

ABSTRACT

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LEGAL PROTECTION OF FINANCIAL SERVICES AUTHORITIES AGAINST SECURITIES CROWDFUNDING SERVICE PROVIDER

(xvii + 154 pages + 1 picture + 2 tables)

Securities crowdfunding is a financial service activity in the capital market sector. In the Financial Services Authority Regulation No. 57/POJK.04/2020 concerning Securities Offering Through Information Technology-Based Crowdfunding Services (POJK Crowdfunding Securities) The Financial Services Authority (OJK) regulates the imposition of user losses on operators of securities crowdfunding. The formulation of the issues are, first, about the position of OJK in granting authority to operators of securities crowdfunding and second, the legal protection that OJK should provide to operators of securities crowdfunding. Analysis of the data in this study is a qualitative analysis with the type of normative research using secondary data obtained from a literature study on the principles and positive laws that apply. The results of the study show that the authority of the OJK in supervising and regulating all financial service activities including the capital market is given attribution as special agencies through the Law of the Republic of Indonesia Number 21 of 2011 concerning the Financial Services Authority (OJK Law/UU OJK). This is a form of government intervention as a welfare state. In addition, OJK has the authority to grant the permits and revoke the legitimacy of permits granted to the operators. Legitimacy should also be given to the issuers and securities to measure the eligibility and capacity of issuers to issue securities. Furthermore as an effort to protect investors and prevent market failures. The operator as the permit holder has the duties and responsibilities to provide, manage, and operate activities securities crowdfunding. In order to support the duties and responsibilities of the operators, OJK allows the operators to cooperate with third parties. As a consequence of cooperation with third parties, if the user suffers loss, the operator must be responsible for the user's loss under strict liability. To conclude, this is considered unfair considering that user losses can also be caused by the risk of the investment fund. In order to avoid the burden of compensation on the operators for errors/and or mistakes of other parties, legal protection measures are needed, both preventively and repressively. Suggestions are intended, first to OJK through legitimacy and on-site examination, and second to users, especially investors, to better understand risks before investing.

Keywords: Securities crowdfunding, operator, OJK, permit, liability

References : 87 (1987-2021)