

**PELINDUNGAN HUKUM BAGI PEMODAL TERHADAP RISIKO *FRAUD*
OLEH PERUSAHAAN PENERBIT PADA PENYELENGGARAAN
SECURITIES CROWDFUNDING BERBASIS SAHAM**

Oleh:

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Penelitian ini bertujuan untuk menganalisis dan mengkaji pelindungan hukum bagi pemodal terhadap risiko *fraud* oleh perusahaan penerbit pada penyelenggaraan *securities crowdfunding* berbasis saham. Adapun hasil dari penelitian ini adalah untuk memberikan hasil deskripsi bagaimana bentuk pelindungan hukum bagi pemodal secara preventif dan represif berdasarkan ketentuan peraturan perundang-undangan, kesepakatan asosiasi, dan kesepakatan pemegang saham.

Penelitian ini merupakan jenis penelitian yuridis normatif dan sifat penelitian ini merupakan penelitian deskriptif. Penelitian ini menggunakan analisis data kualitatif dan melakukan penyajian data melalui metode deskriptif. Penelitian ini menggunakan data hukum primer yakni peraturan perundang-undangan dan produk kesepakatan lainnya, dan menggunakan data hukum sekunder yakni hasil penelitian *online* di Otoritas Jasa Keuangan (OJK), Asosiasi Layanan Urus Dana Indonesia (ALUDI) serta wawancara dengan Lembaga Alternatif Penyelesaian Sengketa Sektor Jasa Keuangan (LAPS) dan Pengamat.

Kesimpulan dari penelitian ini adalah: Pertama, terhadap pelindungan hukum preventif bagi pemodal masih bersifat kabur terhadap pengaturan pemenuhan prinsip keterbukaan informasi atas fakta material pada prospektus khususnya pengaturan soal format, substansi, keseluruhan isi, dan kepatuhan dokumen. Selain itu masih kaburnya mengenai pertanggungjawaban laporan keuangan perusahaan penerbit dengan akuntabilitas publik serta masih kaburnya pengaturan pihak ketiga profesi penunjang pasar modal dalam melakukan uji tuntas (*due dilligence*) dan pemeriksaan dokumen prospektus dan laporan keuangan pada saat *Initials Public Offering* (IPO). Kedua, masih kaburnya pengaturan soal ketentuan dan pertanggungjawaban pihak terkait (*stakeholders*) terhadap mekanisme penyelesaian sengketa secara *internal disputes resolutions* dan *external disputes resolutions* dikarenakan prosedur dan fokus pembebanan pertanggungjawaban secara hukum pada ketentuan saat ini adalah dilakukan oleh penyelenggara *securities crowdfunding*. Selain itu masih kaburnya pengaturan terhadap upaya pengembalian dana pemodal yang telah diinvestasikan atas perbuatan *fraud* disaat yang bersamaan *securities crowdfunding* masuk dalam *scope* pelindungan hukum oleh Indonesia *Securities Investor Protection Fund* (ISIPF). Kemudian masih kaburnya batasan-batasan kewenangan *stakeholders securities crowdfunding* untuk melkaukan tindakan pelindungan hukum represif.

Kata Kunci: Pelindungan Hukum, *Fraud*, *Securities Crowdfunding*

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ABSTRACT

**LEGAL PROTECTION FOR INVESTORS AGAINST THE RISK OF FRAUD
BY THE ISSUER COMPANY IN IMPLEMENTATION
SHARE-BASED CROWDFUNDING SECURITIES**

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This study aims to analyze and examine the legal protection for investors against the risk of fraud by issuing companies in implementing stock-based crowdfunding securities. The results of this study are to provide a description of how preventive and repressive forms of legal protection for investors are based on statutory provisions, association agreements, and shareholder agreements.

This research is a type of jurist normative research and the nature of this research is descriptive research. This study used qualitative data analysis and presented data through descriptive methods. This study uses primary legal data, namely laws and regulations and other agreement products, and uses secondary legal data, namely the results of online research at the Financial Services Authority (OJK) and the Association of Indonesian Crowdfunding Services (ALUDI).

The conclusions of this study are: First, regarding preventive legal protection for investors is still vague regarding the regulation of compliance with the principle of information disclosure on material facts in the prospectus, especially regarding format, substance, overall content, and document compliance. In addition, there is still a blur regarding the accountability of the issuing company's financial statements with public accountability and the unclear arrangements for third parties of capital market supporting professions in conducting due diligence and examining prospectus documents and financial reports at the time of the Initial Public Offering (IPO). Second, the regulation regarding the provisions and responsibilities of related parties (stakeholders) regarding the mechanism of dispute settlement internally disputes resolutions and external disputes resolutions is still unclear because the procedure and focus on imposing legal accountability on the current provisions is carried out by the organizers of crowdfunding securities. Apart from that, the regulation regarding efforts to return funds from investors who have been invested for fraud is still unclear, while at the same time, crowdfunding securities are included in the scope of legal protection by the Indonesia Securities Investor Protection Fund (ISIPF). Then the boundaries of the authority of crowdfunding securities stakeholders are still unclear to carry out repressive legal protection measures.

Keywords: : Legal Protection, Fraud, Securities Crowdfunding

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