

# Universitas Islam Indonesia

## Faculty of Economics

### INTERNATIONAL PROGRAM



## ISLAMIC STUDIES PROGRAM

### Syllabus: Indonesian Investment Law

Lecturer	: Siti Anisah, SH, MHum, PhD
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Credit (CP)	: 2
Consultation Times	: by appointment
Campus	: Faculty of Law, UII

#### Subject Overview:

In this subject, we will analyze and discuss the investment law in Indonesia. The discussion will encompass specific principles of Indonesia investment that accommodate principles of international conventions related to investment. Other related aspects to the investment will be analyzed including the approval of the investment applications, licenses, procedures of investment, and investment prospects in Indonesia in the '*Otonomi Daerah*' (local autonomy) Era. We also discuss some international conventions related to investment, they are; TRIMs, MIGA, and ICSID.

#### Subject Objective:

After completing this course, students are expected to;

1. Understand the principles and legal framework on investment in Indonesia.
2. Understand the different types of investment.
3. Understand the theories of investment motivation & incentive.
4. Understand approvals, licenses, & procedures involved in investing in Indonesia.
5. Understand joint ventures related to investment.

6. Understand international conventions related to investment.
7. Understand investment prospects in Indonesia in the 'Otonomi Daerah' (local autonomy Era).

### **Assessment:**

The final grade will be determined by a composite evaluation of the student's performance based on the following assessment areas:

<b>Task</b>	<b>Value</b>	<b>Deadline</b>
Group Assignment/Essay	40%	On the day of presentation, starting after the third week of semester
Mid Term Exam	30%	During the first exam period (week 7)
Final Exam	30%	During the second exam period (week 14)

### **Group Assignment:**

Students will be required to form groups of three. Each group will select a topic to analyse and discuss together.

1. These topics will be presented to the class. Each group will have 50-75 minutes for their presentation including questions and answer time. It is expected that the student will make their best effort to facilitate a discussion that can involve other students in the discussion.
2. Each student must write an academic paper based on the group's topic that is critical and scientific. The paper should be of approximately 2500 words in length. The paper should include theoretical references and legal cases.
- 3.

### **Examination:**

There will be a mid test and final test examination. Examination questions must be answered in essay format. The mid test will focus on materials that are discussed in Week 1 – 6 and final test will focus on material from Week 7 – 12.

### **Grading System:**

Based on university policy, a pass grade or better will only be given to students who achieve a final grade above 55%.

Total	Grade
86 - 100	A
83 - 85	A-
80 - 82	A/B
76 - 79	B+
71 - 75	B
68 - 70	B-
64 - 67	B/C

Total	Grade
61 - 63	C+
56 - 60	C
53 - 55	C-
49 - 52	C/D
45 - 48	D+
35 - 44	D
0 - 34	E

***Policy on assessment:***

Essays and assignments will not be accepted after the due date unless arrangements for an extension of time have been made prior to the due date. If you do not agree with the result that you achieve for any piece of assessment for this subject please contact the lecturer immediately. You have a right to know the reasons why your work has received a certain grade and to request it be reassessed if you believe it has been unfairly assessed.

**Warning Concerning Academic Misconduct:**

The International Program expects all students and staff to act with honesty and integrity in all matters. That means being truthful and recognising the intellectual ownership of other people's words, ideas, research findings and information. To not do so academically dishonest and may incur a range of penalties. Academic misconduct includes plagiarism, collusion, cheating in examinations, misappropriating the research of others and misrepresenting research findings.

***What is plagiarism?***

Plagiarism is the using of another person's ideas or expressions without appropriate acknowledgment and presenting these ideas or forms of expression as your own. It includes not only written works such as books or journals, but data or images that may be presented in tables, diagrams, designs, plans, photographs, film, music, formulae, web sites and computer programs.

Plagiarism includes the use of the work of lecturers or other students as your own without acknowledgment. Self-plagiarism is the reuse of your own work without indicating that you have reused it.

### ***Quoting and Paraphrasing:***

A quote occurs when you use 5 or more words from another source exactly as the words appear in the original. You are allowed to incorporate quotes from the work of others into your work. However, only up to 10% of your work can be quoted. A paraphrase is restating what someone else has said or written *using your own words*. A paraphrase is not achieved by simply altering the words from another source slightly. A slight rewording is still effectively a quote. You must either:

- Provide an *exact* quote (and indicate that it is a quote)
- Provide an appropriate paraphrase of the ideas in your words.

An appropriate paraphrase is normally achieved by reading and taking notes, then *closing the book and writing your own words*.

### ***What is collusion?***

Collusion involves working with others with the intention of deceiving examiners about who actually completed the work. For example, if a student employs someone else to do their work for them, that would constitute collusion. Or if one student willingly allows another student to copy their work for an individual assessment task, that would constitute collusion. In that case both students may have committed an academic offence. Collusion is not the same as collaboration. Collaboration is working together on a task; collusion is doing so in an unauthorised manner. What is authorised varies from task-to-task. For example, collaboration is allowed or expected on many assignments, but for other tasks such as exams and some in-class or online tests no collaboration is allowed. If you have any doubt about what constitutes authorised and unauthorised collaboration on a particular task you should consult IP management.

### ***Avoiding plagiarism:***

Plagiarism is avoided by appropriately acknowledging sources of your ideas or expressions. In this unit this entails:

1. Providing an in-text citation using the APA referencing system at the place where any idea or expression from another source is used, whether directly quoted or paraphrased; and
2. Clearly indicating where material is directly quoted (a direct quote occurs if 5 or more words from another source are used exactly as they are used in the original) by using quotation marks for short quotes or indenting for longer quotes; and

3. Providing a full reference to the source in a list of references at the end of the work, again using the APA referencing system.

**Important Note:** the *APA Referencing Guide* can be obtained from IP management

### Lecture Program:

Meeting	Topics	Reading
1	Introduction a. Definition of investment b. Principles of investment c. Law on investment	Siti Anisah, <i>Investment Law (Regulation, International Convention, Articles, News)</i> , Yogyakarta: FH UII, 2008
2	Types of investment a. Direct & indirect investments b. Domestic & foreign investment	<ul style="list-style-type: none"> <li>▪ Salim H.S., &amp; Budi Sutrisno, <i>Hukum Investasi di Indonesia</i>, Jakarta: Rajawali Pers, 2008</li> <li>▪ Ida Bagus Rahmadi Supanca, 2006, <i>Kerangka Hukum Kebijakan Investasi Langsung di Indonesia</i>, Jakarta: Ghalia Indonesia, 2006</li> <li>▪ Hulman Panjaitan &amp; Anner Mangatur Sianipar, <i>Hukum Penanaman Modal Asing</i>, Jakarta: Indhill, 2008</li> <li>▪ M. Sornarajah, <i>The International Law on Foreign Investment</i>, Cambridge: Cambridge University Press, 2004</li> </ul>
3	Investment Motivations, Restrictions & Incentives <ul style="list-style-type: none"> <li>▪ Why developed countries invest in developing country?</li> <li>▪ Investment restrictions in Indonesia</li> <li>▪ Investment incentives</li> </ul>	<ul style="list-style-type: none"> <li>▪ Erman Rajagukguk, <i>Hukum tentang Investasi dan Pembangunan (Karangan, Komentar dan Berita)</i>, Jakarta: Fakultas Hukum Universitas Indonesia, 1994</li> <li>▪ Erman Rajagukguk, <i>Hukum Investasi di Indonesianisasi</i>, Jakarta: Universitas Al-Azhar Indonesia, 2007</li> <li>▪ Salim H.S., &amp; Budi Sutrisno, 2008, <i>Hukum Investasi di Indonesia</i>, Jakarta: Rajawali Pers</li> <li>▪ Peter Muchlinski, <i>Multinational Enterprises and the Law</i>, Oxford: Blackwell Publisher, 1999</li> </ul>
4	Forms of Legal Entity & Area of An Enterprise <ul style="list-style-type: none"> <li>▪ Legal entity form</li> <li>▪ Closed &amp; opened field activities to FDI</li> </ul>	<ul style="list-style-type: none"> <li>▪ Salim H.S., &amp; Budi Sutrisno, 2008, <i>Hukum Investasi di Indonesia</i>, Jakarta: Rajawali Pers</li> <li>▪ Siti Anisah, <i>Investment Law (Regulation, International Convention, Articles, News)</i>, Yogyakarta: FH UII, 2008</li> </ul>
5	Approvals, Licenses, & Investment Procedures in Indonesia <ul style="list-style-type: none"> <li>▪ Investment approvals</li> <li>▪ Investment licenses</li> <li>▪ Investment procedures</li> </ul>	<a href="http://www.bkpm.go.id">http://www.bkpm.go.id</a>
6	Joint Venture Agreement on Investment <ul style="list-style-type: none"> <li>▪ Motivation of joint venture</li> <li>▪ Joint venture advantages</li> <li>▪ Types of joint venture</li> <li>▪ The clauses of joint venture agreement</li> </ul>	<ul style="list-style-type: none"> <li>▪ Erman Rajagukguk, <i>Hukum Investasi di Indonesianisasi</i>, Jakarta: Universitas Al-Azhar Indonesia, 2007</li> <li>▪ Ian Hewitt, <i>Joint Venture</i>, London: FT Law &amp; Tax, 1997</li> </ul>
7	Trade Related Investment	<ul style="list-style-type: none"> <li>▪ Erman Rajagukguk, <i>Hukum tentang Investasi</i></li> </ul>

	Measures (TRIMs) and APEC Non Binding Investment Principles <ul style="list-style-type: none"> <li>▪ TRIMs Principles</li> <li>▪ APEC Non Binding Investment Principles</li> </ul>	<p><i>dan Pembangunan (Karangan, Komentar dan Berita)</i>, Jakarta: Fakultas Hukum Universitas Indonesia, 1994</p> <ul style="list-style-type: none"> <li>▪ Andreas F. Lowenfeld, <i>International Economic Law</i>, Oxford: Oxford University Press, 2003</li> </ul>
8	Multilateral Investment Guarantee Agency (MIGA) <ul style="list-style-type: none"> <li>▪ What is MIGA?</li> <li>▪ Guaranteed Investment</li> <li>▪ Contract of Guarantee</li> </ul>	<ul style="list-style-type: none"> <li>▪ Erman Rajagukguk, <i>Hukum Investasi di Indonesianisasi</i>, Jakarta: Universitas Al-Azhar Indonesia, 2007</li> <li>▪ Hans Van Houtte, <i>The Law of International Trade</i>, London: Sweet &amp; Maxwell, 1995</li> </ul>
9	Dispute Settlement on Investment <ul style="list-style-type: none"> <li>▪ Dispute between Contracting State and National of the Contracting State</li> <li>▪ Disputes between Contracting Party and Investor</li> </ul>	<ul style="list-style-type: none"> <li>▪ Salim H.S., &amp; Budi Sutrisno, 2008, <i>Hukum Investasi di Indonesia</i>, Jakarta: Rajawali Pers</li> <li>▪ Supanca, Ida Bagus Rahmadi, 2006, <i>Kerangka Hukum Kebijakan Investasi Langsung di Indonesia</i>, Jakarta: Ghalia Indonesia, 2006</li> <li>▪ Andreas F. Lowenfeld, <i>International Economic Law</i>, Oxford: Oxford University Press, 2003</li> </ul>
10	Investment Prospect in Indonesia <ul style="list-style-type: none"> <li>▪ Investment Policy in 'Otonomi Daerah' (Local Autonomy) Era</li> <li>▪ Investment within Municipality Government</li> </ul>	Murtir Jeddawi, <i>Memacu Investasi di Era Otonomi Daerah, Kajian Beberapa Perda tentang Penanaman Modal</i> , Yogyakarta: UII Press, 2005

## Materials and References:

### 1. Main Texts :

- a. Siti Anisah, *Investment Law (Regulation, International Convention, Articles, News)*, Yogyakarta: FH UII, 2008
- b. Murtir Jeddawi, *Memacu Investasi di Era Otonomi Daerah, Kajian Beberapa Perda tentang Penanaman Modal*, Yogyakarta: UII Press, 2005
- c. Hulman Panjaitan & Anner Mangatur Sianipar, *Hukum Penanaman Modal Asing*, Jakarta: Indhill, 2008
- d. Erman Rajagukguk, *Hukum tentang Investasi dan Pembangunan (Karangan, Komentar dan Berita)*, Jakarta: Fakultas Hukum Universitas Indonesia , 1994
- e. Erman Rajagukguk, *Hukum Investasi di Indonesianisasi*, Jakarta: Universitas Al-Azhar Indonesia, 2007
- f. Salim H.S., & Budi Sutrisno, *Hukum Investasi di Indonesia*, Jakarta: Rajawali Pers, 2008
- g. Ida Bagus Rahmadi Supanca, 2006, *Kerangka Hukum Kebijakan Investasi Langsung di Indonesia*, Jakarta: Ghalia Indonesia, 2006
- h. Hans Van Houtte, *The Law of International Trade*, London: Sweet & Maxwell, 1995
- i. Ian Hewitt, *Joint Venture*, London: FT Law & Tax, 1997

- j. M. Sornarajah, *The International Law on Foreign Investment*, Cambridge: Cambridge University Press, 2004
- k. Peter Muchlinski, *Multinational Enterprises and the Law*, Oxford: Blackwell Publisher, 1999
- l. Andreas F. Lowenfeld, *International Economic Law*, Oxford: Oxford University Press, 2003

**2. Additional Textbooks and Readings :**

- a. Sumatoro, *Hukum Ekonomi*, Jakarta: UI Press, 1986
- b. Sumantoro, *Bunga Rampai Permasalahan Penanaman Modal dan Pasar Modal/Problems of Investment in Equities and in Securities*, Jakarta: Bina Cipta, 1984
- c. Ida Bagus Wyasa Putra, *Aspek-aspek Hukum Perdata Internasional dalam Transaksi Bisnis Internasional*, Bandung: Refika Aditama, 2000

**3. Journals :**

- a. Jurnal Hukum Bisnis, Jakarta: Yayasan Pengembangan Hukum Bisnis, 2002
- b. Jurnal Hukum Bisnis, Jakarta: Yayasan Pengembangan Hukum Bisnis, 2003

**4. Website :**

<http://www.bkpm.go.id>