INTERNATIONAL JOURNAL OF MULTIDISCIPLINARY RESEARCH AND ANALYSIS

ISSN(print): 2643-9840, ISSN(online): 2643-9875

Volume 08 Issue 06 June 2025

DOI: 10.47191/ijmra/v8-i06-27, Impact Factor: 8.266

Page No. 3281-3286

Implementation of Minimum Paid-In Capital Regulations in Foreign Investment Limited Companies in Badung Regency

Rizka Tiara Kusuma[1], I Nyoman Putu Budiartha[2], I Wayan Kartika Jaya Utama[3]

[1]Student of Post Graduate Warmadewa University, Bali, Indonesia

[2,3]Lecturer in Post Graduate Warmadewa University, Bali, Indonesia

ABSTRACT: Foreign investment in Indonesia is required to be in the form of PT PMA. Setting the minimum paid-in capital for PT PMA to be at least IDR 10,000,000,000.00 has positive and negative impacts. This research is empirical legal research that uses legal entity theory, legal effectiveness, legal protection, and legal certainty using conceptual, statutory, legal sociology, and case approaches. In conclusion, the realization of foreign investment in Badung Regency shows an increase from 2021 to 2024. However, even though there is an increase, there are still many PT PMA that violate these provisions. Factors influencing non-compliance include law enforcement resources, community compliance, and a clear and fair legal system. Several government agencies and notaries play an important role in monitoring and enforcing regulations. Community compliance, especially in the tourism and hospitality sectors, as well as acceptance of fair laws, contributes to the effective implementation of these provisions. Violation of the minimum PT PMA paid-in capital provisions can hamper LKPM reporting. Business actors who do not submit LKPM for two consecutive periods may be subject to light sanctions up to the revocation of business permits.

KEYWORDS: Investment, PT PMA, Minimum Paid-in Capital, Permit, Implementation

I. INTRODUCTION

Indonesia really needs the presence of foreign investors to bring capital into the country, both in the form of direct investment and portfolio investment. With great potential for investment due to abundant natural resources (SDA), of course it requires very large funds, which cannot necessarily be met by domestic financial and technological capabilities. There are almost no modern manufacturing and industrial companies in Indonesia that do not have commercial ties with foreign capital, therefore investment from abroad is felt to be very much needed by domestic industry.

On the other hand, there are many investment obstacles that have not been addressed comprehensively, especially in terms of legal certainty. The development of the investment climate in Indonesia has not shown significant improvement or development even though basically Indonesia has great potential for carrying out investment activities. Indonesia is a very strategic investment destination country for both domestic and foreign investors. Foreign investors who invest directly in Indonesia must form a Foreign Investment Limited Liability Company (hereinafter referred to as PT PMA) as regulated in Article 5 paragraph (2) of Law Number 25 of 2007 concerning Capital Investment (hereinafter referred to as UUPM). The establishment of a Limited Liability Company as regulated in Article 7 paragraph (1) of Law Number 40 of 2007 concerning Limited Liability Companies (hereinafter referred to as UUPT) is carried out by means of a notarial deed made in Indonesian. In terms of the Notary's authority to make authentic deeds, this does not mean that the Notary can make authentic deeds at will without the parties asking for the deed to be made. It is impossible for a notary to make a deed without the involvement of the parties, those interested in a notarial deed are those who request the deed to be made.

There are several regulations regarding Limited Liability Company capital that have been implemented in Indonesia. As regulated in Article 33 paragraph (1) of the Company Law, namely at least 25% (twenty five percent) and the authorized capital as intended in Article 32 must be placed and fully paid up. According to Article 32 paragraph (2) of the Job Creation Law, the amount of the Company's authorized capital as referred to in paragraph (1) is determined based on the decision of the Company's founder. In Article 189 paragraph (2) Government Regulation Number 5 of 2021 concerning Implementation of Risk-Based Business Licensing (hereinafter referred to as PP No. 5 of 2021) which is partially revoked by Government Regulation Number 11 of 2023 concerning Measurable Fishing, the minimum investment provisions for Foreign Investment as intended in paragraph (1) letter a, include total investment greater than IDR 10,000,000,000.00 (ten billion rupiah), excluding land and buildings per business sector Indonesian Business Field Standard Classification (KBLI) 5 (five) digits per project location. Based on Article 12 paragraph (7) of the Investment Coordinating Board of the Republic of Indonesia Regulation Number 4 of 2021 concerning Guidelines and Procedures for Risk-Based Business Licensing Services and Investment Facilities (hereinafter referred to as BKPM RI Regulation No. 4 of 2021), the minimum capital requirement for PMA as intended in paragraph (6) is issued/paid-up capital of at least IDR 10,000,000,000.00 (ten billion rupiah), except determined otherwise by statutory regulations.

From subjective observations, the current phenomenon is that PT PMA established in the territory of the State of Indonesia, especially in Badung Regency, Bali Province, does not provide proof of payment of paid-in capital to the Notary or Institution with authority for this matter, which should be in accordance with what is stated in the deed of establishment of PT PMA, namely a minimum of IDR 10,000,000,000.00 (ten billion rupiah). In November 2024, 267 (two hundred and sixty seven) PT PMA Business Identification Numbers (NIB) have been revoked because they did not meet the minimum investment value commitment for foreign investment, namely a minimum of IDR 10,000,000,000.00 (ten billion rupiah). However, in terms of investment, foreign investment in Badung Regency has increased quite significantly from 2021.

Based on the description above, this research aims to examine and analyze the minimum paid-up capital regulations for PT PMA in Indonesian laws and regulations as well as the legal consequences of non-implementation of minimum paid-up capital regulations at PT PMA, so it is necessary to conduct further research regarding **IMPLEMENTATION OF MINIMUM PAID-IN CAPITAL REGULATIONS IN FOREIGN INVESTMENT LIMITED COMPANIES IN BADUNG REGENCY**.

II. METHOD

The research method used in this research consists of the type of research used, the empirical legal research type, the problem approach which consists of a conceptual approach (*conceptual approach*), legislative approach (*statue approach*), legal sociology approach (*sociological approach*), and case approach (*case approach*). The data sources used consist of primary data obtained by conducting direct research in the field, namely at the Badung Regency One Stop Investment and Integrated Services Service (DPMPTSP), Bali Province One Stop Investment and Integrated Services Service (DPMPTSP), and 2 (two) Notaries in Badung Regency, as well as secondary data which is divided into 2 (two) namely primary legal materials, namely binding legal materials, in this research it is based on legislation and secondary legal materials, namely legal materials consisting of on books written by legal experts, legal journals, scientific papers and opinions of scholars. The data collection technique is carried out using the Primary Data Collection Technique which is carried out to obtain data directly from the source, namely the research subject by means of interviews and the Secondary Data Collection Technique which is carried out by obtaining data using a documentation study method of collecting or processing data in the form of reviewing personal documents, official institutional documents and statutory regulations. The research location was carried out at 2 (two) notaries in Badung Regency, the Badung Regency One Stop Investment and Integrated Services Service (DPMPTSP), and the Bali Province One Stop Investment and Integrated Services Service (DPMPTSP). The data analysis used is using descriptive qualitative data processing and analysis techniques used in this research.

III. RESULTS AND DICUSSION

1. Effectiveness Of Minimum Deposit Capital In The Deed Of Establishment Of PT PMA In Badung Regency

Enforcement and implementation of minimum deposit capital at PT PMA in Badung Regency can be influenced by various factors. According to Lawrence M. Friedman, there are three components or sub-systems in the legal system that determine whether a legal system is effective or not, namely the legal structure component (*structure of law*), legal substance (*substance of the law*) and legal culture (*legal culture*). Lawrence M. Friedman's theory about the legal system is based on his view which tends to be more sociological (*sociological jurisprudence*), but simply put, this theory is difficult to refute. To review the effectiveness of law enforcement, you can outline the components of the legal system according to Lawrence M. Friedman's legal system theory:

1) Legal Structure

According to Lawrence M. Friedman, the structure of a legal system is a permanent framework of the legal system that keeps the process within its boundaries. Elements of this legal structure consist of various types of law which are arranged in a hierarchy, namely the structure of law enforcement institutions in this case such as the Ministry of Investment and Downstreaming/Investment Coordinating Board (BKPM), Bali Province DPMPTSP, Badung Regency DPMPTSP, and Notaries in Badung Regency.

A. BKPM

The Investment Coordinating Board is a government institution responsible for regulating and facilitating investment, including foreign investment. The Investment Coordinating Board oversees the minimum paid-up capital obligations that PT PMA must fulfill. The Investment Coordinating Board also ensures that PT PMA complies with laws and regulations regarding business opening, licensing and tax obligations.

Based on an interview with Mr. Ida Bagus Gede Putra Arimbawa, S.E., M.M. as Intermediate Expert Investment Management Manager at the Bali Province One Stop Investment and Integrated Services Service (hereinafter referred to as Bali Province DPMPTSP), explained that the foreign investment sector in Indonesia is centered on the Ministry of Investment and Downstreaming/BKPM. The Ministry of Investment and Downstreaming/BKPM is a Government Institution tasked with coordinating policies and services in the investment sector based on statutory provisions. As the main link between the business world and the government, BKPM is given the mandate to encourage direct investment, both from within the country and abroad, through creating a conducive investment climate.

All PT PMA established in the territory of Indonesia are supervised and monitored by the Ministry of Investment and Downstreaming/BKPM, so that it can be seen if a PT PMA is not running effectively. This can be seen from the Investment Activity Report (hereinafter referred to as LKPM) which PT PMA must report periodically every 3 months. If you do not report the LKPM, PT PMA will receive legal sanctions.

B. Bali Province Investment and One-Stop Integrated Services Service (DPMPTSP).

The main tasks of the Bali Province DPMPTSP are carrying out government affairs in the field of investment and one-stop integrated services which are the authority of the region, as well as carrying out deconcentration tasks until the Governor's secretariat is formed as a representative of the central government and carrying out assistance tasks in accordance with their field of duties. One of them is carrying out compliance monitoring and investment obligations in accordance with the provisions of business activities and statutory regulations.

Based on an interview with Mr. Ida Bagus Gede Putra Arimbawa, S.E., M.M. as the Intermediate Expert Investment Management Manager at DPMPTSP Bali Province, explained that this supervision was carried out after receiving a mandate from the Ministry of Investment and Downstreaming/BKPM because all investment data is with the central government. When carrying out this supervision, the Bali Province DPMPTSP of course also continues to coordinate with the district DPMPTSP, in this case Badung Regency.

However, because all data is centralized at the Ministry of Investment and Downstreaming/BKPM, the provincial government cannot directly check and monitor the data aspect. Therefore, the provincial or district/city government can only take action against PT PMA if it is indicated that there has been a violation in the central system. This can have an impact on the performance of provincial or district/city governments because it takes time to receive instructions from the central government. This could be one of the reasons for the lack of supervision by the regional government for PT PMA which is indicated to have committed violations.

C. Badung Regency Investment and One-Stop Integrated Services Service (DPMPTSP).

The Badung Regency Investment and One-Stop Integrated Services Service (hereinafter referred to as the Badung Regency DPMPTSP) has an important role in granting business permits to PT PMA, including checking the completeness of documents and ensuring that the company complies with statutory provisions at the regional level. DPMPTSP Badung Regency also supervises foreign investment activities and provides facilities for companies operating in Badung to operate legally. In addition, Badung Regency DPMPTSP also provides services related to administrative procedures, building permits and other operational permits required by PT PMA to ensure compliance with local laws.

Based on an interview with Mr. I Ketut Kamayana, S.E., as Young Expert Investment Management Manager at DPMPTSP Badung Regency, explained that DPMPTSP Badung Regency is one of the government institutions that has direct contact with the community in providing information related to the minimum deposit capital of PT PMA. However, to be able to carry out supervision or action, you have to wait for a mandate from the central BKPM.

D. Notary in Badung Regency

As a public official who has the authority to make authentic deeds, notaries play a role in ensuring that the establishment and operations of PT PMA are carried out in accordance with applicable law, including the minimum paid-in capital obligations that must be met by the company. When PT PMA is established, the notary verifies that the amount of capital paid in by shareholders is in accordance with the applicable statutory provisions.

Notaries play an important role in providing legal education to the public regarding the minimum deposit capital of PT PMA. Notaries act as a bridge to provide understanding of existing regulations and ensure that all procedures run smoothly, both for foreign investors and related parties. By providing appropriate counseling regarding minimum deposit capital, notaries can help reduce potential legal problems that may arise in the future, both for investors and for the state, such as violations of foreign investment provisions.

Based on an interview with Mr. Dr. I Nyoman Alit Puspadma, S.H., M.Kn., as Notary/PPAT in Badung Regency, explained that the minimum paid-in capital is one of the parts that must be mentioned in the deed of establishment of PT PMA. The notary ensures that the recorded capital complies with the provisions set by the Investment Coordinating Board and other relevant regulations. At the time of signing the deed of establishment of PT PMA, proof of deposit used to request approval at the Ministry of Law can use a statement letter of having deposited the company's capital which is signed in front of a Notary. However, the statement letter does not have a validity period so it can be used continuously without providing proof of deposits into the company's bank account which were made after the company obtained a business license.

2) Legal Substance

Substance in the legal system can be interpreted as rules, norms and real patterns of human behavior within the system. Substance is also defined as the product produced by people within the legal system, including the decisions they issue or those that will be drafted. In this second element, Lawrence M. Friedman emphasizes living law (*living law*) is not just a rule in written law (*law books*).

Based on an interview with Mr. I Ketut Kamayana, S.E., the legal basis used to date is related to the minimum paid-up capital of PT PMA, namely BKPM RI Regulation Number 4 of 2021, as stated in the Electronically Integrated Business Licensing System or what is also known as *Online Single Submission* (US).

The policy regarding minimum paid-up capital for PT PMA in Badung Regency aims to ensure that foreign investment has a significant impact on the national economy and does not only benefit a few parties. However, this minimum capital requirement can pose challenges for foreign investors, especially in certain sectors. For example, in Badung Regency, the tourism and hospitality sector may face difficulties in meeting these minimum capital requirements. This can hinder the interest of foreign investors to invest in the area, which in turn can affect local economic growth and job creation. In this case, the law will be more effective if it is accepted by society as a legal and fair norm. This acceptance is often influenced by the extent to which the law reflects the social values that exist in that society.

The legal awareness of the people in Badung Regency regarding the minimum deposit capital of PT PMA is very important so that they understand the rights and obligations of foreign companies investing in the area. People in Badung, the majority of whom live in tourist areas, are often directly involved in the tourism sector, which has many PT PMA companies. However, in general, people who are not directly involved in the world of business or foreign investment may not fully understand the concepts and provisions related to deposited capital for PT PMA, unless they actively participate in training, seminars or legal counseling held by the authorities or legal consultants.

3) Legal Culture

Legal culture is human attitudes towards the law and the legal system, including beliefs, values, thoughts and hopes. In other words, it is part of the general culture that concerns the legal system. Legal culture also includes the social mood and social forces that determine how the law is used, avoided or misused. Without a legal culture, the legal system itself will be powerless.

Legal culture is related to legal culture which is the attitude of humans (including the legal culture of law enforcement officers) towards the law and the legal system. No matter how good the legal structure is arranged to implement the established legal rules and no matter how good the quality of the legal substance that is created without the support of legal culture by the people involved in the system and society, law enforcement will not run effectively.

In order for the law to have a deterrent effect, the sanctions given to violators must be firm and appropriate to the violation committed. Unclear or light sanctions can reduce the effectiveness of the law. Legal sanctions for non-compliance with the minimum deposit of PT PMA capital in Badung Regency function to maintain order in the business world and ensure that foreign investment can operate in compliance with applicable regulations. Firm and clear action against these violations also helps create a healthier and more sustainable investment climate.

2. Legal Consequences Of Non-Infringement Of The Minimum Deposit Of Capital To PT PMA In Badung Regency

The company's directors are expected to act pro-actively to collect shareholder debts from the company. In this case, the collection has been made, but the capital payment has not been made, the company can take the following steps:

1. File a civil lawsuit against shareholders who do not make deposits in the form of a debt and receivable lawsuit;
2. Request a General Meeting of Shareholders which aims to:
3. Buy back company shares that were not paid in by shareholders as *treasury stock;*
4. Explicitly stating a reduction in the company's capital; or
5. Gives the right to other shareholders or approved third parties to directly take over, by paying in full and at once, all shares that have not been paid up by the old shareholders.

Other founders who have contributed capital can file a civil lawsuit against company founders who have not deposited capital into the company as appropriate. The lawsuit in question is a breach of contract. Default or negligence has very important consequences, so it must first be determined whether the debtor has committed a default or negligence, and if this is denied by him, it must be proven before a judge. Sometimes it is also not easy to say that someone is negligent or negligent, because often it is not promised exactly when a party is required to perform the promised performance.

Even though the law provides protection to shareholders based on individual rights and derivative rights, it is not easy in practice to hold company organs accountable, either directly to the organ itself or the company. This difficulty is mainly due to the fact that all company data is in the hands of company organs and they are usually reluctant to disclose it, either because of the principle of confidentiality for the company's or the organ's personal interests, or because of the principle *fiduciary duty*, where they must act in accordance with the aims and objectives of the company. It is a fact that minority shareholders who only own a few shares do not control the company's management and also do not determine the Company's directors.

Regulations governing sanctions if you do not deposit the minimum paid-in capital with PT PMA can be found in several laws and regulations in Indonesia, especially those related to investment and business activities of PT PMA. Based on Article 46 paragraph (1) PP No. 5 of 2021:

(1) BKPM, provincial DPMPTSP, district/city DPMPTSP, KEK administrators, and KPBPB business bodies in accordance with their authority impose administrative sanctions on Business Actors who:

1. does not fulfill one of the obligations as intended in Article 5;
2. does not fulfill one of the responsibilities as intended in Article 6; and/or
3. does not meet the minimum criteria for investment realization in accordance with statutory provisions.

Furthermore, Article 47 regulates that administrative sanctions as intended in Article 46 paragraph (1), are in the form of:

1. Written warning;
2. Temporary Suspension of Business Activities;
3. Revocation of Business License; or
4. Revocation of Business Permits to Support Business Activities.

Administrative sanctions as intended in paragraph (1) can be imposed on business actors who commit minor violations, moderate violations, or serious violations. Administrative sanctions as mentioned above can be imposed in stages.

The consequences that can arise from not depositing the minimum PT PMA paid-in capital of at least IDR 10,000,000,000.00 (ten billion rupiah) are delays in LKPM reporting so that administrative sanctions can be imposed, namely minor violations in the form of first, second and third written warnings. As regulated in Article 55 paragraph (1) letter b, if business actors do not submit LKPM for 2 (two) consecutive periods they may be subject to a minor violation. Apart from that, Business Actors who submit LKPM for the first time without any additional investment realization value for 4 (four) consecutive periods with zero realization value can also be categorized as a minor violation.

If the Business Actor does not make improvements to the minor violation sanctions that have been imposed within the specified time, it can be categorized as a moderate violation. The moderate violations referred to may be subject to administrative sanctions, namely the first and final written warning or temporary suspension of business activities. In the event that administrative sanctions for violations are not being followed up by Business Actors, the BKPM, provincial DPMPTSP, district/city DPMPTSP, KEK administrator, or KPBPB business entity in accordance with their authority will impose administrative sanctions for serious violations.

Furthermore, if there is no follow-up action to correct the sanctions for moderate violations that have been imposed within the specified time, they may be subject to administrative sanctions in the form of revocation of business permits. Revocation of a Risk-Based Business License can take the form of revocation of NIB, revocation of standard certificates and/or revocation of permits. In fact, based on an interview with Mr. Ida Bagus Gede Putra Arimbawa, S.E., M.M., as the Intermediate Expert Investment Manager at DPMPTSP Bali Province, explained that as many as 267 (two hundred and sixty seven) problematic PT PMA had been checked directly in the field and it was true that the PT PMA had committed violations which resulted in the deportation of these foreign national business actors.

This is done with the aim of providing legal certainty as stated by Gustav Radbruch referring to the application of law that is clear, firm, permanent and consistent, the implementation of which cannot be influenced by subjective circumstances. The act of deporting foreign nationals who commit violations in Indonesia is an implementation of law enforcement to create legal certainty in society.

IV. CONCLUSIONS

The regulation regarding minimum deposit capital in the deed of establishment of PT PMA in Badung Regency can be said to be ineffective because even though it can be seen from the realization of foreign investment investment which has increased every year since the minimum deposit capital was implemented from 2021 to 2024, it is proven that there are still many PT PMA that violate the minimum deposit capital provisions for PT PMA in Badung Regency. This is influenced by various factors, namely the legal structure with a lack of supervision from local governments and Notaries regarding PT PMA which commits violations as well as legal substance which includes patterns of community behavior in reality such as community compliance, both Indonesian citizens and foreign citizens, with applicable regulations.

The legal consequences of non-fulfillment of the minimum paid-up capital for PT PMA in Badung Regency are the birth of the rights and obligations of PT PMA as a legal subject. As regulated in article 4 PP no. 5 of 2021, regarding the rights of business actors and article 5 of PP no. 5 of 2021 concerning the obligations of business actors. If these rights and obligations are not fulfilled, then legal sanctions will be given to legal subjects. Legal sanctions that can be given are in the form of administrative sanctions, namely minor violations in the form of first, second and third written warnings. Furthermore, if there is no follow-up action to correct the sanctions for moderate violations that have been imposed within the specified time, they may be subject to administrative sanctions in the form of revocation of business permits.Not only administrative sanctions as mentioned above, but foreign business actors can also be subject to legal sanctions in the form of deportation if they are proven to have committed serious violations in Indonesia.

ACKNOWLEDGMENT

I would like to express my gratitude and appreciate to all the lectures of the Master of Notary Postgraduate Program at Warmadewa University for guiding, helping, and providing scientific support in this research.

REFERENCES

1) Abdul Latif, 2010, Jaminan UUD 1945 Dalam Proses Hukum Yang Adil, *Jurnal Konstitusi*, Vol. 7, No. 1
2) Ahmad Yani dan Gunawan Widjaja, 2003, *Perseroan Terbatas*, Raja Grafindo Persada, Jakarta
3) Atmadja, I Dewa Gede dan I Nyoman Putu Budiartha, 2018, *Teori-Teori Hukum*, Setara Press, Malang
4) Auliya Ayu Satrianingtyas, 2023, Tinjauan Umum Terhadap Penanaman Modal Asing di Indonesia, *Jurnal Kajian Hukum dan Pendidikan Kewarganegaraan*, Anfa Mediatama, Vol. 3 No. 2
5) Askari Razak, 2023, Mewujudkan Pemilu Adil dan Bermartabat: Suatu Tinjauan Sistem Hukum Lawrence M. Friedman, *Jurnal Fundamental*, Vol. 12 No. 2, Universitas Muhammadiyah Bima
6) Budiartha, I Nyoman Putu, 2016, *Hukum Outsourcing: Konsep Alih Daya, bentuk Perlindungan, dan Kepastian Hukum*, Setara Press, Malang
7) Endang Purwaningsih, 2010, *Hukum Bisnis*, Ghalia Indonesia, Bogor
8) Hajar M, 2015, *Model-Model Pendekatan Dalam Penelitian Hukum dan Fiqih*, UIN Suska Riau, Pekanbaru
9) I Wayan Kartika Jaya Utama, 2019, Tanggung Gugat Notaris Selaku Pejabat Umum Dalam Pembuatan Perjanjian Kredit Perbankan, *Jurnal Ilmu Hukum*, Universitas 17 Agustus 1945 Surabaya, Vol. 15 No. 1
10) Jandi Mukianto, 2019, *Hukum Investasi Indonesia Kajian Atas MP3EI Dan Tol Laut*, Prenada Media Group, Jakarta
11) Lexy J. Meleong, 2002, *Metodologi Penelitian Kualitatif*, Remaja Rosda Karya, Bandung
12) Nadia Hariadi Putri, dkk, 2024, Analisis Dampak Warga Negara Asing Dalam Membuka Usaha Ilegal di Bali*, Jurnal Indonesian Culture and Religion Issues,* Vol. 1, No. 2, Universitas Pembangunan Nasional
13) Waluyo, Bambang, 2008, *Penelitian Hukum Dalam Praktik*, Sinar Grafika, Jakarta