SOSIOLOGICAL JURISPRUDENCE

International Journal of Sosiological Jurisprudence
Volume 2; Issue 1; 2019, Page: 32 - 40
ISSN 2615 - 8809
E ISSN 2615 - 8795
https://ejournal.warmadewa.ac.id/index.php/sjj

Legal Aspect of Foreign Direct Investment in Indonesia Based on the Law of Number 25 of the Year 2017 Concerning Investment

Sentosa Sembiring
Faculty of Law, Parahyangan Catholic University, West Java, Indonesia
sentosa@unpar.ac.id

Published: 28/02/2019

How to cite: Sembiring, S. 2019. *Legal Aspect of Foreign Direct Investment in Indonesia Based on the Law of Number 25 of the Year 2017 Concerning Investment*. Sociological Jurisprudence Journal. Volume 2 Issue 1. Page 32 - 40. ***http://dx.doi.org/10.22225/scj.2.1.932.32-40***

Abstract

Indonesia as a developing country in various sectors requires substantial funding. Government funds are very limited. One of the alternatives to move the wheels is to invite foreign investors. Aims of this research is to obtain legal certainty in making investments, the government renewed the legal basis of investment namely issuing Law Number 25 Year 2007 on Investment. In this law has been adopted from international agreements associated with the investment regime. In principle it is not an area of investment that can be entered by open investors in all areas. In order to have legal certainty the government issues a negative list of investments. To improve services to investors in this law is authorized by the Investment Coordinating Board to coordinate one-stop services.

Keywords: Foreign Investment Coordinating Board; Foreign Investment Law; Negative Investment List

I. INTRODUCTION

Foreign investment is important as one of the key forces of economic growth and development. There are two opposite perspectives with respect to foreign investment. Firstly, foreign investment leads to damage of the host states. The other perspective is pro foreign investment, in the sense that it states that foreign investment leads to numeral benefits to host states. It can be divided in foreign direct investment and foreign indirect investment. FDImeans that anentity from one state invests physically in another state, usually called the host state (Rakili, 2013). Investment policy become one of the major concern to Indonesia government, to meet and accomodate the business enviroment both domestic and overseas that need capital investment, thus to develop the economic growth and build a suistainable economic stability in the region as well as for the people of Indonesia, it is neccessary to stipulate the inevestment law that provide all the need. Therefore the government has replaced the old law with the new Investment Law, the law No 25 of 2007 (Bunawan, 2017). In recent years, the Government of Indonesia under the leadership of President Joko Widodo (President of Indonesia) is actively working on various sectors. This is understandable, considering one of the objectives of the establishment of the state as described in the preamble of the 1945 Constitution of the Republic of Indonesia (The 1945 Constitution) that promotes the general welfare. How to achieve the general welfare in question, based on the system of Government in Indonesia President as Head of State a single head of Government has the task to move the wheels of government. One of the tasks that must be implemented is to do the builders in various sectors, so that the wheels of the economy goes according to the goals of the state. Development is meant both physical and non-physical so that the results can be enjoyed by all citizens of Indonesian citizens.

One of the sectors to which President Jokowi is concerned is the development of Infrastructure. Yet this does not mean that other sectors are ignored. The attention to the development of this infrastructure can be understood, given the geographical region of Indonesia consists of several islands (Dar & K. Dar, 1979) that require infrastructure facilities. This is so that the relationship between one island to another

more easily accessible. One of the much needed infrastructure in this regard is the means of transportation, whether land, sea or air.

The Indonesian government is aware that to undertake such development requires substantial funds. Funds available from the government are still very limited. In solving the problem of financing in the development, one alternative is to invite foreign investors (Sembiring, 2010). Foreign investors will certainly be willing to invest, if the province on investment in the country of investment destination provides legal certainty. What investors consider is understandable, given the direct investment, the results can only be enjoyed by investors in the long term.

In relation to the above, the Indonesian government also adjusted the capital investment provisions issued in 2007 which are fully known as Law Number 25 Year 2007 regarding Capital Investment (*Undang-Undang Penanaman Modal, UUPM*). This law became effective on April 26, 2007. This law consists of 18 Chapters and 40 Articles. The Indonesian government issued this investment law, certainly can not be separated from the rapidly changing global economic development. In addition, the Indonesian government has also participated in various international agreements both bilaterally and multilaterally. One of them is Indonesia's participation in the establishment of the World Trade Organization (WTO). With the participation of Indonesia in the WTO, the Government of Indonesia must adapt some principles applicable in the WTO into the national law of the principle, among others related to investment or Trade Related Investment Measures (Trim's).

It is strongly stated in the consideration of the Capital Investment Laws as follows:

1) that in order to realize a just and prosperous society based on Pancasila and the 1945 Constitution of the Republic of Indonesia, it is necessary to implement sustainable national economic development based on economic democracy to achieve state goals;
2) that in accordance with the mandate contained in the Decree of the People's Consultative Assembly of the Republic of Indonesia Number XVI/MPR/1998 on Economic Politics in the framework of Economic Democracy, investment policy should always underlie the people's economy which involves the development of micro, small, medium and cooperative enterprises;
3) that in order to accelerate national economic development and realize Indonesia's political and economic sovereignty, it is necessary to increase investment to process economic potential into real economic power by using capital that comes from both domestic and foreign;
4) that in the face of global economic change and Indonesia's participation in various international cooperation, it is necessary to create a conducive, promotion, conducive, investment climate, legal, fair and efficient investment climate while still paying attention to the national economic interests;
5) Based on the consideration of the issuance of UUPM, it can be seen that the government wants to create a balanced condition between the national interest and the interests of investors. Viewed from this point of view, the issuance of UUPM can serve as a strong legal basis for investors that investing in Indonesia is quite competitive with other countries.

III.DISCUSSION

The Same Treatment

If carefully considered in the Investment Law (*UUPM*), explicitly affirmed there is no difference between foreign investors and domestic investors. This is affirmed in Article 3 paragraph (1) sub-paragraph d UUPM as follows: Investment is conducted on the basis of the same treatment principle and does not distinguish the origin of the country. Furthermore, in the explanation of this article, it is stated that "the principle of equal treatment and not distinguishing the origin of the country" is the principle of treatment of non-discriminatory services based on the provisions of legislation, whether between domestic investors and foreign investors or between investors of one foreign countries and investors from other foreign countries.

What is included in the Investment Law is in line with the principles adopted in TRIMS's, among others, stipulated: The arrangement of capital investment based on the principle of equality (Nondiscrimination Principle). Another principle that should also be considered is the National

Treatment Principle. The purpose of this principle is not to distinguish between the treatments of foreign capital with domestic investors. Seen from this context, the Indonesian government seems to provide a very open opportunity for all investors to invest in Indonesia.

What is a Foreign Investment? The understanding of this matter is described in Article 1 Sub-Article 3 of Investment Law (*UUPM*) as follows: Foreign investment is an activity of investing to conduct business in the territory of the Republic of Indonesia by foreign investors, whether using foreign capital completely or in association with domestic investors.

What is described from the above provisions can be seen Foreign Investment has the characteristics of the First, Foreign Investment conducting business directly. This means that investors must establish a business entity in order for investment activities undertaken by foreign investors to be physically visible to conduct business activities. This is certainly different from foreign indirect investment. For the latter, this business activity can be done by buying shares through the stock exchange (Sumantoro, 1991); Second, business activities or businesses carried out by Foreign investmentare located in the territory of the Indonesian republic. As is known, the territory of the republic of Indonesia, consists of various provinces and regency or city. In other words, investment activities are basically done in urban and district areas. And third, the capital used in making foreign investment can use foreign capital completely. This is certainly expected by the recipient countries in this case Indonesia, Why? Because if it is done directly and funds are taken by the Investor itself, the funds available in the country can be used for other purposes. If foreign funds are not one hundred percent, in the *UUPM* it is possible to cooperate or jointly with the domestic capital investment.

Parties that may engage in foreign investment, may be individuals, business entities and foreign countries. This is described in Article 1 Sub-Article 6 of the Investmen Law (*UUPM*): Foreign investors are foreign individuals, foreign business entities, and/or foreign governments that invest in the territory of the Republic of Indonesia. While the definition of foreign capital is described in Article 1 number 8 *UUPM*: Foreign capital is capital owned by foreign countries, foreign individuals, foreign business entities, foreign legal entities, and/or Indonesian legal entities that are partly or wholly owned by foreign parties. There is one interesting aspect of the provisions of this article, that foreign capital may be partly owned by foreigners. Then how is that part? In this case may be used by foreign parties by utilizing the existing financial institutions in the recipient country.

Business Sector

The most prominent question related business sector in Indonesia is what kind of business can foreign investors make investment Indonesia? If thoroughly reviewed by the Investment Law (*UUPM*), then in this law explicitly affirmed every business field can be entered by foreign investors. It seems the fact contained in this provision, in line with the development of foreign investment, which is generally almost in every country has begun to open to foreign investors. Even foreign investors can have 100% (one hundred percent) stake in companies to be established in the receiving country.

There are a number of legal forms of entities that can engagein business in Indonesia, namely (Erawaty, 2007):

1) Sole Proprietor: proprietor has unlimited liability
2) General Partnership (FA or “Firma”): partners have jointand several unlimited liability
3) Limited Partnership (*CV*): silent partners are liable tothe extent of their capital contribution, while managingpartners have unlimited liability
4) State-Owned Enpterprises (*BUMN*): company owned bythe government and reliant upon the state to fund anydeficit
5) Limited Liability Companies (*PT*): shareholders havelimited liability.However, in the context of foreign investment the only option open to foreign investor is by establishing a PT as explained below.

As elaborated in Article 12 paragraph (1) of the Investment Law (*UUPM*): All fields of business or type of business are open to investment activities, except for business fields or types of business that are declared closed and open with requirements. Furthermore, in the clarification of this article it is stated as

follows: The closed or open business or business field with the terms set forth by the Presidential Regulation is compiled in a list based on the classification standard of business or type of business applicable in Indonesia, that is classification based on Field Classification Indonesian Enterprises (*Klasifikasi Baku Lapangan Usaha Indonesia* KBLI) and/or International Standard for Industrial Classification (ISIC).

From the above provision, it can be seen that the policy adopted by the government of Indonsia in the field of foreign investment in principle all fields of business can be entered by foreign investors, except for certain business fields which foreign investors can not enter. This is explicitly defined in Article 12 paragraph (2) of the Investement Law as follows: A closed business field for foreign investors is: a. production of weapons, gunpowder, explosives and war equipment; and b. areas of business that are explicitly declared closed by law. It is understandable why the two fields are closed to foreign investors, because these two areas are related to the security of the country. As mentioned in the explanation of this article: The meaning of "explosive device" is a tool used for defense and security purposes.

In addition to reasons of defense and security interests, in certain circumstances the government may establish an open field of business to be closed. And vice versa closed closed. This is described in Article 12 paragraph (3) of the Investment Law (*UUPM*): The Government pursuant to a Presidential Regulation stipulates a closed business field for investments, whether foreign or domestic, based on national health, moral, cultural, environmental, defense and security criteria, other national; Paragraph (4): Criteria and requirements of closed and open business fields with terms and lists of closed and open business fields with their respective requirements shall be governed by a Presidential Regulation. And paragraph (5): The Government shall establish an open business field with requirements based on the criteria of national interest, namely protection of natural resources, protection, development of micro, small, medium and cooperative enterprises, supervision of production and distribution, technological capacity enhancement, country, as well as cooperation with government-appointed business entities.

Since the issuance of *UUPM*, the government has several times issued a Presidential Regulation on Investment Negative List. In the past year, precisely on May 12, 2016, the government issued Presidential Regulation No. 44 of 2016 on the List of Closed Business Fields and Opened Business Fields with Requirements in the Field of Investment (Hereinafter referred to as Perpres No. 44/2016).

In Perpres No. 44/2016 described the meaning of: Business Line is any form of business activity undertaken to produce goods or services in the economic sectors (Article 1 number 1). The key word is that investors invest in producing goods and services. Meanwhile, what is meant by Open Business Field is Business Field conducted without requirement in the framework of Investment (Article 1 number 2). So for the open business field, investors can conduct business directly. In this Presidential Regulation, it is clear that what is meant by Closed Business Field is Certain Business Field, which is prohibited to be cultivated as Investment activity (Article 1 number 3). In other words in this Presidential Regulation, the business sector that cannot be accessed by investors is not explained. Nevertheless, for tertertu field opened with the requirements. This is described in Article 1 number 4. Open Business Fields with Requirements are Certain Business Sectors which can be cultivated for Investment activities on condition that is reserved for Micro, Small and Medium Enterprises (Sonarajah, 1994) and Cooperatives (Ramli, 1994), Partnerships, Capital Ownership, Certain Locations, special permits, and capital investment from the Association of Southeast Asian Nations (ASEAN) countries.

If the provisions are stated in Presidential Decree No 44/2016 above, it appears that the regime adopted in this Presidential Regulation is the limitative inclusion of the business field, which is prohibited closed and open with the requirements. Therefore, the conceptualized regime is the Negative Investmen List (*Daftar Negative Investasi,* DNI). In other words, in the attachment of this Presidential Regulation, there are listed business fields that are closed and closed for investment. This is described in Article 3 of Perpres No. 44/2016 as follows: Business Field not listed in Closed Business Field and Open Business Field with Requirement is Open Business Field. More strictly in Article 4 of Perpres No. 44/2016 disclosed Closed Business Field as contained in Attachment I and is an inseparable part of this Presidential Regulation.

From what has been described above, if viewed from the legal point of view to invest in Indonesia is very wide open in various investment sectors. It's just that to be noticed by potential investors in investing in Indonesia, need to pay close attention to what business fields are open one hundred percent

and what areas of business should make partnerships with small businesses and cooperatives.

Form of Foreign Capital Legal Entity

In the above description has been stated, for foreign investors who want to invest in Indonesia, can be done by individuals, business entities or by foreign countries (Sonarajah, 1994) It's just how the investment activity can be implemented then it must be realized in the form of a legal entity. What is interesting to observe is why business entities that conduct business activities must be legal entities? Apparently, this has something to do with one's status in the traffic of law-enforcement. The legal subject recognized as the bearer of rights and obligations is an individual and a legal entity. In other words, legal action to defend the right in court is the person and the legal entity. By knowing the legal entity status of the business entity, the law applied to the legal entity is the law in the country where the legal entity is created. This view is in business law known as Doctrine of Place of Incorporation. According to this doctrine a legal entity is subject to the law in which the legal entity has been established (Ramli, 1994).

In UUPM itself is expressly stated the form of business entity in the form of legal entity in question, explicitly referred to in UUPM as Limited Liability Company (*Perseroan Terbatas*). Moreover, it is stipulated in Article 5 Paragraph (2) of Investment Law (*UUPM*) which states as follows: Foreign investment shall be in the form of a limited liability company under Indonesian law and domiciled within the territory of the Republic of Indonesia, unless otherwise provided by law. From this provision can be known, that foreign investors who want to invest in Indonesia, the first step should be done is to establish a business entity that legal form Limited Company.

The regulation of Limited Liability Company is further stipulated in Law Number 40 Year 2007 regarding Limited Liability Company (*Undang-Undang Perseroan Terbatas*, *UUPT*). In Article 1 number 1 UUPT is explained: Limited Liability Company, hereinafter referred to as the Company, is a legal entity which is a partnership of capital, established under the agreement, engages in business activities with the authorized capital wholly divided into shares and fulfills the requirements stipulated in this Law as well its implementation rules.

From the understanding of PT as stipulated in the Company Law above, PT as a business entity has the characteristics namely: First, the PT established based on the agreement. This is in accordance with the concept of the law of the treaty, then in making the agreement at least there should be two people or more. The form of the agreement is set forth in the Company Establishment Deed, which is better known as the Company's Articles of Association.

In the Articles of Association of the Company, the rights and obligations of the parties are stated; Second, PT is capital equity. This means that in the preferred PT is the problem of capital not people. In other words, the existence of PT does not depend on shareholders. This means that shareholders may alternate, PT still exist sepajang still fulfill the requirements as regulated in UUPT; Third, PT Capital consists of shares. So who owns the shares is the owner of the company. Fourth, PT conducts business or business. The purposes and objectives of the PT are included in the Articles of Association.

In UUPT explained, explicitly PT is a legal entity. When will a PT become a legal entity? This is described in Article 7 paragraph (4) of Company Law: The Company obtained the status of a legal entity on the date of issuance of a Ministerial Decree concerning the legalization of a legal entity of the Company. The Minister shall grant the legalization of PT to a legal entity, if the terms of establishment of the Company have met the requirements stipulated in the Company Law.

There is also a requirement for establishing PT in UUPT to be divided into two namely the first formal requirements. This is elaborated in among others in Article 7 paragraph (2) submitted by PT established by 2 (two) or more made by notary deed and made in Bahasa Indonesia. After the deed made by the notary of the founder shall request an application for confirmation as a legal entity to the Minister of Justice and Human Rights. Other formal requirements to be considered by PT founders are to register the ratification of PT establishment in the Company Register provided at the Office of the Minister of Law and Human Rights. described in Article 29 paragraph (1) of the UUPT which states; The Company's list is organized by the Minister; Paragraph (2) The list of the Company as referred to in paragraph (1) contains the data of the company. Moreover, announced the establishment deed of PT. This is described in Article 30 Paragraph (1) of the UUPT: The Minister declares in the State Gazette of

the Republic of Indonesia, the deed of establishment of the Company and a Decree of the Minister.

Secondly, it is related to the material requirement of establishment of PT. This is described in Article 32 paragraph (1) of Company Law, to establish PT: The authorized capital of the Company at least Rp 50,000,000.00 (fifty million rupiah). The capital must be at least 25% must be paid. More on this matter is described in Article 33 Paragraph (1) UUPT: At least 25% (twenty five percent) of the authorized capital as referred to in Article 32 shall be issued and fully paid. Paragraph (2): The issued and fully paid up capital as referred to in paragraph (1) is proved by valid proof of deposit; and (3) Any further capital expenditures incurred at any time to supplement the issued capital shall be fully paid up.

The Coordinating Board of Capital Investments

Observing the investment activities involved various government institutions, it is needed an institution that can coordinate various institutions known as the Investment Coordinating Board (*Badan Koordinasi Penanaman Modal*, BKPM). As explained in Article 27 Paragraph (2) of Investment Law (UUPM), the Investment Coordinating Board shall conduct the coordination of the implementation of investment policy. One of BKPM (Himawan, 1980) duties and functions is to coordinate and implement one-stop integrated services. The meaning of One-Door Integrated Shipping is described in Article 1 Number 10 of the Investment Law as follows: One-door integrated service is the operation of a licensing and non-licensing that gets delegation or delegation of authority from institutions or institutions with licensing and non-licensing authority whose management process starts from the application until the publication of documents performed in one place.

In accordance with the authority possessed by *BKPM* in investment services, the *BKPM* issued a number of regulations governing investment (Campbell, 1985), among others Regulation of the Head of the Capital Investment Coordinating Board of the Republic of Indonesia Number 14 Year 2015 on Guidelines and Procedure of Permit Investment Principle (*Perka BKPM* No. 14 / 2015). In Article 1 point 10 stated: Permit Principle of Investment, hereinafter referred to as Principle Permit, is a mandatory permit to start a business. Meanwhile, Article 12 Paragraph (2) is stipulated: The Permit of Principles in the framework of Foreign Investment (PMA) is only granted to the Legal Entity in the form of PT under Indonesian law and domiciled within the territory of the Republic of Indonesia, unless otherwise provided by law.

From the above provisions, one of the requirements that must be met to conduct foreign investment in Indonesia, investment must establish a business entity in the form of Limited Liability Company. Other requirements to be met for investment activities are described in Article 13 paragraph (1): Foreign Investment (PMA) companies are required to implement the terms and conditions of investment and capital in order to obtain Principle Permit. There is also a large amount of investment value elucidated in Article 13 paragraph (3): The requirement of investment value and capital in the framework of FDI as referred to in paragraph (1), unless otherwise stipulated by the Regulation of the Law:

The total value of the investment is greater than Rp 10,000,000,000.00 (ten billion rupiah), outside the land and buildings as referred to in Article 1 number 4 of Law Number 20 Year 2008 regarding Micro, Small and Medium Enterprises;

for the expansion project of 1 (one) business field in 1 (one) business group based on the Classification of Indonesian Business Field Standard (*KBLI*) in the same location, the investment value shall be less than Rp 10,000,000,000.00 (ten billion rupiahs) the accumulated investment value of all projects in that location has reached more than Rp. 10,000,000,000.00 (ten billion rupiah) outside land and buildings;

It should be noted here that the application for a principal license may be made before or as badly as to obtain the status of Limited Personnel legal entity. This is described in Article 17 paragraph (2): Permit Application of PMA Principles may be filed before or after the Indonesian incorporated company as referred to in Article 12 paragraph (2). The party applying for the principle permit is described in Article 18 paragraph (2): Application for the PMA Principal Permit as referred to in paragraph (1) before the status of an Indonesian legal entity is filed by:

Governments of other countries and/or foreign nationals and/or foreign business entities and/or *PMA* companies; or

Governments of other countries and/or foreign nationals and/or foreign business entities and/or *PMA* companies together with Indonesian citizens and/or Indonesian legal entities.

Meanwhile, Article 18 Paragraph (3) is stipulated: The application of Principle License for corporate in the status of Indonesian legal entity or Indonesian business entity is submitted by the head of the company using Appendix II which is an inseparable part of this Head Regulation. Article 18 paragraph (4) states that the Principle Permit can not be issued if the application does not meet:

a. Provisions concerning closed business fields and open business fields with requirements;

b. Sectoral provisions related to business activities;

c. Completeness of application requirements.

Article 18 Paragraph (5): A Principle Permit issued pursuant to the application as referred to in paragraph (2) shall be followed up by the establishment of a deed of incorporation of a limited liability company and authorized by the Minister of Law and Human Rights.

There is also a requirement of PMA Principle License under Article 37 paragraph (1): Application for PMA Principal Permit for companies not yet incorporated in Indonesia, uploading data as follows:

1) the identity documents of shareholders in the Company Folder as stated in Article 33 paragraph (3) letter e;
2) description of activity plan:
   a. for the industry, in the form of a flow chart of production is completed with a detailed description of the production process description by stating the type of raw materials to be the final product;
   b. for the service sector, in the form of a description of the activities to be undertaken, the details of the investment (if required), and the explanation of the resulting service product; and
3) Power of Attorney if the application of the request is not made directly by the applicant and the documents of the proxy, the provisions concerning power of attorney and the documents of the proxy are regulated in this Head Regulation.

Furthermore, in Article 37 paragraph (2) stated: Application of PMA Principal Permit for companies already incorporated Indonesian Law, uploading the data as follows:

1) complete the corporate entity document on the Company Folder;
2) new shareholder identity document if any change of ownership of shares. Provisions concerning the identity of shareholders as specified in Article 33 paragraph (3) letter e;
3) description of activity plan:
   a. for the industry, in the form of a flow chart of production is completed with a detailed description of the production process description by stating the type of raw materials to be the final product;
   b. for the service sector, in the form of a description of the activities to be undertaken, the details of the investment (if required), and the explanation of the resulting service products.
4) Circular Resolution of the Shareholders/Annual General Meeting of Shareholders/Deed of Declaration of Meeting Decision signed by all Shareholders and notarized by a notary in the event of a change of shares resulting in a change in the status of the company into a foreign investment, it must agree on at least:
   a. change of company status to foreign investment;
   b. shareholder composition after the transfer and expressly stipulates the par value of the shares (not shares); and
   c. business field to be implemented after the change of company status; and
5) Power of Attorney if the application of the request is not made directly by the applicant and the documents of the proxy, the provisions concerning power of attorney and the documents of the proxy are regulated in this Head Regulation.

The question may rise is what is the value of investment that must be done by foreign investors in Indonesia? To answer this question can be seen in the Regulation of the Head of the Investment Coordinating Board of the Republic of Indonesia Number 8 of 2016 (Peraturan Kepala Badan Koordinasi Penanaman Modal Republik Indonesia) on the Second Amendment to Regulation of the Chairman of the Capital Investment Coordinating Board Number 14 Year 2015 on Guidelines and Procedures for Permit of Capital Investment Principle (Perka BKPM No 8/2016). Article 30 Paragraph (1) is stipulated: Acceleration of issuance of Investment License shall be granted to the Company on both new and expansion projects that meet the following criteria:

a. investment value of at least Rp100,000,000,000.00 (one hundred billion rupiah)
b. employment of at least 1,000 (one thousand) Indonesian workers;
c. certain industries, regions or places that obtain free inland trade facilities (Inland Free Trade Arrangement), in accordance with the regulations stipulated by the Minister of Industry, with due regard to the provisions in letter a and/or b;

What licenses are needed to invest in Indonesia? This is described in the Regulation of the Head of the Capital Investment Coordinating Board of the Republic of Indonesia Number 15 Year 2015 on Guidelines and Procedure of Licensing and Non-Capitalization of Investment (Perka BKPM No 15/2015).

In Article 1 point 10 it is stipulated: Licensing shall be any form of approval to carry out Capital Investment issued by the Central Government, Regional Government, Free Trade Zone and Free Port Authority, and Administrator of Special Economic Zone, which has authority in accordance with the provisions of laws and regulations. Meanwhile in Article 1 number 11. Non-licensing is any form of ease of service and information on Investment, in accordance with the provisions of legislation.

Furthermore, in Article 11 paragraph (1) it is stated: Type of Licensing consists of:

a. Business Licenses for various business sectors;
b. Expansion Business License for various business sectors;
c. Business License of Incorporation of Planting Company
d. Capital for various business sectors;
e. Business License Change for various business sectors;
f. Permission of Representative Office; and
g. Operational permits for various business sectors

If using Foreign Workers also must get permission. This is found in Article 11 paragraph (2): The Non-Licensing Type consists of:

a) Use of Foreign Workers;
b) Importer identification number; and
c) Technical recommendations of various business sectors.

IV.CONCLUSION

Formally Juridical, the juridical basis for investing in Indonesia has been regulated in its own law, namely Law Number 25 Year 2007 on Investment. Substantially what is stipulated in the Capital Market Law is related to the laws and regulations related to Investment, such as the Law on Planting of Limited Liability Companies, Employment Law Act, Tax Law, Agrarian Law. Before investing, investor must first learn about Negative List of Ivestgation. In this list defined business fields, which are open and closed. To coordinate the investors established by the Board of Coordinating Body for Capital Investment. The task of this institution serve the needs of investors in making investments.

References

Bunawan, P. (2017). Foreign investment in Indonesia The Legal Aspects under the New Indonesian Investment Law, 8(65), 1–14.

Campbell, D. (1985). Legal Aspects of Doing Business in Asia And The Pacific, (ed) International Business Series.

Deventer/ Netherlands: Kluwer Law and Taxations.

Dar, U., & K. Dar, P. (1979). *Investment Opportinities In Asean Countries*. New Delhi.

Erawaty, E. (2007). Legal Aspects Of Foreign Direct Investment In Indonesia : An Overview, 1–30.

Himawan, C. (1980). *The Foreign Investment Process In Indonesia*. Jakarta: Gunung Agung.

Law of the Republic of Indonesia Number 25 Year 1992 on Cooperatives

Law Number 7 Year 1994 about Ratification of Agreement Establishing the World Trade Organization.

Law of the Republic of Indonesia Number 20 Year 2008 About Micro, Small and Medium Enterprises of Law Number 30 of 2004 as amended by 2 of 2014 concerning Notary Position.

Law of the Republic of Indonesia Number 24 Year 2009 Regarding Flag, Language, and State Coat, and National Anthem

Law of Republic of Indonesia Number 40 Year 2007 Concerning Limited Company

Law of Republic of Indonesia Number 25 Year 2017 Concerning Investment Code of Civil law Indonesia

Rakili, N. (2013). *Foreign Direct Investment in legal perspective*, Master International and European Business Law. University van Tilburg.

Ramli, A. M. (1994). *Company Status Under Private International Law Theory and Practice. (Status Perusahaan Dalam Hukum Perdata Internasional Teori dan Praktik)*. Bandung: Mandar Maju.

Sembiring, S. (2010). *Investment Law (Hukum Investasi)*. Bandung: Nuansa Aulia.

Sonarajah, M. (1994). *The Internationl Law on Foreign Investment*. Cambrige University Press.

Sumantoro. (1991). *Bunga Rampai Permasalahan Penanaman Modal dan Pasar Modal (Problems of Investment in Equities and in Securities)*. Bandung: Binacipta.

The 1945 Constitution of the State of the Republic of Indonesia has been amended several times and the fourth most recent amendment of 2002.