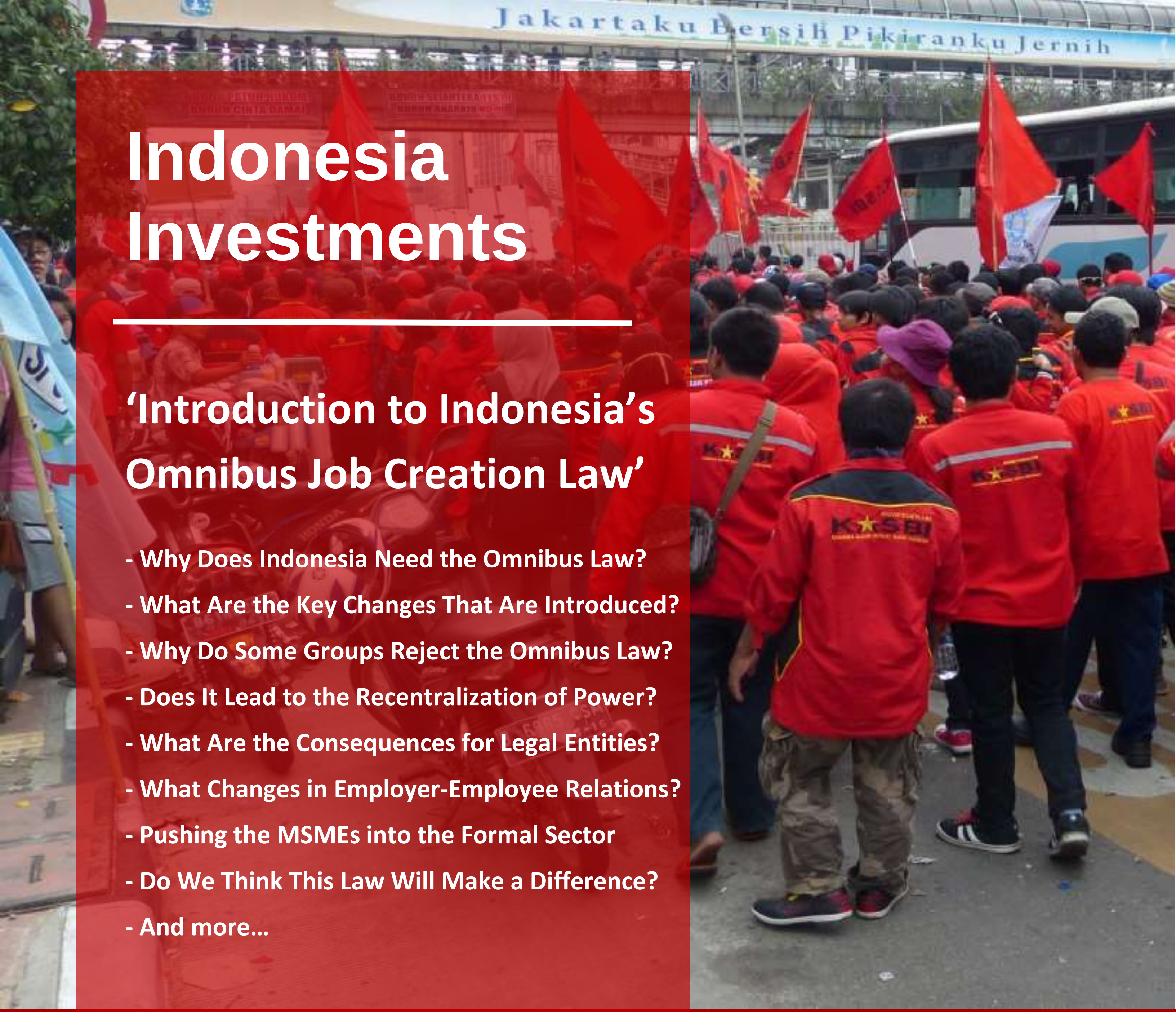


# Indonesia Investments

## 'Introduction to Indonesia's Omnibus Job Creation Law'

- Why Does Indonesia Need the Omnibus Law?
- What Are the Key Changes That Are Introduced?
- Why Do Some Groups Reject the Omnibus Law?
- Does It Lead to the Recentralization of Power?
- What Are the Consequences for Legal Entities?
- What Changes in Employer-Employee Relations?
- Pushing the MSMEs into the Formal Sector
- Do We Think This Law Will Make a Difference?
- And more…

OCTOBER 2020 – FIRST HALF

**Van Der Schaar Investments B.V.**
**CV Indonesia Investments**

# Indonesia Investments

Monthly Report – October 2020 (First Half)

## 'Omnibus Job Creation Law'

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## Introduction Omnibus Job Creation Law

# Preface

The monthly report of Indonesia Investments is written and published by Van Der Schaar Investments B.V., located in Delft, the Netherlands. The report aims to inform the reader of the latest, most relevant, political, economic and social developments in Indonesia as well as those crucial international developments that impact on the economy of Indonesia or on its politics.

Our reports are intended for a diverse audience, including individual and corporate investors, financial market participants, diplomats, policymakers, decision-makers, academics, journalists, and analysts.

The website www.indonesia-investments.com is the key reference and access point for gaining knowledge about the markets, economy, business sectors, politics, and cultures of Indonesia. This online platform is owned by Van Der Schaar Investments B.V., a privately-held investment company (Ltd.) that was established in 2009 but stands in a tradition that stretches back to urban development in the Dutch capital city of Amsterdam in the early 20th century. For more detailed information we refer you to our website.

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# Introduction – October 2020 Report (First Half)

Some of our subscribers may be taken by surprise to see an Indonesia Investments report being released mid-month. However, we feel that we have a valid reason for this. On 5 October 2020, Indonesia's parliament (DPR) approved the Omnibus Job Creation Law (henceforth: Omnibus Law), an important law with big consequences for the investment and business environments, and therefore we believe it is better not to wait one month before discussing this topic (and before sending our findings to your email inbox).

And besides being an important law, the Omnibus Law is also a controversial law that prompted a series of demonstrations across Indonesia in the first half of the month. This makes it even more important to give some special attention to this new – one might say groundbreaking – law.

In fact, depending on the feedback we receive, we may publish reports more often in the middle of the month, especially in case there occur important developments at the beginning of the month. This way, we can capture Indonesia's dynamics in a better way in our reports.

So, our October 2020 edition consists of two parts; the first part is the one you are viewing now, while the second part will be released – as usual – in the first week of the new month (November). It is also important to note (specifically for single issue buyers) that in terms of size and price, both parts are halved. Together, however, they have the same price and size as our usual reports.

## Indonesia's Omnibus Law

The overarching aim of the Omnibus Law is to revise and/or scrap various existing laws, thereby harmonizing and smoothing the country's complex legal framework, and thus create a more attractive business and investment environment. The idea is that with more direct investment coming into the Archipelago (both in the form of domestic and foreign direct investment), new job opportunities will open up for the Indonesian people. This would allow further economic and social development.

More (quality) jobs is an important matter considering Indonesia (nearly) has seven million unemployed people (a number that is bound to increase drastically because of the COVID-19 crisis), while there are around 25 million people in Indonesia who live in poverty (a number that is also bound to grow drastically as millions of near-poor who lost their incomes in the COVID-19 crisis are in jeopardy of falling into full-blown poverty). Therefore, Indonesian policymakers argue that the Omnibus Law will speed up the country's recovery from the COVID-19 crisis, while also allowing the country to avoid the middle income trap.

Indonesia has a number of structural bottlenecks that have been undermining the flow of investment realization. For example, the lack of infrastructure development is a well-known one (which we discussed in detail in our September 2020 report). Or, the poor quality (and productivity) of Indonesia's human resources (which is why many investors focus on investment in low-skilled industries, especially in the provinces of Central and East Java where minimum wages have remained quite low).

But another structural bottleneck is severe bureaucracy (red tape). Indonesia's legal framework has become increasingly complex over the past couple of decades, with separate ministries setting new rules and regulations that are often not harmonized with regulations set at different ministries. Moreover, decentralization (which was imposed after the collapse of Suharto's centralized authoritarian regime in 1998) has made the situation even more complex as regional governments impose their own set of rules (which are often not the result of careful and quality policymaking).

Moreover, cooperation and coordination between central and regional authorities is generally weak (probably this is because policies or investment programs designed by the center go against the regions' interests).

To make matters even more troublesome, there have been some big swings in public policy directions in Indonesia that have brought about major (legal) uncertainty. For example, the 2009 Mining Law introduced a much more protectionist stance in the country's mining sector (forming a big break with the past). The government's ban on mineral ore exports (while forcing miners to establish smelting facilities), or the new share divestment rules (forcing foreign-owned mining companies to have sold at least 51 percent of the company's shares to an Indonesian legal entity by the tenth year of commercial production), were not a welcome surprise at all.

As a consequence of this complex and uncertain business environment in Indonesia, investment projects often need to be delayed (in some cases for decades), or, are cancelled altogether. This means missed opportunities for Indonesia in terms of economic and social development. Meanwhile, there are regional peers who did do their homework and have seen a big inflow of foreign direct investment (FDI) in recent years.

For example, FDI inflows into Vietnam currently contribute about six percent to the country's gross domestic product (GDP), while FDI realization into Thailand equals around three percent of GDP. In the case of Indonesia, however, the figure stands at a modest 1.9 percent of GDP (not a good score for Southeast Asia's largest economy).

Having a healthy rising flow of (quality) FDI is important for Indonesia because FDI not only creates new jobs but also encourages the integration of Indonesia into the global supply and value chains, while at the same time introducing foreign expertise and technology to Indonesia. Indonesian companies (when forming joint ventures with their foreign counterparts) and Indonesian employees can certainly learn a lot from these foreigners.

What is positive is that the Omnibus Law tackles some of the underlying weaknesses in Indonesia's investment environment. This is crucial in order to see a structural (long-term) increase in investment into Indonesia; not only in terms of quantity but also in terms of quality (for instance investment in high technology manufacturing).

Most of the earlier efforts of the Indonesian government were insufficient to attract more investment. For example, the central government has been offering attractive fiscal incentives in the form of tax holidays or tax allowances. However, there has been few interest from abroad.

And the reason is simple: there remain structural bottlenecks in the investment and business environment of Indonesia, such as bureaucracy (red tape), lack of hard and soft infrastructure development, difficulty of land acquisition, low level of human resources, and weak legal certainty. If those underlying matters are not tackled, then quality foreign investors will not be interested in a 'sweetener' such as a multi-year tax holiday. In fact, given Indonesia's weak track-record in terms of regulatory and legal certainty, potential investors may rightfully be unsure whether tax holidays remain intact after a new government takes office.

In the first administration of Indonesian President Joko Widodo, 2014-2019, the central government issued 17 economic policy packages aimed at strengthening the national economy and boost investment. However, they have not shown success. Nor did the Online Single Submission (OSS) system; a web-based business licensing system that aims at cutting red tape (that was launched in mid-2018).

The reason why these efforts failed is simply because there is something underneath it all that obstructs investment: the country's legal and regulatory frameworks (both at the center and the region, as well as the interplay of the center and regions). The Omnibus Law is the latest (and most profound) effort to create a conducive business and investment environment, hence a stronger economy, and thereby opening wider room for social development.

Do we feel the Omnibus Law will be a success? Well, certainly not an instant one. But it is a step in the right direction. As we will point out in this report, the Omnibus Law gives more certainty to investors and some easier regulations for business owners.

Meanwhile, we also greatly support the government's effort to push micro, small and medium-sized enterprises (MSMEs) into the formal sector through this law. The size of Indonesia's informal sector is truly mind-blowing and it involves risks, both for the informal sector business-owner and for the informal sector worker (risks such as the lack of health and legal protection or difficulty to obtain loans).

However, there is obviously also some concern. For example, the Omnibus Law does give the central government more power (which comes at the expense of regional governments' powers). This is not necessarily bad (considering Indonesia's regional governments do not have the greatest track record in governance), but more power at the center does also require more responsibility in the hands of those who run the central government. And having responsible people in charge of the country is never a given. In theory, the next election (in 2024) may see the entrance of irresponsible people into the central government.

Meanwhile, the Omnibus Law also brings some revisions that impact negatively on the position of workers. This too is not necessarily a bad thing, especially not from our perspective. For example, it becomes easier (read: cheaper) for companies to sack workers. Among the most frequently heard complaints from business-owners in Indonesia are the costs involved when sacking an Indonesian worker (especially severance payments). However, avoiding sacking a worker because of his or her unproductivity – and therefore not hiring a more productive employee – means that the whole company becomes less productive than it could or should be.

Obviously, and quite understandable, workers prioritize their individual losses over the national benefit that is chased after via the Omnibus Law. Therefore, a series of demonstrations occurred across Indonesia after 6 October 2020 (up to the moment of writing this introduction). However, it seems unlikely that the central government will change its mind, and thus understanding of this Omnibus Law is important.

Lastly, we do need to point out that various additional government regulations, and even presidential regulations, are required to be designed (and imposed) within the next three months. These regulations are needed because various matters in the new Omnibus Law need to be regulated in much further detail.

**Indonesia Investments**
Jakarta (Indonesia)
16 October 2020

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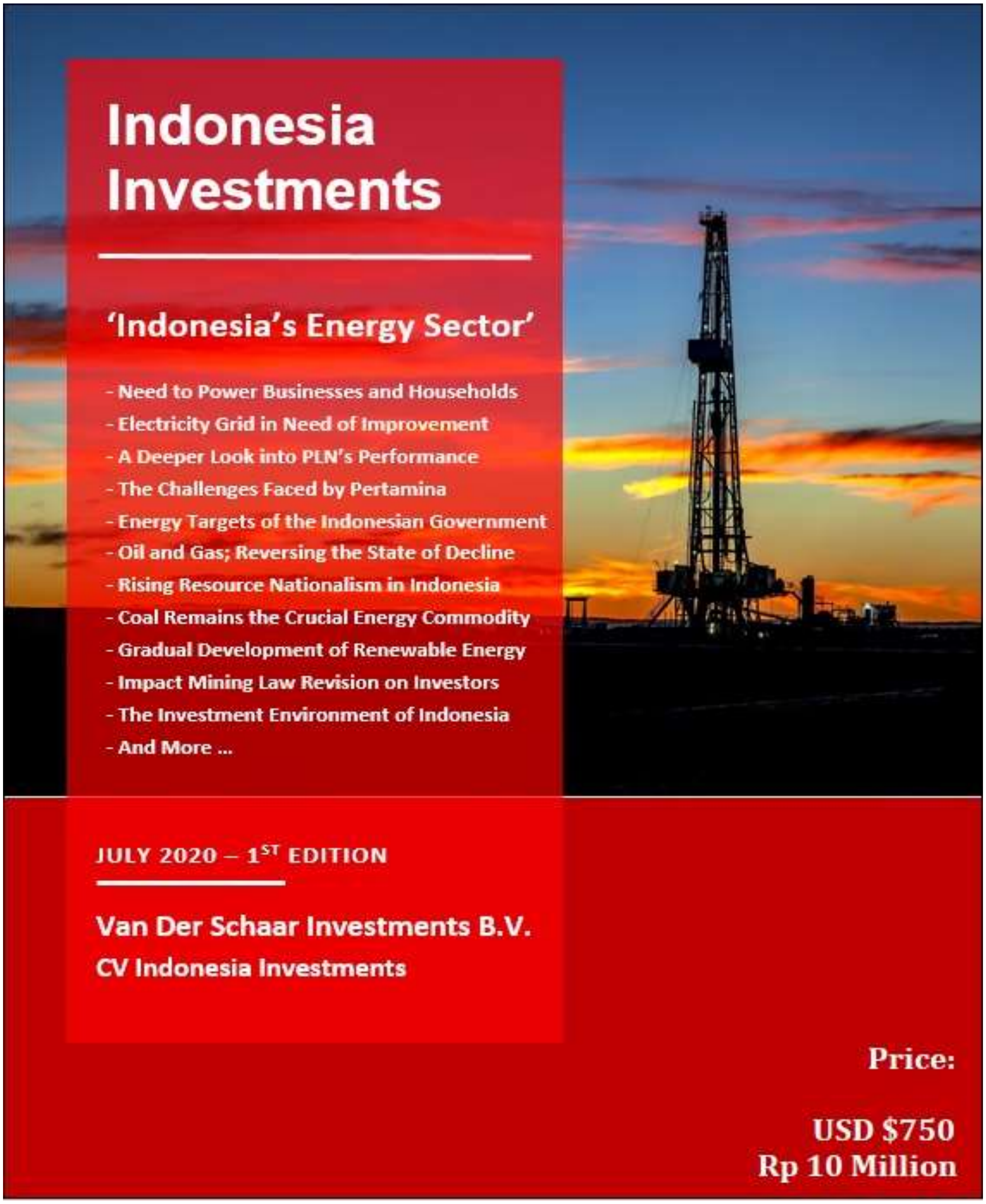
# Research Report
# 'Indonesia's Energy Sector'

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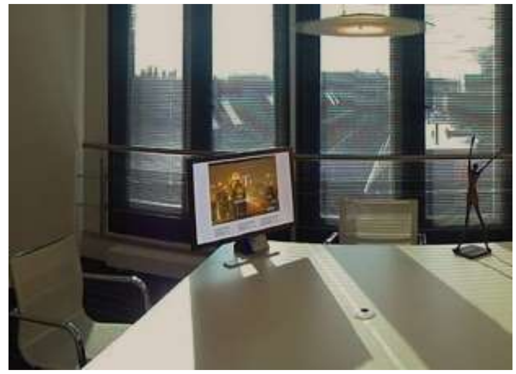
## Van Der Schaar Investments B.V.



Vaandelstraat 42
2611 DB Delft
The Netherlands
M +31 (0)6 27 05 85 32
E info@vanderschaar-investments.com

## CV Indonesia Investments

Nusa Harmoni Brajan, No. 5
Brajan RT. 14 Tamantirto Kasihan
Bantul – 55183, Indonesia
Email: info@indonesia-investments.com
Tax Number (NPWP): 85.701.415.3-036.000
M +62 (0)8 788 410 6944 (incl. WA texts)
E info@indonesia-investments.com

INDONESIA INVESTMENTS

## Representative Jakarta, Indonesia

Ms. Lori Siregar
Director CV Indonesia Investments
Jl. Tanjung Duren Raya No. Kav 5-9
West Jakarta - 11470, Indonesia
M +62 (0)8 788 410 6944 (incl. WA texts)
E info@indonesia-investments.com

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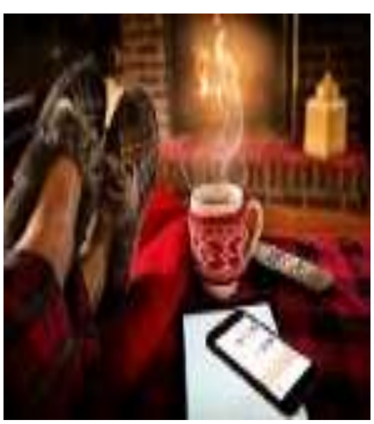
# Coronavirus Tips: How to Protect Yourself

There is currently no vaccine to prevent a novel coronavirus (COVID-19) infection.

**However, you can protect yourself and help prevent spreading the virus to others if you:**

**- Wash your hands regularly and thoroughly for 20 seconds, with soap and water, or alcohol-based hand rub. Remember that before your hands are clean, you should not touch your face, especially not (around) your eyes, nose and mouth as these are the key entrance points for any virus.**

**- Cover your nose and mouth with a (disposable) tissue or flexed elbow when you cough or sneeze. Wear a face mask when going outside (mainly to protect other people) and wash your hands often and thoroughly when back inside.**



**- Stay inside; avoid unnecessary contact with people as well as unnecessary traveling, particularly to crowded or public places. After returning home from necessary activities such as grocery shopping, do not forget to wash your hands. You may also want to wash the products you bought, because people often touch products that are put on display in the local supermarket.**

- **Strengthen your immune system**; people who are healthy (which are usually young people) may not even notice that they are infected with COVID-19. The trick here is that their immune system is stronger (generally). Therefore, now is the time to take some efforts to strengthen your immune system by eating healthy (fruits and vegetables) and take some supplements, such as vitamin pills. Taking enough time to sleep is also crucial to help improve your immune system. Lastly, it is highly recommended to quit smoking (and not consume too much alcohol).

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