

## LEGAL REMEDIES OF THE INVESTMENT ALERT TASK FORCE IN COUNTERING FICTITIOUS INVESTMENTS

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### Abstract

The purpose of this study is to examine how to protect investors from illegal investment crimes. So that the public can be educated. This research uses a normative juridical approach method. The result is that the mode of fraud under the guise of illegal investment still occurs frequently, although with the formation of the Investigation Alert Task Force the fraud still occurs although it is not as lively as it used to be. Especially after the emergence of cases of artists who were caught for illegal investments. The resilience of Indonesia's economic conditions, especially when hit by the pandemic but still quite strong, is still quite strong, especially positive growth is still occurring in this country. Practically this is the goal of investors. Plus based on the data, the new middle class continues to crawl up. Apparently, this has contributed to increasing the occurrence of crime in the investment sector. Investment is very important for the economic development of a country. A country will find it difficult to develop if there is no investment to support its process. Investment can also be called investing money or capital, which aims to get a profit. An investment is the obligation to inject funds in an asset for a certain period of time in the future. Crime in the investment sector gives rise to fictitious investments that are widely offered to the public by illegal investment companies. People who actively invest are sometimes less vigilant and clear in making investment choices. The rampant incidence of fraud under the guise of illegal investment has made the state present, one of which is the establishment of the Investment Alert Task Force. Through library research and normative descriptive qualitative methods, the author wants to dive into the extent to which the task force commanded by the FSA will become a stronghold for investors.

**Keywords:** Illegal Investment, Investment Alert Task Force, Economic Growth

## INTRODUCTION

Economic growth in Indonesia apparently contributes to the number of the middle class also developing. Apparently this has contributed to the increase in the occurrence of crime in the investment sector (Mahadiansar, Setiawan, & dkk, 2021). Investment is very important for the economic development of a country. A country will find it difficult to develop if there is no investment to support its process. Investment can also be called investing money or capital, which aims to get a profit. An investment is the obligation to inject funds in an asset for a certain period of time in the future. Crime in the investment sector gives rise to fictitious investments that are widely offered to the public by illegal investment companies (Fretes, Sutiknowati, & Falahudin, 2019). People who actively invest are sometimes less vigilant and clear in making investment choices.

The rise of investment fraud in Indonesia has been driven by several factors, such as a lack of public awareness of the financial sector, especially legal investments, and those seeking high returns while ignoring risks (Jamal & Priyana, 2021).

The victims of this fictitious investment are not only from the lower middle class, but also the educated or upper class who can be classified as educated or well-educated. Research on illegal or fictitious investments has been carried out, some of which are presented in table 1 below.

**Table 1.** Research On Fictitious Investments

No	Writer	Heading	Findings
1.	Rachmaningsih 2016	Law Enforcement against Business Scams Under the Guise of Implementing Pyramid Schemes	This research on investment fraud boils down to the author's conclusion that the cause of the fictitious investment event was partly due to the lack of enforcement by the authorities. Although the modus operandi that the perpetrator offers to the victim should be easy to know, the fact is that this is still the case. Preventive and repressive countermeasures are needed.
2.	Amanda, S., Noval, S. M. R., & Herlina 2022	Law Enforcement against Money Game Practices with Ponzi Schemes in Illegal Investment in Tiktok E-Cas Application in Indonesia	Legal facts regarding illegal investment practices are presented in this study. The authors in the study paint a bad picture of the government's lack of attention to society from practices that could be detrimental to public finances. Of course, there is a horizon of hope for legal remedies from the government against perpetrators and protection of investors against illegal investment practices like this
3.	Rhizaldy 2018	Legal Protection of Investors in Ponzi Scheme Business in Indonesia	The rise of fictitious investments offered to people who have fallen victims with a fairly high loss value, makes the author question the government's efforts to protect investors. So it hopes that the government will continue to strive to provide clarity on the status of ponzi investments and how to protect the law for aggrieved investors.
4.	Natalia Lorien 2022	"Bodong" Investment With Ponzi Scheme System: A Study of Criminal Law	In this study, the discussion of the role of law enforcement on fraudulent investment actors who use ponzi schemes and presents about the legal protection efforts provided to victims of ponzi scheme fraudulent investments in the 'alimana' application.

From the research on illegal or fictitious investments presented in table 1, there is a brief similarity between these studies, namely that illegal investment offers are still rife and victims continue to fall. Therefore, this research, the author wants to "take a picture" the government's presence through the Investment Alert Task Force, especially its steps in tackling and preventing various kinds of illegal investments.

Indeed, according to Amalia (2022) there are two types of people targeted by illegal investment companies, namely those who do not know that the proposed company or the proposed investment

product does not have a permit (the legality is not clear), and those who already know the company's license but have high expectations (Syauket, Amalia and Adawiah 2022).

Until now, illegal investments have caused concern to the general public, with methods that are often presented, such as promising investment returns or unreasonable returns, providing information through online media where the company's headquarters is unclear. Investment is also offered in various forms ranging from gold investment, Hajj and Umrah investment, real estate investment, cooperatives, stocks and others (Muthia, 2022). The Financial Services Authority is fully responsible as an independent organization responsible for the management, supervision, and protection of the interests of consumers and the public in order to realize a healthy and strong financial sector. Given the importance of investor protection, clear and solid legal instruments are needed to regulate it (Miru, 2011).

Currently, Indonesia has a Financial Services Authority (POJK) Regulation that regulates investor protection, especially POJK No. 21 of 2011 concerning the Financial Services Authority concerning Financial Services Consumer Protection (Diba, Disemadi, and Prananingtyas 2020). The Financial Services Authority (OJK), the Ministry of Trade, the Ministry of Communication and Informatics, the Ministry of Cooperatives and Small and Medium Enterprises, the Indonesian Prosecutor's Office, the National Police, and the Investment Coordinating Board (BKPM) agreed to strengthen cooperation in the Investment Alert Task Force to prevent and deal with widespread illegal investment activities and transactions (Kristianti, 2021).

The Task Force for Handling Alleged Unlawful Acts in the Field of Community Fund Collection and Investment Management or the Investment Alert Task Force is a coordination forum between regulators, supervisory agencies, law enforcement agencies and other related parties in terms of handling alleged unlawful acts in the field of collecting community funds and managing investments (Yudhira, 2021). For this reason, seeing the developments that occurred with the rampant fraud committed by companies, a special unit was formed called the investment alert task force or better known as the investment alert task force where this task force supervises non-financial institutions to fill the gaps in the supervision of financial products, the formation of this alert task force aims to monitor unlawful actions in the field of fundraising (Arno, 2017). In the community and investment management can be identified earlier and accelerated the process, the law against illegal investment practices that occur in many communities, especially in the regions (Kurniawan, & dkk, 2021).

Based on the analysis of the supervisory role of investment, it found several fundamental problems. Therefore, it is necessary to consider the authority of the Financial Services Authority to protect the public from legitimate investment activities, moral hazard from illegal investment activities arising from the weak supervision system of financial institutions caused by several factors, namely:

1. Weaknesses in the architecture of the financial supervision system in Indonesia;
2. No communication between financial supervisors;
3. Selfishness remains high among the supervisors of financial institutions

If the disregard for something like this, According to Maulana (2021) that law and power are not absolute in a society that regulates law in the sense that society is governed by law and no action or power is abused (Maulana et al. 2021).

## RESEARCH METHOD

In this study, it uses a normative juridical approach method. Where normative legal research is based on document studies, namely using secondary data sources in the form of regulations, legislation, court decisions, legal theories, and the opinions of legal experts.

## RESULTS AND DISCUSSION

In Law Number 21 of 2011 concerning the Financial Services Authority, the authority and duties of the OJK are to supervise Financial Services Institutions (LJK) in the capital market sector, the non-bank financial industry sector (such as insurance, pension funds, finance companies, etc.) and starting in 2014 will also supervise the banking sector (Commercial Banks and People's Credit Banks) (Law Number 21 of 2011 concerning the Financial Services Authority, n.d.). Companies or parties that make illegal investment offers are almost mostly not Financial Service Institutions (LJK) so that the Company or party is not registered and supervised by the OJK. Thus, OJK cannot ensure the legality aspects of the company. In this regard, to participate in fighting illegal investment offers that harm and disturb the community. OJK has two strategies, namely: Preventive.

Socialize and educate the public about the characteristics of fundraising activities and manage illegal investments Share knowledge with law enforcement and regulators in the regions. Repressive. Help coordinate efforts between relevant agencies to speed up the handling process through the

cooperation framework of the Task Force for Handling Alleged Unlawful Actions in the Field of Fundraising and Investment Management or better known as the Investment Alert Task Force.

Cases and public complaints related to illegal investments reported to OJK will be coordinated with the Investment Alert Task Force for handling. The Investment Alert Task Force was established by the Commissioner of the Financial Services Authority as stipulated in the Decree of the OJK Board of Commissioners Number: 01/KDK.04/2013 dated June 26, 2013.

From the Decree of the OJK Commissioner, a Memorandum of Understanding between the Heads of Institutions and Members of the Investment Alert Task Force was drafted as the legal umbrella of the Task Force to strengthen joint commitment between ministries/institutions in the implementation of the main tasks of the Investment Alert Task Force (Decree of the OJK Commissioner Board Number: 01/KDK.04/ 2013 dated June 26, 2013).

The Memorandum of Understanding is contained in the Memorandum of Understanding of the Financial Services Authority Number: PRJ-07/D.01/2016, the Ministry of Trade of the Republic of Indonesia Number: 822/M.DAG/MOU/6/2016, the Ministry of Communication and Information of the Republic of Indonesia Number: 1039/MOU/M.KOMINFO/HK.03.02/06/2016, the Ministry of Cooperatives and Small and Medium Enterprises of the Republic of Indonesia Number 09/KB/M.KUKM/VI/2016: Attorney General of the Republic of Indonesia Number: KEP - 459/A /JA /06/2016, Police of the Republic of Indonesia Number: B/35/VI/2016, Investment Coordinating Board Number: 25/KS/BKPM / 2016 concerning Coordination of Prevention and Handling of Allegations of Unlawful Acts in the Field of Public Fund Raising and Investment Management (The Memorandum of Understanding is contained in the Memorandum of Understanding of the Financial Services Authority Number: PRJ-07/D.01/2016, n.d.).

Article 5 paragraph 1 of the memorandum of understanding explains that the Investment Alert Task Force carries out the task of preventing and handling allegations of unlawful acts in the field of collecting public funds and managing investments. Paragraph 2 of the same article explains that the membership of the Task Force Waspada Investasi is appointed by the parties and stipulated based on the Decree of the Board of Commissioners of the Financial Services Authority.

Furthermore, the Second and Third parts of articles 8 and 9 of this Memorandum of Understanding contain the prevention of unlawful acts in the field of community fundraising and investment management as well as the handling of alleged unlawful acts in the field of community fundraising and investment management carried out by the Investment Alert Task Force. Consumer and community protection is contained in Article 28 of Law Number 21 of 2011 concerning the Financial Services Authority (Law Number 21 of 2011 concerning the Financial Services Authority, n.d.). In its supervisory duties, OJK carries out two supervisory actions, namely initial action, or called preventive action (to prevent). Then repressive action (in an effort to follow up the criminal process).

At present, there are not a few illegal investments that are still rampant. Indeed, with the viral case a few years ago, a hot case involving a well-known celebgram named Indra Kenz or better known as *crazy rich* from Medan. The Criminal Investigation Agency (CID) of the National Police Headquarters officially issued a restraining warrant against influencer Indra Kesuma aka Indra Kenz after being named as a suspect in a case of alleged investment fraud through the Binomo Application. Therefore, we hope that the OJK as the Chairman of the Investment Alert Task Force must be able to detect any activity under the guise of investment.

Moreover, they use celebrities or artists as part of the marketing team, of course, ordinary people are easily slipped into business activities with a pleasant smell aka fast and large profits.

## CONCLUSION

Based on the above, it can be concluded that the legal protection of investors by brokerage companies is not yet sufficiently able to accommodate the interests of investors. Law Number 32 of 1997 only regulates dispute resolution and does not mention further the form of legal protection efforts that must be carried out. Settlement of disputes against Investors is carried out by civil settlements including settlements within the Futures Broker, settlements through futures exchange institutions, and settlements through Bappebti.

Criminal settlements are carried out by civil servant investigators of Bappebti or through the Police and Criminal Justice Institutions. And the Financial Services Authority has collaborated with relevant ministries and institutions to reduce space in carrying out legal protection to investors as stated in the Memorandum of Understanding contained in the Memorandum of Understanding of the Financial Services Authority Number: PRJ-07/D.01/2016

**REFERENCES**

- Amanda, S., Noval, S. M. R., & Herlina, E. (2022). "Penegakan Hukum Terhadap Praktik Money Game Dengan Skema Ponzi Dalam Investasi Ilegal Pada Aplikasi Tiktok E-Cas Di Indonesia." *Res Nullius Law Journal*, 4(1).
- Arno, A. K. (2017). "Peran Otoritas Jasa Keuangan Dalam Mengawasi Resiko Pembiayaan Dalam Investasi Bodong." *Al Anwal: Journal of Islam Economic Law*, 2(1), 85–95.
- Diba, N. F., Disemadi, H. S., & Prananingtyas, P. (2020). "Kebijakan Tata Kelola Otoritas Jasa Keuangan (OJK) Di Indonesia." *Ekspose: Jurnal Penelitian Hukum Dan Pendidikan*, 18(2), 868–876.
- C. E. D., Sutiknowati, L. I., & Falahudin, D. (2019). "Isolasi Dan Identifikasi Bakteri Toleran Logam Berat Dari Sedimen Mangrove Di Pengudang Dan Tanjung Uban, Pulau Bintan, Indonesia." *Oceanologi Dan Limnologi Di Indonesia*, 4(2), 71.
- Jamal, T. F., & Priyana, P. (2021). "Perlindungan Konsumen Pengguna Investasi Ilegal Vtube Berdasarkan Undang-Undang Nomor 21 Tahun 2011 Tentang Otoritas Jasa Keuangan." *Wajah Hukum*, 5(1), 26.
- Kristianti, D. S. (2021). "Prinsip Kebersamaan Dalam Hukum Investasi Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja: Politik Hukum Kepentingan Investasi Ataupun Kesejahteraan Masyarakat." *PAMALI: Pattimura Magister Law Review*, 1(2), 90.
- Kurniawan, C. C., Putri, S. N., Alsabilah, Z., & Abdullah, A. G. (2021). "TANGGUNG JAWAB OTORITAS JASA KEUANGAN (OJK) TERHADAP PEMBERANTASAN PINJAMAN ONLINE ILEGAL." *Prosiding SENAPENMAS*, 1287.
- Mahadiansar, M., Setiawan, R., Darmawan, E., & Kurnianingsih, F. (2021). "Realitas Perkembangan Investasi Asing Langsung Di Indonesia Tahun 2019." *Matra Pembaruan*, 5(1), 65–75.
- Maulana, M. I., Alauddin, M., Umein, A., Brawijaya University, & Stai Ypbwi. (2021). "THE DEVELOPMENT AND IMPLEMENTATION OF PUBLIC POLICIES." *Awang Long Law Review*, 4(1), 110–117.
- Miru, A. (2011). *Prinsip-Prinsip Pelindungan Hukum Bagi Konsumen Di Indonesia*. Jakarta: PT. RajaGrafindo Persada.
- Muthiah, A. (2022). "Pertanggungjawaban Hukum pada Pengelolaan Dana Haji untuk Investasi Infrastruktur." *Al-Adl: Jurnal Hukum*, 14(1), 65.
- Natalia Lorien, Tantimin. (2022). "Hukum Pidana Natalia Lorien, Tantimin e-Journal Komunikasi Yustisia Universitas Pendidikan Ganesha Imbalan Kepada Pengelola Sesuai Masyarakat Lebih Banyak Melakukan." *Ejournal.Undiksha.Ac.Id*, 5(8).
- Rachmaningsih, D. (2016). "Penegakan Hukum Terhadap Penipuan Bisnis Berkedok Yang Menerapkan Skema Piramida." *Universitas Islam Indonesia*.
- Rhizaldy, V. (2018). "Perlindungan Hukum Terhadap Investor Pada Bisnis Skema Ponzi Di Indonesia." *Universitas Brawijaya*.
- Syauket, A., Adawiah, R. A., & Ferdiananto. (2022). "Hukum Perlindungan Investor: Analisis Investasi Ilegal Binomo." Jakarta: CV. Literasi Nusantara Abadi.
- Yudhira, A. (2021). "Analisis Perkembangan Financial Technology (Fintech) Syariah Pada Masa Pandemi Covid-19 Di Indonesia." *Value*, 2(1), 13–28. doi: 10.36490/value.v2i1.118.