LAW RESEARCH
Review Quarterly

Law Research Review Quarterly is a **Journal for Law, Justice, and Crime in Indonesia and Southeast Asia**. The Journal is a peer-reviewed journal published by Faculty of Law Universitas Negeri Semarang, Indonesia. The Journal published quarterly on February, May, August, and November. ISSN 2716-3415 (Online)
Online at https://journal.unnes.ac.id/journals/snh

Regulatory Uncertainty As A Challenge Protection Of Legitimate Expectations Foreign Investors: A Legal Investment Perspective Indonesia

Zulfikri Akramul Akbar
Universitas Negeri Semarang, Semarang, Indonesia
zulfikri7073@students.unnes.ac.id

Arlansyah Harahap
Universitas Negeri Semarang, Semarang, Indonesia
arlansyah02@students.unnes.ac.id

Abstract

Foreign direct investment (FDI) is a strategic instrument for Indonesia's economic growth. However, the protection of foreign investors' legitimate expectations namely, the reasonable expectation that the legal framework in place at the time of investment will remain stable and reliable has not yet been explicitly accommodated in Indonesia's domestic investment laws. This study aims to examine the regulation and recognition of the legitimate expectations doctrine from the perspective of Indonesian investment law and to identify ways to optimize its protection in the face of regulatory uncertainty. The method used is normative legal research employing legislative, conceptual, and comparative approaches. The findings indicate that although Law No. 25 of 2007 on Investment and various BITs ratified by Indonesia implicitly recognize the principle of Fair and Equitable Treatment (FET), its implementation remains dependent on the subjective interpretation of government officials. Regulatory uncertainty stemming from overlapping central and local regulations, policy inconsistencies, and sudden regulatory changes including those in the implementation of the Job Creation Law significantly erode the legitimacy of foreign investors' expectations. Optimizing protection requires vertical and horizontal regulatory harmonization, the implementation of Regulatory Impact Assessments (RIAs), institutional strengthening of the Investment Coordinating Board (BKPM), and the inclusion of more rigid stabilization and compensation clauses in

KEYWORDS
Legitimate Expectations, Regulatory Uncertainty, Indonesian Investment Law, Fair and Equitable Treatment, Foreign Direct Investment

Introduction

The intensifying tide of globalization has prompted developing countries, including Indonesia, to open themselves up to foreign capital inflows as a strategic tool for accelerating national economic growth. Foreign Direct Investment (FDI) is not merely viewed as a source of development financing, but also as a vehicle for technology transfer, job creation, and enhancing the competitiveness of domestic industries. In this context, the relationship between the host state and foreign investors is fundamentally one built on trust, where investors have a rational expectation that the legal framework in place at the time of investment will provide adequate and reliably sustainable protection.

As one of the primary destinations for foreign investment in Southeast Asia, Indonesia has a significant strategic interest in fostering a conducive and equitable investment climate. Data from the Investment Coordinating Board (BKPM) which is currently transitioning into the Ministry of Investment/BKPM indicates that FDI realization in Indonesia has continued to rise year over year, although fluctuations in regulatory policies often pose significant obstacles. Law No. 25 of 2007 on Investment (UUPM), which serves as the cornerstone of investment regulation in Indonesia, has, in principle, adopted several principles of investor protection, including guarantees of equal treatment, protection against expropriation without compensation, and legal certainty.

Years	**Total Investment Realization**	**PMA Portion**	**Employment of Local Workers**
2022 (Jan–Sep)	Rp892,4 T	53,7%	965.122 people
2023 (Sem I)	Rp678,7 T	±50%	849.181 people
2024 (Full Year)	**Rp1.714,2 T**	**52,5%**	**2.456.130** people
ASEAN Ranking 2022	US$21,96 billion	**Ranked ke-2**	

Source: Ministry of Investment/BKPM. (October 24, 2022). Investment Realization in Q3 2022 Reaches Rp307 Trillion. https://bkpm.go.id

A fundamental issue arising in practice is that Indonesia's investment legal system has not explicitly accommodated or recognized the doctrine of legitimate expectations as an independent and operational protective principle. The absence of clear and comprehensive regulations regarding this doctrine creates a gap leading to disharmony between the expectations foreign investors build based on initial regulatory promises and the reality of policy changes frequently implemented unilaterally by the government. This phenomenon is further exacerbated by the fact that Indonesia has a regulatory tradition prone to sudden changes, overlapping authorities between the central and regional governments, and inconsistencies in the implementation of investment policies on the ground.

An examination of this issue is grounded in at least two main theoretical frameworks. First, the theory of legal certainty, as developed by Gustav Radbruch, which positions certainty as one of the three fundamental values of law alongside justice and utility. Legal certainty in the context of investment requires that the legal norms governing investment be clear, unambiguous, and predictable in their application so that investors can plan their business activities on a solid legal foundation. Second, the theory of investor protection, which in its development culminates in the recognition of the doctrine of legitimate expectations as a minimum standard of protection that must be met by the host country.

The urgency of this research is also driven by the fact that Indonesia continues to strive to attract larger amounts of foreign investment through a series of regulatory reforms, ranging from the enactment of Law No. 11 of 2020 on Job Creation along with its various implementing regulations, to deregulation policies based on the Online Single Submission (OSS) system. However, paradoxically, these reform efforts often create new uncertainties due to overly rapid regulatory changes that are not accompanied by adequate transition mechanisms for investors who have already invested based on the old legal framework.

Based on the above discussion, there is a strong academic urgency to conduct an in-depth examination of two key issues: how the doctrine of legitimate expectations is regulated and recognized within the perspective of Indonesian investment law, and how regulatory uncertainty poses a real challenge to the protection of foreign investors' legitimate expectations. This research is expected to provide a conceptual contribution to the development of Indonesian investment law that is more responsive to the demands of international-standard investor protection, while also offering policy recommendations that can minimize the risk of international investment disputes that could harm the state's finances.

Method

This study is a normative legal research, which focuses on the examination of legal norms in legislation, international treaties, legal principles, legal theories, and relevant doctrines[1]. A normative legal research approach was chosen because the issues examined in this study are normative in nature, specifically concerning legal regulations and the normative gap between Indonesian domestic law and international

[1] Sugiyono, *Metode Penelitian Kualitatif Kuantitatif* (Jakarta: Alfabeta, 2019).

investment law standards regarding the protection of foreign investors' legitimate expectations.

This study employs three complementary research approaches. First, the statutory approach, which involves examining all relevant Indonesian domestic legislation pertaining to investment protection and legal certainty, including Law No. 25 of 2007 on Investment, Law No. 11 of 2020 on Job Creation, and their respective implementing regulations. Second, the conceptual approach, used to examine and analyze the legal concepts underpinning the doctrine of legitimate expectations in international investment law, including the concepts of fair and equitable treatment, good faith, and the principle of legal certainty. Third, the comparative approach, which involves comparing the regulation and application of the doctrine of legitimate expectations in several other countries as well as in various international arbitration awards, in order to obtain a more comprehensive picture of the applicable standards of protection.

Result and Discussion

1. Regulation and Recognition of the Doctrine of Legitimate Expectations of Foreign Investors from the Perspective of Indonesian Indonesian investment

Indonesian investment law is normatively based on a hierarchical set of legal instruments, with Law No. 25 of 2007 on Investment (UUPM) serving as the primary instrument that specifically regulates investment activities in Indonesia. The UUPM itself is a refinement of previous investment regulations, namely Law No. 1 of 1967 on Foreign Investment and Law No. 6 of 1968 on Domestic Investment, which were deemed no longer adequate to accommodate the increasingly complex dynamics of global investment.

The UUPM contains several provisions that implicitly intersect with the concept of investor expectation protection, although it does not explicitly mention the term "legitimate expectations." Article 4(2) of the UUPM states that in establishing basic investment policies, the government shall treat domestic and foreign investments equally while taking national interests into account. Article 6(1) of the UUPM guarantees legal certainty, transparency, and equal treatment for all investors. These provisions can normatively serve as a basis for arguing that the Indonesian legal system, in principle, recognizes the importance of protecting investors' reasonable expectations.

Article 7 of the UUPM, which governs nationalization and compensation, stipulates that the government shall not undertake nationalization or the expropriation of investors' property rights, except by law. Should the government undertake such actions, it is obligated to pay compensation in an amount determined based on market value. This provision essentially reflects one dimension of the protection of legitimate expectations, namely protection against unfounded expropriation or expropriation not accompanied by adequate compensation.

Indonesia has signed and ratified dozens of Bilateral Investment Treaties (BITs) with various partner countries, which collectively reflect Indonesia's commitment to providing foreign investors with protection meeting international standards. In the context of recognizing the doctrine of legitimate expectations, BITs hold significant relevance because nearly all BITs contain FET provisions, which in arbitration practice are interpreted as the foundation for protecting investors' legitimate expectations[2].

Most of Indonesia's BITs employ an autonomous FET formula, meaning the standard of protection provided is not limited by the minimum standards of customary international law, but rather affords

[2] Febriyanto Dony Rampengan and Ricky Rolandi Kojansow, "Perbedaan Kepentingan Antara Host State Dengan Investor Terkait Klausula Fair And Equitable Treatment Dalam Bilateral Investment Treaty" 9, no. 6 (2024), https://doi.org/https://doi.org/10.36418/syntax-literate.v9i6.14810.

the arbitral tribunal broader discretion to interpret the state's obligations[3]. Formulations such as "fair and equitable treatment" without further qualification, as found in the Indonesia-Netherlands BIT (1994) and the Indonesia-South Korea BIT (1991), essentially open the door to broader legitimate expectations claims due to the expansive interpretations frequently adopted by arbitral tribunals.

Indonesia appears to be aware of the risks posed by such an overly lenient BIT approach. This is reflected in Indonesia's policy to temporarily suspend the renewal of several BITs whose terms have expired, and subsequently to design a new BIT model that better reflects a balance between investor protection and the state's regulatory rights. This policy shift is, in fact, a pragmatic response to the numerous arbitration claims faced by Indonesia, while also reflecting a growing awareness that international commitments under BITs must be aligned with the state's regulatory and administrative capacity.

A fundamental weakness of the UUPM's normative framework lies in the absence of mechanisms that specifically and operationally address an investor's right to rely on the legal framework in effect at the time the investment was made, as well as the state's obligation not to implement regulatory changes that fundamentally undermine the economic basis of that investment. Unlike a number of BITs ratified by Indonesia that contain stabilization clauses or more detailed FET provisions, the UUPM, as domestic law, does not contain equivalent protection mechanisms. This disparity between the standards of protection in domestic law and those promised in international legal instruments is one of the main vulnerabilities of Indonesia's investment legal system.

[3] Adinda Bilqis Tegarmas, "Perlindungan Kepentingan Nasional Melalui Klausula Dalam Bilateral Investment Treaty" 2, no. 6 (2019): 1909–30, https://doi.org/DOI : 10.20473/jd.v2i6.15919.

2. Protection of the Principle of Legitimate Expectations for Foreign Investors Is Optimized in the Face of Regulatory Uncertainty in Indonesia

The Doctrine of Legitimate Expectations is one of the key components of the standard of fair and equitable treatment within the framework of international investment law. Fair treatment, guarantees of transparency, stability, and protection of the legitimate expectations of foreign investors are required by the principle of Fair and Equitable Treatment (FET). Based on this principle, investors who have invested capital based on statements and assurances from the host country are entitled to expect that the legal framework and policies underlying their investments will not be changed arbitrarily, suddenly, and without adequate compensation[4].

The application of the Legitimate Expectations principle within the context of investment law in Indonesia still faces several structural challenges or obstacles. This legal uncertainty arises because the application of the Fair and Equitable Treatment (FET) principle in Indonesia is highly dependent on the subjective interpretations of government officials and law enforcement authorities. Although Indonesia's investment regulations include provisions regarding the principle of fair and equitable treatment, the FET provisions in Indonesian law are not yet comprehensive enough to provide legal certainty for foreign investment in Indonesia[5]. This situation highlights a significant gap between actual practices on the ground and Indonesia's commitments under international investment agreements[6].

One of the greatest structural barriers to the investment climate in

---

4 Nur Hikmah and Damayanti Sunawir, "Kepastian Hukum Terhadap Prinsip Fair and Equitable Treatment Dalam Perlindungan Investasi Asing Di Indonesia: Studi PCA Case No. 2015-40," *Socius (Jurnal Penelitian Ilmu-Ilmu Sosial)* 3, no. 3 (2025).
5 Hikmah and Sunawir.
6 Mariani Agnestasia Soeitoe and Zaenal Arifin, "Adaptabilitas Arbitrase Internasional Dalam Sengketa Investasi: Studi Indonesia Dan Singapura," *Journal Juridisch* 4, no. 1 (2026), https://doi.org/10.26623/JJ.V4I1.13406.

Indonesia is regulatory uncertainty. This form of legal uncertainty is a factor that makes the investment climate unstable. In international investment law, regulatory uncertainty not only impacts investors' economic calculations but also threatens investors' legitimate expectations namely, the reasonable expectation that the legal system in which they invest will be stable and predictable. Although several legal reforms have been implemented, such as the enactment of the Job Creation Law, legal uncertainty at both the national and international levels continues to hinder foreign direct investment[7].

Although the central government has issued a number of regulations to simplify licensing and improve the investment climate, these are often hindered by local regulations that are stricter or inconsistent with national regulations, leaving investors uncertain whether they will face licensing issues[8]. This is precisely the situation that arose in the case of Churchill Mining Plc. The misalignment between central government policy and local administrative actions led to the revocation of a mining business license by the local government of East Kutai Regency, resulting in a dispute that culminated in ICSID arbitration.

Another form of this investment uncertainty in Indonesia has become increasingly evident with the enactment of the Job Creation Law, namely Law No. 11 of 2020 as amended by Law No. 6 of 2023. The enactment of this law was actually intended to simplify and harmonize various conflicting regulations due to the multitude of rules governing a single matter, particularly in the investment sector with the hope of boosting economic growth and public welfare. However, in the practical

---

7 Alfiyana Saputri et al., "ANALISIS PENATAAN REGULASI INVESTASI DI INDONESIA MELALUI UNDANG-UNDANG OMNIBUS LAW UNTUK MENJAMIN KEPASTIAN HUKUM," *Jurnal Res Justitia: Jurnal Ilmu Hukum* 5, no. 1 (January 2025): 437–55, https://doi.org/10.46306/RJ.V5I1.250.

8 Dona Chania, "Efektivitas Regulasi Investasi Di Indonesia Dalam Meningkatkan Daya Saing Ekonomi Nasional," *Cemerlang: Jurnal Manajemen Dan Ekonomi Bisnis* 5, no. 1 (2024): 31–40, https://doi.org/10.55606/CEMERLANG.V5I1.3418.

implementation of the Omnibus Law within the national investment landscape, it has instead created a new layer of uncertainty that will act as a barrier to investment[9]. Without comprehensive regulatory harmonization, robust institutional coordination, and the ability to eliminate informal practices, the OSS-RBA fails to provide adequate legal protection for foreign investors and, paradoxically, may increase investment risks through regulatory fragmentation. This situation directly erodes the legitimate expectations of investors who had hoped the Omnibus Law would deliver greater certainty[10].

Many foreign investors remain hesitant and view investing in Indonesia as carrying significant risks due to several key issues, including unclear and overlapping regulations, complex licensing processes, inadequate legal protection for investors, rigid sectoral restrictions, and policy inconsistencies driven by political influence[11].

Risk mitigation is crucial for attracting and retaining foreign investor confidence, as the implementation of foreign investment in Indonesia often faces various challenges, including legal uncertainty, political risks, and structural constraints. Policy instability stemming from domestic political events such as changes in government, shifts in economic policy direction, or pressure from certain groups hinders the formation of legitimate expectations[12]. Without legal protection, foreign investors will become more apprehensive and hesitant to invest in Indonesia. This can trigger vertical and horizontal conflicts regarding

[9] Uut Ristiana, "Tantangan Penyesuaian Hukum Investasi Indonesia Terhadap Standar Internasional Dalam Menjamin Kepastian Hukum Bagi Investor Asing," *Jurnal Ilmiah Wahana Pendidikan* 11, no. 11.A (2025): 190–96.

[10] Siahaan, "Perlindungan Hukum Terhadap Investor Asing Dalam Pengurusan Perizinan Penanaman Modal Melalui Sistem Online Single Submission (OSS) Pasca Undang-Undang Nomor 6 Tahun 2023," *Causa: Jurnal Hukum Dan Kewarganegaraan* 13, no. 1 (2025): 61–70, https://doi.org/10.6679/G8TEE170.

[11] Sri Nurnaningsih Rachman et al., "Analisis Hukum Terhadap Aturan Hukum Penanaman Modal Asing Dalam Mendorong Investasi Di Indonesia," *Jurnal Hukum Lex Generalis* 6, no. 4 (2025), https://doi.org/10.56370/JHLG.V6I4.1650.

[12] Mesarah, "Mitigasi Risiko Investasi Asing Dan Tinjauan Hukum Terhadap Skema Sovereign Wealth Fund Dalam Proyek Strategis Nasional Di Indonesia," *Ranah Research: Journal of Multidisciplinary Research and Development* 7, no. 5 (2025): 3916–30, https://doi.org/10.38035/RRJ.V7I5.1677.

investment regulations and policies, particularly those related to discrepancies between written legal provisions and the application of the law in practice. Regulatory uncertainty in Indonesia stems from the gap between legal provisions set forth in laws and the application of the law in practice.

3. The Discrepancy Between the International Standard of Legitimate Expectations and Indonesia's Investment Legal Framework.

The doctrine of legitimate expectations does not stem from any specific instrument of international law. Rather, this doctrine has evolved through the accumulation of international investment arbitration awards, which have subsequently established customary international law in the field of investor protection. This began to be recognized in several arbitration awards, starting with the Saluka v. Czech Republic case in 1993, and evolved into an obligation to conduct due diligence as a prerequisite for claims based on legitimate expectations.

The standard of legitimate expectations has evolved into a key component of the Fair and Equitable Treatment (FET) principle in the realm of international arbitration. The FET principle is a principle of international law that must be adhered to by every state in the context of foreign investment, requiring the provision of fair and equitable treatment to foreign parties conducting business and economic activities in the host country. This principle applies not only to foreign investment but also to other fields.

Recent developments in international arbitration practice indicate a significant shift toward increased bilateral accountability between states and investors. The duty of due diligence has been established by arbitral tribunals as a standard of conduct that foreign investors must adhere to, both in conducting business operations and in ensuring that partners and contractors comply with national laws and human rights.

Therefore, Indonesia has begun incorporating these principles into new investment agreements to enhance corporate accountability and prevent potential abuses[13].

Law No. 25 of 2007 on Investment serves as the domestic legal foundation for protecting foreign investment. As outlined in Article 3, this Law adopts the Fair and Equitable Treatment (FET) principle to protect international investments. Normatively, this recognition is a commendable step forward. However, formal recognition without measurable implementation standards creates a dangerous legal loophole. The application of the FET principle in Indonesia relies heavily on the subjective interpretations of law enforcement officials and government officials, thereby creating opportunities for legal uncertainty. Although FET provisions have been incorporated into Indonesia's investment regulations, these provisions are not yet comprehensive enough to guarantee legal certainty for foreign investment in Indonesia.

As a bridge between domestic law and international standards, the structure of bilateral investment treaties has achieved much. A bilateral investment treaty (BIT) is a reciprocal agreement between two countries to promote and protect investment in each other's territories. The purpose of a BIT is to protect foreign investors from discrimination by the host country and to prevent the host country from infringing upon their rights and interests in the assets they own. However, the success of a BIT as a tool to protect legitimate expectations depends heavily on the quality of the clauses included and their consistency with national regulations[14].

---

[13] Khaula Alhanif Syafania, Oktavia Rahmadani, and Raden Satrya Putra, "Kepastian Hukum Arbitrase Dalam Penyelesaian Sengketa Investasi Antara Investor Asing Dan Pemerintah Indonesia," *PESHUM: Jurnal Pendidikan, Sosial Dan Humaniora* 5, no. 1 (2025): 52–60, https://doi.org/10.56799/PESHUM.V5I1.12026.

[14] Salim Saleh Thalib, "Implementasi Prinsip Perlindungan Investasi Asing Di Indonesia," *Jurnal Ilmu Hukum, Humaniora Dan Politik* 5, no. 1 (2024): 787–98, https://doi.org/10.38035/JIHHP.V5I1.3148.

There are at least four major normative gaps that can be identified between Indonesia's investment legal framework and international standards regarding legitimate expectations:

No	Dimensions of Gaps	Standar Internasional	Indonesian Legal Conditions	Implications
1.	Operationalization of Principles	FET and LE are defined through arbitral awards with measurable elements	Investment Law 25/2007 recognizes FET.	Protection depends on the discretion of officials
2.	BIT consistency	BIT contains clear and consistent FET standards.	The Indonesian BIT is open to multiple interpretations, not defining "eligible" explicitly.	Open to interpretation, does not define "appropriate" explicitly. Prone to interpretation disputes.
3.	Central-Regional Harmonization	The state is fully responsible for the actions of all levels of government.	Local government actions may conflict with central government commitments.	Investors bear double risk
4.	Execution of the Decision	The arbitration award is final and binding	The execution of foreign arbitral awards still faces technical and political	De jure protection without de facto guarante

			obstacles.	e

This evaluation shows that legal gaps are not the only issue in protecting the legitimate expectations of foreign investors in Indonesia. The problem lies in implementation gaps, where norms exist but are not effectively enforced, agreements have been signed but are not consistently implemented, and international commitments have been made but are not fulfilled. Recommendations for optimizing the protection of legitimate expectations must focus on these inconsistencies.

4. Optimizing the Protection of Legitimate Expectations through Regulatory and Institutional Reform.

The most urgent step that must be taken immediately to provide protection of legitimate expectations for foreign investors is to comprehensively harmonize regulatory policies, both vertically involving central and local regulations and horizontally, taking into account cross-sectoral regulations[15]. This harmonization can be considered ideal if built upon these three main pillars, namely

1. Substantive alignment and significant harmonization to ensure there are no inconsistencies in regulations between laws, government regulations, presidential regulations, and local regulations related to investment.
2. Standardization of procedures aimed at unifying licensing processes and investment services across Indonesia.

[15] Sembiring Laura Natalia, "Urgensi Perjanjian Investasi Bilateral Antara Indonesia Dan Negara Lain Dengan Klausula Penyelesaian Sengketa Investor-State Dispute Settlement," *Dharmasisya (Jurnal Program Magister Hukum FHUI)* 1, no. 22 (2022).

3. Integrated digitalization ensures that all processes are accessible through a single platform connecting the central and local governments[16].

This harmonization encompasses not only the alignment of regulatory substance but also the standardization of procedures and the digitalization of systems to enable integrated access through platforms such as OSS. Harmonization also strengthens the role of the Ministry of Home Affairs and BKPM as liaisons between levels of government to ensure that all regulations comply with investment laws.

If we examine past cases in Indonesia related to this regulatory uncertainty regarding investment, we will inevitably turn to the case of PT Freeport Indonesia. This case empirically demonstrates how vital a stabilization clause or regulatory stability in investment law is. When the 1991 Work Contract lacked a sufficiently strong stabilization clause to withstand the legal regime changes introduced by the Mining Law, the resulting regulatory uncertainty forced both parties into a lengthy and costly negotiation process. The Job Creation Law introduces a risk-based licensing system and bureaucratic streamlining that provides legal certainty for investors; however, challenges remain. While remaining bound by the principle of pacta sunt servanda, Indonesia is committed to maintaining a balance between national sovereignty and its international obligations under BITs.

Indonesian civil law recognizes the principle of pacta sunt servanda, particularly in the realm of contracts, where this principle should serve as the foundation for the parties before agreeing to an investment contract; which should at least include three key elements: a prohibition on regulatory changes that harm investors without consultation and adequate compensation; the establishment of a structured contract adjustment mechanism (renegotiation clause) if

[16] Fanny Aprilia, "Arbitrase Internasional Dalam Penyelesaian Sengketa Penanaman Modal Asing: Tinjauan Praktis Di Indonesia," *Jurnal Hukum & Pembangunan* 54, no. 1 (March 2024): 133–128, https://doi.org/10.21143/jhp.vol54.no1.1604.

regulatory changes are unavoidable for the public interest; and the inclusion of a clear compensation clause if regulatory changes are found to violate legitimate expectations that have been established.

One way to minimize regulatory uncertainty from the state's perspective is the implementation of Regulatory Impact Assessment (RIA), a policy instrument that requires the government to conduct a comprehensive analysis of the impacts of a regulation including its impact on investors' legitimate expectations before the regulation is officially enacted. The state, through the Directorate General of Legislation at the Ministry of Law, has begun conducting RIA training in collaboration with the British Embassy as part of efforts to strengthen the capacity of civil servants in the field of regulatory design and planning so that they are able to understand and implement RIA guidelines as a key instrument in national regulatory reform, based on fundamental principles that include transparent, inclusive, and proportional public consultation, as well as evidence based data collection and analysis[17].

Another way for the government to align the perceptions of foreign and local investors in Indonesia is to undertake institutional reforms encompassing three interrelated key dimensions: strengthening coordination authority, establishing a specialized unit for the protection of legitimate expectations, and enhancing regional capacity. Without all these elements working synergistically, the optimization of the protection of legitimate expectations will remain an agenda that fizzles out halfway as has consistently been the case in Indonesia's various unsustainable efforts at investment law reform.

Conclusion

[17] Welfin, "Perlindungan Hukum Bagi Investor Indonesia Pada Perusahaan Joint Venture Dalam Perusahaan Penanam Modal Asing," *UNES Law Review* 6, no. 2 (2024): 7178–84, https://doi.org/10.31933/UNESREV.V6I2.1590.

This study concludes that the protection of the doctrine of legitimate expectations for foreign investors under Indonesian investment law still faces significant gaps in both legal framework and implementation. Although Law No. 25 of 2007 on Investment implicitly recognizes the principle of Fair and Equitable Treatment (FET), this recognition has not been translated into explicit, measurable, and operational protection mechanisms, so its implementation remains highly dependent on the subjective interpretation of government officials. Regulatory uncertainty stemming from overlapping central and local regulations, policy inconsistencies, and sudden regulatory changes including those in the implementation of the Job Creation Law have demonstrably eroded the legitimate expectations of foreign investors. The various BITs that Indonesia has ratified are also not sufficiently consistent in defining adequate protection standards, thereby creating vulnerabilities that could potentially trigger international arbitration disputes.

To optimize the protection of these legitimate expectations, systemic reforms are required, including vertical and horizontal regulatory harmonization, the implementation of Regulatory Impact Assessments (RIAs) prior to the enactment of new regulations, the institutional strengthening of the Investment Coordinating Board (BKPM) as the investment coordinator, and the inclusion of stronger stabilization and compensation clauses in every investment agreement. Without these comprehensive reforms, Indonesia not only risks facing international arbitration disputes that could harm the state's finances but also risks losing the trust of foreign investors, which would ultimately lead to a slowdown in overall national economic growth.

References

Aprilia, Fanny, and Fanny Aprilia. "Arbitrase Internasional Dalam Penyelesaian Sengketa Penanaman Modal Asing: Tinjauan Praktis Di Indonesia." *Jurnal Hukum & Pembangunan* 54, no. 1 (March 2024): 133–128. https://doi.org/10.21143/jhp.vol54.no1.1604.

Chania, Dona. "Efektivitas Regulasi Investasi Di Indonesia Dalam

Meningkatkan Daya Saing Ekonomi Nasional." *Cemerlang: Jurnal Manajemen Dan Ekonomi Bisnis* 5, no. 1 (2024): 31–40. https://doi.org/10.55606/CEMERLANG.V5I1.3418.

Hikmah, Nur, and Damayanti Sunawir. "Kepastian Hukum Terhadap Prinsip Fair and Equitable Treatment Dalam Perlindungan Investasi Asing Di Indonesia: Studi PCA Case No. 2015-40." *Socius (Jurnal Penelitian Ilmu-Ilmu Sosial)* 3, no. 3 (2025).

Mesarah. "Mitigasi Risiko Investasi Asing Dan Tinjauan Hukum Terhadap Skema Sovereign Wealth Fund Dalam Proyek Strategis Nasional Di Indonesia." *Ranah Research: Journal of Multidisciplinary Research and Development* 7, no. 5 (2025): 3916–30. https://doi.org/10.38035/RRJ.V7I5.1677.

Natalia, Sembiring Laura. "Urgensi Perjanjian Investasi Bilateral Antara Indonesia Dan Negara Lain Dengan Klausula Penyelesaian Sengketa Investor-State Dispute Settlement." *Dharmasisya (Jurnal Program Magister Hukum FHUI)* 1, no. 22 (2022).

Rachman, Sri Nurnaningsih, Herry M Polontoh, Jesslyn Elisandra Harefa, Amstrong Harefa, and Tora Yuliana. "Analisis Hukum Terhadap Aturan Hukum Penanaman Modal Asing Dalam Mendorong Investasi Di Indonesia." *Jurnal Hukum Lex Generalis* 6, no. 4 (2025). https://doi.org/10.56370/JHLG.V6I4.1650.

Rampengan, Febriyanto Dony, and Ricky Rolandi Kojansow. "Perbedaan Kepentingan Antara Host State Dengan Investor Terkait Klausula Fair And Equitable Treatment Dalam Bilateral Investment Treaty" 9, no. 6 (2024). https://doi.org/https://doi.org/10.36418/syntax-literate.v9i6.14810.

Ristiana, Uut. "Tantangan Penyesuaian Hukum Investasi Indonesia Terhadap Standar Internasional Dalam Menjamin Kepastian Hukum Bagi Investor Asing." *Jurnal Ilmiah Wahana Pendidikan* 11, no. 11.A (2025): 190–96.

Saputri, Alfiyana, Iva Ushsholikhah, Rizka Khoridatul Munawaroh, and Raisya Erta Rismaeni. "ANALISIS PENATAAN REGULASI INVESTASI DI INDONESIA MELALUI UNDANG-UNDANG OMNIBUS LAW UNTUK MENJAMIN KEPASTIAN HUKUM." *Jurnal Res Justitia: Jurnal Ilmu Hukum* 5, no. 1 (January 2025): 437–55. https://doi.org/10.46306/RJ.V5I1.250.

Siahaan. "Perlindungan Hukum Terhadap Investor Asing Dalam Pengurusan Perizinan Penanaman Modal Melalui Sistem Online Single Submission (OSS) Pasca Undang-Undang Nomor 6 Tahun 2023." *Causa: Jurnal Hukum Dan Kewarganegaraan* 13, no. 1 (2025): 61–70. https://doi.org/10.6679/G8TEE170.

Soeitoe, Mariani Agnestasia, and Zaenal Arifin. "Adaptabilitas Arbitrase Internasional Dalam Sengketa Investasi: Studi Indonesia Dan Singapura." *Journal Juridisch* 4, no. 1 (2026). https://doi.org/10.26623/JJ.V4I1.13406.

Sugiyono. *Metode Penelitian Kualitatif Kuantitatif*. Jakarta: Alfabeta, 2019.

Syafania, Khaula Alhanif, Oktavia Rahmadani, and Raden Satrya Putra. "Kepastian Hukum Arbitrase Dalam Penyelesaian Sengketa Investasi Antara Investor Asing Dan Pemerintah Indonesia." *PESHUM: Jurnal Pendidikan, Sosial Dan Humaniora* 5, no. 1 (2025): 52–60. https://doi.org/10.56799/PESHUM.V5I1.12026.

Tegarmas, Adinda Bilqis. "Perlindungan Kepentingan Nasional Melalui Klausula Dalam Bilateral Investment Treaty" 2, no. 6 (2019): 1909–30. https://doi.org/DOI : 10.20473/jd.v2i6.15919.

Thalib, Salim Saleh. "Implementasi Prinsip Perlindungan Investasi Asing Di Indonesia." *Jurnal Ilmu Hukum, Humaniora Dan Politik* 5, no. 1 (2024): 787–98. https://doi.org/10.38035/JIHHP.V5I1.3148.

Welfin. "Perlindungan Hukum Bagi Investor Indonesia Pada Perusahaan Joint Venture Dalam Perusahaan Penanam Modal Asing." *UNES Law Review* 6, no. 2 (2024): 7178–84. https://doi.org/10.31933/UNESREV.V6I2.1590.

***