

WAKE UP CALL

Welcome to issue 60 of Wake Up Call – RSM Indonesia newsletter covering topics on audit, accounting, business, corporate finance, transaction support, governance, internal control, management, risk, and taxation.

In this issue:

- The Future of Islamic Finance: Adoption of Fintech and Cryptocurrency
- Omnibus Law Declared 'Conditionally Unconstitutional' –
What to Expect for Investors?
- Our Activities

THE FUTURE OF ISLAMIC FINANCE: ADOPTION OF FINTECH AND CRYPTOCURRENCY

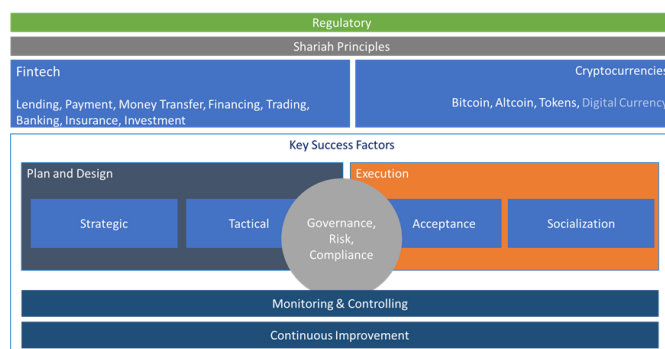
RESDY BENYAMIN, TECHNOLOGY CONSULTING PRACTICE

Technology has transformed the landscape of the financial sector rapidly. Activities once handled by humans in banking halls are switched to be completely conducted by technological automation. Startups with innovative financial products and services are becoming threats to incumbent financial services institutions, including Islamic financial institutions. They work on data-driven models and require very little capital and fixed assets. They disrupt traditional financial institutions and gain market share so quickly. Traditional banks and financial institutions are getting disrupted and transformed by the emergence of startups.

Islamic finance can be considered as one segment of the finance industry which offers a lot of potential for digital transformation thanks to a great number of opportunities for Islamic finance institutions to get on to multiple strategic objectives. With the digital transformation, Islamic finance institutions can achieve financial inclusion, such as crowd funding, payment platforms, peer-to-peer model, smart contracts and blockchain, and crypto currencies.

Central Bank of Bahrain (CBB) introduced the Fintech regulatory sandbox to enable foreign and domestic startups and financial institutions to test out technology-based products and services. The Saudi Monetary Authority (SAMA) has launched an initiative, Fintech Saudi (www.fintechsaudi.com), to promote and develop the Fintech industry in the Kingdom. It acts as a catalyst for the development of the financial services technology industry in Saudi Arabia, to transform the country into a global Fintech hub. The United Arab Emirates (UAE)

government has announced plans to utilize blockchain for 50 percent of federal government transactions by 2021.



The discussion about cryptocurrency as money or otherwise is important as this will be constructively beneficial for Islamic society, as one of the major parts of the world population. The use of crypto currency is becoming an interesting discussion due to its base, the blockchain which is out of the current financial system of fiat money. Cryptocurrencies were developed to facilitate peer-to-peer transactions that operate autonomously from the central bank. Cryptocurrencies are not physical and cannot be withdrawn. The owners would only be able to transfer them to their counterparts.

In superpower countries like China and Russia, cryptocurrency is also banned for safety and risk reasons. In countries that are bound to Islamic teaching and regulation, the acceptability of cryptocurrency is a sensitive yet important issue.

On the other hand, the law of cryptocurrencies such as bitcoin is still a debate among Muslims. Some consider it lawful, and some consider it unlawful. Founder of the Islamic Law Firm (ILF), Zannuba

**These countries include Australia, Belgium, Canada, Denmark, Finland, France, India, Japan, Luxemburg, Netherlands, New Zealand, Poland, Portugal, Qatar, Russia, Serbia, Singapore, Slovakia, South Korea, United Arab Emirates, and the United Kingdom*

Ariffah Chafsoh, popularly known as Yenny Wahid, said those who consider crypto assets to be haram because they contain *gharar* or uncertainty in transactions. Cryptocurrencies also have high volatility because the exchange rate can go up and down drastically.

As well in Indonesia, Majelis Ulama Indonesia (MUI), the Ulema Council, issued a fatwa stating that the use of cryptocurrencies as currency is unlawful, considering that it contains elements of *gharar* (uncertainty in transactions), *dharar* (transactions that can cause losses), and *qimar* (unclear contracts). However, according to the Council, cryptocurrencies can still be considered as lawful if they are used as assets or investments under certain circumstances, not as a means of payment.

In demonstrating *sharia* compliance, cryptocurrency is earning legitimacy across the Islamic finance world. The Shacklewell Lane Mosque in London accepted cryptocurrency donations and zakat

contributions in 2018 during Ramadan. In Dubai, a local start-up company called OneGram founded last year, is issuing a gold-backed cryptocurrency as part of efforts to convince Muslims that investing in cryptocurrencies complies with their faith.

Indonesia could take some lessons learned from other countries which embrace Sharia compliance, especially from those where Fintech ecosystems and cryptocurrency adoptions are to reach full potential. Their governments play a significant role in realizing the benefits of establishing an ecosystem to promote Fintech development. The Indonesian government also should take quick steps to create regulations regarding the use of cryptocurrencies as investments or assets, so they can be used optimally without confusion. With this regulation, it can also create new investment options for the people of Indonesia and economic growth that is in line with the innovation of technology.

For further information, please contact:
inquiry@rsm.id



OMNIBUS LAW DECLARED 'CONDITIONALLY UNCONSTITUTIONAL' – WHAT TO EXPECT FOR INVESTORS?

ICHWAN SUKARDI & SOPHIA JIAQIAN, TAX PRACTICE

On 25 November 2021, the Indonesian Constitutional Court (Mahkamah Konstitusi / "MK") decided that Law Number 11 of 2020 regarding Job Creation (commonly referred to as "the Omnibus Law") shall be given the status of "conditionally unconstitutional" on the basis that there are flaws in the procedural order of the lawmaking process in accordance with the 1945 Constitution of the Republic of Indonesia.

The Omnibus Law was a milestone event in legal reform which revises more than 70 existing laws and regulations relating to the economic landscape. From the date of its enactment in November 2020, there have been more than 100 implementing regulations from various government bodies and throughout many sectors.

The MK ruled that the legislative arm of the Indonesian government have been given two (2) years to repeat the entire lawmaking process and ensuring that this iteration abides by the legislative process in the order and manner according to the applicable laws and principles of passing legislation in the Republic of Indonesia. During the two-year period, the MK has ordered the Government to suspend issuances of any new implementing regulations in connection with the Omnibus law, whilst those currently in existence shall remain effective.

Given that the Omnibus Law and its implementing regulations shall remain valid, the MK's decision will not give rise to any immediate significant impact on businesses save for potential investors looking at the archipelago as its investment destination.

Relevance to Taxation Field and Impacts to Investors

Following the enactment of the Omnibus Law, the government officially stipulated 49 implementing regulations comprising of 45 Government Regulations ("GR"), and 4 Presidential Regulations. Out of these implementing regulations, there are 3 key government regulations that stipulate matters of tax aspects:

- GR No. 9 Year 2021 ("GR-9") concerning Tax Treatment to Support Ease of Doing Business;
- GR No. 10 Year 2021 ("GR-10") concerning Regional Taxes and Regional Levies in order to Support Ease of Doing Business and Regional Services; and
- GR No. 49 Year 2021 ("GR-49") concerning Taxation Treatment of Transactions Involving Investment Management Institutions and/or Entities It Owns.

A major implementing regulation for tax aspects of the Omnibus Law is the Ministry of Finance ("MoF") Regulation No. 18/PMK.03/2021 ("PMK-18"), which provides implementing rules on the Income Tax, VAT and General Tax Provisions and Procedures ("KUP"). Despite the issuance and effectiveness of the above regulations, there are further implementing regulations that were promised so as to provide further clarification on implementing the new rules, for example under the GR-9 regarding:

- The third-party appointment and VAT compliance mechanism in respect of VAT obligation for retailers

- Certain criteria into the scope of taxpayers who are not required to conduct bookkeeping but required to conduct recording
- The implementing provisions on the scope of taxation rights and obligations which can be carried out electronically using digital signature

All the above were said to be governed under separate MoF regulations which we have not seen them issued yet. The same applies to GR-10 in which government is expected to issue regulations harmonizing regional taxes and levies at the central, regional and municipal levels.

The temporary moratorium ordered by the MK on the suspension of new implementing regulations will cause a degree of uncertainty and the business community does not look forward to seeing how this will be addressed by the MoF, as taxpayers are unable to rely on clear legal basis to fulfil tax obligations without fear of reprisals from the Directorate General of Taxation.

In the event the government fails to redo the legislative process satisfactorily by the imposed deadline by the MK, the Omnibus Law shall be deemed unconstitutional and all implementing regulations derived therefrom shall cease to be valid, whereby previous regulations prior to the Omnibus law will once again become in force. Despite the unlikelihood of this being realistically realized, investors would do well to plan for such an eventuality. Though we noted that this may have been anticipated by the government that some the most important Omnibus tax provisions have been included in the Harmonized Tax Regulations.



For further information, please contact:
inquiry@rsm.id

INDONESIA FACTS



Photo: Stock Adobe

SWEET MARTABAK

Martabak manis (sweet martabak), also known by the name Terang Bulan or Martabak Bangka.

The martabak's cooking method is using dough (which uses yeast) and ingredients (usually vanilla extract is added as essence) are different from egg martabak, giving it a consistency more like a crumpet.

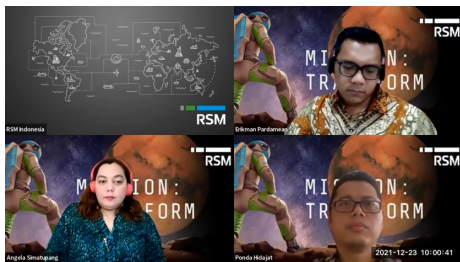
While it is baked on a pan, the sweet martabak is spread with butter or margarine, sugar, crushed peanuts, chocolate sprinkles, cheese or other toppings. Before serving, the martabak is folded in half, so the toppings get in the middle of martabak. In Indonesia, egg martabak is also called martabak malabar to distinguish it from sweet martabak.

There are many new varieties of sweet martabak, including the addition of green tea powder (matcha), cream cheese, Oreo, chocolate candies such as Kit Kat and Nutella. Aside from that, durian fruits are often used as a topping.

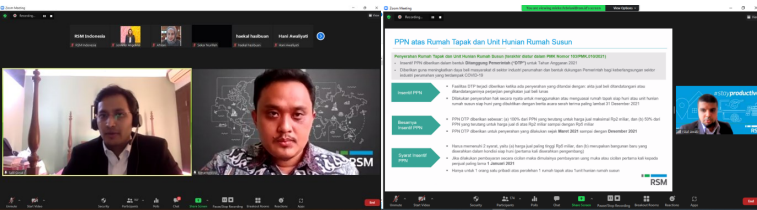
Source: Wikipedia

OUR ACTIVITIES

RSM Indonesia Webinar

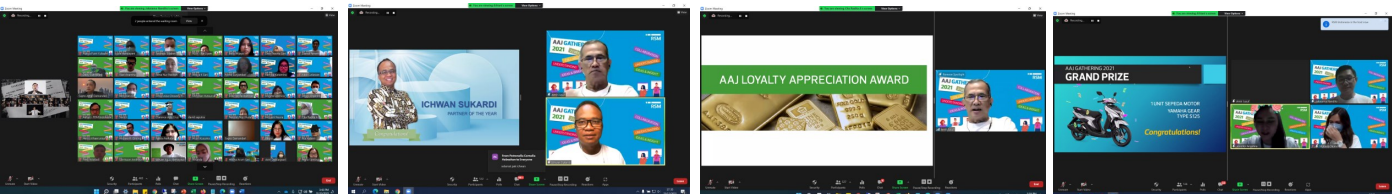


We keep our commitment in updating the current issues through our webinar. On the 4th quarter of 2021, we successfully conducted several tax and consulting webinars. The webinars were presented by our Senior Managers and Partners, we also got a chance to invite Pak Yustinus Prastowo from *Staf Khusus Menteri Keuangan* to be our speaker. More than 100 participants attended each webinar. See you at our next event next year!

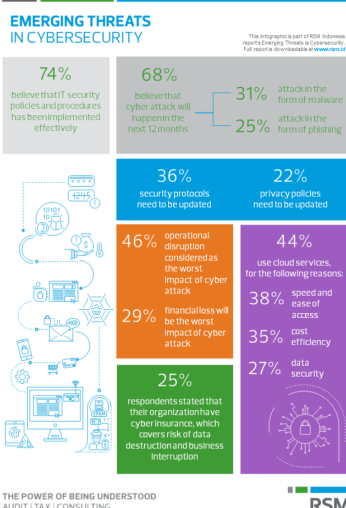


AAJ Gathering 2021

We held our AAJ Gathering virtually just like last year due to the pandemic. In the beginning of the event we still keep the tradition to listening our National Anthem "Indonesia Raya", continued by the speech from our CEP Amir Abadi Jusuf. There are group videos and talent show videos, giving doorprizes and a grandprize, doing games and giving award to staff and partner of the year. We still get the feeling of togetherness through the virtual gathering.



RSM Indonesia Publications



What's inside the report?

This report provides insight into how professionals from 20+ industries see the importance of cybersecurity and the management of such risk.

It also includes information on several key areas, including:

- Information security and data protection
- Cyber-attacks and threats
- Cyber insurance
- Key takeaways to strengthen your organization

To read more about our report, click [here](#) or visit www.rsm.id

RSM INDONESIA 2021 Transparency Report



THE POWER OF BEING UNDERSTOOD
AUDIT | TAX | CONSULTING



Click [here](#) to read more

Thank you
for reading

AUDIT
TAX
CONSULTING



Opinions expressed in these articles are the personal view of RSM Indonesia and are not intended as specific business advice. It might contain extracted information from publicly disclosed information. Though this publication was prepared in cautiousness, no warranty is provided for the information it contains and no liability is accepted for any statement or opinion presented. Readers of this material are recommended to seek professional advice before making any business decisions.

Contact us at newsletter@rsm.id to [subscribe](#) or [unsubscribe](#) from our quarterly newsletter.
For general queries, contact us at contact@rsm.id

RSM Indonesia

Plaza ASIA Level 10
Jl. Jend. Sudirman Kav. 59
Jakarta 12190 Indonesia

www.rsm.id

RSM is represented in Indonesia by Amir Abadi Jusuf, Aryanto, Mawar & Rekan; PT RSM Indonesia Konsultan; PT RSM Indonesia Mitradaya; PT RSM Indonesia Mitradana. RSM's Indonesian member firms work closely together within Indonesia. Each firm is a separate and independent legal entity and a member of the RSM network and trades as RSM. The RSM network is not itself a separate legal entity in any jurisdiction.