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Expecting Regulation on Natural Resources Fund

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To provide better certainty for investors and businesses, some laws and regulations covering several key industry sectors in Indonesia are planned to be revised in the near future. One target area is the natural resources sector, in particular the oil and gas sector. To realize this objective, the House of Representatives (House) is currently preparing a draft bill to revise Law No. 22 of 2001 (<http://www.hukumonline.com/pusatdata/detail/209/node/24/uu-no-22-tahun-2001-minyak-dan-gas-bumi>) on Oil and Gas.

The House is working to cover and address various matters considered important to be incorporated into the Oil and Gas Draft Bill, with provisions on a natural resources fund one of them. Natural resources funds, also known as petroleum fund or sovereign wealth fund, are funds for which a certain amount of state revenue from the oil and gas sector that is reserved for particular purposes.

The concept of a natural resources fund was initially developed to deal with problems that arise in countries with rich natural resources. Commonly referred to as the paradox of plenty or the resources curse, such countries are prone to problems arising from the state's inability to efficiently use revenue, as well as increased possibilities of conflict, corruption, and environmental issues.

With a natural resources fund, a country may control their currency's exchange rate against other foreign currencies, by allocating funds for re-investment in foreign countries. Furthermore, the fund can be used to stabilize state expenditure and prevent corruption from excessive expenses or distortions in the market. At the end of 2013, globally, total natural resources funds reached USD 3.5 trillion.

Andrew Beur, economic analyst from the Natural Resources Government Institute, is of the view that a regulatory framework on a natural resources fund must be issued. The regulation must at least include provisions on cash fund division, as well as investment in shares or other asset alternatives. A lac of comprehensive regulation may raise corruption opportunities.

"For several countries, such as Chile and Norway, the fund helps in overcoming the resources curse, although there are more countries that fail to optimize the fund utilization and end up in a worse situation," said Mr. Beur in Jakarta last Thursday.

Sharing this view, Abdul Wahid from the United Nations Development Programme in Indonesia, is urging the natural resources fund matter to be immediately regulated. The regulation can be issued at the level of a governmental regulation, or even a law.

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Nonetheless, Mr. Wahid believes in-depth studies and a complete review is necessary for a comprehensive regulation.

“The studies and reviews will prevent overlapping regulations thus the natural resources fund scheme can be implemented effectively,” Mr. Wahid explained.

Firle Ganinduto, Deputy of the Oil and Gas Permanent Committee at the Indonesian Chamber of Commerce, also agreed that the issue of the regulation must begin with comprehensive studies on the subject, although his primary concern is revision of the Oil and Gas Law. Mr. Ganinduto expects the revision to be finalized so the draft bill can be passed without delay.

According to Mr. Ganinduto, this revision will provide legal certainty for the oil and gas sector. A crucial issue is to resolve the overlap between the laws and regulations covering the oil and gas sector, which often conflict with regional autonomy.

“The revision should provide a better system that can suppress the potential misuse of oil and gas products in Indonesia,” Mr. Ganinduto concluded.

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