customs allowances, increased depreciation and amortization, land acquisition support, as well as streamlined immigration and import licensing processes (Salim, 2015).

During the reform era, a paradigm shift occurred in investment law politics, driven by the influence of the World Trade Organization (WTO), which was ratified through Law Number 7 of 1994. In the context of post-independence economic and social development, foreign investment, particularly Foreign Direct Investment (FDI), serves as an important instrument for developing nations to catch up with developed countries (Herdegen, 2016) while allowing investors to maximize gains from trade liberalization.

Multinational Enterprises (MNEs) operating across multiple countries (Dunning & Lundan, 2008) and engaging in cross-border transactions such as licensing agreements, turnkey operations, and strategic alliances (Dunning & Lundan, 2008), function as the most significant actors in international trade by controlling production capacity, distribution, market penetration, and employment through FDI (Folsom et al., 2019) (Dunning & Lundan, 2008). For host countries, the function of capital investment is highly advantageous since the concept transfers tangible and intangible assets, generates employment, stimulates the local economy, and develops infrastructure (Schreuer & The United Nations, 2003). However, the implementation has frequently faced controversy ranging from arbitration disputes to historical uncompensated asset takings that affect foreign investors (Sornarajah, 2004). Investment law policy plays an important role in realizing a welfare state since capital investment generates employment for local communities (Bastomi & Salim, 2021). Foreign investment offers substantial benefits, such as creating job opportunities for host country residents, raising income levels and living standards, enhancing collaboration with local enterprises to share economic benefits, increasing exports to expand foreign exchange reserves, and facilitating technology transfer (Vania Suardhana, 2019).

Subsequent policy developments included the enactment of Law Number 25 of 2007 on Capital Investment. This law established fundamental investment policies based on three key pillars, namely 1) the implementation of non-discrimination principles to ensure equal treatment for domestic and foreign investors while safeguarding national interests, 2) the provision of legal protection to guarantee legal certainty, business stability, and security throughout the licensing process and investment lifecycle, and 3) the creation of opportunities for the development and protection of micro, small, medium, and cooperative enterprises (Husnulwati & Yanuarsari, 2021).

The Government of Indonesia issued Law Number 1 of 2020 on Job Creation, which was superseded by Law Number 6 of 2023, commonly referred to as the "Omnibus Law", representing a strategic initiative to stimulate direct investment and improve the ease of doing business. The policy aims to enhance a conducive national business environment to improve economic competitiveness and investment growth (Devi, 2019). This is consistent

with key factors driving investor interest. According to Bahlil Lahadalia, the Minister of Investment/Head of the Investment Coordinating Board (BKPM), major factors attracting investment include political and legal stability, corruption eradication, regulatory reform, and an expanding middle-class population exceeding 100 million (Noverius Laoli, 2023).

Regarding FDI, Indonesia, as a host country, provides guarantees to foreign investors covering legal, political, economic, security, and operational stability (Devi, 2019). These assurances are evidenced by the annual increase in foreign investment inflows. Generally, investment growth in Indonesia over the past five years has shown an upward trajectory, as reported by the 2019–2023 data in Table 1.

Table 1. Realization of Investment in 2019-2023

Year	Domestic Investment IDR	Foreign Investment IDR	Total IDR	Labor Absorption
2019	386.5 trillion	423.1 trillion	809.6 trillion	1,034,441 people
2020	413.5 trillion	412.8 trillion	826.3 trillion	1,150,000 people
2021	447.1 trillion	454.0 trillion	901.0 trillion	912,402 people
2022	552.8 trillion	654.4 trillion	1,207.2 trillion	1,305,001 people
2023	674.9 trillion	744.0 trillion	1,418.9 trillion	1,823,543 people

Total investment realization in 2019 reached IDR 809.6 trillion, comprising domestic and foreign investment of IDR 386.5 and IDR 423.1 trillion, respectively (Deputy for Monetary and Balance of Payments, 2020). In 2020, investment growth increased to IDR 826.3 trillion, consisting of IDR 413 trillion and IDR 412.8 trillion in domestic and foreign investment, which absorbed a total workforce of 1,150,000 people (Capital Investment Coordinating Board, 2020). Compared to 2020, investment realization in 2021 experienced further growth of IDR 901.02 trillion, comprising IDR 454 trillion and IDR 447 trillion from foreign and domestic investment, but labor absorption decreased to 912,402 people (Capital Investment Coordinating Board, 2021). In 2022, investment realization increased substantially to IDR 1,207.2 trillion, consisting of IDR 552.8 trillion and IDR 654.4 trillion in domestic and foreign investment, with labor absorption rebounding to 1,305,001 people (Ministry of Investment, 2022). The realization reached IDR 1,418.9 trillion in 2023, comprising IDR 674.9 trillion and IDR 744.0 trillion in domestic and foreign investment, generating employment for 1,823,543 people (Bahlil Lahadalia, 2023).

The national labor force continues to expand even though investment levels and corresponding employment absorption figures contribute to mitigating unemployment (Noverius Laoli, 2023). According to data from Statistics Indonesia based on the February 2023 National Labor Force Survey (Sakernas), the total workforce reached 146.62 million people, reflecting an increase of 2.61 million compared to February 2022. The Labor Force Participation Rate increased by 0.24 percentage points. The employed population stood at 138.63 million people, an increase of 3.02 million from the previous year. The sectors experiencing the highest employment growth were Accommodation and Food Service Activities, with Other Service Activities, each absorbing approximately 0.51 million workers (Statistik, 2023).

The Indonesian government continues to implement strategic regulatory policies to optimize investment revenue, generate employment, and enhance public welfare. In contrast, Malaysia has adopted an investment policy that is strictly sectoral, lacking a

singular, overarching legislative framework governing all FDI. The investment policies are regulated through sector-specific regulations issued by the government, with authority delegated to various specialized institutions to attract foreign capital.

In Indonesia, a landmark regulatory initiative was the enactment of Law Number 6 of 2023 concerning the Stipulation of Government Regulation in place of Law Number 2 of 2022 on Job Creation into Law (hereinafter referred to as the Job Creation Law). The government anticipates that the legal framework established under the Job Creation Law serves as a robust and comprehensive legal foundation guaranteeing certainty and simplifying operational procedures for investors.

The state exercises the role in capital investment through two primary functions, namely regulator and facilitator. As a regulator, the state establishes legal frameworks, licensing requirements, and enforcement mechanisms to mitigate the adverse impacts of investment on society and the environment (James Zhan et al., 2015). Conversely, as a facilitator, the state promotes a conducive investment climate by providing infrastructure, legal certainty, and fiscal incentives to attract capital for economic growth (The World Bank, 2020). In practice, these dual functions often maintain a dynamic interplay, particularly when balancing investment attraction with environmental protection imperatives (The World Bank, 2020).

Several key obstacles continue to affect investment activities. During a parliamentary hearing between Commission VI of the House of Representatives (DPR RI) and the Ministry of Investment/BKPM, Rudi Hartono Bangun reported core structural challenges in capital investment. These primary barriers include bureaucratic licensing processes, land acquisition constraints, specifically limited availability and inflated pricing, and regulatory inconsistencies across central, provincial, and regional levels of government (Indonesia, 2022).

At the regional level, such as in the Aceh Provincial Government, investment activities encounter distinct structural problems that require urgent governmental intervention. These include low human resource quality leading to limited learning capacity, illegal extortion practices, social friction driven by certain local actors, unresolved land disputes, and inadequate supporting infrastructure for export-import activities, such as poorly connected transport networks between strategic zones and urban centers (Aceh, 2022).

Business permitting in Aceh remains complex due to overlapping and frequently changing government policies. The implementation of local regulations (Qanun) is perceived to decelerate business operations. Additional constraints include raw material supply shortages in terms of quantity, continuity, price stability, and quality, limited marketing distribution channels, constrained market size, and the relatively low purchasing power of the local population (Aceh, 2022).

In the Special Region of Yogyakarta, particularly in Bantul Regency, property investment licensing faces constraints related to land availability. These restrictions are compounded by central government regulations, specifically Decree of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency (ATR/BPN) No. 1589/SK-HK.02.01/XII/2021 regarding the Determination of the Protected Rice Field Map (LSD). This policy aims to safeguard sustainable agricultural land to support national food security, limiting land conversion for commercial and residential development (Dinas Penanaman Modal, 2023).

Legal challenges in investment are from licensing complexities, land acquisition issues, human resource constraints, regulatory overlaps between central and regional authorities, raw material scarcity, and corrupt practices such as illegal levies. Addressing the systemic impediments requires progressive policy interventions to

streamline investment activities and achieve the targeted IDR 2,400 trillion in investment realization by 2024 (Indonesia, 2022).

In response to the pervasive regulatory overlaps and centralized governance issues, Indonesia enacted the Job Creation Law (Law No. 6 of 2023), adopting an overarching Omnibus legislative model. In contrast, Malaysia attracts FDI without depending on a single umbrella statute, operating through sector-specific regulations and decentralized institutional authorities. This fundamental structural divergence presents a comparative question, does an extensive Omnibus model offer greater legal certainty and administrative efficiency in overcoming regional regulatory barriers than a sector-driven framework?

The selection of Malaysia as a comparative benchmark serves a strategic purpose. First, geographic proximity plays a key role since Indonesia and Malaysia share land boundaries on the island of Borneo, where close spatial ties inherently increase the likelihood of Malaysian cross-border capital placement. Second, a substantial volume of Malaysian investment actively flows into Indonesia, particularly in important sectors such as palm oil. However, this comparative analysis extends beyond contrasting two distinct regulatory systems. The framework uses Malaysia's sector-based investment as an analytical baseline to address the structural rigidities and central-regional frictions inherent in the post-Omnibus Job Creation Law of Indonesia. By evaluating institutional flexibility, this study proposes a progressive legal synthesis aimed at harmonizing centralized governance with regional autonomy in Indonesian investment law.

The inquiries remain constrained by a single-jurisdiction framework even though existing literature extensively examines the post-Omnibus Law landscape of Indonesia across national journals, such as studies on legal certainty and capital dynamics by Aprilia et al. (Aprilia et al., 2026), Akbar & Baharudin (Akbar, 2026), or analyses of investor legal standing and domestic operational problems by Rahayu (Rahayu et al., 2026). Previous scholarship predominantly evaluates the Job Creation Law through a domestic lens, overlooking the performance of the grand-scale codification model when contrasted with alternative ASEAN governance paradigms.

Addressing the empirical and conceptual gap, this study introduces legal novelty through two distinct dimensions. First, a rigorous comparative legal analysis is conducted, juxtaposing Indonesia's post-Omnibus centralized, risk-based licensing regime with Malaysia's sector-specific model to evaluate the resolution of local investment impediments and harmonization of governance by the frameworks. Second, this study critically assesses whether Indonesia's shift toward centralized authority and investment incentives genuinely advances employment generation and national welfare guided by Progressive Legal Theory, or provides superficial procedural certainty. A central question is addressed to operationalize the inquiry, namely, How does Indonesia's post-Omnibus investment legal policy compare with Malaysia's sector-driven legal framework in resolving regional regulatory barriers and advancing national economic goals?

The inquiry is grounded in normative legal study, focusing on the rigorous examination of norms, principles, doctrines, and statutory frameworks (Mukti Fajar, 2010). The investigation uses three categories of legal materials, namely 1) primary legal materials, comprising relevant statutes and regulations from both Indonesia and Malaysia, 2) secondary legal materials, including academic journal articles and legal literature, and 3) tertiary legal materials, such as legal dictionaries and encyclopedias (Mahmud, 2005). These materials are examined through a combination of statutory, conceptual, and comparative approaches. Finally, the collected legal norms are

analyzed qualitatively using hermeneutic interpretation to unearth the contextual intent of investment legislation, alongside systematic interpretation to evaluate structural coherence and interrelationships across legal systems.

I. Investment Legal Policy: A Post-Omnibus Law on Job Creation

In business practice, capital investment, which is a term in statutory regulations, is known as investment. Bryan A. Garner defines investment as "An expenditure to acquire property or assets to produce revenue as a capital outlay (Garner, 2004). According to Ida Bagus Rahmadi Supanca, investment is an activity carried out by an individual (natural person) or legal entity to increase and maintain the value of capital in the form of cash, equipment, immovable assets, intellectual property rights, and expertise (Salim, 2015). Investment carried out directly by local and foreign investors is called domestic and foreign investment, respectively. Meanwhile, investment made indirectly by local and foreign parties is called foreign indirect investment (FII).

Investment activities are directly regulated in Law Number 25 of 2007 concerning Capital Investment. According to Article 1, number 1 of Law Number 25 of 2007, investment is all forms of activity carried out to conduct business in the territory of the Republic of Indonesia. Article 1 number 2 of Law Number 25 of 2007 reports that domestic investment is investing capital to conduct business in the territory of the Republic of Indonesia using domestic capital. Foreign investment is the activity of investing capital to conduct business in the territory of the Republic of Indonesia by foreign and domestic investors using foreign capital entirely or jointly. According to M. Sornarajah, "Foreign investment comprises the transfer of tangible or intangible assets from one country to another to generate wealth under the total or partial control of the owner of the assets." (Sutrisno, 2008).

Capital Market Law stipulates that investment activities are carried out by (1) taking part in shares at the time of establishing a limited liability company, (2) buying shares, and (3) carrying out other methods in accordance with the provisions of and regulations.

The significance of investment activities has a positive impact on the host country to increase national economic growth, creating jobs and equitable development. The concept of investment objectives is in line with the Constitution's mandate, where the state has an obligation to realize people's welfare, which is characterized by economic growth (Harjono, 2012). The philosophical basis for the enactment of Law Number 6 of 2023 concerning the Determination of Government Regulations in place of Law Number 2 of 2022 concerning Job Creation into Law (hereinafter referred to as the Job Creation Law) is to carry out the state's duties in creating a prosperous Indonesian society based on Pancasila and the 1945 Constitution of the Republic of Indonesia. This Job Creation Law has been adapted to the constitutional system, specifically regarding the law on forming statutory regulations as regulated in Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 in the Formation of Legislative Regulations. An omnibus law model such as the Job Creation Law can provide an integral foundation in the field of accelerating investment and opening up job opportunities for the community.

Job Creation is an effort to create jobs through facilitating, protecting, and empowering cooperatives and micro, small, and medium enterprises, improving the investment ecosystem, and easing the conduct of business (Laurensius Arlman S, 2018). This concept is a legal policy in Indonesian capital investment used to carry out the constitutional mandate of realizing the welfare of people. The policy is supported by the concept of progressive law. According to progressive legal theory, "Law

comprises building of rules, ideas, and culture (Rahardjo, 2008). Progressive law departs from the maxim, “law is an institution that aims to lead humans to a just, prosperous, and happy life” (Aulia, 2018) and provides several investment policies after the Job Creation Law.

A. Expanding Job Opportunities

The national labour force survey (Sakernas) in August 2024 reported that the labour force was 152.11 million people, increasing by 4.40% with a participation rate of 1.15% compared to August 2023. The working population in August 2024 was 144.64 million people, an increase of 4.79 million from August 2023. The business fields that experienced the largest increase were Agriculture, Forestry and Fisheries, with 1.31 million people (Statistik, 2024). Support from the legal aspect is needed to expand employment.

In line with the views of the ancient Greek philosopher Aristotle, the concept of law was built to provide justice for society. Justice characterizes the welfare of society because a state is formed by giving rights according to the interests (Sudiyana & Suswoto, 2018). The paradigm built in the Omnibus Law Job Creation aims to create and increase employment opportunities by providing convenience, protection, and empowerment for Cooperatives and small, micro, and Medium Enterprises (MSMEs), as well as the national industry and trade, to absorb the widest Indonesian workforce while paying attention to balance and progress between regions in national economic unity (Hermawan, 2019).

The state guarantees that every citizen obtains a job, as well as receives fair and decent compensation and treatment in employment relations. This policy is in line with Plato's teachings. In the book entitled *Politeia*, Plato describes a model of a just state. The country must be organized according to the parts. Justice arises when each group fulfills the responsibilities appropriate to the position and duties. For the concept to prevail, people must perform roles according to different abilities and capacities (Huijbers, 1991). Progressively, the Job Creation Law can provide the community with justice, benefits, and welfare. This circumstance could be seen from the achievement of investment realization in 2024, which reached IDR 1,714 trillion but was dominated by Foreign and Domestic Investment of IDR 900.2 trillion (52.5%) and IDR 814 trillion (47.5%), respectively. The absorption of Indonesian Migrant Workers (TKI) showed a significant increase of 34.7% from the previous year, totaling 2,456,130 people (Moertiningroem, 2025).

B. Small Micro and Medium Enterprises Sector Policy

According to Law Number 20 of 2008 on Micro, Small, and Medium Enterprises, MSME refers to businesses run by people, households, or small-sized enterprises. Businesses with maximum assets of Rp50 million, Rp50 to Rp500 million, and Rp500 to Rp10 billion are categorized as micro, small, and medium-sized enterprises, respectively. The latest data from the Ministry of Cooperatives and SMEs showed that the number of MSMEs in Indonesia in 2024 reached more than 65 million units. These MSMEs are spread across various sectors, including culinary, fashion, handicrafts, and digital technology (Waluyo, 2024). This has not been maximized at the practical level based on the 1945 Constitution, which built the concept of cooperative economics and cooperation. The Omnibus Law on Job Creation provides juridical strengthening of both aspects of consistency and protection for cooperatives and MSMEs (Kesit Bambang, 2003).

A significant aspect of MSME policy is the existence of an Individual Limited

Liability Company (Perseroan) business form. The usual form of company is a partnership founded by a minimum of two or more founders. According to the Job Creation Law, an MSME business can be established by a founder, which has the same legal consequences as an ordinary company.

C. Investment Increase Policy

Job creation strategic policies to improve the investment ecosystem and business activities include the implementation of risk-based licensing. In this context, licensing is the legality given to Business Actors to start and run activities. Risk-based business licensing is carried out by determining the risk level and scale ranking of activities. Determination of the risk level and business scale rating is obtained based on assessing the level of danger and potential for danger to occur regarding health, safety, environment, as well as resource utilization and management carried out by eliminating licensing obstacles for Foreign Investment (Andika Wahyu Wibowo, 2013). The level of danger is assessed by considering the type and criteria of the business activity, its location, resource limitations, and risk volatility. Assessment of potential hazards includes categories ranging from almost impossible to occur, unlikely to occur, likely to occur, and almost certain to occur.

Law of the Republic of Indonesia Number 6 of 2023 introduces assessments of the level of danger and the potential for hazards. Business activities are classified according to risk level and business scale as low-risk, medium-risk, or high-risk. Business Licensing for low-risk activities is in the form of providing a registration number. The identification number is proof of the registration of the Business Actor to carry out activities.

Business Licensing for medium- to low-risk activities is in the form of providing a registration number and a standard certificate issued by the Central or Regional Government based on the verification of compliance. For high-risk activities, licensing consists of the issuance of a Business Identification Number and a permit, defined as approval from the Central or Regional Government.

D. Policy on Providing Incentives for Foreign Investment

Foreign investment policies relate to incentives that increase investor profits, such as tax exemptions, direct subsidies, grants, import duty exemptions, and agreements to purchase products at a certain minimum price. Incentives aimed at reducing investment risks include guarantees against nationalization, except where prompt, adequate, and effective compensation is provided, as well as guarantees granting investors access to international forums for the resolution of disputes. For example, the International Center for the Settlement of Investment Disputes (ICSID) provides market protection for investors with quotas or high import duties for competing products (Zaidun, 2008).

The policy is based on Law No. 7 of 1994 concerning WTO Ratification, where GATT-WTO regarding trade and investment is called Trade-Related Investment Measures (TRIMs). Under the TRIMs Agreement, each signatory country is required to refrain from discriminating between domestic and foreign capital. The investment laws of participating countries may no longer distinguish between foreign and domestic capital. This is the basis for investment regulations that adhere to the principle of equal treatment and do not differentiate between countries of origin. The Non-Discriminatory international trade principle is related to foreign investment and must be spelled out in investment regulations in the recipient country (Sornarajah, 2004). This includes the Most-Favoured-Nation (MFN) and the National Treatment Principles.

The Most-Favoured-Nation Principle requires a country to accord foreign investors treatment no less favourable than that afforded to those from third countries. In the unconditional form, the principle applies generally, irrespective of the socio-political and economic structures of the participating countries. Meanwhile, the National Treatment Principle requires the host country to accord treatment equivalent to that provided to domestic investors. For example, the same sales tax would be imposed on similar products sold by foreigners and those traded in the host country (Vania Suardhana, 2019). This principle is in the Indonesian Investment Law, but the regulation of the Investment Law differentiates treatment in determining basic policies by the government. This shows that the distinction must be in accordance with the provisions of statutory regulations. In the event of nationalization, the legal framework governing the action must be established by law, with compensation provided based on prevailing market value. The dispute shall be resolved through an arbitration institution when the parties fail to reach an agreement.

According to Article 8 of Law Number 25 of 2007 regarding Capital Investment, investors are granted the right to execute transfers and repatriations in foreign currency. This includes capital, profits, bank interest, dividends, and other income, as well as necessary funds for raw and auxiliary materials, semi-finished goods, or finished goods, and the replacement of capital goods to safeguard the viability of investors. Supplementary capital is necessary to facilitate investments, service loan repayments, remit royalties or fees, generate income from foreign nationals used by firms, and derive revenue from the sale or liquidation, indemnification for losses, compensation for expropriation, disbursements related to technical assistance, fees for engineering and management services, payments under project contracts, remuneration for intellectual property rights, and proceeds from asset disposals.

E. Investment Business Sector Policy

Businesses are open for investment, except for the fields declared closed or for activities only carried out by the Central Government. In this context, fields declared closed to investment cannot be operated in line with Article 12 of Law Number 25 of 2007 concerning Capital Investment as amended by Law Number 11 of 2020 concerning Job Creation. Business fields for activities only be carried out by the Central Government are within the framework of defense and security that are strategic in nature and cannot be collaborated with other parties. The open business sector consists of (1) Priority Business Fields, (2) Allocated Business Fields or partnerships with Cooperatives and MSMEs, (3) Business Fields with certain requirements, and (4) Business fields excluded in letters a, b, and c pursued by all investors.

The investment policy in the Job Creation Law has amended Article 12 of Law Number 25 of 2007. Business fields closed to foreign investors have changed with the addition of content in this article, namely:

1. All business fields are open to investment, except those declared closed or activities only be carried out by the Central Government.
2. Business fields closed to investment as intended in paragraph (1) include:
 - a) cultivation and industry of class I narcotics,
 - b) all forms of gambling and casino activities,
 - c) catching fish species listed in Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES),

- d) utilization or taking of coral from nature which is used for building materials, lime, calcium, aquariums, souvenirs, jewelry,
- e) chemical weapons manufacturing industry, and
- f) industrial chemical industry and ozone layer-depleting materials industry.

Investment policy is regulated under Law Number 10 of 2021 concerning Job Creation, as further implemented through Presidential Regulation Number 10 of 2021 concerning the Investment Business Sector amended by Presidential Regulation Number 49 of 2021. Based on Article 2 of Presidential Regulation Number 49 of 2021 concerning Amendments to Presidential Regulation Number 10 of 2021 concerning the Capital Investment Business Sector, the capital investment business sector includes the following.

1. All businesses are open for investment activities, except for fields:
 - a) declared closed for investment,
 - b) carried out by the Central Government.
 - (1a) intended in paragraph (1) as a commercial business sector.
2. Business fields declared closed for investment as referred to in paragraph (1) letter a are:
 - a) Business fields that cannot be operated in line with Article 12 of Law Number 25 of 2007 concerning Capital Investment as amended by Law Number 11 of 2020 concerning Job Creation, and
 - b) Alcohol-Containing Liquor Industry (KBLI 11010), Alcohol-Containing Beverage Industry, such as Wine (KBLI 11020), and Malt-Containing Beverage Industry.

Investment problems in Indonesia are complex and classic, requiring progressive solutions. The government has implemented various policies, specifically with the enactment of the Job Creation Law seen as comprehensive. Based on a comparative study with legal policy in Malaysia, Indonesian law is more centralized, and the central government is dominant in making policies and regulations, including the investment coordinating institution. However, there are problems at the central and regional levels, as stated by Rudi Hartono, Member of the DPR, as well as conditions in the Aceh Regional Government and the Special Region of Yogyakarta.

II. Several Progressive Legal Policies

Several progressive legal policies are needed to overcome classic Indonesian investment problems, which have long affected economic growth and competitiveness. These issues include bureaucratic red tape, inconsistent regulations across regions, lack of legal certainty for investors, and complicated land acquisition processes. Indonesia can create a more attractive and secure investment climate by introducing reforms that simplify administrative procedures, ensure consistency and transparency in regulation, and strengthen legal protections for investors. These legal innovations are essential for increasing domestic investment and drawing more FDI, which contribute to job creation, infrastructure development, and overall economic resilience.

A. Harmonization of Regulations and Synchronization of Coordination of Investment Institutions

The rapid development of society, in line with current technological advancement, demands legal changes by creating, developing, or changing existing laws. Regulatory changes arise from shifts in economic conditions, social values, and governing regimes. Changes in political leadership may lead to the introduction of new

policies or amendments to existing regulatory frameworks. The purpose of the changes or additions is to improve certain situations in the region (Hermawan, 2019). The advancement of investment law is rapid because the concept follows developments in society and technology.

The Job Creation Law as an investment legal policy needs to be followed by implementing regulations and technical regulations at investment institutions and local governments. Furthermore, Government Regulation Number 5 of 2021 concerning the Implementation of Risk-Based Business Licensing is a legal policy used to simplify the licensing process. Government Regulation Number 5 of 2021 shows that business licensing is classified according to the level of risk into three categories. First, low-risk business activities require a Business Identification Number (NIB), which serves as the legal basis for conducting activities. Second, medium-risk business activities are divided into low-medium-risk and high-medium-risk categories. Low-medium-risk activities require a NIB and a standard certificate issued through a self-declaration. Meanwhile, high-medium-risk activities require a NIB and a standard certificate issued by the Regional or Central Government in accordance with the relevant business sector. Third, high-risk business activities require a NIB and a Business License issued by the Regional or Central Government in accordance with the relevant business sector.

B. Harmonization of Central and Regional Policies

There are restrictions on land use for the economy to maintain paddy fields based on the Decree of the Minister of Agrarian and Spatial Planning/National Land Agency (ATR/BPN) No. 1589/SK-HK.02.01/XII/2021 on the Determination of Protected Paddy Fields Map (LSD). Even though regional policies implemented in Bantul may differ, the designation of green land for housing development may create challenges for investment (Dinas Penanaman Modal, 2023).

Investors need legal certainty in carrying out business activities, which is guaranteed by statutory regulations. Interpretation of regulations is not uniform, specifically between central and regional officials. Policy harmonization can be carried out through coordination between central and regional institutions, OSS Institutions and ministries, as well as Provincial and city governments.

C. Provision and Mapping of Investment Land

According to Member of Commission VI of the House of Representatives Rudi Hartono Bangun, the problem for investors is limited land and high prices (Indonesia, 2022). Law Number 6 of 2023 concerning Job Creation regulates the Land Bank as a special agency that manages land and functions to carry out the planning, acquisition, procurement, management, utilization, and distribution.

The availability of land is a basic right in capital investment. In certain areas, land for investment is very limited for factories, warehouses, and other purposes. The government needs to ensure that land needs are met and mapped for easy access by investors.

Certainty is important regarding land use for agriculture, fisheries, industry, plantations, and forestry. The legality of the land used for investment must be fulfilled to avoid overlapping. Certification must be ensured as a form of legality, including land use. The establishment of the Land Bank Agency is intended to ensure the availability of land in the context of public, social, and national development interest, as well as economic equality, land consolidation, and agrarian reform. Therefore, the regulation is expected to bridge the need of the state in meeting that of land, such as for

the construction of national strategic projects in the form of toll roads, reservoirs, dams, or for other infrastructure development (Tejawati et al., 2023).

D. Improving the quality of human resources

Several obstacles require government attention, such as the low quality of Human Resources (HR) due to the low willingness to learn. A total of 3 fundamental problems have been reported in employment, namely the large number of the labor force, the relatively low quality of labor, and Increased Unemployment due to certain factors (Delia Amanda Iroth, 2017). Human resources are a problem in investment considered by the government.

Investment companies are obliged to increase the competency of the Indonesian citizen workforce through job training in accordance with the provisions of statutory regulations based on Article 10 paragraph (3) of Law Number 25 of 2007 concerning Capital Investment. This company obligation is carried out after conducting capital investment activities. The problem faced by investors is that the quality level of Indonesian Human Resources is considered to be low when proposing investment activities (Indonesia, 2022). The quality of available Human Resources must meet the requirements of the investors.

The Government of the Republic of Indonesia must ensure that the quality of human resources is guaranteed. The improvement of educational quality must be a government priority in determining and realizing high-quality human capital. *Merdeka Belajar* (Freedom to Learn) and *Kampus Merdeka* (Independent Campus) policies as a curricular framework accommodating industrial internships represent crucial initiatives that must be sustained. A one-semester (six-month) internship program converted into 20 credit units (SKS) for applied science study programs (Regulation of the Minister of Education, Culture, Research, and Technology of the Republic of Indonesia Number 53 of 2023 concerning Higher Education Quality Assurance) constitutes a policy supporting investment activities within the sector of human resource development.

III. Comparison of Investment Legal Policies in Malaysia

Various ASEAN countries have created legal policies that can attract investors to invest capital in Indonesia and Malaysia. According to Malaysia's Ministry of Investment, Trade and Industry (MITI), FDI comprises financial instruments, including equity and investment fund shares, such as reinvested earnings, as well as debt instruments, such as intercompany loans, trade credits, and advances, provided by foreign direct investors (Nubli & Sivanantham, 2022).

Malaysia does not have laws or guidelines that regulate FDI. Sector-specific regulations issued by the Government regulate Malaysian FDI. There are minimal restrictions on foreign investment in Malaysia, and investors can hold up to 100% equity in new projects in certain sectors. Cross-sector FDI engagement is governed by regulatory approvals such as licensing, foreign shareholding restrictions, or minimum Malaysian or Bumiputera shareholding requirements in proposed investments.

Foreign investment legal policies regarding sectors open to investors are more careful, comprising certain Institutions or Authority Bodies. Several agencies or ministries handling foreign investment issues in Malaysia are reported in the following sections.

A. Malaysia Investment Development Authority/MIDA

MIDA was incorporated in 1967 as a statutory body under the Malaysian Industrial Development Authority (MIDA) Act. The mandate is to harmonize government promotion efforts, optimize resources, and establish effective structured investment promotion agency (IPA) governance. Investments in the manufacturing and services sectors in Malaysia are supervised by MIDA as the Main Investment Promotion and Development Agency. Under Malaysian law, investors in the manufacturing sector must register a business entity and obtain a license for the project as outlined in the Industrial Coordination Act of 1975. According to Nubli and Sivanantham, there is a liberal expatriate employment policy among other requirements (Nubli & Sivanantham, 2022).

Under the Equity Investment Policy, foreign investors may hold up to 100% equity ownership in new projects, as well as in expansion or diversification projects undertaken by existing companies. According to MIDA, the equity policy applies to companies previously exempted from obtaining a manufacturing licence but become subject to the licensing requirement because shareholders' funds reach RM2.5 million or 75 full-time workers are employed. Licensed companies exempted from complying with equity provisions because shareholder funds were less than RM2.5 million are allowed to own up to 100%. MIDA also provides a policy that companies whose participation has been previously approved will not be required to restructure equity, provided the company continues to comply with the initial terms of the agreement and maintains the features of the agreement.

B. Central Bank of Malaysia (Bank Negara Malaysia)

Investors in the services sector must possess a registered business entity in Malaysia. Depending on the sub-sector and activities undertaken, certain equity conditions may be applied to obtain the necessary approvals, licenses, permits or registration by regulatory authorities. The regulatory body for the financial and insurance/takaful sub-sector is the Central Bank of Malaysia (Bank Negara Malaysia). The liberalization policy of the Central Bank of Malaysia is as follows (Nubli & Sivanantham, 2022).

1. Existing domestic Islamic banks are given the flexibility to enter into strategic partnerships with foreign players by increasing the foreign equity limit to 70% and will be required to maintain paid-up capital of USD 1 billion, and
2. Insurance companies and Sharia insurance operators are given greater flexibility to collaborate with partners by increasing foreign equity to 70%. Furthermore, companies whose participation has been pre-approved will not be required to restructure equity, provided there is compliance with the terms of the pre-approval and maintenance of original features of the project.

C. Ministry of Domestic Trade and Consumer Affairs

The Ministry of Domestic Trade and Consumer Affairs regulates distributive trade matters and consists of all linkage activities that channel goods and services from the supply chain to intermediaries for resale. In this context, foreign business actors operating in the field of distributive trade services obtain prior approval from the ministry before starting operations in Malaysia.

The companies with foreign investors in distributive trading must comply with the following recommendations, 1) appoint a Bumiputera or Malay director, 2) employ Malaysian personnel at all levels specifically for management positions and above, 3)

only 15% of the total workforce consists of low-skilled foreign workers, 4) develop and provide transparent standard operating procedures for local suppliers to market goods, 5) support Bumiputera or Malay participation in the distributive trade sector, 6) employ a minimum of 1% of the total workforce of people with disabilities in large formats, 7) increase the use of local airports and ports in goods export and import activities, 8) support the utilization of local professional services available in Malaysia, 9) submit audited annual financial reports to the Ministry, 10) support sustainable development initiatives and agendas as set out in the Sustainable Development Goals by the Government of Malaysia, 11) comply with all local government rules and regulations (Nubli & Sivanantham, 2022).

D. Petroliam Nasional Berhad (PETRONAS)

PETRONAS is the authority that manages the oil and gas sector in Malaysia. This agency permits foreign investors to collaborate with local companies to improve the oil and gas sector. The requirements for obtaining approval include the appointment of a Malaysian company to act as an agent, the establishment of a joint venture with an entity, or the development of a local branch. The investor must comply with the requirements set out in the General Guidelines and submit an application for the requisite permit and registration through the PETRONAS License Management System, where a foreign investor establishes a joint venture or opens a local branch (Nubli & Sivanantham, 2022). A comparison of investment policies in Indonesia and Malaysia can be seen in Table 2.

Table 2. Comparison of Investment Policies in Indonesia and Malaysia

Police aspect	Indonesia	Malaysia
Regulations	Centralized Regulations in the form of Laws	Sectoral, according to the investment business sector
The handling agency	(1) Investment Coordinating Board and Ministry of Investment, for Direct Investment (2) Capital Market Supervisory Agency (BAPEPAM) for indirect investment	(1) Malaysia Industrial and Trade International (MITI). (2) Malaysia Investment Development Authority. (3) Central Bank of Malaysia (4) Ministry of Domestic Trade and Consumer Affairs (5) Petroliam Nasional Berhad
Licensing Procedures	All business fields through the Online Single Submission (OSS) Institution	Carried out sectorally according to the business field. For example, in mining, there must be approval from PETRONAS.

Foreign Ownership Limits	For investment in the Financial Sector and certain business fields, the value is 99% and 100%, respectively.	Capital is 100% Equity
Capital Investment Business Sector	All business fields are open for investment activities, except for business fields that are declared closed to investment or for activities that can only be carried out by the Central Government.	All business fields are open for investment, with conditions determined by regulations and the handling institution.

IV. Conclusion

In conclusion, Indonesia and Malaysia adopt contrasting legal paradigms in governing foreign and domestic investment to achieve economic welfare in accordance with international WTO standards. In Indonesia, the investment legal strategy under the Job Creation Law (Law No. 6 of 2023) depends on a highly centralized, grand-scale codification model ("Omnibus Law") that includes risk-based licensing, facility provision, non-discrimination principles, and central-regional regulatory synchronization. Meanwhile, Malaysia operates a decentralized, sector-specific legal framework governed by specialized authorities without an overarching single investment statute.

Even though Indonesia's Omnibus Law attempts to streamline bureaucratic procedures, the heavy centralization frequently collides with regional autonomy and local legal frameworks, such as local Qanun in Aceh and Protected Rice Field (LSD) designations in Yogyakarta. Conversely, Malaysia's sector-driven approach provides operational clarity and flexibility directed to specific industries, but demands robust inter-agency coordination. This shows that an extensive Omnibus legislative model is insufficient to resolve structural investment barriers without genuine harmony between central directives and regional governance.

Indonesia must establish a true equilibrium between central harmonization and regional needs, ensuring equitable land provision, infrastructure readiness, and human resource development. Investment policies should also transcend administrative centralization to guarantee legal certainty, enhance equitable economic distribution across the archipelago, and deliver maximum broad-based welfare as mandated by the 1945 Constitution following the principles of progressive law.

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