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The Principle of Justice in the Minimum Capital Policy for Foreign Direct Investment (A Study of Fraudulent Foreign Direct Investment Companies in Bali)

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Abstract. *Foreign Direct Investment (FDI) holds a strategic role in the Indonesian economy, particularly in fostering industrial development and creating employment opportunities. However, the minimum capital policy stipulated in Regulation No. 4 of 2021 of the Indonesian Investment Coordinating Board (BKPM) poses significant challenges for its implementation. This study aims to analyze the effectiveness of the policy, focusing on the case of fraudulent foreign direct investment companies in Bali, and to compare Indonesia's minimum capital policy for foreign direct investment with similar policies in Vietnam. Using a normative legal approach with statutory, comparative, and case study methods, this study found that the uniform minimum capital requirement actually constrains investment potential in certain sectors, such as tourism, which should require more flexible capital provisions. Another finding indicates that weak supervision and law enforcement create loopholes for administrative manipulation, such as fictitious capital deposits and the use of nominees, ultimately undermining the integrity of the investment system and creating injustice for law-abiding business actors. Based on this analysis, this study recommends adjusting the minimum capital policy to be more responsive to each sector's characteristics, strengthening transparency in supervision, and implementing stricter law enforcement to prevent abuses that harm the national economy. The results of this study are expected to contribute to improving Indonesia's investment policy, creating a fairer investment climate, and supporting sustainable and inclusive economic development.*

Keywords: *Capital; Economic; Foreign; Fraudulent; Investment.*

1. Introduction

The current dynamics of the global economy position foreign direct investment (Penanaman Modal Asing; PMA) not only as an additional source of funding but also as a strategic instrument that determines a nation's bargaining power within the architecture of the international economy. The flow of cross-border capital not only reflects investors' confidence in domestic economic stability but also tests the extent to which a country's institutional capacity can manage openness without losing its sovereignty. As emphasized by Fazaalloh (2024), foreign direct investment has a dual impact on economic growth through capital accumulation and technology transfer, both of which serve as the foundation for sustainable development. However, Todaro and Smith (2020) remind us that without institutional strengthening and clear policy direction, dependence on foreign capital may instead create structural distortions and widen economic disparities.

In this context, Indonesia faces a strategic dilemma: on one hand, the country needs foreign direct investment to accelerate industrialization and create employment opportunities; on the other hand, economic liberalization that is not accompanied by strong governance can open loopholes for abuses such as fraudulent foreign investment (PMA) or nominee schemes that obscure capital ownership. As highlighted by Tambunan (2012), the success of foreign direct investment management is not measured by the amount of investment inflows, but by the extent to which such investments are directed toward strengthening the national economic structure and expanding social benefits for society. Therefore, Indonesia's readiness to face global investment competition depends not only on the ease of licensing but also on the national regulatory capacity to ensure justice, transparency, and accountability in every foreign investment activity.

In Indonesia, regulations governing Foreign Direct Investment (FDI) continue to evolve to create a conducive investment climate and attract high-quality FDI. The Ministry of Investment and Downstreaming, which is a transformation of the Indonesian Investment Coordinating Board (BKPM), now plays a strategic role as the main authority in the governance of national investment policy. This institution functions not only as a liaison between the government and business actors but also as a driving instrument to create a healthy, transparent, and globally competitive investment climate. Through the management of the Online Single Submission – Risk-Based Approach (OSS-RBA) system, the Ministry of Investment strengthens bureaucratic reform in business licensing by prioritizing efficiency and public accountability. This digital innovation marks a paradigm shift from an administrative approach to a risk-based approach, which enables the simplification of procedures while enhancing supervision of investors' legal compliance. Thus, the existence of the Ministry of Investment not only plays a role in facilitating the flow of foreign capital but also ensures that investment activities operate within the national legal framework that protects the interests of both the state and investors in a balanced manner (Wuryandari, 2022; Rokhman et al., 2024).

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One of the policies that will serve as the foundation for the urgency of this study is the determination of a minimum capital requirement of IDR 10 billion for Foreign Direct Investment (FDI), as stipulated in Regulation No. 4 of 2021 of the Indonesian Investment Coordinating Board (BKPM). This policy aims to screen foreign investors considered to have adequate financial capacity, so that incoming investments are expected to generate long-term positive impacts, including job creation, enhanced technology transfer, and the development of domestic industries (Anggraini & Mahendrayana, 2022). However, in practice, the regulation on the minimum capital requirement of IDR 10 billion for Foreign Direct Investment (FDI) faces serious challenges, leading to controversy and questions about its effectiveness. Various reports and field findings indicate the existence of loopholes that some foreign investors exploit to circumvent the minimum capital requirement. One common scheme is the practice of fictitious capital deposits, in which investors record the capital administratively without actually investing it in real business activities. In addition, there are cases of investments with scales far below the stipulated minimum capital requirement yet still obtaining business permits through various administrative manipulations, such as the use of nominees or local representatives to conceal the actual foreign ownership (Putri, L. P. Y. K., 2022).

This phenomenon creates quite significant negative impacts. First, the minimum capital regulation intended to screen qualified investors is ineffective in ensuring that the incoming investments truly meet the established capital standards. This situation creates opportunities for illegal or unhealthy investments that could damage the business ecosystem and national competitiveness. Second, these cases of minimum capital misuse also trigger distrust among other foreign investors, especially serious and transparent ones, toward Indonesia's regulatory system. Uncertainty and perceptions of weak law enforcement cause them to reconsider their decision to invest in Indonesia.

In addition, local small and medium-sized enterprises also feel disadvantaged because they must compete with foreign companies that operate unfairly. A concrete example of this issue can be seen from findings in Bali. Cases of fraudulent Foreign Direct Investment (FDI) companies in Bali have become a serious concern due to their significant impact on local economic stability and foreign investors' confidence in Indonesia's investment climate. This phenomenon mainly arises from the practice of foreign companies establishing PT PMA without fulfilling the minimum capital requirement of IDR 10 billion as stipulated in Regulation No. 4 of 2021 of the Indonesian Investment Coordinating Board (BKPM). In several cases, these companies are suspected of using the fictitious capital deposit scheme, in which administrative records are made without the actual disbursement of funds in real business activities.

Common practices in Bali include establishing companies solely to obtain residence permits (Kartu Izin Tinggal Terbatas; KITAS) for foreign nationals (WNA), without any clear business activities or alignment with the permits granted. This not only violates investment law provisions but also potentially causes negative impacts, such as distorting the local market, disadvantaging local small and medium-sized enterprises that comply with regulations, and creating negative perceptions of the effectiveness of Indonesia's investment regulations. The case of fraudulent PT PMA companies in Bali has emerged due to weak government supervision and the existence of administrative loopholes exploited by irresponsible foreign business actors. The lack of transparency and the absence of strong law enforcement mechanisms have allowed these violations to persist without firm actions that could provide a deterrent effect to the perpetrators. As a result, this situation harms Indonesia's overall investment climate, reducing its competitiveness as a foreign direct investment destination compared to neighboring countries that have stricter regulations and more effective supervision, such as Vietnam (OECD, 2020).

2. Research Methods

This study used a normative legal approach, focusing on analyzing written legal norms and the effectiveness of the Foreign Direct Investment (FDI) policy in Indonesia, particularly regarding the minimum capital requirement stipulated in Regulation No. 4 of 2021 of the Indonesian Investment Coordinating Board (BKPM). The approaches used included the statutory approach to analyze applicable regulations, the comparative approach to compare Indonesia's foreign direct investment policy with similar policies in Vietnam, and the case approach to evaluate the practice of fraudulent foreign direct investment (FDI) in Bali. Data were collected through a literature review of primary, secondary, and tertiary legal sources, including legislation, official government documents, and interviews with a qualified legal practitioner with experience handling cases involving fraudulent foreign investment (FDI) companies in Bali. This normative legal approach is consistent with the statements of Soerjono Soekanto and Sri Mamudji, who argue that normative legal research focuses on the examination and interpretation of prevailing laws and regulations, as well as their application in legal practice within society (Soekanto & Mamudji, 2010). The analysis used a qualitative-descriptive approach to evaluate the strengths and weaknesses of the minimum capital policy for Foreign Direct Investment (FDI), as well as the effectiveness of supervision and law enforcement. The results of this study are expected to provide recommendations for improving the PMA policy to be more flexible and fair, as well as to enhance the quality of Indonesia's investment climate in order to support sustainable economic development (Johnny Ibrahim, 2006).

3. Results and Discussion

3.1. Causes of Fraudulent PT PMA Cases in Bali

Indonesia, with its great potential derived from abundant natural resources, requires substantial capital that often cannot be met solely through domestic financial and technological capacities. Almost all manufacturing and modern industrial companies in Indonesia have commercial linkages with foreign investment; therefore, foreign direct investment is highly needed to support the development of the domestic industrial sector (Jandi Mukianto, 2019). Foreign Direct Investment (FDI) in Indonesia is an essential instrument for promoting the country's economic growth through the inflow of foreign capital. PMA involves investments made by foreign individuals or legal entities in the form of share acquisitions, company establishment, or branch expansion of foreign companies in economic sectors within Indonesia. Based on Law Number 25 of 2007 concerning Investment, the PMA regulation provides various incentives for foreign investors, including licensing facilitation and tax exemptions or reductions in strategic sectors considered vital for national development (Rahayu, 2010).

Law Number 25 of 2007 concerning Investment defines Foreign Direct Investment (FDI) as an investment activity conducted by foreign investors to operate a business in Indonesia, either with wholly foreign capital or in cooperation with domestic investors (Article 1 of Law Number 25 of 2007 concerning Investment). Foreign capital refers to funds owned by foreign countries, foreign individuals, foreign business entities, or Indonesian legal entities whose capital is partly or wholly in the form of foreign capital, whether or not incorporated as a legal entity. When there is a foreign capital component, the company is required to take the form of a PT PMA. The advantages of Foreign Direct Investment (FDI) include its long-term nature, its contribution to technology transfer and managerial skill development, and its ability to create new employment opportunities. These job opportunities are crucial for Indonesia, which, as a developing country, faces limitations in providing sufficient employment for its population, making foreign direct investment a key factor in supporting economic growth and reducing unemployment. Thus, it is crucial to design an investment plan that not only identifies promising opportunities but also provides in-depth, reliable information. The plan must serve as a clear guideline for prospective investors when making capital investment decisions in Indonesia. Detailed investment provisions accompanied by relevant information will provide a solid foundation for investors and ensure a sense of security through transparent and accountable legal certainty (Hernawati & Suroso, 2020; Winata, 2018).

Under Regulation No. 4 of 2021 of the Indonesian Investment Coordinating Board (BKPM), restrictions on foreign ownership are established for sectors deemed strategic to protect Indonesia's economic sovereignty. However, this creates inconsistencies in the application of the uniform minimum capital requirement of IDR 10 billion across all business sectors. In Bali, which relies on the tourism sector, this policy hinders foreign investors from investing in small-sized enterprises and medium-sized enterprises that could make a significant contribution to the local economy. Businesses such as homestays, restaurants, and spas in the tourism sector require significantly less capital than the stipulated requirement. This phenomenon creates opportunities for foreign investors to seek administrative solutions, such as fictitious capital reporting and the use of local nominees, to meet the minimum capital requirement without making corresponding real investments. This also reflects a mismatch between the uniform minimum capital policy and the diverse needs of different business sectors (Warsito & Dewi, 2025).

Weaknesses in supervision and law enforcement at both central and regional levels also constitute the main factors driving the practice of fraudulent Foreign Direct Investment (FDI) in Indonesia. One of the schemes found in fraudulent PMA cases in Bali is the use of local nominees to obtain limited stay permits (KITAS) without conducting business activities in accordance with the provisions. This practice is common among companies that do not make real investments, yet still obtain legitimate business licenses. This phenomenon highlights the weakness of supervision over Foreign Direct Investment (FDI) companies that operate administratively and make no real economic contribution. At the central level, supervision of the licensing process involving multiple parties, such as notaries and the OSS system, is often insufficiently strict, thereby allowing administrative misuse (OECD, 2020). This situation leads to injustice for business actors who comply with regulations and creates distortions within the business ecosystem, where companies formally operate legally but have little impact on the local economy. The uniform minimum capital policy in Indonesia, as reflected in the Regulation of the Indonesian Investment Coordinating Board (BKPM) No. 4 of 2021, which sets a minimum capital requirement of IDR 10 billion for Foreign Direct Investment (FDI), often fails to consider the characteristics of specific business sectors, particularly in Bali, which relies on the tourism sector. For example, small and medium-sized enterprises in the tourism sector, such as homestays, restaurants, and spas, generally require initial capital of only a few hundred million to one or two billion rupiah. However, this uniform minimum capital policy hinders the potential for foreign direct investment in that sector, as foreign investors must meet capital requirements that far exceed the tourism industry's real needs.

In an effort to facilitate legitimate foreign direct investment and reduce the potential for administrative misuse, the procedure for establishing a PT PMA in Indonesia is governed by various applicable laws and regulations. First, the initial stage is selecting the business field to be undertaken by the PT PMA. Based on Presidential Regulation Number 10 of 2021 concerning Investment Business Fields and Law Number 25 of 2007 concerning Investment, it is essential to select a business field that is open to foreign direct investment. In addition, the selected business type must be verified using the Indonesian Standard Industrial Classification (KBLI) and must not fall into a category closed to foreign direct investment in accordance with the prevailing regulations.

Second, after the business field has been selected, the next step is to establish a legal entity by creating a notarial deed. Based on Law Number 40 of 2007 concerning Limited Liability Companies (UUPT) and Regulation of the Minister of Law and Human Rights Number 21 of 2021, the deed of establishment must include the company's name, domicile, business objectives, as well as the structure of shareholders and management. The deed of establishment, legalized by a notary, becomes the company's first legal document and must be complied with by all companies incorporated as limited liability entities (PT).

Third, after the deed of establishment has been prepared, the company must register the legal entity with the Ministry of Law and Human Rights through the Legal Entity Administration System (SABH) electronically. After the registration and document validation are completed, the Ministry of Law and Human Rights will issue an official Certificate of Legal Entity Registration. This registration process is conducted electronically to ensure transparency and efficiency in establishing the company.

Fourth, the next stage is the processing of business permits through the OSS (Online Single Submission) system. Based on Government Regulation Number 5 of 2021 concerning Risk-Based Business Licensing and Presidential Regulation Number 10 of 2021, PT PMA must be registered in the OSS system to obtain a Business Identification Number (NIB), which serves as the company's identity within Indonesia's licensing system. After the registration is completed, the company will obtain a business license corresponding to the level of risk associated with the selected business sector.

Fifth, after obtaining the Business Identification Number (*Nomor Induk Berusaha*; NIB), the company must immediately open a bank account under the name of the PT PMA and process the corporate Taxpayer Identification Number (NPWP) in accordance with Law Number 36 of 2008 concerning Income Tax and Regulation of the Minister of Finance Number 14/PMK.03/2020. Once the bank account and NPWP have been verified, the company can begin operating and report its tax obligations in accordance with the applicable regulations.

Sixth, PT PMA is also required to report its investment activities through the Investment Activity Report (LKPM) every three months to the Indonesian Investment Coordinating Board (BKPM), in accordance with Regulation No. 4 of 2021 of the Indonesian Investment Coordinating Board (BKPM). This report is used to monitor the progress and implementation of the PT PMA's investment. The LKPM must include information on investment realization, challenges encountered, and future plans to ensure that the investment activities are conducted in accordance with the granted permits.

Seventh, in addition to business licensing and reporting, PT PMA must also fulfill other obligations related to labor and environmental permits, as stipulated in Law No. 25 of 2007 concerning Investment and Government Regulation No. 24 of 2018 concerning the Risk-Based Licensing System. PT PMA is required to comply with regulations mandating the employment of local workers in accordance with the applicable provisions and, if necessary, to obtain environmental permits, depending on the type of business being conducted.

Eighth, after all documents and business permits have been completed, the PT PMA may begin operating the company. However, suppose there are any changes in the company's structure or business activities. In that case, the PT PMA is required to update the documents and report such changes to the Ministry of Law and Human Rights and the Indonesian Investment Coordinating Board (BKPM). This process ensures that the company continues to fulfill administrative obligations in accordance with the applicable provisions and consistently follows the procedures established by investment regulations.

The findings indicate that in February 2025, the Indonesian Investment Coordinating Board (BKPM) conducted an enforcement action against 267 Foreign Direct Investment (FDI) companies in Bali, suspected of being fictitious or operating inconsistently with the permits granted to them. These companies obtained Business Identification Numbers (NIBs) through the Online Single Submission (OSS) system but failed to invest the amounts stated in their NIBs. Most of these companies operated in sectors that required a minimum investment of IDR 10 billion; however, in reality, they did not meet this requirement. According to Regional Director V of the Ministry of Investment/Indonesian Investment Coordinating Board (BKPM), Andy Sugiharto, the licensing process involving multiple parties can lead to administrative misuse. Therefore, collaboration between BKPM, the Directorate General of Immigration, the Police, and the Attorney General's Office is highly necessary to follow up on the violations that have occurred. This enforcement action highlights loopholes in the licensing system that allow fictitious Foreign Direct Investment (FDI) companies to obtain permits even though they do not conduct economic activities in accordance with their approved business scope (antaranews.com, 2025).

To strengthen the urgency of this research, the researcher also interviewed a legal practitioner in Bali who is actively involved in handling similar cases, Sary Latief, S.H. Based on the interview results, several findings emerged, highlighting weaknesses in supervision and understanding of the Foreign Direct Investment (FDI) licensing process. In the interview, the informant emphasized the importance of transparency and stricter supervision by the authorities, such as BKPM, in handling quarterly reports and evaluations of foreign direct investment companies. The informant stated that foreign investors are often unaware of the applicable legal procedures, which eventually leads them to become trapped in administrative practices that do not comply with regulations. Many investors admitted that they were not clearly informed about their obligations, and in several cases, they were even unaware of who the agent or party responsible for handling their business permits was.

This phenomenon shows that although these companies are legally registered through the Online Single Submission (OSS) system and have obtained Business Identification Numbers (NIB), many of them do not make actual investments in accordance with the agreed provisions. The informant added that there are also investors who are not particularly concerned with these regulations, assuming that existing legal loopholes can be exploited without significant consequences. Therefore, the informant suggested that not all supervision and reporting responsibilities should be fully imposed on foreign investors. The government, in this case the BKPM, needs to take greater responsibility for providing clearer guidance and ensuring that licensing and reporting processes are carried out in accordance with existing regulations. Education for agents who assist in the licensing process, and their active involvement in understanding legal rights and obligations, are also crucial to reducing the risk of administrative misuse. Based on this statement, it can be concluded that although the regulations regarding Foreign Direct Investment (FDI) are already clear, the practices in the field remain far from ideal. More intensive supervision and continuous education for foreign investors and their agents are essential to ensure that investments truly contribute to Indonesia’s economy rather than remain purely administrative. This effort will also help prevent the occurrence of fraudulent Foreign Direct Investment (FDI) practices that could harm the local economy and create unfairness for business actors who comply with existing regulations.

This interview explicitly highlights practices that contradict the existing provisions, even though the regulation regarding the minimum capital requirement of IDR 10 billion for Foreign Direct Investment (FDI) companies has been clearly stipulated. In the field, many companies have successfully obtained business licenses without meeting the required capital requirements, reflecting significant weaknesses in the supervision of the licensing process. As revealed in the interview, the lack of awareness among foreign investors regarding their legal obligations, along with limited understanding of the applicable legal procedures, has created opportunities for administrative misuse, including fictitious capital reporting. Such practices result in an apparent discrepancy between the capital figures stated in official documents and the actual investments made, ultimately harming the business ecosystem that is expected to operate in accordance with prevailing regulations.

3.2. The minimum capital policy for Foreign Direct Investment (FDI) that ensures fairness in foreign direct investment

The minimum capital policy for Foreign Direct Investment (FDI) in Indonesia is a regulation that governs the amount of capital foreign investors must hold to operate a business in Indonesia. This policy aims to ensure that incoming foreign investments are made by investors with adequate financial capacity, thereby providing maximum benefits to Indonesia’s economy. In practice, the minimum capital policy for Foreign Direct Investment (FDI) is regulated by the Indonesian

Investment Coordinating Board (BKPM) Regulation No. 4 of 2021, which sets minimum capital requirements for foreign companies based on the business sector in which they operate. This policy is intended to promote the inflow of high-quality investments that not only provide direct benefits to Indonesia's economy but also support technology transfer, job creation, and the development of domestic industries.

The principle of justice in the legal context refers to a fundamental concept that ensures all parties are treated equally, fairly, and without discrimination, particularly in the treatment of foreign and domestic investors. This principle holds that every legal decision and policy must guarantee the rights of all parties, both individuals and groups, to be treated fairly. As John Rawls stated in A Theory of Justice (1971), the principle of justice focuses on the fair distribution of benefits and burdens within society, ensuring that everyone has equal opportunities without inequalities that disadvantage certain parties. In this matter, the minimum capital policy for Foreign Direct Investment (FDI) must strive to create equality between foreign and domestic investors, ensuring that the policy does not solely benefit one party but provides opportunities for all parties to grow fairly. A transparent legal system that provides clear legal protection is one of the key factors in building investor confidence, which, in turn, supports economic and investment stability (Joseph Stiglitz, 2002).

Although the minimum capital policy for Foreign Direct Investment (FDI) aims to filter out investors with insufficient financial capacity, it has instead created loopholes that are exploited by foreign investors. One of the main issues is the practice of fictitious capital deposits, in which foreign companies record their capital administratively without actually investing the funds. This clearly contradicts the principle of justice, as it conceals the true intent of investment and creates unfairness for investors who genuinely comply with the established regulations. In addition, companies that disguise their foreign ownership through nominees or local representatives can bypass obligations that should be fulfilled by foreign investors, harming local companies and undermining a healthy, transparent investment climate.

Justice in the minimum capital policy for Foreign Direct Investment (FDI) must include equal treatment between foreign and domestic investors. The principles of non-discrimination and equality of treatment stated in various international regulations emphasize that foreign investors must be treated the same as domestic investors in terms of investment opportunities and fulfillment of legal obligations. According to Stiglitz (2002), investor confidence depends on the quality of legal institutions that provide guarantees for the protection of their rights and interests. Therefore, the minimum capital policy for Foreign Direct Investment (FDI) must align itself with these principles to ensure that no discriminatory practices disadvantage foreign investors and to promote sustainable investment.

In addition, an effective dispute-resolution mechanism is one of the main pillars for establishing justice for foreign investors. Foreign investors often seek access to a neutral and reliable international arbitration mechanism, such as the International Centre for Settlement of Investment Disputes (ICSID). However, national courts still play an important role, particularly in interpreting domestic law and enforcing rulings. Therefore, a fair minimum capital policy does not depend solely on the nominal value of investment but also on the effectiveness of the dispute resolution system, which can ensure fair and accessible legal protection for all parties (Syifa Rahmatul Ummah Arif, 2023). Thus, to create a fair minimum capital policy for Foreign Direct Investment (FDI), three main elements must be considered: first, legal certainty that guarantees non-discriminatory treatment; second, an efficient and transparent dispute-resolution mechanism; and third, policy flexibility that adapts to the dynamics of different economic sectors. A policy encompassing these three elements will foster a healthy, sustainable investment climate and enhance Indonesia's competitiveness in global markets.

The minimum capital policy for Foreign Direct Investment (FDI) in Indonesia and Vietnam shows significant differences in terms of flexibility and equality for foreign investors. In Indonesia, the minimum capital policy stipulated in Law No. 25 of 2007 concerning Investment requires foreign investors to deposit a minimum capital of IDR 10 billion to establish a business in the form of a Limited Liability Company (PT). The purpose of this policy is to ensure that companies established by foreign investors have adequate financial capacity to operate effectively and fulfill legal obligations, including tax obligations and other requirements. This policy is expected to filter serious and high-quality foreign direct investments, thereby providing long-term benefits for Indonesia's economy, such as technology transfer, job creation, and the development of the domestic industrial sector.

However, this policy also significantly affects accessibility for foreign investors, particularly those with limited capital. Although certain sectors receive exemptions or special incentives, such as in infrastructure and technology sectors, the high minimum capital requirement remains an obstacle for small- and medium-sized investors. Foreign investors who have potential but limited capital often feel constrained by this regulation, which ultimately can reduce Indonesia's attractiveness as an investment destination. Sectors not included in the Negative Investment List (DNI) or that have not received special incentives will be more difficult for investors with limited capital to access. This situation creates unfairness for small companies with potential that are hindered by the high minimum capital requirement.

Conversely, Vietnam, through Law No. 67/2014/QH13 on Investment, has a far more flexible policy regarding the minimum capital requirement for Foreign Direct Investment (FDI). Vietnam does not establish a uniform minimum capital amount for all types of investment sectors. Instead, the country sets minimum capital requirements adjusted to the specific type of business sector entered. For instance, sectors such as technology, renewable energy, and infrastructure often receive greater incentives and lighter minimum capital requirements. This enables both large- and small-cap foreign investors to participate in Vietnam's economy. This policy not only creates equality of opportunity but also ensures that all types of investments can contribute to the country's economic growth. In addition, Vietnam classifies investment sectors into three categories: free, conditional, and prohibited. With this classification system, foreign investors obtain certainty regarding the sectors they may enter and the requirements they must fulfill, thereby creating clarity and transparency in investing in Vietnam.

The comparison between the two policies shows that Vietnam has a more inclusive and equitable approach in regulating the minimum capital requirement for Foreign Direct Investment (FDI). With a flexible system customized to each sector's needs, Vietnam is better able to provide equal opportunities for investors, both large and small, to contribute to the national economy. Meanwhile, Indonesia, with its high and more rigid minimum capital policy, can be considered less equitable for foreign investors with limited capital. Although Indonesia offers incentives for certain sectors, the high minimum capital requirements remain a significant barrier for small investors with significant potential, particularly in sectors that have not yet become government priorities.

By considering the principles of fairness and policy flexibility, Indonesia could take steps to lower the minimum capital requirement or provide specific exemptions and special incentives for certain sectors that require foreign direct investment but have limited capital capacity. Reducing the minimum capital threshold would create more opportunities for foreign investors from various financial backgrounds to invest in Indonesia. Furthermore, a more flexible and adaptive policy toward economic dynamics would enhance Indonesia's competitiveness as an investment destination in Southeast Asia and help create a fairer, more sustainable investment climate.

Thus, to ensure that the minimum capital policy for Foreign Direct Investment (FDI) creates fairness for all types of investors, Indonesia can improve its regulations by balancing legal certainty, flexibility, and accessibility for various investors, both large and small. A policy that incorporates these three elements will foster a healthy investment climate and enhance Indonesia's competitiveness in the global market.

4. Conclusion

Based on the overall discussion of the minimum capital policy for Foreign Direct Investment (FDI) in Indonesia, it can be concluded that although this policy aims to improve investment quality and support economic growth, its implementation in practice reveals loopholes that can be exploited for manipulative practices, such as fictitious capital deposits and the use of nominees. This situation is caused by weak supervision and law enforcement in the licensing process conducted through the OSS system. Such practices not only disadvantage local business actors who comply with regulations but also reduce the confidence of serious foreign investors and create unfairness within Indonesia's investment climate. Furthermore, the uniform minimum capital policy applied across all business sectors, without considering the characteristics of each sector's capital needs, hinders sectors with lower capital requirements, such as tourism, which have great potential to contribute to the national economy. In this context, the comparison with Vietnam shows that a more flexible policy, adjusted to the dynamics of different economic sectors, can create fairer, more inclusive investment opportunities. Therefore, to achieve the intended policy objectives, Indonesia needs to improve its supervisory system, strengthen law enforcement with greater rigor and transparency, and adjust the minimum capital policy to align with the needs of specific sectors. These measures will help create a healthy, fair, and sustainable investment climate, enhance Indonesia's competitiveness in the global market, and support inclusive and sustainable economic development.

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Interview:

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