



# Investment Policy Based on Indigenous Community Groups in Bali

Darmayanti Putri<sup>(✉)</sup>, Moh Faiz, Kartika Jaya, and Made Wiryani

Universitas Mataram, Mataram, Indonesia  
darmayanti1919@gmail.com

**Abstract.** This study aims to examine the effectiveness of Local Regulation of Badung Regency Number 3 of 2022 concerning the Implementation of Investment, which is based on local wisdom with the aim of the welfare of the community. In fact, many people who invest through online trading in unofficial institutions suffer losses. This study uses socio legal approach-empirical legal research. Data were analyzed using several theory including theory of The Legal Systems. The results of this study showed that the Article 11 letter a and b stated “Coaching activities are carried out through Socialization, workshop, technical briefing or investment dialogue concerning regular investment, and also consultation in investment”, in its implementation it is not optimal, one of the indigenous community groups, namely Sekaa Teruna, is not included as a participants, as it should be according to Article 2 letter k. Therefore ineffectif because of the legal substance. In the future, the investment policy model, will be a preventive legal protection for investors. Synergy between Local Governments, Regional House of Representatives, Traditional Villages and Stakeholders is needed to harmonize the legal substance with other investment cluster laws, namely Law Number 8 of 1985 concerning the Capital Market and Law Number 21 of 2011 concerning the Financial Services Authority. So investors including Sekaa Teruna will choose digital based investment in official institutions, because the capital is safe and profits can be realized.

**Keywords:** Capital Market · Investment Policy · Sekaa Teruna

## 1 Introduction

Act Number 23 of 2014 concerning Regional Government Article 31 paragraph (2) letters b and f stated: The establishment of Local Government aims to accelerate the improvement of community welfare that pays attention to regional indigenous. In line with the mandate Badung Regency Government has determined the policy in the field of investment to accelerating the realization of community welfare that pays attention to regional indigenous in the form of Local Regulation of Badung Regency Number 3 of 2022 concerning the Implementation of Investment, which is based on local wisdom with the aim of the welfare of the community. One form of local wisdom in Bali is a youth organization namely Sekaa Teruna. Investment activities carried out by the community will continuously increase economic activities and job opportunities, increase national income and

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increase the level of community prosperity (Chairul Nizar, Abubakar Hamzah, Sofyan Syahnur, Pengaruh Investasi dan Tenaga Kerja Terhadap Pertumbuhan Ekonomi Serta Hubungannya Terhadap Tingkat Kemiskinan di Indonesia, *Jurnal Ekonomi Pascasarjana Universitas Syah Kuala*, Volume 1, No. 2, Mei 2013, hlm.3).

However, in fact is that there are many people who are victims of illegal investments, such as the Fahrenheit Trading Robot, which is managed by the PT FSP company, which was founded in July 2021. Customers lose hundreds of billions than report to the Bali Police on March 2022. They report representing 300 customers lost 110 billion rupiah. This study aims to examines the effectiveness of Local Regulation of Badung Regency Number 3 of 2022 concerning the Implementation of Investment, which in its implementation are base on Sekaa Teruna and policy models that can involve the Sekaa Teruna in digital-based investment activities in the future.

## 2 Method

The research method used in this study in empirical legal research methods, aimed at socio legal approach. Seeing the law as a social behavior that is a living law. Law is conceptualized as actual behavior which includes actions and their consequences in social life relationships. (Abdulkadir Muhammad, 2004, *Hukum dan Penelitian Hukum*, Citra Aditya Bakti, Bandung, hlm.157). Law is positioned as something that lives in society (living law). Seeing the law as a social behavior that is a living law. Law is conceptualized as actual behavior which includes actions and their consequences in social life relationships. Research were rely on existing theories and facts and its based on the discipline of law. To collect primary data used instruments interview guidelines and questionnaires. Secondary data collection was done through literature study. The data studied in this study are Primary Data and Secondary Data. Primary data is data sourced from parties involved in the problem that is the object of the study or in other words data obtained from field research.(Abdul Kadir Muhammad, 2004, *Hukum dan penelitian hukum*, Citra Aditya Bakti Bandung,hal.50).

Primary data collection techniques are carried out through field studies, which is a way to obtain data by going directly to the field conducting interviews (interviews). About the population to select sample members, with the hope that the data obtained would lead to a lot of conclusions. The sample in this study was determined by purposive sampling technique, namely the researcher used its own judgment armed with sufficient knowledge. Data has been collected from 7 informants through in-depth interviews and questionnaires to respondents of 34 Yowana from 12 Sekaa Teruna in 3 villages in Badung Regency, namely Munggu Village, Cemagi Village and Tibubeneng Village, Badung Regency. Secondary data consists of primary legal materials, secondary legal materials and tertiary legal materials. In this study, the primary legal material studied was Local Regulation of Badung Regency Number 3 of 2022 concerning the Implementation of Investment. Data were analyzed using systematic interpretation method with a sequential and coherent mindset to obstain conclusion on the two problems discussed in this study. Then the results are presented descriptively.

### 3 Result and Discussion

Local Regulation of Badung Regency Number 3 of 2022 concerning the Implementation of Investment. In this local regulations in Article 1 number 9 stated: "Capital is an asset in the form or other forms that are not money owned by investors that have economic value". Article 1 number 14 stated: "Coaching is an activity carried out to provide guidance/socialization of the provisions for implementing investment, as well as facilitating the resolution of problems, in the context of implementing investment activities". Article 2 letter k: "Investment is held based on the principle of local wisdom". Article 11 letter a and b: "Coaching activities are carried out through socialization, workshop, technical briefing or investment dialogue concerning regular investment, and also consultation in investment". In The implementation of Coaching activities does not involve stt as a participant. This condition is not in accordance with the principle of local wisdom as specified in Article 2 letter k: "Investment is held based on the principle of local wisdom.

In field research found The investment map in the village as follows many tourism activities, there are many modern economic activities modern facilities and infrastructure such as gym villas, coffee shops, supermarkets etc., surving schools, and other tourism supporting facilities as an area known as a tourist area. The results of interviews with informants I Wayan Gunawan, S.Kom Secretary Klian Banjar Adat Banjar Adat. Seseh Cemagi Village, stated that the most profitable investment is the investment of villas by means of a land system owned by villagers rented, investors build and within a few years (expiration of the lease period) the villa becomes a landowner. From the collected data obtained the perceptions of respondents as follows: a. Only 4% of respondents who know the investment activities of investment in the Capital Market and not 75%; b. Most (75%) perception of respondents is very important there is an investment policy that involves a Sekaa Teruna.; c. 50% of respondents' perceptions of Sekaa Teruna men are very important, very important, and it is important to understand electronic information and transactions. (100% of respondents' perceptions are very important/ the highest perception of choice), including being directly involved in capital market activities.;d. 100% of respondents' perceptions are very important to prevent investment fraud under the guise of online trading;e The performance of government agencies related to investment the perception of respondents is less, 6.3%, and the performance of IDX,Securities for education is less 18.8%.

The results of an interview with Mirae Aset Dwi Cahyadi securities on July 21, 2022, stated that the public needs education, in order to choose a regulated and safe investment place. Correspondingly, the interview with Sri Agustini stated that people do not think about the law, all that is thought of is the promise of big and fast profits. Usually the profit can be started, but finally the capital Investors are difficult to take, related to the large number of people who invest digitally based in unofficial institutions, because as well as with the IDX states Bali has great potential as an investor in digital-based investment activities. This is supported by the results of an interview with an explanation from Bandesa, I Wayan Bawa, SH. Bandesa Desa Adat Seseh July 7, 2022 that once gave Rp.30 million/head of family for education costs from the cash he admitted amounted to Rp.36 billion. So that from an economic point of view the residents of Br.Adat Seseh are very well-off.

Based on the perceptions of respondents and informants, the implementation of local wisdom has not been optimal. The obstacle of the internal factor such as lack of knowledge, many unofficial investment offers that promise huge profits in a fast time and external factor such as not optimal implementation of the law such as the implementation of coaching in the investment sector as outlined above., the goal is not achieved which is based on local wisdom. Therefore the opportunity poses a problem many people investing in unofficial institutions because of the lack of knowledge financial investment law base on digital technology/ online trading and lack of law investment, and from the point of view of government policy, the legal substance factor does not touch the Sekaa Teruna in its implementation.

The policy model according investment by indigenous community groups reach Local communities is very important function because it is an administrative law instrument for guarantee preventif legal protection. Article 1 number 9 of Local Regulation of Badung Regency Number 3 of 2022 concerning the Implementation of Investment stated: Capital is an asset in another form or form that is not money owned by an investor that has value economical. Understanding capital as referred to in Article 1 number 9, should also be able to include the definition of capital as regulated in Another national regulation that regulates investment is Law No. 8 of 1985 concerning the capital market, namely in Article 1 paragraph (5) there is a definition including shares, assets in the form of shares that have economic value. It is contained in capital market activities.

Article 1 paragraph (13) of Law No. 8 of 1985. Capital Market is an activity related to Public Offering and trading of Securities, Public Companies related to the Securities issued by them, and institutions and professions related to Securities.

Article 1 paragraph 5 of Law No.8 of 1985. Definition of securities, efek is securities, namely debt recognition letters, commercial securities, stocks, bonds, proof of debt, Participation Units of collective investment contracts, futures contracts on Securities, and any derivatives of Securities. However, in the implementation of Regional Regulation No. 3 of 2022 concerning the Implementation of Investment, its activities include investment in physical assets, not including investment in financial assets whose activities are in the capital market. Sekaa Teruna as an indigenous community group is not directly involved in investment activities that should be included as stipulated in Article 2 of the Regional Regulation, namely the principle of investment implementation includes the principle of local wisdom. Moreover, in Article 17 letter d, there is a naming of the Obligations of Investors, to respect the cultural traditions of the community around the location of investment business activities. In accordance with the formulation of the norms mentioned above, the position of community cultural traditions and local wisdom is only to be respected, not to be a financier. The implementation of local wisdom in this case towards Sekaa Teruna can actually be done through the harmonization of other national regulations such as the OJK Law and the Capital Market Law in the formation of laws and regulations. Based on the results of collecting data on respondents of sekaa teruna in Munggu, Tibubeneng, Cemagi Village, 75% of sekaa teruna are important perceptions of the Badung Regional Government's policy on Investment for Sekaa Teruna.

Investment is a commitment to a certain amount of funds or other resources carried out at this time, with the aim of obtaining a certain amount of profit in the future.

(Eduardus Tendelilin. 2001. Analisis Investasi dan Manajemen Portofolio. Yogyakarta: BPFE, hal.1). Based on this understanding, the purpose of investing is to get a profit. Therefore, if you lose, of course, there are factors that cause the loss. In terms of legal aspects, the factors causing losses include, among others, related to the legal and unlawfulness of investment organizing institutions. Recently, there have been rampant cases of digital-based fraudulent investment that have legal problems. In 2021, there were cases of investment crimes that were carried out as if they were trading stocks on the Indonesia Stock Exchange/Capital Market with the promise of providing large profits such as by using trading robots and the like with digital systems and carried out online. Therefore, it is necessary in coaching activities in its implementation based on local wisdom so that it involves the potential Sekaa Teruna as investors and also those that need to be protected from digital-based investments such as unofficial stock trading.

From the results of the research, the three villages have the potential to be financiers. Therefore, there is a need for a policy direction involving Seka Teruna as a financier as stipulated in Article 20 of the PPM Regional Regulation. General Plan for Investment (RUPM). The policy model needs to be directed to official investment activities so that there is a balance of progress and the unity of a competitive regional economy, because investment in the capital market is a characteristic of developed countries. Industry fitting Capital is dynamic and continuously requires new innovation and continuous adaptation, classified as industries that are very much governed by government policy (highly regulated) for this industry is concerned with funds belonging to the public. Actually, there are similarities, namely both investment is only the difference in the form of investment. Local Regulation regulates physical assets and in the capital market active financial assets.

According to Lawrence M. Friedman in the legal system consists of components: Substance; that is, a set of written or unwritten rules or norms relating to right and wrong conduct, rights and obligations; 26 Legal structure, namely: The courts, the Legislators as lawmakers, and The legal culture is an element of social attitudes and values. 27 A legal system in its actual operation is a complex organism in which Structure, Substance and Culture, interact. 28 The working of a legal system as a process of mutually influencing interaction between legal structures, substances and cultures. The effective functioning of the law is determined by three elements, namely: legal substance, legal structure and legal culture). (Lawrence M. Friedman, Sistem Hukum Perspektif Ilmu Sosial diterjemahkan dari buku Lawrence M. Friedman, The Legal System: A Sosial Science Perspective (New York: Russel Sage Foundation, 1975) (Bandung: Nusa Media, 2011). Hlm.1.)

Based on Lawrence Friedman's theory, the condition of Sekaa Teruna as an indigenous community group is not directly involved in investment activities that should be included as stipulated in Article 2 of the Regional Regulation, namely the principle of implementing investment includes the principle of local wisdom and in Article 17 letter d, there is a naming The obligation of investors, to respect the cultural traditions of the community around the location of investment business activities as described above, the Indigenous Community Group/Sekaa Teruna should be able to become a Capital Market investor. Therefore, the results of the said Bylaw are ineffective because of the factors of legal substance.

Kondisi Regional Regulation of The Regency of Badung Act Number 3 of 20 22 concerning The Implementation of Investment that is ineffective can be overcome by establishing laws and regulations either through changes or replacements of regional legal products according to the authority possessed by the District Region. Based on Law No. 23 of 2014 concerning Regional Government. The authority for the formation of district bylaws is given to the district government. Therefore, the Regional Government of Badung Regency has the authority to form, change or replace Regional Regulation of The Regency of Badung Act Number 3 of 2022. In the administrative law literature, there are three ways of obtaining authority or authority successively attribution, delegation and mandate, in the dimension of legality of government actions. (Atmadja, I Dewa Gede dan Budiarta, I Nyoman Putu. 2018. *Teori-Teori Hukum*. Malang:Setara Press.hal. 156).

The theory of authority is to carry out the source of attribution authority as put forward by H.D. Van Willem Konijnenbelt who is of the same view as J.B.J.M. ten Berger that attribution is the granting of governmental authority by lawmakers to government organs. Authority is the power to carry out public legal acts (Ridwan H.R., 2013, *Hukum Administrasi Negara*, Raja Grafindo Persada, Jakarta, hal. 99). While authority is formal power, a power derived from or conferred by law, that is, legislative, executive or administrative power. In authority there are powers- (rechtsbevoegheden) Ridwan H.R. argues that every administration of statehood and government must have legitimacy, that is, the authority granted by law or law, so that the substance of the principle of legality is authority.

The results of this study showed that the Article 11 letter a and b stated "Coaching activities are carried out through Socialization, workshop, technical briefing or investment dialogue concerning regular investment, and also consultation in investment", in its implementation it is not optimal, one of the indigenous community groups, namely Sekaa Teruna, is not included as a participants, as it should be according to Article 2 letter k. Therefore ineffectif because of the legal substance.

Based on the description above, elements of local wisdom and traditional communities can play the role of financiers can be formulated in the policy model to be formed. At the same time as a form of legal protection for the people. Philipus M. Hadjon said that, there are 2 kinds of legal protection, namely, "preventive legal protection and repressive legal protection." In preventive legal protection, the law prevents disputes from occurring while repressive legal protection aims to resolve disputes. (Philipus M. Hadjon, 1987, *Perlindungan Hukum Bagi Rakyat di Indonesia*, Surabaya:PT. Bina Ilmu, hlm. 38.)

In the future, the investment policy model, will be a preventive legal protection for investors. Synergy between Local Governments, Regional House of Representatives, Traditional Villages and Stakeholders is needed to harmonize the legal substance with other investment cluster laws, namely Law Number 8 of 1985 concerning the Capital Market and Law Number 21 of 2011 concerning the Financial Services Authority. So investors including Sekaa Teruna will choose digital based investment in official institutions, because the capital is safe and profits can be realized.

## 4 Conclusion

Based on the results obtained, thus it can be drawn the conclusion that Investment coaching is a strategic step to provide an understanding of investments that get legal

protection; preventing people from investing digitally based in adverse unofficial institutions; increase investment that has an impact on improving the ranking of the regional economy and people's income.

Therefore, the Badung district government needs to take policy steps, there are two important things: Coaching activities are carried out through socialization, is organized in collaboration with official institutions related to investment such as Financial Services Authority and Indonesia Index (IDX) or Capital Market. And also involving the Sekaa Teruna indigenous community group as participants in accordance with the principles of local wisdom in the Local Regulation of Badung Regency Number 2 of 2022, and The Government of Badung Regency of Bali Province needs to take policy steps to harmonize the legal substance with other investment cluster laws, namely Act Number 8 of 1985 concerning the Capital Market and Act Number 21 of 2011 concerning the Financial Services Authority. So investors including Sekaa Teruna will choose digital based investment in official institutions, because the capital is safe and profits can be realized and Sekaa Teruna can be dignified and economically independent.

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## Law

Undang-Undang Nomor 8 tahun 1985 tentang Pasar Modal

Undang-Undang Nomor 21 Tahun 2011 tentang Otoritas jasa keuangan

Peraturan Daerah Kabupaten Badung Nomor 3 Tahun 2022 tentang Penyelenggaraan Penanaman Modal

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