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Indonesian Model Of Foreign Direct Investment (Omnibus Law): Learning From Singapore

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Abstract: *Foreign direct investment ("FDI") has become a hot topic in board meetings all over the world as modern businesses are seizing new opportunities within the globalized economy. The modern economy functions on a larger scale than ever before, and companies are beginning to realize that failing to partake in foreign direct investment could lead to their demise. FDI has been a key factor driving export-led growth in Southeast Asia. This research offers a comparative legal and critical analysis of the Foreign Direct Investment Regulation (FDI) and strategies of attracting FDI in Indonesia by learning from Singapore. Indonesia has been striving to attract FDI, and therefore on October 2020 Indonesia ratified the Omnibus Law on Job Creation replacing 79 acts regarding investment. Nevertheless, this law has raised legal controversies and public protests. This research focuses finding a model of FDI attraction for Indonesia through lessons learned from Singapore in terms of how to attract FDI. Singapore have made remarkable FDI accomplishment through their own ways. The result of this research is aims to deplore the reasons for the accomplishment, intending to find a better model for*

Indonesia than the Omnibus Law currently adopted. This research argues that Indonesia should reconsider the Omnibus Law approach by referring to the lessons learned from the experience of Singapore's success in attracting FDI.

Keywords: *Foreign Direct Investment, Omnibus Law, foreign investment law*

PENDAHULUAN

Foreign direct investment first entered Indonesia in the Suharto era, and has been exist until nowadays. FDI in Indonesia has grown rapidly in developing infrastructure and some strategic industries. But the number of foreign investors remain limited, some foreign investors are not interested in investing in Indonesia because of Indonesia's strict investment regulation.[1] High labor cost is also one of the considerations for foreign investors hesitating in investing Indonesia. On the other hand, the momentum of investment reallocation from China provides an opportunity to investment to Indonesia today.[2]

In order to improve the ranking and also increas the number of foreign investors to make improvement for Indonesian economic conditions, on October 2019 President Joko Widodo gave a mandate to the parliament on making new regulations that can ease investment procedures and provide more incentives for investors. In February 2020, Indonesian President Joko Widodo's government submitted a draft bill to the country's parliament. The draft is widely known as the "omnibus law" and aims to transform Indonesia's economy. On October 5 2020 the bill of omnibus law has

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[1] OECD Proceeding, available at http://www.oecd.org/investment/investmentfordevelopment/40818364.pdf Accessed on Friday 13 September 2022. 11.15PM

[2] Noverius Loaoli, Ini Penyebab Kenapa Investor Asing Ragu Berinvestasi di Indonesia, June,12 2020. Available at: https://nasional.kontan.co.id/news/ini-penyebab-kenapa-asing-ragu-berinvestasi-di- indonesia?page=1, Accessed on: Sunday, 28 June 2022 11:35pm

been promulgated by the House of Representatives as the job creation act.[3]

In order to help Indonesian economic development in the future, the president has strongly believes that creating the omnibus law is the most effective solution according to the current conditions in Indonesia. This is the first time to create an omnibus law in Indonesia. It is debatable when Indonesia as a civil law country adopt the omnibus law, because the omnibus law is a model for formulating regulations that is commonly used in countries with a common law system, some even argue that an omnibus law legislation contradicts to Indonesian constitution principles.[4]

In terms of FDI, it is necessary if Indonesia may learn lesson from other countries, such as Singapore. It is necessary to refer to the experience of Singapore, because Singapore as the big investor in Indonesia has a lot of foreign investment. Singapore doesn't even have a foreign investment law or an economic investment law requiring both domestic and foreign investment. Investment is instead regulated by the rules of general application. Generally speaking, there is no difference in the treatment of foreign investment and domestic investment, except for special treatments approved by a particular law.[5]

This article will examine; how to finding a model for Indonesian FDI through learn from foreign direct investment regulation from Singapore and learn how the strategies on attracting FDI from Singapore. This article intends to conclude by arguing that Indonesia should reconsider the omnibus law approach and refer to the lesson from the experience of Singapore on attracting FDI. This

3 Nur Rohmi Aida, Plus Minus Omnibus Law UU Cipta Kerja yang Sudah Diasahkan, October 10,2020. Available at: https://www.kompas.com/tren/read/2020/10/05/210758765/plus-minus-omnibus- law-uu-cipta-kerja-yang-sudah-disahkan?page=all, Accessed on Monday, October 6,2022. 12.08 AM

4 Tirta Citradi, Tak Cuma di RI, Omnibus Law Banyak Dipakai Negara Lain.Available at: https://www.cnbcindonesia.com/news/20200121152155-4-131621/tak-cuma-di-ri-omnibus-law-banyak- dipakai-negara-lain, Accessed on, Monday October 6, 2022 12.24 AM.

5 IISD Report, Investment Laws of ASEAN Countries: a Comparative Review, available at https://www.iisd.org/sites/default/files/publications/investment-laws-asean-countries.pdf, Accessed on, Monday 4 November 2019. 6.11 pm.

project is beneficial for global entrepreneurship for research purposes and also serves as a reference for other foreign investors who want to invest in Indonesia.

METODE

This study uses normative legal research which and focuses on the process to find a legal rule, and doctrines of law in order to address the legal issues in Indonesia. The types of data of this study are secondary. The data are gathered from library research means of reviewing legal materials. Legal materials are taken from the literature in the form of primary legal materials, secondary legal materials and tertiary legal materials.

The primary legal materials are taking from Indonesian regulations on 79 acts related to the investment. Secondary legal materials are materials that are closely associated with the primary legal materials which are helpful during the process of analysis, namely: a. related scientific books; b. journals and related literature; c. the results of related studies;

d. the doctrines, opinions and testimony from legal experts both in written and unwritten form. Tertiary legal materials are in the form of dictionaries and encyclopedias.

The legal research approach used in this research or study is comparative approach namely to analyze and compare Indonesian FDI legal model with Singapore ones. Another approach used is approach which made to various laws or regulations related to the Foreign Direct Investment regulation and the implementation of FDI regulation. The legal materials including primary, secondary and tertiary materials in this study are taken from; a. various libraries; b. printed media and electronic media.

Legal materials used in this normative legal research consist of primary, secondary, and tertiary legal materials. The technique used in collecting these legal materials is documentary study. Documentary study is the review of some documents related to the legal rules or document that already exist. In this study, the researcher uses qualitative prescriptive analysis in which the researcher analyzes and gives interpretation or disclosure of subject and object of research undertaken. This study also uses case approach in order to analyze the issues of the Indonesian president instruction on revising 79 investment act and his proposition to have an omnibus law regarding investment include local and foreign in Indonesia and then we will discuss on finding the FDI legal model for Indonesia and learned how it was the strategies on attracting FDI from Singapore. In this study, the researcher did not do any justification

HASIL DAN PEMBAHASAN

Singapore is a republic with a UK-style parliamentary government structure and a written constitution. It is a democracy with universal suffrage and elections are held every four to five years. Historically, the legal system is based on the English common law system, although it has changed over time and many facets of the law are now regulated by the law. Major areas of law – especially authoritative law, contract law, equity, and trust law, property law, and tort law – are generally judge-made, however certain aspects have now been modified to some extent by rules. However, a different area of law, for example, criminal law, company law, and family law are totally statutory in nature.[6]

The Singapore legal system is a rich tapestry of laws, institutions, values, history and culture. Like the Singapore-made quilt, each strand of the legal system is woven together to form a jurisprudential kaleidoscope bounded by a unique national identity. The legal system will inevitably undergo tension as socio-economic and politico-legal changes unfold with increased globalization and regionalization as well as pervasive technological changes. Thus,

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[6] Toh See Kiat and Eryn Kwong, Investing in Singapore, January 2019. Available at: https://uk.practicallaw.thomsonreuters.com/w-018-7404?transitionType=Default&contextData=(sc.Default)&firstPage=true, Accessed on: Friday, November 20, 2020, 12.06 AM

Singapore has to respond swiftly and deftly in creating new laws and institutions or adapting existing ones.[7]

Aside from referring to important Singaporean cases, judges make a decision to refer to English case law where the issues relate to a traditional common-law area of law or include the interpretation of Singaporean rules dependent on enactments or English statutes that appropriate in Singapore. Nowadays, there is additionally a greater tendency to consider decisions of important Commonwealth jurisdictions, for example, Australia and Canada, especially on the off chance that they adopt an alternate strategy from English law. Certain Singapore statutes are not founded on English enactments yet on enactment from different jurisdictions. In such circumstances, court decisions from those jurisdictions on the original legislation are frequently analyzed.

So, based on explanation above, Singapore's legal system is common law (otherwise called judicial precedent or judge-made law, or case law). The law made by judges and similar quasi-judicial tribunals by virtue of being stated in written opinions. The characterizing for "common law" is that it emerges as precedent. While Indonesia legal system are Civil Law.

A. Singapore FDI Law

Singapore does not have a foreign investment regulation or an economy-wide investment law governing both domestic and foreign investment. Investment is instead regulated by laws of general application—for example, the common contract law and the Singapore Companies Act—and by sector-specific legislation. In general, there is no distinction both foreign investment and domestic investment except to the extent that distinctions in treatment are approved by a specific law.[8]

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[7] Singapore Law Watch, Singapore Legal System, Available at: https://www.singaporelawwatch.sg/About-Singapore-Law/Overview/ch-01-the-singapore-legal-system. Accessed on, Monday, November 18 2020, 12.28Am.

[8] Jonathan Bonnitcha, Investment Laws of ASEAN Countries: A Comparative Review, E-Book, Publisher International Institute for Sustainable Development, 2017. Available at: https://www.iisd.org/system/files/publications/investment-laws-asean-countries.pdf, Accessed on, Monday, November 18 2020, 12.11Am.

The Singapore Economic Development Board (EDB) was founded by statute in 1961. The Act of the Economic Development Board sets out the duties and powers of the EDB. In particular Section 6 of the EDB Act makes it clear that its purpose is to attract and promote local and foreign investment.[9] On its website, the EDB is currently identifying itself as: *the lead government agency for planning and executing strategies to enhance Singapore's position as a global business centre. . . . We are a one-stop agency which facilitates and supports local and foreign investors in both the manufacturing and services sectors.* [10]

Singapore prohibits foreign investment in a variety of industries, including telecommunications, media, banking and land tenure. Restrictions on foreign investment can be found in the related sector regulations, such as the Newspaper and Printing Press Act in the case of restrictions on foreign ownership of newspaper firms. In practice, these limits on foreign investment are enforced by the appropriate regulatory authority. For example, the Singapore Monetary Authority regulates foreign investment in the banking sector through the licensing mechanism set out in Section 7 of the Banking Act.

By looking this fact, is it very interesting to discuss and analysis the FDI in Singapore, as explained above Singapore doesn't has the FDI Act, but Singapore can manage well their FDI. Although Singapore does not have FDI Law but Singapore keep on protecting their Foreign Investment. Singapore has marked International investment agreements (IIAs)[11] with type Bilateral Investment

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[9] IISD Report, Investment Laws of ASEAN Countries: a Comparative Review, available at https://www.iisd.org/sites/default/files/publications/investment-laws-asean-countries.pdf, Accessed on, Monday 4 November 2019. 6.11 pm.

[10] About EDB, Our Strategy what we do, available at: https://www.edb.gov.sg/content/edb/en/about- edb/our-strategy/what-we-do.html. Accessed on, Monday 4 sept 2022 6.11 pm.

[11] In addition to IIAs, there also exists an open-ended category of investment-related instruments (IRIs). It encompasses various binding and not-binding instruments and

Treaties[12] (BITs)[13] with 46 nations. Some are ended and others are not yet in power. These agreements mutually protect nationals or companies of one or the other country against war and non-commercial risks of expropriation and nationalization.[14] Singapore has no laws that force foreign investors to transfer ownership to local interests and as such no disputes are pending with UNCTAD.[15]

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includes, for example, model agreements and draft instruments, multilateral conventions on dispute settlement and arbitration rules, documents adopted by international organizations, and others.

12 The category of treaties with investment provisions (TIPs) brings together various types of investment treaties that are not BITs. Three main types of TIPs can be distinguished: (1). broad economic treaties that include obligations commonly found in BITs (e.g. a free trade agreement with an investment chapter); (2). treaties with limited investment-related provisions (e.g. only those concerning establishment of investments or free transfer of investment-related funds); and (3). treaties that only contain "framework" clauses such as the ones on cooperation in the area of investment and/or for a mandate for future negotiations on investment issues.

13 International investment agreements (IIAs) are divided into two types: (1) bilateral investment treaties and (2) treaties with investment provisions. A bilateral investment treaty (BIT) is an agreement between two countries regarding promotion and protection of investments made by investors from respective countries in each other's territory. The great majority of IIAs are BITs.

14 UNCTAD, International Investment Agreements Navigator,2019.Availableat: https://investmentpolicy.unctad.org/international-investment-agreements/model-agreements, Accessed on, Tuesday sept 19 2022, 03.53Am

15 UNCTAD's Work Programmed on International Investment Agreements (IIAs) actively assists policymakers, government officials and other IIA stakeholders to reform IIAs with a view to making them more conducive to sustainable development and inclusive growth. International investment rulemaking is taking place at the bilateral, regional, interregional and multilateral levels. It requires policymakers, negotiators, civil society and other stakeholders to be well informed about foreign direct investment, international investment agreements (IIAs) and their impact on sustainable development. Main goals of UNCTAD's Work Programmed on IIAs: (1) Reform the international investment agreements (IIAs) regime to enhance its sustainable development dimension, (2)Provide comprehensive analysis on key issues arising from the complexity of the international investment regime, (3) Develop a wide range of tools to support the formulation of more balanced international investment policies.

B. Singapore's FDI Strategies

Singapore has been considered for a long time by the World Bank as perhaps the best nation on the world regarding the ease of doing business. Its second situation in the World Bank's positioning (Doing Business 2018) authenticates it.[16] Favorable circumstances for FDI include: (a) its workforce is one of the top on the world, and is made out of numerous exiles, which by definition makes it expanded, adaptable and open to international functions. (b) High worth included divisions, (for example, ICT, finance, science and pharmaceuticals)

are very much evolved. (c) Financial infrastructure (solid banking system), media communications and transport are superb. Its key area at the intersection of delivery courses and near major developing markets (in Asia and in the Middle East) makes it a significant center point for local and universal exchange.[17]

As indicated by UNCTAD's World Investment Report 2020, FDI inflows rose to USD 92 billion of every 2019, from USD 79 billion per year sooner. In the same year, FDI stock was about USD 1.7 trillion. Singapore is the fifth biggest beneficiary of FDI inflows on the world, after the United States, China, the Netherlands and Hong Kong. Singapore is likewise a major investor abroad, FDI outflows remained at USD 33 billion out of 2019; it has tried to expand its investment beyond traditional target markets in Asia, to be specific China, India and Vietnam in recent years. The main investors in Singapore are the United States, British Virgin Islands, Cayman Islands and the Netherlands. Financial and insurance activities are

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16 Santander, Singapore; Foreign Investment, July 2020, Available at: https://santandertrade.com/en/portal/establish-overseas/singapore/foreign-investment, Accessed on, Tuesday 29, July 2022 12.00 Am

17 Santander trade, Singapore: Foreign Investor, Available at: https://santandertrade.com/en/portal/establish-overseas/singapore/foreign-investment, Accessed on: Monday, November 18 2022, 03.04 AM

by far the main recipient of foreign investment, representing 54.5% of all FDI stock.

As the fifth biggest beneficiary of FDI inflows on the world, here are the strategy of Singapore on attracting FDI;

1. Open trade (Bilateral Agreement)

Singapore maintains an open investment regime. Generally, there is no obligation for foreign investors to surrender ownership or power to locals or to form joint ventures, apart from some controls and prohibitions on the financial services, skilled services, telecommunications, media and real estate sectors.

Singapore has put together its economic development with respect to a proactive technique to attract FDI using its trade openness. Since the first publication of the World Bank's Doing Business positioning in 2003, the country has consistently been ahead of the pack until 2018, when it was surpassed by New Zealand. It is well connected with the remainder of the world both physically through its created or developed, efficient transportation, communication infrastructure, and commercially through various trade

agreements with major economies, for example, the EU, Japan, India, and China Singapore has executed 22 bilateral and regional free trade agreements, with its significant exchanging accomplices including China and the US

2. Political Stabillity and Absence Corruption

Political Stability and Absence of Violence/Terrorism: Percentile Rank in Singapore was reported at 97.62 % in 2019, according to the World Bank collection of development indicators, compiled from officially recognized sources. Singapore - Political Stability and Absence of Violence/Terrorism: Percentile Rank - actual values, historical data, forecasts and projections were sourced from the World Bank on November of 2020.

Political stability, government effectiveness, and control of corruption are significant in explaining foreign direct investment.

With the exception of government effectiveness, the remaining government stability variables that are significant show a positive relationship with the in low of the capital where an increase in political stability and control of corruption leads to a higher level of foreign investment. The economic growth which is represented by the Gross Domestic Product is also identified to be a vital determinant of foreign investment. From the results, it is clear that government stability is an important factor in attracting foreigners to invest in Singapore.[18]

The Transparency International (TI) Corruption Perceptions Index (CPI) 2019 has ranked Singapore the 4th least corrupt country in the world out of 180 countries with a score of 85, a high score from the preceding TI-CPI 2018 which Singapore has successfully maintained. Singapore is again the only Asian country ranked in the top 10.

Control on corruption is important feature that determines the level of FDI.[19] Corruption has an adverse impact on FDI since it increases the costs for doing business as the investors have to provide some financial incentives to the officials in order to obtain licenses and permits.[20] The positive and larger influence of GDP on FDI as can be seen on the higher coefficient value is as expected. It signals the importance and relevance of economic factors over institutional factors when it comes to attracting foreign investors.[21]

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18 Saizal bin Pinjaman1*, Wong Vui Kiong1 and Nur Surayya binti Mohd. Saudi2, The Relationship Between Government Stability and Foreign Investment for Selected Asean Countries, MJBE Vol. 6 (July, No. 1), 2019 ISSN 2289-6856, Available at: https://www.researchgate.net/publication/335690644_The_Relationship_Between_Government_Stability_a nd_Foreign_Investment_for_Selected_Asean_Countries, Assessed on: Saturday, sept 21, 2022. 2;31Pm

19 Wei, S. (2000). How taxing is corruption on international investors? Review of Economics and Statistics, 82 (1), 1 – 11. doi:10.1162/003465300558533

20 Amal, M., Tomio, B. T., & Raboch, H. (2010). Determinants of foreign direct investment in Latin America. Globalization, Competitiveness and Governability, 4 (3), 116 – 133

21 Erkekoglu, H., & Kilicarslan, Z. (2016). Do political risks affect the foreign direct investment inflows to host countries? Journal of Business, Economics and Finance, 5 (2), 218 – 232.

3. High-Quality Industrial real Estate Park

Because of labor and operating costs, Singapore manufacturing has progressed from low-end sequential construction systems to high-tech, high-precision industries, a highly educated workforce, capitalizing on its connectivity to world markets, and a strong research environment. Singapore's colleges rank among the top 20 in the world and the top two in Asia. Singapore has also built dedicated industrial parks for the pharmaceutical, biotechnology, chemical, oil, digital media, aerospace, and satellite and aviation industries. It is the 6th most creative economy in the world, as per Bloomberg and instead, and has given SGD19 billion to science and innovation research.

4. Developed Technology

The progression of technology and digitalization came in the increasingly interconnected and borderless nature of business. This is opening more entryways for businesses and bringing down the limit of section into the Singapore market. As the Asia region embraces technology and digitalization for both business and individual use, the Asian jurisdictions have to enact new regulations and amendments in response.

Another zone that the government authority has been effectively encouraging is the improvement of driverless vehicles. Excellent road infrastructure and rigid traffic regulations make Singapore the ideal testing ground for autonomous vehicles. In the course of the most recent three years, Singapore has seen an influx of organizations in this industry, including Nutonomy and Grab, Delphi, with additional to come (Volvo, Scania, and Toyota). Singapore high technology make investor attract to invest in Singapore.[22]

Singapore kept up the second situation in 2020. Being favorable for lending to foreign investors, a basic regulatory

[22] Toh See Kiat and Eryn Kwong, Investing in Singapore, January 2019. Available at: https://uk.practicallaw.thomsonreuters.com/w-018-7404?transitionType=Default&contextData=(sc.Default)&firstPage=true, Accessed on: Friday, september 20, 2022, 12.06 AM

system, tax incentives, a high-quality industrial real estate park, political stability and the absence of corruption and developed technology as explained above to make Singapore an attractive destination for investment.

C. Learned the Strategies on attracting FDI from Singapore

Indonesian Governments are increasingly looking for best-practice policies towards Foreign Direct Investment (FDI) by creating (omnibus law) law number 11 of 2020 on job-creation. On the making process of Omnibus law facing some obstacles and rejection from society, because some scholar said this regulation only give benefit to a foreign investor and detrimental for local workers. As a matter of fact, FDI can bring beneficial outcomes (market access, innovation, technology, finance, skills), but also negative effects, and consequently, a substantial quantity of FDI isn't adequate to create financial development or support economic growth and poverty reduction.

The positive effects are not automatic for host countries and depend on policies in place and other factors. The policy factors can be separated into 1) specific industrial policies and 2) macro-economic policies and into whether they are used to 1) attract FDI 2) upgrade FDI or 3) enhance linkages and spillovers to domestic firms. Which policies are important in which country depends on how they fit in with the development strategy to accomplish predefined targets considering specific country characteristics? However, they are probably going to be some combination of policies in each of the above classes. While in the reality like Singapore are richer countries with more public resources and local capabilities can employ a risky and costly pro-active stance towards FDI.

So, Indonesia may learn from other countries Singapore, but not all their strategy on attracting FDI are fit if Indonesia implemented it. And here the author has research on with strategy are fit with Indonesian condition:

1) Legal Certainty and Corruption Factors

The Heritage Foundation states that Singapore has the second best Economic Freedom Index in the world after Hong Kong with an overall score of 89.4. This is because Singapore guarantees legal certainty in terms of ownership rights, government integrity, and judicial effectiveness. The regulations were made very efficient in the business, labor and monetary sectors. Investors are comfortable, so it is not surprising that foreign capital flows to Singapore are also relatively large. Data from the United Nations Conference on Trade and Development (UNCTAD) states that Singapore has the fifth largest foreign capital flow in the world, namely US $ 77.6 billion. Singapore is also one of the top 10 investor economies with an investment value of US $ 312 billion.

In terms of corruption, Indonesia is one of the high corrupt country. Indonesia is the 85 least corrupt nation out of 180 countries, according to the 2019 Corruption Perceptions Index reported by Transparency International.[23] If we look at the five countries (Singapore, Denmark, New Zealand, Finland, and Sweden) that Transparency International states have a low level of corruption, these countries have excellent economic performance, both in terms of gross domestic product (GDP), labor productivity, and economic inequality.

Based on the fact, Indonesia's Incremental Capital-Output Ratio (ICOR) is still high. This means, for investment in Indonesia, a bigger fund is needed. At present, to produce an increase in output or Gross Domestic Product (GDP) of one percent, an additional investment of about 6.4 percent is needed, whereas ideally it is between 3-4 percent. Some of the causes are lack of legal certainty, there is still a lot of corruption, readiness of the

[23] Anonym, Indonesia Corruption Rank, Available at: https://tradingeconomics.com/indonesia/corruption-rank. Accessed on: Friday, 28 sept 2022, 6:22 AM

workforce, and availability of infrastructure. This causes a high cost economy so that Indonesia are less efficient than other countries.

When compared with other ASEAN countries, Indonesia's ICOR at the level of 6.4 percent is the highest, so it can be said to be the least efficient for investment. ICOR Malaysia was 4.6 percent, the Philippines 3.7 percent, Thailand 4.5 percent, and Vietnam 5.2 percent.[24]

Corruption, inequality and instability of economic policies, as well as inefficient government institutions will increase the risk and uncertainty of the business environment so that reducing the inflow of foreign capital due to corruption in government institutions will distort public investment. Rampant corruption will worsen the integrity of government institutions and increase the reluctance of foreign investors to invest in a country. Usually, foreign investors will avoid countries with high levels of corruption. If Indonesia can reduce the number of corruption using china's strategy by giving the death penalty to the corruptor, or like Singapore by the strike policy, then Indonesia will have a hope to increasing the number of foreign investor.

2) Political Leadership

The political leadership did as such by restricting the opening to a couple of regions at first, yet and, after its all said and done, a lot of self- sufficiency in monetary choices was given to the localities—allowing a market-based economy to develop alongside a centrally planned system.

Governments worldwide recognize that the general standards and policies that affect investment in their respective countries have become increasingly important in the attraction of foreign direct investment (FDI). It has been demonstrated that promoting

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[24] Esther Sri Astuti, Corruption and Investment, September 2019. Available at: https://kolom.tempo.co/read/1253818/korupsi-dan-investasi, Accessed on: Friday, 28 2020, 6:22 AM

good public governance by increasing transparency and predictability of laws and regulations and consistency in their enforcement, improving efficiency of procedures and encouraging higher standards of public service contributes not only to a better regulatory environment for business but also to the attractiveness of an investment location.[25]

The Elements of Good Governance in Investment Promotion such as:

a) Predictability,

Predictability refers to the existence of clear policies and a legal framework for investment, predictable rules and regulations, and their fair and consistent application. Predictability also implies that regulations should be minimized and simplified to the greatest degree possible

b) Accountability,

Through the establishment of performance standards and monitoring, the accountability and the effectiveness of government officials increase, while the chances of corruption are reduced. In addition, investors and the public should be informed of these standards so that they are fully aware of the level of service to be expected. Establishing a clear and impartial grievance procedure has also been a feature of countries that have been successful in the promotion of investment

c) Transparency,

The interface between government and investors is most effective when there is timely information disclosure, easy availability of information and a helpdesk for investors. Transparency also implies greater openness to the media and the public on investment policies and practices

d) Participation.

Dialogue with stakeholders, including the investors' community, contributes to policy development and the

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[25] UNCTAD, Good Governance In Investment Promotion, Available at: https://unctad.org/system/files/official-document/c2em15d2_en.pdf, Accessed on: Friday, 28 2020, 5:13AM

implementation of policy decisions. By establishing various forums, including consultative committees, through which civil society and business groups can provide inputs, a Government will ensure that its policies and programs better reflect development goals and stakeholders' interest.

The development and sustainability of capital markets is linked to the quality of corporate governance practices and standards. Corporate governance is a key factor in the ability of a country to have a conducive and attractive investment climate. Compliance with good corporate governance practices makes companies more transparent and therefore more attractive to potential investors. Good corporate governance provides companies with stronger boards and control environments, thereby improving their performance. Then, Indonesia can learn on how to implement the principle of good Governance in Investment and learn on how the vision of China, it is "for the way of development and development of the nation".

PENUTUP

In Indonesia the number of foreign investors is limited, in order to improve the number of foreign investors to make improvement for Indonesian economic conditions, on October 2019 President Joko Widodo gave a mandate to the parliament on making new regulations that can ease investment procedures and provide more incentives for investors. In February 2020, Indonesian President Joko Widodo's government submitted a draft bill to the country's parliament. The draft is widely known as the "omnibus law" and aims to transform Indonesia's economy. On October 5 2020 the bill of omnibus law that known as the job creation act has been promulgated by the House of Representatives and sign by President Joko Widodo.

This is the first time to create an omnibus law in Indonesia. Based on some scholar opinion, omnibus law is commonly used in countries with a common law system and Indonesia is a civil law system, this cause arise controversy. On the making proses of omnibus law also considered not in accordance with the procedure because the lawmaking is done in a closed, not transparent, and does not provide space for civil society participation.

Based on the fact above, Indonesia need to learn from other country like Singapore. Singapore have made remarkable FDI accomplishment through their own ways.

It is also necessary to refer to the experience of Singapore, because Singapore as the big investor in Indonesia has a lot of foreign investment. Singapore does not have a law on foreign investment or an economy-wide investment law governing both domestic and foreign investment. Instead, investment is governed by laws of general application

As the fifth biggest beneficiary of FDI inflows on the world, Singapore kept up the second situation in 2020. Being favorable for lending to foreign investors, a basic regulatory system, tax incentives, a high-quality industrial real estate park, political stability and the absence of corruption and developed technology as explained above to make Singapore an attractive destination for investment.

So it can be concluded that Indonesia needs to consider again on revise some controversial article that contained on omnibus law. Omnibus law is a new rule on investment where the rules are in accordance with the current conditions, but the context contained in the law must be strongly considered for the sake of mutual benefit and to protect the existing right. In addition to the regulations that must be revised, it is necessary to improve the strategy of other aspects to attract foreign investors as Singapore did, then it will create legal certainty.

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