Khuluqiyya
Jurnal Kajian Hukum dan Studi Islam
Vol 07. No 1. 2025
Sekolah Tinggi Agama Islam Al-Hikmah 2
p-ISSN 2655-8882
e-ISSN 2723-195X

CREATIVE COMMONS ATTRIBUTION-SHAREALIKE 4.0 INTERNATIONAL LICENSE.
Published by Sekolah Tinggi Agama Islam Al-Hikmah 2

Green Investment Practices and Challenges in Indonesia's Investment Legal System

Article

Author
Farah Tarisya Ayuningtias

Universitas Jenderal Soedirman

Corresponding Author:
farahtarisyaa12@gmail.com

Data:
Submitted: 20-03-2025;
Revision: 29-04-2025;
Accepted : 19-06-2025;
Published: 26-06-2025

DOI:
DOI: https://doi.org/10.56593/khuluqiyya.v6i2.166

Keywords:
green investment, investment law, sustainable development, socio-legal, green finance

Abstract

Green investment is a vital instrument in achieving sustainable development amidst the global climate crisis. As a country committed to green development agendas, Indonesia has shown increasing interest in environmentally friendly investments, particularly in sectors such as renewable energy, reforestation, and carbon trading. However, the current investment law system in Indonesia remains inadequately equipped to address the complexities of this green transformation. This article examines the current practices of green investment in Indonesia and analyzes its legal challenges using a socio-legal approach. Regulations such as Law No. 25 of 2007 on Investment, the Omnibus Law on Job Creation, and various environmental laws still lack legal clarity on the definition of "green investment," fiscal and legal incentives, and institutional coordination. In comparison, countries like Singapore and the European Union have adopted sustainable finance frameworks with clear taxonomies and strict oversight mechanisms to prevent greenwashing. The findings of this study highlight that the success of green investment initiatives in Indonesia relies heavily on reforming its investment legal system to be more responsive to environmental concerns and sustainability goals. Policy harmonization between investment, environmental, and fiscal regulations is urgently needed to strengthen systematic and equitable green investment governance in Indonesia.

Introduction

The issue of climate change and global environmental degradation has prompted the international community to transform towards an environmentally friendly sustainable development model. One of the key pillars in supporting this agenda is the strengthening of investment schemes that are in line with sustainability principles, known as green investment. This investment model emphasises the allocation of capital to sectors and economic activities that have a positive environmental impact, such as renewable energy, waste management, energy efficiency, and natural resource conservation.[1]

[1] Susanti, Anita, et al. "Kebijakan Green Economy melalui Sektor Energi Terbarukan dalam Pencapaian SDGS: Tinjauan Pustaka Sistematis." Jurnal Ekonomis 18.1 (2025): 25-46

The global trend towards green investment has grown stronger over the past two decades, in line with increasing awareness of the urgency of transitioning to a green economy. The 2023 UNCTAD report notes a significant increase in cross-border green investment flows, particularly in the clean energy and green infrastructure sectors.[2] Governments in various countries have begun to adopt legal and fiscal instruments to attract investment that supports the achievement of sustainable development goals (SDGs), particularly goal 7 (affordable and clean energy) and goal 13 (climate action).

Green investment is not only an alternative economic development instrument, but has also become a tool for economic and political diplomacy in the context of global climate change. International commitments such as the Paris Agreement are encouraging countries, including Indonesia, to establish legal and policy frameworks that support sustainable financing.[3] In this context, the involvement of the private sector and financial institutions is crucial.

Indonesia, as a developing country with abundant natural resources, has great potential for green investment development. The potential of renewable energy from geothermal, solar, and wind power has not yet been fully optimised. On the other hand, pressure on natural resources due to conventional investments that are not environmentally friendly continues to be a recurring structural problem.

The Indonesian government has demonstrated its commitment to strengthening the green investment agenda through various policies. One of these is the establishment of the Indonesia Investment Authority (INA), which is aimed at supporting strategic national projects, including green projects.[4] In addition, Indonesia's National Medium-Term Development Plan (RPJMN) and Nationally Determined Contribution (NDC) highlight the important role of the private sector in financing energy transition and climate adaptation.

However, despite political and policy efforts, green investment practices in Indonesia still face various structural barriers, one of which is the unpreparedness of the applicable investment legal system. Law No. 25 of 2007 on Investment, which serves as the main legal framework for investment in Indonesia, does not explicitly accommodate the concept of green investment as a priority investment category integrated with environmental aspects.

The absence of a legal definition of green investment in national legislation results in a lack of legal certainty for investors seeking to invest in sustainable projects. This impacts the weakness of legal protection, fiscal incentives, and bureaucratic procedures that support green investment as a whole.

Additionally, overlapping authorities between ministries and agencies regulating investment, the environment, and finance often result in regulatory inefficiency. Green investment requires synergy between investment law and environmental law, but in practice, the two still operate within sectoral frameworks that are not integrated.[5]

The implementing regulations of the Job Creation Law and various derivative policies have indeed begun to provide space for investments that pay attention to sustainability. However, the

2 Wetri Febrina, S. T., et al. Green Industry Management. Cendikia Mulia Mandiri, 2023

3 Baroleh, Sharon Easter, Cornelis Dj Massie, and Natalia L. Lengkong. "Implementasi Konvensi Internasional Paris Agreement Tentang Mitigasi Perubahan Iklim Di Indonesia." Lex Privatum 11.5 (2023).

4 Nufus, Hayati, Lidya C. Sinaga, and Xue Song, eds. Refleksi Satu Dekade Belt and Road Initiative: Peluang Dan Tantangan Kerja Sama Indonesia-Tiongkok. Yayasan Pustaka Obor Indonesia, 2024.

5 Mas, I. Gusti Ayu Made Agung, et al. Green Economy. PT. Sonpedia Publishing Indonesia, 2024.

absence of substantive norms regarding green investment as an independent legal object makes these regulations fragmentary and unable to serve as a comprehensive legal umbrella.

This situation is exacerbated by the weak capacity of institutions to verify green projects. The phenomenon of greenwashing or false greenwashing is one of the risks that is increasing in the absence of strict legal oversight mechanisms for sustainability claims made by businesses.[6]

In the regional context, several countries have already established legal frameworks that strictly regulate green investment. The European Union, for example, has adopted the EU Taxonomy Regulation, which classifies economic activities based on their contribution to environmental goals.[7] Countries such as Singapore have even developed a Green Finance Action Plan to promote a green financial ecosystem.[8]

Indonesia's lag in developing a pro-environment investment legal system will have an impact on global competitiveness and the country's ability to attract foreign capital to green sectors.[9] In fact, the huge market potential and Indonesia's vulnerability to the impacts of climate change should be strong reasons to reform the existing investment law system.

Therefore, there is an urgent need to review the national investment legal framework to make it more adaptive to the green development paradigm. It is not enough to rely solely on administrative policies; substantive legal norms are needed to ensure protection, certainty, and incentives for investors who invest in environmentally friendly sectors.

This research aims to address various fundamental issues related to green investment practices in Indonesia and the legal challenges that accompany them. This study will critically examine the alignment of current investment regulations with environmental sustainability needs and compare the national legal framework with international best practices.

Using a legal-normative approach and policy analysis, this article aims to contribute to the formulation of ideas for reforming Indonesia's investment law to make it more progressive, integrative, and responsive to the challenges of global climate change.

Method

This study uses a socio-legal research approach, which is a method that combines normative legal studies with social analysis of how the law operates in practice. This approach was chosen to examine the dynamics between formal regulations on green investment in Indonesia and actual practices in the field, as well as to understand the legal and institutional obstacles that arise in its implementation. This research also considers the role of non-state actors such as corporations and investors, as well as how the interaction between investment law, environmental law, and fiscal policy shapes the configuration of green investment governance in Indonesia. Research data was obtained through a literature review of relevant national regulations (such as Law No. 25 of

6 Aryoso, Herlan, and Fitri Santi. "Milenial dan Investasi Berkelanjutan: Menghindari Jebakan Greenwashing." Jurnal Manajemen Terapan dan Keuangan 12.04 (2023): 1175-1184.

7 Armintasari, Fiona, et al. Mendorong Taksonomi Hijau yang Berkeadilan. https://repository. theprakarsa. org/, 2022.

8 Fadhillah, Fadhillah, and Wahyu Dwi Agung. "Singapore And Sustainable Finance: Successful Models In Policy Implementation And Best Practices, Compare With Indonesia." Jurnal Akuntansi dan Keuangan Islam 12.2 (2024): 127-148.

9 Hasid, H. Zamruddin, et al. Ekonomi sumber daya alam dalam lensa pembangunan ekonomi. Cipta Media Nusantara, 2022

2007, the Job Creation Law and its derivatives, and environmental regulations), policy documents from institutions such as the OJK and the Ministry of Investment, and case study reports on green investment in the renewable energy, reforestation, and carbon trading sectors. Additionally, a comparative study was conducted with legal frameworks in other countries such as Singapore and the European Union to highlight aspects that could be adopted. The analytical techniques used include content analysis of legal norms and policy documents, as well as critical interpretation of the social and economic context influencing the effectiveness of green investment laws in Indonesia.

Result and Discussion

Green Investment Regulations in Indonesia

Regulations on green investment in Indonesia are essentially scattered across various sectoral legal instruments and have not been integrated into a comprehensive legal framework. This results in a partial and reactive legal approach to green investment, making it difficult to create an investment ecosystem conducive to sustainable development. One of the main regulations that serves as a starting point for understanding the national investment legal framework is Law No. 25 of 2007 on Investment. This law provides the legal basis for all forms of investment, both domestic and foreign, and contains general principles governing the treatment of investors and legal protection guarantees. However, this law does not explicitly include green investment as a separate legal entity that receives special treatment.[10]

Law No. 25/2007 does contain several articles that refer to the principle of environmental responsibility, such as Article 15(b), which requires investors to preserve the environment. However, these clauses are still normative in nature and do not provide adequate legal instruments to encourage incentives for environmentally-friendly projects. This law does not classify types of investment based on their impact on the environment or their contribution to the sustainable development agenda. As a result, there is no legal basis for prioritising, facilitating, or providing incentives for investments that meet green criteria. This is a major structural obstacle in efforts to create a sustainable investment ecosystem in Indonesia.

Investment regulatory reform through the enactment of Law No. 11 of 2020 on Job Creation is an important milestone in the transformation of national investment law, including the strengthening of environmental aspects. The Job Creation Law integrates various sectoral regulations into a single omnibus law aimed at creating ease of doing business, including for investment. This regulation contains several provisions that provide space for environmental sustainability principles, particularly through the simplification of licensing and the integration of business licensing and environmental documents, such as the Environmental Impact Assessment (EIA).[11]

One of the implementing instruments of the Job Creation Law is a risk-based licensing system known as OSS RBA (Online Single Submission – Risk Based Approach). Through OSS RBA, business activities are classified based on their level of risk to the environment, society, and

[10] Wahida, Khoirunisa, and Hoirul Uyun. "Tatanan Indonesia dalam mewujudkan pertumbuhan ekonomi berkelanjutan melalui green economy." Harmoni: Jurnal Ilmu Komunikasi dan Sosial 1.2 (2023): 14-26

[11] Kharisma, Dona Budi. "Omnibus Law Dan Izin Lingkungan Dalam Konteks Pembangunan Berkelanjutan." Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional 9.1 (2020): 109

economy.[12] Although this system opens up space to be more selective towards projects that have a significant impact on the environment, unfortunately, it still emphasises procedural efficiency over substantive incentives for green investment. There is no specific classification in the OSS RBA that designates green projects as a national strategic priority that receives special fiscal treatment and benefits.

Government Regulation No. 5 of 2021 on the Implementation of Risk-Based Licensing and Government Regulation No. 22 of 2021 on the Implementation of Environmental Protection and Management are direct derivatives of the Job Creation Law that are relevant in the context of green investment. Government Regulation No. 22/2021 strengthens the position of environmental documents such as AMDAL in the business licensing process. However, the existence of AMDAL as an administrative prerequisite has not been optimally synergised with green investment policies, which should be based on incentive-based approaches and strict sustainability criteria.[13] Therefore, there are still legal loopholes in the integration of environmental instruments with green investment-based economic development strategies.

On the other hand, Law No. 32 of 2009 concerning Environmental Protection and Management (PPLH Law) has long been the main reference in environmental regulation in Indonesia. This law requires every business activity that has a significant impact on the environment to prepare an Environmental Impact Assessment (EIA) as a prerequisite for licensing. However, unfortunately, although the EIA has the potential to serve as an initial screening tool for environmentally unfriendly investment projects, its implementation in the field still faces various challenges, such as weak monitoring capacity, low quality of EIA preparation, and the potential for data manipulation by business initiators. This situation means that environmental regulations are not yet strong enough to filter out non-green investments.

Furthermore, there is a regulatory imbalance in terms of recognition and promotion of projects that genuinely support energy transition or climate change mitigation. There is no official classification or labelling system from the Indonesian government for what constitutes a green project. As a result, investors and authorities find it difficult to identify projects that are eligible for incentives within the framework of green financing. Without clear and formal legal classification, the potential for greenwashing is even higher.

In the context of finance and investment financing, the role of the Financial Services Authority (OJK) is strategic in building a green finance ecosystem in Indonesia. The OJK has issued the first phase (2015–2019) and second phase (2021–2025) of the Sustainable Finance Roadmap, which serves as a guideline for the financial services sector in supporting environmentally friendly economic activities.[14] The OJK also regulates the issuance of green bonds through POJK No. 60/POJK.04/2017, which provides guidelines for issuers in issuing debt securities for sustainable projects. However, this regulation is more sectoral in nature and has not yet been directly integrated into the national investment legal system.

---

[12] Dharmayanti, Ida Ayu Kade Febriyana, and Putu Gede Arya Sumerta Yasa. "Penerapan Sistem Perizinan Berusaha Online Single Submission Risk-Based Approach (OSS-RBA) Di Bidang Industri Pasca UU Cipta Kerja." Jurnal Komunikasi Hukum (JKH) 8.1 (2022): 509-526

[13] Redi, Ahmad. Hukum Sumber Daya Alam Sektor Kemaritiman dan Perikanan. Jakad Media Publishing, 2023.

[14] Peby, Selviona. Analisis Literasi Green Financing Sebagai Pembiayaan Berkelanjutan Bagi Usaha Mikro Kecil Menengah (Umkm) Sektor Industri Pengolahan MakanaN (Studi Pada UMKM Pengolahan Keripik di Kota Bandar Lampung). Diss. UIN RADEN INTAN LAMPUNG, 2024.

In addition to the OJK, the Ministry of Investment/BKPM also plays an important role in directing green investment through national strategic programmes. Although this ministry has not explicitly issued specific regulations on green investment, there are efforts to promote renewable energy projects and environmental management in the priority project map. In practice, the Ministry of Investment remains focused on investment promotion and facilitation and has not yet become a normative institution regulating the classification or standardisation of green projects from an environmental sustainability perspective.

It should be noted that there is no single authority with integrated regulatory and executive mandates in green investment matters. The fragmentation of authority between the Ministry of Environment and Forestry (KLHK), the Ministry of Investment, and the OJK has resulted in suboptimal coordination in the development of green investment regulations. As a result, although there has been progress in each sector, inter-agency synergy in the formulation of substantive legal norms regarding green investment has not yet been realised.

Amid these challenges, Indonesia actually has a significant opportunity to align its investment legal system with the principles of a green economy based on ecological justice. Changes to the investment legal structure should focus on strengthening regulations that are not only administrative but also substantive and normative in defining green investment, providing special treatment for sustainable projects, and establishing an integrated oversight system. This can begin with the creation of a binding national green taxonomy that serves as a reference in the OSS and other investment regulations.

Thus, although there are currently several regulations that touch on sustainability aspects, both in the fields of investment and the environment, the legal framework for green investment in Indonesia is still in its infancy. Comprehensive regulatory reform is needed so that green investment does not merely become a jargon in policy documents, but is realised as an operational, consistent, and effective legal practice in promoting sustainable development in Indonesia.

Green Investment Practices in Indonesia

Green investment practices in Indonesia have begun to show significant growth over the past decade, particularly in the renewable energy, environmental conservation, and carbon trading sectors. The most prominent sector is investment in solar and wind energy, given Indonesia's enormous geographical potential, especially in the eastern and southern coastal regions of Java. Solar power plant (SPP) projects, both residential and industrial scale, have developed in several regions, such as the Cirata SPP in West Java and several floating SPP projects. Similarly, the construction of wind power plants (WPP) such as in Sidrap (South Sulawesi) and Jeneponto has become an early icon of Indonesia's transition towards green energy. These investments are largely funded through collaborations between local companies and foreign investors, as well as green loans from international financial institutions.

Beyond renewable energy, green investment practices also extend to the forestry sector, particularly through reforestation and ecosystem restoration programmes. These activities are often carried out under Public-Private Partnership (PPP) frameworks, involving corporations in fulfilling their environmental obligations while also fulfilling their corporate social responsibility. Reforestation in protected forests and damaged peatlands is a key focus, given the role of

Indonesia's tropical forests in absorbing global carbon. One example is the peatland restoration project in Kalimantan, supported by international donors and multinational corporations under the framework of voluntary carbon trading.[15]

The carbon trading mechanism is one of the innovative forms of green investment in Indonesia. This mechanism allows businesses to sell their excess carbon emissions that they have successfully reduced to other parties who are unable to meet their emission reduction targets. Indonesia launched an official carbon exchange in 2023, managed by the Indonesia Stock Exchange (IDX), with regulatory support from the Financial Services Authority (OJK) and the Ministry of Environment and Forestry (KLHK). Through this exchange, companies that undertake emission mitigation actions—such as through solar power projects or forest planting—can generate financial benefits from the sale of carbon credits, which provide direct incentives for their green initiatives.

Foreign investor involvement in green investment in Indonesia is significant, both in the form of direct investment and through sustainable financing mechanisms. Investors from countries such as Japan, South Korea, China, and several European nations, including the Netherlands and Germany, are actively funding renewable energy projects and nature conservation initiatives.[16] They see Indonesia as a potential market that has not been fully tapped, with abundant natural resources that have not yet been managed sustainably. This involvement is not only in the form of funding, but also through technology transfer and low-carbon project management.

At the domestic level, a number of local corporations are beginning to show commitment to green investment, particularly state-owned enterprises such as PLN, Pertamina, and PGE (Pertamina Geothermal Energy), which are starting to shift part of their investment portfolios towards clean energy.[17] In addition, national private companies such as Barito Renewables and forestry-based companies such as RAPP (Riau Andalan Pulp and Paper) have also begun to adopt environmental standards in their business activities. Although this step is commendable, most local companies still view green investment as an additional cost burden rather than a long-term strategic opportunity, so the scale of adoption remains limited.

The main obstacles to the implementation of green investment in Indonesia are not only technical but also regulatory, as the regulatory environment is still not conducive. Technically, the biggest challenge lies in the limitations of supporting infrastructure, such as electricity transmission networks that are not yet ready to receive supply from solar or wind power plants, especially in remote areas. In addition, the technology used in green projects, such as solar panels, inverters, and energy storage systems, is still dependent on imports, which has an impact on high initial investment costs and dependence on exchange rate fluctuations.

From a regulatory perspective, policy inconsistency is one of the main obstacles in attracting green investors. The government's renewable energy tariff regulations often change, creating market uncertainty. Regulations regarding PLN's purchase of electricity from renewable energy producers are also not competitive enough and still largely position PLN as the sole buyer with

[15] Tarumingkeng, Rudy C. "Hutan Hujan Tropis." (2024).

[16] Damanik, M. Riza, et al. "Belajar dari rakyat:"investasi pertanian yang bertanggung jawab"." Indonesia for Global Justice, Yogyakarta (2014).

[17] Novenita Kartini, Vina. Pembentukan Portofolio Optimal Menggunakan Model Indeks Tunggal (Studi Pada Perusahaan BUMN yang Terdaftar Dalam Indeks LQ45 di Bursa Efek Indonesia Periode 2020-2024). Diss. Fakultas Ekonomi Dan Bisnis Universitas Pakuan, 2024.

significant negotiating power. This makes many green energy projects commercially unviable, especially without adequate fiscal incentives.

Another challenge lies in the government's delay in formally establishing standards and classifications for green projects. Without a binding national green taxonomy, it is difficult for investors to identify which projects qualify as green investments. This uncertainty also impacts access to green financing from financial institutions, as banks and investment firms struggle to assess the risks and viability of green projects without a standardised evaluation framework. In this context, the government's role in establishing norms, guidelines, and operational regulations is crucial.

In addition to regulatory and technical obstacles, green investment practices also face institutional challenges. Coordination between relevant ministries/agencies often does not run optimally, causing overlapping authorities and delays in licensing. Projects that should receive fast-track approval because they are considered strategic and sustainable are instead hindered by bureaucracy and institutional disharmony. This is one of the reasons for the low realisation of green investments despite high investor interest.

Despite these challenges, green investment practices in Indonesia are showing a progressive direction. Technological advancements, global pressure to meet emission targets, and increasing corporate and consumer awareness of environmental issues are driving factors that cannot be ignored. Political courage, regulatory consistency, and appropriate incentives are needed to accelerate the transformation of the investment system toward a greener, fairer, and more sustainable framework.[18]

Legal Challenges in the Implementation of Green Investment

One of the fundamental challenges in implementing green investment in Indonesia is the absence of an explicit legal definition of 'green investment' in the national regulatory system. This lack of definition has caused confusion among businesses, regulators, and financing institutions regarding the classification of economic activities that can be referred to as green investment. As a result, there is no strong legal basis for granting special treatment to investments that incorporate environmental sustainability elements. This uncertainty affects the licensing process, access to fiscal incentives, and oversight of the implementation of green investments in the field.

The lack of a definition for 'green investment' also has serious implications for cross-sectoral legal integration, particularly between investment law and environmental law. Investment law, as regulated in Law No. 25 of 2007, is sectorally neutral and does not distinguish between environmentally friendly investments and those that are not. Meanwhile, environmental law, as regulated in Law No. 32 of 2009 and its derivative instruments, is more oriented towards mitigating impacts rather than promoting sustainable investment. This weak integration causes investment policies and environmental protection to run on different tracks, sometimes even conflicting with each other in their implementation.[19]

Another crucial challenge is the lack of clarity regarding legal and fiscal incentives for

[18] Yunus, Andi. "Green Finance di Indonesia: Tinjauan Umum." Management Studies and Business journal 1.2 (2024): 7-13.

[19] Rumbay, Cornella. "Kajian Yuridis Jaminan Kepastian Hukum Mengenai Perlakuan Dan Fasilitas Menurut Undang-Undang No 25 Tahun 2007 Tentang Penanaman Modal." Lex Administratum 2.3 (2014).

green investors. Although the government has repeatedly expressed its support for the green economy, including in the RPJMN document and international commitments (such as NDC and SDGs), there are no regulations that explicitly regulate specific incentives for green projects. Tax exemption schemes, import duty relief, or financing facilities remain general in nature and are not specific to the green sector. Even when support schemes such as green bonds or green sukuk exist, their mechanisms are primarily regulated through financial instruments and have not been institutionalised within national investment law.

Overlapping regulations between ministries and agencies also pose a structural barrier to green investment implementation. The Ministry of Investment, the Ministry of Environment and Forestry (KLHK), the Financial Services Authority (OJK), and the Ministry of Finance each have mandates related to investment and the environment, but coordination between agencies is often not synchronised. For example, there are differences in interpretation between KLHK and BKPM in assessing the environmental feasibility of investment projects, which can slow down the licensing process. This highlights the need for regulatory harmonisation and the establishment of a single coordinating authority to align national green investment policies.

This overlap is exacerbated by fragmented derivative regulations, such as Government Regulations, Ministerial Regulations, and other technical regulations, which are not formulated within an integrative framework. In this context, the Job Creation Law and the OSS (Online Single Submission) system have not been able to completely eliminate this overlap. Green investment projects, which should be prioritised, are often bogged down in complex and convoluted bureaucracy, as well as administrative requirements that are not aligned across sectors. Therefore, investment regulatory reform must be accompanied by sectoral regulatory reform and the establishment of a more efficient inter-ministerial coordination system.

Legal challenges also arise in the form of greenwashing risks, which is the practice of claiming investment activities as 'green' or sustainable without being supported by data and concrete actions. In the absence of national legal definitions and standards, businesses can freely use the 'green' label as a marketing strategy or to build corporate image. This phenomenon not only misleads the public but can also undermine the trust of investors and financial institutions committed to Environmental, Social, and Governance (ESG) principles. The risk of greenwashing highlights the urgency of establishing official certification, audit, and accreditation mechanisms for green projects by independent authorities.[20]

The mechanisms for monitoring and enforcing green investments are also still weak, both in terms of institutional capacity and available legal instruments. Monitoring of projects that claim to be green is often limited to the initial licensing stage (ex-ante), without adequate follow-up monitoring (ex-post). When violations occur, the administrative or criminal sanctions available are often disproportionate and difficult to enforce, as there are no legal instruments specifically designed for violations in the green investment sector. This results in low compliance and accountability of investors towards environmental sustainability principles.

Weak oversight is also influenced by limitations in data and transparency of green investment projects. Not all projects that claim to be 'green' are required to disclose data on emissions,

[20] Sujono, Rusny Istiqomah, and Meutia Layli. "Peran Pembangunan Berkelanjutan Dalam Pengentasan Kemiskinan Dan Pengangguran." Ekonomi Sirkular Dan Pembangunan Berkelanjutan (2022): 185.

energy use, or environmental impacts.[21] As a result, the public and civil society have no basis for participatory oversight. Yet information disclosure is a key principle in sustainable development and good environmental governance. Therefore, regulations are needed that require regular sustainability reporting and environmental audits, which are openly accessible.

Meanwhile, legal challenges also arise from the low capacity of human resources and legal institutions in understanding and addressing green investment issues. Many law enforcement officials, judges, and policymakers do not yet have a sufficient understanding of the concepts of the green economy, ESG principles, and their relationship with domestic regulations. This results in a lack of progressive jurisprudence or legal precedents in support of green investment. Legal education and training for stakeholders are important for the transition to green investment law to proceed effectively.

Considering the complexity of these legal challenges, it is time for Indonesia to formulate a comprehensive and integrated green investment legal framework, starting from legal definitions, classification of green projects, provision of incentives, to an effective monitoring system. The development of a green investment law, or at least sectoral and synchronised subsidiary regulations in the form of Government Regulations or Presidential Regulations, could be a strategic step. Law must be a driver—not an obstacle—in the transition towards sustainable development and environmental justice.

Comparison with Other Countries

In response to the global challenges of climate change and the need for sustainable development, various countries have developed legal frameworks and policies to encourage green investment. Two notable examples in this context are Singapore and the European Union, each of which has established regulatory systems that support sustainable financing and investment ecosystems. Both jurisdictions have not only demonstrated a strong commitment to sustainability principles, but have also moved beyond the declarative phase to a stage of concrete and measurable implementation.

Singapore, as one of the leading financial centres in Southeast Asia, has developed ambitious policies through the Green Finance Action Plan launched by the Monetary Authority of Singapore (MAS) in 2019.[22] This action plan aims to make Singapore a global hub for sustainable and low-carbon financing. This strategy is not merely rhetorical, but is underpinned by a clear regulatory roadmap, including strengthening financial regulations, developing a national green taxonomy, and enhancing the capacity of financial institutions to assess climate risk.

One of the key pillars of the Green Finance Action Plan is the development of a national green activity taxonomy, which sets clear criteria for what constitutes sustainable economic activity. With this taxonomy in place, financial institutions in Singapore have a strong reference point for evaluating which projects can be categorised as green investments. This not only improves accountability and transparency, but also mitigates the risk of greenwashing, which is increasingly a global concern.

[21] Nugraha, Ryan, et al. Green Economy: Teori, Konsep, Gagasan Penerapan Perekonomian Hijau Berbagai Bidang di Masa Depan. PT. Sonpedia Publishing Indonesia, 2024.

[22] Protugus, Rafif Nabil, Rikki Jitu Saputra, and Yosef Suryo Wibowo. "Perbandingan Penerapan Prinsip Environmental, Social and Governance dalam Corporate Governance di Indonesia dan Singapura." Journal of Multidisciplinary Inquiry in Science, Technology and Educational Research 2.1 (2025): 523-529.

In addition to the taxonomy, MAS has also introduced TCFD (Task Force on Climate-related Financial Disclosures)-based climate disclosure standards as a mandatory reference for financial institutions.[23] This standard promotes transparency in reporting climate risks and impacts on business activities and investments, thereby creating market confidence and encouraging capital allocation to green sectors. Disclosure is mandatory for large financial entities, but MAS also encourages smaller institutions to voluntarily follow these best practices.

Singapore has also adopted a structured fiscal and incentive approach, such as the Green and Sustainability-Linked Loan Grant Scheme and the Green Bond Grant Scheme. These schemes provide direct incentives in the form of subsidies for the issuance of green bonds or loans for companies that meet certain criteria. Thus, the commitment to green investment is not only evident in legal norms but also in concrete fiscal policies that can be felt by the business world.

On the other hand, the European Union (EU) has taken a further step by implementing the EU Taxonomy Regulation in 2020 as part of the European Green Deal. This regulation is a significant milestone in sustainable investment law in Europe as it establishes a legal framework that classifies economic activities based on their contribution to environmental objectives, such as climate change mitigation, climate adaptation, sustainable water use, and others. The Taxonomy Regulation is binding and serves as the basis for various derivative regulations in the financial, investment, and corporate reporting sectors.

The EU Taxonomy not only sets technical criteria for each category of economic activity but also requires that such activities must not harm other environmental objectives (do no significant harm) and must be conducted while respecting social rights (minimum safeguards). This approach is holistic and interdisciplinary, reflecting the understanding that green investment is not just about carbon emissions but also concerns social justice and business ethics. This makes the EU a pioneer in integrating ESG principles into positive law.

The European Union has also implemented the Sustainable Finance Disclosure Regulation (SFDR), which requires asset managers and financial institutions to publicly disclose how sustainability risks and impacts are considered in investment decisions. The SFDR is part of the oversight mechanism against greenwashing and strengthens public confidence in the financial sector.[24] Transparency is a fundamental principle that is not only protected normatively, but also enforced legally through administrative and reputational sanctions.

An important lesson that Indonesia can learn from these two jurisdictions is the need for a clear legal definition and national taxonomy for green investment. Without clear legal criteria, the entire green financing ecosystem will be fragile and at risk of abuse. Indonesia needs to start developing an official classification based on science that can be integrated into the OSS licensing system, fiscal policy, and OJK supervision. This can begin by adopting or adapting international practices such as the EU Taxonomy or ASEAN Taxonomy that are already available.

Additionally, it is important for Indonesia to develop a fiscal incentive scheme based on regulations rather than just sectoral policies. Tax exemptions or financing subsidies for green

[23] Silaen, Uluan, Wimpi Srihandoko, and Sinta Listari. "SUSTAINABLE BANKING MANAGEMENT." Kesatuan Press (2025).

[24] Kossay, Methodius, Rengga Kusuma Putra, and Maulana Fahmi Idris. "Keberlanjutan Ekonomi dalam Perspektif Hukum: Analisis Regulasi Environmental, Social, and Governance di Indonesia." Perkara: Jurnal Ilmu Hukum dan Politik 3.1 (2025): 675-693.

projects must be regulated by government regulations or laws to ensure legal binding force and prevent changes due to administrative transitions. Singapore's success demonstrates that structured incentives can enhance the appeal of green investments without compromising the country's fiscal credibility.

In terms of oversight and accountability, Indonesia can also follow the European Union's example in implementing systematic and mandatory mechanisms for disclosing climate risks and impacts. This will strengthen market confidence and assist regulators in assessing investment quality. Additionally, a standardised disclosure system will support the creation of robust national data that can serve as the basis for evidence-based policymaking.

In conclusion, comparisons with Singapore and the European Union show that the success of green investment is not only determined by political commitment, but also by a strong, harmonious, and operational legal framework. Indonesia, as a developing country with significant green resource potential, needs to accelerate the integration of legal and green policy aspects into its investment system. Lessons from other countries should not be copied blindly, but rather serve as inspiration in designing regulations that are contextual, progressive, and effective.

Analysis of Green Investment in Indonesia using a socio-legal approach

The socio-legal approach to analysing green investment in Indonesia allows us to view law not merely as a normative text, but as a living social institution that interacts with economic, political and cultural structures. In this context, Nonet & Selznick's theory of responsive law becomes highly relevant. They argue that the ideal law in modern society is not repressive or autonomous, but responsive—that is, law that can capture social aspirations, promote substantive justice, and be flexible to changes in the social environment.

Green investment regulations in Indonesia, as outlined in Law No. 25/2007, the Job Creation Law, and various derivative regulations related to the environment, such as the Law on Environmental Protection and Management, demonstrate the state's articulate efforts in responding to the global green agenda. However, when analysed from a responsive law perspective, these regulations are still in the stage of instrumental formalism, where law is used as a policy tool but is not yet fully responsive to field dynamics, such as the need for green investment classification, fiscal incentives, and cross-sectoral legal integration.

In practice, green investments such as renewable energy projects (solar power plants, wind power), reforestation, or carbon trading have begun to show positive signs. However, from a socio-legal theory perspective, there is a gap between the idealised legal norms and the complex social reality. These practices often encounter challenges such as overlapping policies, local resistance, and institutional governance limitations. This indicates that the law has not yet become an adequate arena for mediating interests, as idealised by responsive law.

On the other hand, Boaventura de Sousa Santos' theory of legal pluralism asserts that in modern society, the formal legal system of the state is not singular. It must interact with other systems of knowledge, values, and practices in society, including local green economic systems and the ecological values of indigenous communities. In this context, green investment in Indonesia faces challenges from the lack of alignment between state law and local social practices, such as community-based reforestation or green energy projects that encroach on indigenous territories.

Legal challenges in green investment, such as the absence of an explicit legal definition of green investment, weak integration between environmental law and investment law, and the potential for greenwashing, further emphasise the importance of legal transformation towards a responsive model. Law is not enough to merely regulate; it must also be able to create an institutional ecosystem that can guarantee sustainability, distributional justice, and accountability of investment actors. Without this capability, law becomes merely a formal legal tool without any value in terms of environmental advocacy.

Comparisons with other countries, such as Singapore and the European Union, also show that the success of green investment requires legal capacity that is not only regulatory but also performative and coordinative. The Taxonomy Regulation in the European Union and Singapore's Green Finance Action Plan reflect responsive legal forms that prioritise participation, multi-stakeholder oversight, and the use of qualitative indicators in assessing investment impacts. This contrasts with the legal approach in Indonesia, which still tends to be positivistic and sectoral.

Within the framework of socio-legal theory, Indonesia's current situation reflects a legal model at the crossroads between law as control (law as a tool for policy control) and efforts towards law as dialogue (law as a deliberative space between the state, the market, and civil society). To strengthen green investment, Indonesian law must move beyond the trap of top-down policy tools and enter the phase of co-regulatory governance, where law serves as a mediator between economic actors, state institutions, and environmental communities.

In conclusion, through a socio-legal approach, particularly the theories of Nonet & Selznick and Boaventura Santos, it can be understood that the success of green investment is not only determined by existing legislation, but by the extent to which the law can become part of a participatory and equitable socio-ecological transformation. Indonesia needs legal reforms that not only respond to the green agenda procedurally but also shape a legal culture that prioritises sustainability and ecological justice.

Conlusion

Green investment is a strategic instrument in supporting Indonesia's sustainable development agenda, especially in the context of energy transition and climate crisis control. However, the national investment legal system still faces structural and conceptual challenges in fully adopting the green paradigm. The absence of a clear legal definition of 'green investment,' weak integration between investment and environmental regulations, and the lack of strong legal and fiscal incentive schemes indicate that Indonesia is not yet fully prepared from a regulatory perspective to accelerate environmentally friendly investment practices in a systemic manner. Compared to countries such as Singapore and the European Union, Indonesia still needs to undertake more progressive legal reforms, including developing an official classification of sustainable investment activities (green taxonomy), strengthening oversight of greenwashing risks, and harmonising the roles of ministries and financial institutions. Harmonisation between investment law, environmental law, and fiscal policy is key to creating a credible and inclusive green investment climate. With responsive regulatory reforms based on sustainability principles, Indonesia has a significant opportunity to become one of the leading centres for green investment in Southeast Asia.

References

Armintasari, Fiona, et al. Mendorong Taksonomi Hijau yang Berkeadilan. https://repository.theprakarsa. org/, 2022.

Aryoso, Herlan, and Fitri Santi. "Milenial dan Investasi Berkelanjutan: Menghindari Jebakan Greenwashing." Jurnal Manajemen Terapan dan Keuangan 12.04 (2023): 1175-1184.

Baroleh, Sharon Easter, Cornelis Dj Massie, and Natalia L. Lengkong. "Implementasi Konvensi Internasional Paris Agreement Tentang Mitigasi Perubahan Iklim Di Indonesia." Lex Privatum 11.5 (2023).

Damanik, M. Riza, et al. "Belajar dari rakyat:"investasi pertanian yang bertanggung jawab"." Indonesia for Global Justice, Yogyakarta (2014).

Dharmayanti, Ida Ayu Kade Febriyana, and Putu Gede Arya Sumerta Yasa. "Penerapan Sistem Perizinan Berusaha Online Single Submission Risk-Based Approach (OSS-RBA) Di Bidang Industri Pasca UU Cipta Kerja." Jurnal Komunikasi Hukum (JKH) 8.1 (2022): 509-526

Fadhillah, Fadhillah, and Wahyu Dwi Agung. "Singapore And Sustainable Finance: Successful Models In Policy Implementation And Best Practices, Compare With Indonesia." Jurnal Akuntansi dan Keuangan Islam 12.2 (2024): 127-148.

Hasid, H. Zamruddin, et al. Ekonomi sumber daya alam dalam lensa pembangunan ekonomi. Cipta Media Nusantara, 2022

Kharisma, Dona Budi. "Omnibus Law Dan Izin Lingkungan Dalam Konteks Pembangunan Berkelanjutan." Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional 9.1 (2020): 109

Kossay, Methodius, Rengga Kusuma Putra, and Maulana Fahmi Idris. "Keberlanjutan Ekonomi dalam Perspektif Hukum: Analisis Regulasi Environmental, Social, and Governance di Indonesia." Perkara: Jurnal Ilmu Hukum dan Politik 3.1 (2025): 675-693.

Mas, I. Gusti Ayu Made Agung, et al. Green Economy. PT. Sonpedia Publishing Indonesia, 2024.

Novenita Kartini, Vina. Pembentukan Portofolio Optimal Menggunakan Model Indeks Tunggal (Studi Pada Perusahaan BUMN yang Terdaftar Dalam Indeks LQ45 di Bursa Efek Indonesia Periode 2020-2024). Diss. Fakultas Ekonomi Dan Bisnis Universitas Pakuan, 2024.

Nufus, Hayati, Lidya C. Sinaga, and Xue Song, eds. Refleksi Satu Dekade Belt and Road Initiative: Peluang Dan Tantangan Kerja Sama Indonesia-Tiongkok. Yayasan Pustaka Obor Indonesia, 2024.

Nugraha, Ryan, et al. Green Economy: Teori, Konsep, Gagasan Penerapan Perekonomian Hijau Berbagai Bidang di Masa Depan. PT. Sonpedia Publishing Indonesia, 2024.

Peby, Selviona. Analisis Literasi Green Financing Sebagai Pembiayaan Berkelanjutan Bagi Usaha Mikro Kecil Menengah (Umkm) Sektor Industri Pengolahan MakanaN (Studi Pada UMKM Pengolahan Keripik di Kota Bandar Lampung). Diss. UIN RADEN INTAN LAMPUNG, 2024.

Protugus, Rafif Nabil, Rikki Jitu Saputra, and Yosef Suryo Wibowo. "Perbandingan Penerapan Prinsip Environmental, Social and Governance dalam Corporate Governance di Indonesia dan Singapura." Journal of Multidisciplinary Inquiry in Science, Technology and Educational Research 2.1 (2025): 523-529.

Redi, Ahmad. Hukum Sumber Daya Alam Sektor Kemaritiman dan Perikanan. Jakad Media Publishing, 2023.

Rumbay, Cornella. "Kajian Yuridis Jaminan Kepastian Hukum Mengenai Perlakuan Dan Fasilitas Menurut Undang-Undang No 25 Tahun 2007 Tentang Penanaman Modal." Lex Administratum 2.3 (2014).

Silaen, Uluan, Wimpi Srihandoko, and Sinta Listari. "SUSTAINABLE BANKING MANAGEMENT." Kesatuan Press (2025).

Sujono, Rusny Istiqomah, and Meutia Layli. "Peran Pembangunan Berkelanjutan Dalam Pengentasan Kemiskinan Dan Pengangguran." Ekonomi Sirkular Dan Pembangunan Berkelanjutan (2022): 185.

Susanti, Anita, et al. "Kebijakan Green Economy melalui Sektor Energi Terbarukan dalam Pencapaian SDGS: Tinjauan Pustaka Sistematis." Jurnal Ekonomis 18.1 (2025): 25-46

Tarumingkeng, Rudy C. "Hutan Hujan Tropis." (2024).

Wahida, Khoirunisa, and Hoirul Uyun. "Tatanan Indonesia dalam mewujudkan pertumbuhan ekonomi berkelanjutan melalui green economy." Harmoni: Jurnal Ilmu Komunikasi dan Sosial 1.2 (2023): 14-26

Wetri Febrina, S. T., et al. Green Industry Management. Cendikia Mulia Mandiri, 2023

Yunus, Andi. "Green Finance di Indonesia: Tinjauan Umum." Management Studies and Business journal 1.2 (2024): 7-13.