

The potential of BUMDesa as a legal entity listed on the stock market to achieve village economic resilience

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Abstract

As a legal entity owned by the village, BUMDesa has several obstacles in running its business, one of which is related to business capital. The purpose of this research is to see whether the legal regulations in Indonesia make it possible to make BUMDESA as one of the business entities that can be listed on the Indonesian stock exchange in increasing its business capital. This research uses normative research with a statute approach, conceptual approach and comparative approach. BUMDESA as a business entity in the form of its own legal entity cannot be listed on the stock exchange because it conflicts with capital market regulations in Indonesia where capital market regulations require companies listed on the stock exchange to be in the form of a Limited Liability Company, so that only BUMDESA business units that have their own legal entity in the form of a Limited Liability Company can be list.

Keywords

BUMDesa Development, Stock market, Village economy development

Introduction

A village represents the smallest administrative unit within the governmental system of Indonesia [1]. Nevertheless, villages hold a very significant role, particularly in efforts to improve the welfare of citizens. If each village can enhance the welfare of its residents, the overall welfare of the nation's citizens will consequently improve. This highlights the crucial role villages play in efforts to achieve societal welfare within the Indonesian governance system.

Various efforts have been undertaken by the Indonesian government to improve the welfare of rural communities, encompassing health, education, legal affairs, and economic welfare. In particular, economic welfare has been given significant attention due to its substantial impact on other aspects of community welfare. One such effort by the government is the enactment of legislation concerning Village-Owned Enterprises,

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commonly known as BUMDesa [2], Although in practice in the field related to BUMDesa is experiencing various problems in achieving its goals, and the most important is related to the problem of capital in the development of BUMDesa business where one possibility that can be done is through access to additional BUMDesa capital as a business entity listed on the stock exchange where it becomes the focus of the author's research.

BUMDesa (Village-Owned Enterprises) is a legally established business entity as defined in Article 1, point 6 of Law No. 6 of 2014 on Villages. It is stated that BUMDesa is a business entity whose capital is wholly or largely owned by the village through direct investment derived from separated village assets. Its purpose is to manage assets, provide services, and conduct other businesses for the maximum benefit of the village community [3]. From this provision, it is evident that the primary objective of establishing BUMDesa is to improve the standard of living in rural communities. The capital ownership of BUMDesa is entirely or predominantly held by the village, although it is also possible for third parties to contribute capital

BUMDesa faces various challenges in its development. In this study, based on research conducted on several BUMDesa in the Sidoarjo and Pasuruan regions [4][5][6], the researcher identified three main issues:

1. The existence of BUMDesa itself, which is not owned by the village.
2. The legal status of BUMDesa, where established BUMDesa entities have yet to obtain proper legal recognition.
3. The development of BUMDesa, where those with legal status face operational challenges in their activities.

The issues related to points (1) and (2) are administrative in nature, arising from a lack of understanding among relevant parties, including village governments, BUMDesa management, or other stakeholders, regarding the registration and legalisation processes for BUMDesa. Unlike points (1) and (2), the issue in point (3) pertains to insufficient capital required for the development of BUMDesa enterprises [7].

Based on the identified issues, where one of the challenges faced by BUMDesa is related to limited capital, a potential solution is to secure additional funding through third parties. Referring to the Village Law, in addition to village ownership, it is also permissible for BUMDesa capital to originate from third parties. In this context, there is a potential for developing BUMDesa by raising funds from the wider community, one of which is through the sale of shares on the stock exchange. Accordingly, this study will explore the topic of *"The Potential of BUMDesa as a Legal Entity Listed on the Stock Exchange to Strengthen Village Economic Resilience."*

Researchers tried to find previous research that discussed the same research as the author's research in the last 10 years, but none of the research discussed the potential of BUMDesa as a legal entity registered in the capital market. Existing research only discusses related to the legality of BUMDesa conducted by A. Alfiansyah, with the title

‘The Status of Village-Owned Enterprises as Legal Entities Upon the Enactment of the Job Creation Law,’ in 2021 [8] and Research T. Murwadi, et al with the title ‘BUMDesa as an Alternative Legal Entity in the Development of Indonesian Cooperatives,’ 2017 [9], then research related to the role of BUMDesa in village development conducted by Pradnyani with the title ‘The Role of Village-Owned Enterprises (BUMDES) in Improving Community Welfare in Tibubeneng Village, North Kuta,’ 2019 [2][10].

The purpose of this study is to examine whether Indonesian legal regulations allow BUMDesa to become a business entity listed on the Indonesia Stock Exchange as a means to support its development, as well as to analyse the advantages and disadvantages of BUMDesa being listed on the stock exchange. The benefit of this study is that it can serve as a reference for the government in formulating policies and for BUMDesa management as a guide for developing their business capital.

Method

This study uses normative research with a statute approach, conceptual approach, and comparative approach [11]. The steps taken by the author include, first, collecting relevant legal materials in the form of regulations related to BUMDesa, limited liability companies, and the stock exchange among others are Law Number 8 Year 1995 on Capital Markets, Law Number 6 Year 2014 on Villages, Law No. 40 Year 2007 on Limited Liability Companies and Government Regulation No. 11 of 2021 on Village-Owned Enterprises, as well as other legal materials such as relevant legal theories obtained through the official government website and through the library. Afterward, the researcher will map these legal materials, analyse the relationships between them, compare them, and support the analysis with relevant legal theories. Finally, the results and conclusions will be drawn.

Results and Discussion

The regulation concerning the stock exchange is governed by Law No. 8 of 1995 on the Capital Market [12], which outlines the terms and conditions for investing in Indonesia’s capital market. According to this law, to be listed on the stock exchange, a business entity must be a legal entity, specifically in the form of a limited liability company (PT). Furthermore, the PT referred to is an open company (Tbk.). Upon closer examination, this policy reflects a form of legal protection provided by the government to both entrepreneurs and investors against undesirable situations [13].

BUMDesa, as a newly established legal entity, had its legal status recognised only in recent years. This is far removed from the enactment of laws on capital markets and limited liability companies, which poses a challenge for investment development. The requirement that only limited liability companies (PT) can be listed on the stock exchange becomes an obstacle, even though BUMDesa has significant potential for

investment development in Indonesia. The potential of BUMDesa in comparison with a PT Terbuka (public company) can be seen in [Table 1](#).

Table 1. Comparison Between a Limited Liability Company (PT Terbuka) and BUMDesa

Aspect	Limited Liability Company (LLC)	Village-Owned Enterprise (BUMDesa)
Legal Basis	Regulated under Law Number 40 of 2007 concerning Limited Liability Companies.	Regulated under Law Number 6 of 2014 concerning Villages and Government Regulation Number 11 of 2021 concerning BUMDesa.
Capital Ownership	Capital comes from shares owned by shareholders.	Capital comes from the village government, village community, or other legitimate sources.
Organizational Structure	Consists of a General Meeting of Shareholders (GMS), Board of Directors, and Board of Commissioners.	Managed by the Village Head, BUMDesa Management, and Village Deliberation Council as supervisors.
Decision-Making	Strategic decisions are made in the GMS based on shareholders' votes.	Strategic decisions are made through Village Deliberations involving the village community.
Financial Reporting	Required to prepare annual financial reports, audited if a large legal entity or listed on the stock exchange	Required to prepare financial reports presented to the Village Deliberation Council periodically.
Accountability	The Board of Directors is accountable to the GMS, while the Commissioners supervise the Directors.	BUMDesa Management is accountable to the Village Head and through the Village Deliberation Council.

Based on [Table 1](#), it can be seen that there are several similarities between the legal entities of PT Tbk. and BUMDesa, particularly in terms of their organizational structure, which includes supervisors, directors, and shareholders. Similarly, in both entities, decision-making, financial reporting, and accountability processes are present. Based on this comparison, BUMDesa, as a legal entity, is capable of being listed on the stock exchange. In other words, from the perspective of security for entrepreneurs and investors, BUMDesa's legal entity status already offers legal protection, as it has separate assets, oversight mechanisms, accountability, and financial reporting.

BUMDesa, as a village-owned enterprise, can be registered on the stock exchange in accordance with the provisions of the capital market law, provided that BUMDesa has business units that are legally established as limited liability companies (PT) or limited partnerships (LPS), in line with Indonesian regulations [\[14\]](#). Additionally, these business units must have at least 300 shareholders, a minimum of 2 directors, and a paid-up capital of at least 3 billion IDR, in compliance with the capital market regulations in Indonesia. However, BUMDesa, as a legal entity in itself, cannot be listed on the stock exchange because it conflicts with current capital market regulations in Indonesia.

Referring to what Jeremy Bentham stated, the function of law is to serve as a means of achieving the greatest benefit for society, commonly known as utilitarianism [\[15\]](#). When related to BUMDesa as a legal entity listed on the stock exchange, and aligning with BUMDesa's goal of achieving community welfare, which addresses the issues faced by BUMDesa, it is necessary to adjust the regulations to support this initiative for the development of BUMDesa itself, as not all BUMDesa entities have business units.

Conclusion

BUMDesa, as a legal entity with separate assets between shareholders and the BUMDesa itself, could conceptually be listed, which would have a positive impact on its development. However, at present, this is not yet feasible due to constraints in capital market regulations that require registered business entities on the stock exchange to be limited liability companies, which limits the development of BUMDesa. Efforts that can be made by the government to overcome these problems are to make changes to the capital market law or make adjustments to the BUMDesa business unit.

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