

PDTI Master Turnitin

Legal Protection for Investors in Capital Markets in Indonesia: A Study on Investment Security

 Adnan Lira 19092024

 Jurnal Dosen UMI

 Universitas Muslim Indonesia

Document Details

Submission ID

trn:oid::1:3013187039

Submission Date

Sep 19, 2024, 1:05 PM GMT+8

Download Date

Sep 19, 2024, 1:12 PM GMT+8

File Name

18_CRLSJ_1_M.ADNAN_LIRA_7_1027.pdf

File Size

226.4 KB

5 Pages

2,703 Words

15,767 Characters

9% Overall Similarity

The combined total of all matches, including overlapping sources, for each database.





Filtered from the Report

- ▶ Bibliography
- ▶ Quoted Text




Exclusions

- ▶ 22 Excluded Matches

Match Groups

-  **20 Not Cited or Quoted 9%**
Matches with neither in-text citation nor quotation marks
-  **0 Missing Quotations 0%**
Matches that are still very similar to source material
-  **0 Missing Citation 0%**
Matches that have quotation marks, but no in-text citation
-  **0 Cited and Quoted 0%**
Matches with in-text citation present, but no quotation marks

Top Sources

- 6%  Internet sources
- 5%  Publications
- 2%  Submitted works (Student Papers)

Integrity Flags

0 Integrity Flags for Review

No suspicious text manipulations found.

Our system's algorithms look deeply at a document for any inconsistencies that would set it apart from a normal submission. If we notice something strange, we flag it for you to review.

A Flag is not necessarily an indicator of a problem. However, we'd recommend you focus your attention there for further review.

Match Groups

- **20 Not Cited or Quoted 9%**
Matches with neither in-text citation nor quotation marks
- **0 Missing Quotations 0%**
Matches that are still very similar to source material
- **0 Missing Citation 0%**
Matches that have quotation marks, but no in-text citation
- **0 Cited and Quoted 0%**
Matches with in-text citation present, but no quotation marks

Top Sources

- 6% Internet sources
- 5% Publications
- 2% Submitted works (Student Papers)

Top Sources

The sources with the highest number of matches within the submission. Overlapping sources will not be displayed.

1	Publication	Gianni Nicolini, Brenda J. Cude. "The Routledge Handbook of Financial Literacy", ...	1%
2	Student papers	Syntax Corporation	1%
3	Internet	www.agungpodomoroland.com	1%
4	Internet	jurnal.bundamediagrup.co.id	1%
5	Internet	ojs.unud.ac.id	1%
6	Internet	analisasahambei.blogspot.com	1%
7	Student papers	University of South Australia	1%
8	Internet	ijdri.com	1%
9	Internet	discovery.researcher.life	0%
10	Publication	Alhadiansyah Alhadiansyah, Erni Djun'astuti, Sugeng Susila, Marnita Marnita, Tri ...	0%

11	Publication	Irwan Trinugroho, Evan Lau. "Business Innovation and Development in Emerging...	0%
12	Internet	islamicmarkets.com	0%
13	Internet	www.crlsj.com	0%
14	Publication	Ayup Suran Ningsih. "Rules Regarding Mandatory Equity Securities Listing: Is It P...	0%
15	Publication	Lonando Yohanes, Daniel Hendrawan, Ana Yulianti. "Investment Manager Legal L...	0%
16	Publication	Rieta Lieke Lontoh. "Problems of Border Regions in Ensuring Legal Certainty Inve...	0%



Legal Protection for Investors in Capital Markets in Indonesia: A Study on Investment Security

¹M. Adnan Lira

¹ Faculty of Law Indonesian Muslim University, Makassar, Indonesia

Abstract: The capital market in Indonesia plays an important role in national economic development. Capital markets provide a platform for domestic and foreign investors to allocate their resources. However, security and investment protection are of utmost importance as risk or uncertainty can deter investors and harm market stability. This article critically examines the existing legal mechanisms to protect investors in the Indonesian capital market, with a focus on investment security. Legal protection for investors in the Indonesian capital market can be improved through several main strategies: strengthening regulations and licensing standards, supervision and law enforcement, financial literacy and education, as well as legal protection for foreign investors. Implementation of this strategy will create a safer, more transparent and sustainable investment environment, thereby attracting more investors and encouraging national economic growth.

Keywords: Capital Market, Investor Protection, Investment Security, Regulation, Indonesia.

Received: 20 March 2024

Revised: 02 June 2024

Accepted: 20 June 2024

1. Introduction

The use of the word "Capital Market" is derived from the word "*Capital Market*" which has the definition of a *system* or place related to fulfilling the company's various funding needs for capital [1], which contains a number of long-term financial instruments that are bought and sold in the form of debt or capital [2]. Capital Markets as an alternative financing for companies (issuers) in the business world [3]. The capital market has a crucial role in the Indonesian economy as a platform for collecting funds from the public and channeling them to productive sectors. The public, in this case investors, can channel their funds to the Capital Market by purchasing securities or securities issued by issuers that require financing in the hope of gaining profits in the form of income in the future within a certain time period [4]. The success of the capital market depends greatly on investor confidence, both domestic and international [5]. Therefore, legal protection for investors is an important issue that must receive serious attention from the government and related authorities.

There is a real need for laws that regulate all activities in the capital market, because activities in the capital market are very complex [6]. Law Number 8 of 1995 concerning Capital Markets and various regulations issued by the Financial Services Authority (OJK) aim to create a fair, transparent and efficient capital market. However, in practice, there are still various challenges that must be faced, including cases of violations such as insider trading, market manipulation and misuse of information. Therefore, comprehensive efforts are needed to strengthen legal protection for investors in the Indonesian capital market.

One form of legal protection that can be provided is by tightening licensing standards for parties involved in the capital market, such as securities brokers and investment advisors [7]. Apart from that, strict supervision of activities in the capital market and firm action against violations are also needed to prevent fraudulent practices that can harm investors [8]. Law Number 25 of 2007 concerning Investment

3 also provides legal protection for foreign investors who invest. Legal Protection for Investors According to Law Number 8 of 1995 concerning Capital Markets, in the provisions of article 4 of Law Number 8 of 1995 on Capital Markets it is stated that "The development, regulation, supervision as intended in Article 3 is carried out by Bapepam-LK with the aim of realizing creating capital market activities that are orderly, fair and efficient and protecting the interests of investors and the public, realizing the creation of capital market activities that are orderly, fair and effective and protecting the interests of investors and citizens [9]. Interests are the target of rights because rights contain elements of protection and recognition [10].

8 One of the juridical targets of legal regulation of the capital market is investor protection [11]. Even though regulations have been designed to protect investors, several cases show weaknesses in law enforcement and the protection provided. The Indonesian capital market still faces challenges from loopholes that are exploited for criminal acts, as reflected in the October 2022 Edition of the PPATK Statistical Report which notes 1,033 suspicious financial transaction reports, an increase of 20.8% from the previous year. Several major corruption cases, such as PT Asuransi Jiwasraya and Asabri, involved significant state losses. The Attorney General's Office revealed corruption at Jiwasraya with losses of IDR 16.8 trillion, while the Asabri case involved nine main suspects. These two cases highlight weaknesses in the supervision and regulation of Indonesia's capital markets [12]. Therefore, efforts to strengthen legal protection for investors in the Indonesian capital market need to continue, both through improving regulations, strengthening supervision, as well as increasing awareness and education for investors [13]. Cases of capital market violations that are not handled firmly reflect legal gaps that need to be addressed. Furthermore, rapid advances in financial technology have also increased the complexity of monitoring and protecting investors. To face this challenge, capital market authorities must continually review and update the legal framework and supervisory practices comprehensively so they can keep up with industry developments.

1 This article aims to analyze legal protection mechanisms for investors in the Indonesian capital market, with a focus on investment security issues. This research will explore the applicable rules and regulations, as well as their implications for the investment climate. Through critical analysis of the existing legal framework, this study will provide a more comprehensive understanding of the challenges and opportunities in the Indonesian capital market. However, investing in the capital market is not free from risks. Investors are faced with various risks, both systematic and non-systematic. Systematic risks are inherent in the market as a whole, such as exchange rate fluctuations and macroeconomic conditions. Meanwhile, non-systematic risk is related to the performance of a particular company or investment instrument.

2. Methodology

7 This study used a form of normative juridical research, and the approach of this study was carried out by examining library materials to understand the relationship between legal sciences and positive law. The method used by the authors in this normative juridical research was an analysis of the laws and regulations [14], especially related to investor protection. The primary data sources used are Law Number 8 of 1995 concerning Capital Markets and Law Number 25 of 2007 concerning Capital Investment.

3. Result and Discussion

Legal protection is one element to improve aspects of law enforcement in a country. Of course, legal protection is provided by the state to its people in order to achieve stability in all matters, including economic and legal matters. Legal protection for investors in the Indonesian capital market is a crucial aspect in creating a safe and sustainable investment environment [15]. Investment can be related to various kinds of activities [16]. In the capital market, on one side there are parties who lack capital and on the other side there are parties who have excess capital so that transactions occur [17]. Legal protection is very necessary to protect investors from the risks that must be borne by the investors themselves in carrying out investment activities [15]. Based on the analysis, there are several main strategies that can be taken to increase legal protection for investors.

One of the main strategies is to strengthen regulations and licensing standards for capital market players. Strong regulations and strict licensing standards are the foundation for preventing fraudulent practices that can harm investors. Clear and transparent regulations will ensure that capital market players

act in accordance with the established rules. For example, companies wishing to go public must meet strict requirements in terms of information disclosure, financial audits and corporate governance. Thus, investors can feel more secure and confident that their investments are in trusted hands. In this context, Agency Theory is very relevant. This theory explains the relationship between company owners (principals) and management (agents). Regulation aims to ensure that agents act in the principal's interests and reduce the risk of agency problems. Law Number 8 of 1995 concerning Capital Markets regulates information disclosure and corporate governance to protect investors' interests.

Effective supervision and strict law enforcement are also key in maintaining the integrity of the capital market. In supervising government administration, the standard used as a measure refers to the concept of Good Governance, namely the extent to which government administration can be carried out efficiently and can achieve the targets outlined by statutory regulations in order to create people's welfare towards a welfare society. The goal is to create a State who are progressive and peaceful in providing a work spirit and ensuring that all public services can be accessed properly so that State servants become role models or role models in providing good quality service [18].

The Financial Services Authority (OJK) as the capital market regulator and supervisor must have adequate capacity and authority to take action against violations quickly and fairly. Consistent law enforcement will send a signal to market players that any form of violation will not be tolerated. Compliance Theory emphasizes the importance of compliance with regulations as a mechanism for reducing risk and maintaining market stability. Financial Services Authority (POJK) regulations provide a framework for effective supervision and firm law enforcement, including action against insider trading and market manipulation. Supervision carried out by the OJK must cover all aspects of the capital market, from securities issuance to daily transactions on the stock exchange. Apart from that, OJK needs to collaborate with other institutions such as the police and prosecutor's office to strengthen law enforcement and ensure that violations that occur are handled thoroughly.

OJK plays an important role in maintaining investment security with preventive and repressive measures. Preventive action is taken to prevent people from getting trapped in fictitious investments, while repressive action can take the form of legal proceedings against fictitious investment companies [19]. Financial literacy is also a key factor in maintaining investment security. A high level of financial literacy can help people be more careful and skilled in managing finances, thereby avoiding investment fraud [20]. By regulation, OJK has regulated the protection of investor funds in information technology-based share offerings. OJK regulations emphasize the important role of crowdfunding service providers in maintaining investment security, considering the large responsibility they carry in managing investors' funds [21]. Thus, investment security is not only the responsibility of investors, but also regulators and investment service providers.

Financial literacy and education are also important aspects that must be improved. Financial education programs need to be intensified by the government and related authorities to increase public understanding of investment products, risks and wise investment strategies. Good financial literacy will help investors make more rational investment decisions and reduce the risk of losses due to lack of understanding. OJK can collaborate with educational institutions and community organizations to organize seminars, workshops and financial education campaigns. Apart from that, the use of information technology such as financial education applications and e-learning platforms can be an effective means of increasing people's financial literacy.

Legal protection for foreign investors is also an important factor in attracting foreign investment to Indonesia. Law Number 25 of 2007 concerning Capital Investment provides guarantees and legal protection for foreign investors. This law stipulates that foreign investors have the same rights as domestic investors in terms of legal protection and dispute resolution. The implementation of this law needs to be improved so that foreign investors truly feel safe when investing in Indonesia. Simplification of licensing procedures, protection of ownership rights, and easy access to dispute resolution mechanisms are some of the steps that can be taken to strengthen legal protection for foreign investors.

4. Conclusions

Legal protection for investors in the Indonesian capital market can be improved through several main strategies: strengthening regulations and licensing standards, supervision and law enforcement, financial literacy and education, as well as legal protection for foreign investors. Implementation of this strategy will create a safer, more transparent and sustainable investment environment, thereby attracting more investors and encouraging national economic growth. Strengthening regulations and licensing standards is a fundamental step that ensures compliance by capital market players, reduces the risk of fraudulent practices, and protects investor interests, in accordance with Agency Theory which emphasizes transparency and good corporate governance. Effective supervision and strict law enforcement by the Financial Services Authority (OJK) maintains the integrity of the capital market, in accordance with Compliance Theory which supports compliance with regulations as a mechanism to reduce risk and maintain market stability. Increasing financial literacy and education is essential so that investors understand risks and make wise investment decisions, through initiatives such as seminars, workshops and educational campaigns by the government and relevant authorities. Lastly, strengthening legal protection for foreign investors through the implementation of Law Number 25 of 2007 concerning Investment creates a conducive investment climate. This strategy supports the creation of a healthier, more stable and sustainable capital market in Indonesia

References

- [1] I. A. C. K. Dewi, I. N. P. Budiarta, and N. M. P. Ujiti, "Legal Protection for Investors Due to Manipulation Practices in the Capital Market," *J. Leg. Analog.*, vol. 3, no. 3, pp. 288–293, 2021.
- [2] E. Tandelilin, *Portopolio and Investment, Theory and Application*. Yogyakarta: Kanisius, 2001.
- [3] M. Rahmah, *Capital Market Law*. Jakarta: Kencana, 2019.
- [4] A. Affandy and T. T. Suriatmadja, "Fulfillment of Investor Rights in Bonds in the Capital Market Reviewed from Capital Market Regulations," *J. Leg. Res.*, vol. 2, no. 2, pp. 75–80, 2022.
- [5] N. B. Mandira, "Legal Protection for Investors in the Capital Market," *Al Yasini J. Islam , Soc. , Law Educ.*, vol. 6, no. 2, pp. 345–361, 2021.
- [6] F. Haedar, "Legal Protection for Investors Against Practice Insider Trading Crimes in the Capital Market in Indonesia," *J. Leg. Aspirations*, vol. 3, no. 1, pp. 133–152, 2015.
- [7] A. Sutedi, "Aspects of capital market law," *Perpustakaan Mahkamah Agung*, 2019. https://perpustakaan.mahkamahagung.go.id/slims/tengah/index.php?p=show_detail&id=1943
- [8] N. L. D. S. Gunadi, S. N. Ardhya, and M. J. Setianto, "JURIDICAL REVIEW OF COMPENSATION ACCOUNTABILITY FOR INVESTOR LOSSES IN THE INDONESIAN CAPITAL MARKET," *e-Journal Komun. Yust.*, vol. 5, no. 2, 2022.
- [9] R. Alfredo, "LEGAL PROTECTION OF INVESTORS IN CAPITAL MARKET TRANSACTIONS," Kalimantan Islamic University MAB, 2021.
- [10] S. Rahardjo, *Legal Studies*. Bandung: PT Citra Aditya Bakti, 2006.
- [11] M. Fuady, *Modern Capital Markets: A Legal Review*. Bandung: PT Citra Aditya Bakti, 1996.
- [12] T. Purwanti, "Sederet Kasus Pasar Modal RI Paling Panas, Ada Asabri," *CNBC Indonesia*, 2022. <https://www.cnbcindonesia.com/market/20221202085203-17-393146/sederet-kas-pasar-modal-ri-paling-panas-ada-asabri>
- [13] I. A. Abdel Rahman and M. Kelana, "LEGAL PROTECTION FOR FOREIGN INVESTORS ACCORDING TO LAW NUMBER 25 OF 2007 CONCERNING CAPITAL INVESTMENT," vol. 9, no. 1, pp. 92–103, 2022, doi: <https://doi.org/10.59635/jihk.v9i1.187>.
- [14] W. Prihatiningtyas, I. Wahyuni, S. Wijoyo, A. Rahman, and A. C. Noventri, "Strengthening Blue Carbon Ecosystem Governance in Indonesia: Opportunities for National Determined Contributions," *Rev. Gestão Soc. e Ambient.*, vol. 18, no. 9, 2024.
- [15] V. N. Rachmadini, "Legal Protection for Investors in the Capital Market According to the Capital Market Law and the Financial Services Authority Law," *Pen Justisia Commun. Media Leg. Stud.*, vol. 18, no. 2, 2020.

- [16] S. Handini and E. D. Astawinetu, *Portfolio Theory and Indonesian Capital Markets*. Surabaya: Scopindo Media Library, 2020.
- [17] C. P. Permata and M. A. Ghoni, "The Role of the Capital Market in Indonesian Economy," *J. AkunStie*, vol. 5, no. 2, 2019.
- [18] I. E. Saputra and H. Hasbi, "Effectiveness of Supervision by the Makassar City Ombudsman on the Delivery of Public Services in Makassar City," *Kalabbirang Law J.*, vol. 3, no. 2, pp. 107–120, 2021.
- [19] D. H. Fadlia and Yunanto, "THE ROLE OF THE FINANCIAL SERVICES AUTHORITY (OJK) IN LEGAL PROTECTION FOR INVESTORS FOR ALLEGED FICTIONAL INVESTMENTS," *LAW REFORM*, vol. 11, no. 2, 2015.
- [20] A. Hanasri, R. Rinofah, and P. P. Sari, "The Influence of Financial Literacy, Financial Knowledge, and Financial Attitudes on the Financial Performance of Online Business MSMEs in Bantul," vol. 7, no. 1, 2023, doi: <https://doi.org/10.33087/economics.v7i1.792>.
- [21] S. Mamma, "Legal Protection for Users of Crowdfunding Services Through Information Technology-Based Share Offerings," *J. Panor. Huk.*, vol. 5, no. 2, pp. 159–168, 2020.