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## **JURIDICAL REVIEW OF FRAUDULENT INVESTMENTS FROM A LEGAL PERSPECTIVE CONSUMER PROTECTION**

Athaya Diah Dakota<sup>1</sup>, Valensia<sup>2</sup>

Faculty of Law, Pelita Harapan University

Email: [1athayadakota@gmail.com](mailto:1athayadakota@gmail.com), [2valensia1112004@gmail.com](mailto:2valensia1112004@gmail.com)

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**ABSTRACT;** *Fraudulent investment is an increasingly rampant phenomenon, causing financial losses for society. This research aims to provide a juridical review of fraudulent investments in the context of consumer protection using normative juridical research methods. This normative approach is used to analyze laws and regulations relating to investment, consumer protection and the responsibilities of the parties involved. This research includes a study of laws and regulations that regulate investment and consumer protection, such as Law Number 8 of 1999 concerning Consumer Protection and regulations related to investment. The normative analysis method is used to evaluate the consistency and effectiveness of existing legal provisions in protecting consumers from fraudulent investment risks. This research adopts a normative juridical method approach as a framework for conducting in-depth analysis of laws and regulations related to fraudulent investment and consumer protection. The research results show that fraudulent investment is a phenomenon that is detrimental to society and is often associated with violations of criminal law. Law enforcement efforts against fraudulent investments are regulated in various provisions, including Law Number 8 of 1999 concerning Consumer Protection. However, the Law. This law does not fulfill the principle of legal certainty regarding fraudulent investments because it is still not effective in enforcing fraudulent investment laws.*

**Keywords:** *Fraudulent Investment, Law, Consumer Protection*

## INTRODUCTION

Economic growth and business have a close connection, where both influence each other. Businesses that develop in a country can have a major impact on overall economic growth. Apart from that, macroeconomics also highlights the important role of macroeconomics in supporting business development.

When business in a country develops, it will increase sources of income such as investment and absorb labor, so that it will directly increase state income through taxes. In the current context of globalization, business growth has become very important for a country's economy. Business growth can open up new opportunities for increased international trade and help reduce unemployment rates in the long term.

On the other hand, stable economic growth can also provide a conducive environment for further business development. In addition, there is a mutualistic symbiotic relationship between economic growth and companies. Strong economic growth can encourage the formation of more new companies and increase the competitiveness of existing companies.

In this case, companies can contribute to economic growth by creating new jobs and increasing production of goods or services. Investments have various main objectives, from meeting needs to achieving one's personal desires.

One of the common reasons for investing is to meet household needs, but it is not uncommon to also have motivation to achieve personal dreams such as buying a house or a new car. This shows how important business is in a country and its direct impact on the economy. Investment itself is an important indicator in assessing the business performance and economic growth of a country.

Therefore, the role of investment is vital in a country's economic development. Macroeconomics is an important part of a country's economic change analysis system. The aim is to maintain economic stability in accordance with the 1945 Constitution.

To achieve this goal, a state civil apparatus is needed that is free from public intervention and KKN. Apart from that, they must be professional and able to provide public services in accordance with Pancasila and the 1945 Constitution. In an effort to maintain economic stability, macroeconomics pays attention to various factors such as inflation, economic growth, unemployment and the trade balance. The government can also use fiscal and monetary policies to control these factors.

However, efforts to maintain economic stability do not only depend on government action. The role of the private sector is also very important in maintaining economic stability. The private sector can contribute through investment, job creation, and complying with existing regulations.

Therefore, to achieve the goal of maintaining economic stability as mandated by the 1945 Constitution, there needs to be synergy between the government and the

private sector. In this case, the state civil service has an important role as a facilitator in creating a conducive investment climate for the private sector. In this way, it is hoped that Indonesia can continue to progress in the economic sector and the welfare of its people will increase.

Economic and social development is an important part of development tasks in Indonesia, which has a significant impact on the business world. Even though business in Indonesia is experiencing rapid growth, competition is getting tougher. Therefore, the success of entrepreneurs in achieving their goals requires adequate business skills and knowledge.

Technological developments, especially in the digital era, have had a major impact on the world of business and investment in Indonesia. An example is Fintech which has become an integral part of the financial sector. In February 2020 alone, there were 161 peer to peer lending Fintech companies registered with the OJK.

However, technological sophistication is also used for illegal business practices such as fraudulent investments which can harm society. Therefore, entrepreneurs must remain careful and vigilant in running their businesses and ensure that they have sufficient knowledge and skills to face existing challenges.

Apart from that, the government also needs to increase supervision of illegal practices in the business world so that society is not harmed by these practices. In this way, economic and social development can run well and provide benefits for all levels of society in Indonesia. Fraudulent investments can be identified from several distinctive characteristics.

One of them is the promise of profits that are unrealistic and too high compared to other investments. Apart from that, fraudulent investment providers also often offer opportunities without risk or use irresponsible intermediary applications. To avoid financial losses, the Investment Alert Task Force advises potential investors to always be aware of the characteristics

This fraudulent investment. These characteristics include promises of high profits, low risks, big incentives, unfairness, big promises, and guarantees. Investors must always check first before deciding to invest in a particular product or service. This is important so that investors do not become victims of fraud and suffer major financial losses. Therefore, the Investment Alert Task Force continues to strengthen its efforts in providing information and education to the public about how to recognize fraudulent investments and how to make safe and profitable investments.

In this context, it is important to understand that economic growth, economic stability and business in Indonesia are interrelated. Investments made wisely and legally are a key factor in supporting sustainable economic growth.

From 2013 to 2014, 2772 complaints were recorded regarding fraudulent investments. Currently, there are 868 lists of investments that are not registered and not supervised by the OJK (Financial Services Authority, 2020). Law enforcement and

criminal sanctions against fraudulent investments are related to criminal acts of fraud as regulated in Article 378 of the Criminal Code (KUHP).

This article states that the act of using a false name, false dignity, deception or lies to encourage other people to give goods or write off receivables can be punished with a maximum prison sentence of four years. Apart from that, the prohibition against fraudulent investments is also regulated in Article 3 of Law No. 8 of 2010 concerning Prevention and Eradication of the Crime of Money Laundering (UU No. 8/2010). This article stipulates a maximum prison sentence of 20 years and a maximum fine of IDR 10,000,000,000.00 for those who hide or disguise the origin of assets that are suspected to be the proceeds of a criminal act.

Despite this, cases of fraudulent investment continue to occur in Indonesia. The modus operandi involves using apps to entice people to join with the promise of commissions. Many people have become victims of this application. This case is suspected to involve a Ponzi scheme, namely diverting funds from the public by paying bonuses to existing customers using funds from new customers.

However, this scheme does not yet have specific laws that regulate it. Therefore, researchers feel it is important to examine fraudulent investments from the perspective of consumer protection law.

#### **PROBLEM**

1. How do investors check before deciding to invest in a particular product or service?
2. What is the role of the Investment Alert Task Force in strengthening efforts to provide information and education to the public about fraudulent investments?

#### **RESEARCH METHODS**

This research adopts a normative juridical method approach as a framework for conducting in-depth analysis of laws and regulations related to fraudulent investment and consumer protection. This method allows researchers to understand and evaluate the legal norms that apply in that context. The first step in this research method is to identify and collect relevant primary and secondary legal materials.

Primary legal materials involve statutes, government regulations, court decisions, and other official legal documents that are directly related to fraudulent investments and consumer protection. Meanwhile, secondary legal materials include legal literature, articles, and other publications that can provide additional insight and context regarding the issue.

After the data is collected, researchers will carry out a systematic analysis of existing regulations. This analysis involves an in-depth understanding of legal provisions, their objectives, and their impact on fraudulent investments and consumer protection. Researchers can also examine the evolution of the law and trends in court decisions related to this issue. During the analysis process, researchers will use a comparative approach to compare existing regulations with international legal standards or best

practices.

This can help assess the extent to which these regulations are effective in protecting consumers and preventing fraudulent investment practices. In addition, this method also allows researchers to identify gaps or inconsistencies in regulations that can become a focal point for recommendations for changes or improvements to the law.

This thinking can be supported by references to legal literature that propose alternative solutions or regulatory frameworks. It is hoped that the results of this research will make a significant contribution to understanding the law regarding fraudulent investment and consumer protection, and can serve as a basis for the authorities to update or develop regulations that are more effective in dealing with these challenges.

## **DISCUSSION**

### **Barriers to the Consumer Legal Protection System in Indonesia**

The development of the times will bring changes to every aspect of human life. Developing technology will change people's lifestyles, including industrial and economic activities. Therefore, the law must be able to adapt to all developments of the times, so that it can regulate every aspect of people's lives, especially since Indonesia is a rule of law state, which is included in the constitution so that every behavior of the people will be regulated by law as a form of state protection for society.

However, in consumer protection in Indonesia, there is still a legal vacuum in the Consumer Protection Law. Even the National Consumer Protection Agency (BKPN) considers that Law Number 8 of 1999 concerning Consumer Protection is no longer able to accommodate current developments, especially technological developments.

The Consumer Protection Law (UUPK) has still not achieved the expected results for consumers seeking justice. In its implementation, it turns out it is still difficult to do.

This is caused by legal provisions that are not as expected, namely to resolve consumer disputes quickly, simply and cheaply. Besides that, there is no consistency in each article in the UUPK. In fact, in several articles there are conflict norms between one article and another, as well as horizontal conflicts with other legislative products.

Weaknesses in the consumer protection system in Indonesia result in many rights of Indonesian consumers or people being violated. Apart from that, the weakness of the Personal Data Protection Law was that it was not immediately promulgated as a regulation.

At the same time, there are many cases of consumer personal data being misused in a number of digital applications, such as being bought and sold, even distributed for free. The consumer data leak is still unclear regarding the regulations governing it.

Responsibility for consumer data leakage is still not regulated in statutory regulations, thereby weakening legal protection for consumers if a similar incident occurs.

In terms of law enforcement, the consumer protection legal system is still not good. There are still obstacles in resolving consumer protection disputes in Indonesia. The Consumer Dispute Resolution Agency (BPSK) is an institution that has the authority to carry out justice for every consumer. However, BPSK itself has obstacles, namely, BPSK members consist of 3 elements, namely the government element, the consumer element and the business actor element. The representation of these elements by law is intended to show community participation in consumer protection efforts and to show that consumer protection is a shared responsibility between the government and the community.

These problems become more complex when faced again with the problem of professionalism in the average human resource (HR) which still requires increased knowledge and experience in resolving consumer disputes through BPSK. Based on the results of observations recorded during the research, it appears that there are several factors that can cause unprofessionalism of Human Resources (HR) at the Consumer Dispute Resolution Agency (BPSK).

Not all BPSK members have a legal educational background. From the results of the author's interviews at BPSK Tangerang Regency, the data shows that only a small portion of BPSK members have legal education, namely only 3 out of 9 members.

Meanwhile, the others have diverse educational backgrounds, such as a bachelor's degree in education (SPD), a bachelor's degree in economics, and a bachelor's degree in engineering. This has led to a general lack of understanding regarding aspects of consumer protection and technical dispute resolution among BPSK members.

Almost all members of the BPSK secretariat, which is supposed to handle consumer complaints, do not have knowledge and skills in the field of court administration. The author's findings at BPSK Tangerang Regency show that many secretariat members admitted that they did not understand the administration at BPSK.

One of the secretariat members even admitted that he did not come from a legal education background, but rather a technical education background, and only that. study it independently. This creates a knowledge gap that can hinder the effective resolution of consumer disputes.

Lack of educational and training facilities is another factor that influences the professionalism of BPSK members and secretariat. Observations show that there are no adequate training programs organized by various institutions such as the Ministry of Industry and Trade, universities, the Consumer and Consumer Dispute Training Institute (LPKSM), or BPSK itself.

Lack of access to new knowledge and skills can have a negative impact on the quality of BPSK's handling of consumer disputes. The low interest in independent learning from members and the BPSK secretariat also makes the situation worse. Members who are less interested in improving their own knowledge and skills can hinder the development of professionalism within BPSK.

Low interest in independent learning also creates a knowledge gap that further widens the division between members who have legal education and those who do not. The lack of supporting infrastructure such as computers, courtrooms, consultation rooms and a special library for BPSK is a real obstacle in building professionalism for BPSK members and the secretariat. For example, at BPSK Tangerang Regency, there is no special library space available for BPSK. These limitations can hinder members and the secretariat's access to references needed to improve their knowledge and skills.

In order to overcome this challenge, BPSK needs to strengthen education and training programs, including collaboration with external parties such as the Ministry of Industry and Trade, universities and LPKSM. Efforts to increase access to supporting

must also be prioritized, such as providing library space specifically for BPSK. Apart from that, there needs to be motivation and support for BPSK members and secretariat so that they can increase their interest in independent learning. With these steps, it is hoped that the professionalism of BPSK members and secretariat can be improved, so that consumer dispute resolution can be carried out more effectively and professionally.

After the enactment of the UUPK, the original was expected from all parties to be a solution to solve consumer problems, and they were born as legal execution. Indeed, there is inequality in law enforcement and this creates confusion for the parties involved in the execution process, especially if the role of the judiciary in investigating cases of opposition to BPSK decisions encounters many obstacles, especially aspects related to civil procedures.

In fact, this law does not provide technical instructions or guidelines or sufficient explanations, in fact its existence contrasts between one article and another, in fact it is in sharp contrast to the procedural conditions used so far, as well as conflicts with other regulations, so that legal certainty is difficult to obtain. It is stated in the explanation of article 2 UUPK the principle of legal certainty, so that business actors and consumers obtain law and justice in implementing consumer protection. There are consistent rules next door, but they don't support the executive order yet.

Therefore, UUPK does not work effectively in resolving consumer disputes because there are several obstacles, including: Law no. 8 of 1999 introduced the Consumer Dispute Resolution Agency (BPSK) as a new institution. Previously, the mechanism and authority of BPSK were not yet known in legal construction in Indonesia. The basic concept of establishing a management institution

Settlement of disputes between consumers and perpetrators/manufacturers of companies which usually covers a small amount of loss, but in practice there is no limit to the value of the cause, therefore there is a possibility that consumer lawsuits cover the value from small to large.

~~The involvement of investigators in efforts to resolve consumer disputes, but the UUPK~~

does not explain how to carry out the mechanism for implementing this provision, nor are there any investigators except for executive orders, who dare to carry out coercive efforts, because there are no technical instructions.

### **Efforts that Investors Can Take in Resolving Conflicts in Fraudulent Investment Cases**

Fraudulent investment or also called investment fraud is a practice that is widespread in society today. This activity is related to the practice of collecting funds, so it is more related to criminal law provisions. The term "Bodong" is a term popularized by the mass media, because it has claimed many victims from various groups.

Therefore, fraudulent investments fall into the realm of criminal law and the provisions are regulated in the Criminal Code (KUHP). Protection for people who are investors is very important, considering that the losses experienced by the victims are not small, especially materially.

Apart from that, the public's low level of understanding regarding investment means that fraudulent investments continue to claim victims. Legal protection for the public regarding fraudulent investments is regulated in Article 378 of the Criminal Code, Article 46 of Law no. 10 of 1998 in conjunction with Law no. 7 of 1992 concerning Banking, as well as Law no. 21 of 2008 concerning Sharia Banking. These provisions are a state effort.

In providing legal protection, especially in terms of law enforcement. However, efforts made to ensure that fraudulent investments do not happen again are by educating the public so that public understanding regarding investment can increase, so that each individual can distinguish fraudulent investments from investments that are genuine and legally registered with the OJK.

An investor must always be careful in making investments so as not to get caught in fraudulent investments that are detrimental. There are several efforts that can be made to avoid fraudulent investments, such as identifying the type of investment offered, assessing the company's credibility and understanding the risks and potential profits. Before deciding to invest, you should check the investment manager you choose.

This is very important because looking at the permits held by investment managers can provide confidence that the entity is legitimate and supervised by the OJK (Financial Services Authority). In this way, investors will feel safer and more comfortable when carrying out transactions.

Apart from that, it is also important to understand the basics of investment such as the returns that may be obtained. The concepts of "high risk, high return" and "low risk, low return" are important to understand in order to understand the potential risks and reasonable returns from an investment. Investors must be wary of fraudulent methods that often promise large profits in a short time. Fantastic offers such as returns three to four times the deposit are suspect. It is also important to ensure that the investment manager is under OJK regulations.

This not only guarantees its legality but also ensures that the investment meets the requirements and licensing set by the financial authorities. In addition, investors are



advised to always.

Look for the latest information about investment through various sources such as mass media, books and the internet. Understanding the basics of investment and monitoring the development of investment managers and companies providing investment products can help investors make smarter decisions.

That way, investors can avoid pitfalls in the world of investment and get optimal results from every step they take in the Indonesian capital market. Therefore, as an investor, be wise in taking every step in order to get maximum benefits from every transaction carried out in the Indonesian capital market.

Apart from efforts to prevent fraudulent investments, investors must understand law enforcement in resolving cases of fraudulent investments. In the context of law enforcement against fraudulent investments also related to corporate crimes (company crimes) as stipulated in Article 46 paragraph (2) of Law no. 10 of 1998 in conjunction with Law no. 7 of 1992 concerning Banking, as well as those specified in Article 59 paragraph (2) of Law no. 21 of 2008 concerning Sharia Banking.

According to Article 46 paragraph (2) Law no. 10 of 1998, it is determined that "In the event that the activities referred to in paragraph (1) are carried out by legal entities in the form of limited liability companies, trusts, foundations or cooperatives, then prosecution against the said bodies is carried out either against those who gave the order to carry out the act or who acts as a leader in the act or both."

In Article 59 paragraph (2) Law no. 21 of 2008 concerning Sharia Banking, it is stated that "In the event that the activities referred to in paragraph (1) are carried out by a legal entity, prosecution against the legal entity in question is carried out against those who gave the order to carry out the act and/or who acted as leaders in the act ." Because the form of banking legal entity is that many use limited liability companies, the organs of limited liability companies are an important part of this discussion.

Based on the previous explanation, people's legal understanding and awareness of investment is crucial to equip them with the necessary intelligence. People need to understand that promises of huge profits or long-term rewards that are too short-lived can be deceptive tactics.

Even though an entity such as a limited liability company or cooperative has the status of a legal entity, this could only be a cover for trusting the public, while the actual legality of the investment activities carried out is still in doubt.

Investment crimes not only cause financial losses to society, but can also damage the foundation of the law itself. However, it is recognized that some individuals in society tend to look for shortcuts to gain profits without requiring much effort.

Even though many are aware that they are involved in illegal investments, there are still groups who are tempted by the promise of quick profits. Therefore, educational efforts and increasing legal awareness need to be strengthened to protect the public from the negative impacts of unauthorized investments.

## CONCLUSION

Based on the research results above, it can be concluded that fraudulent investment is a phenomenon that is detrimental to society and is often associated with violations of criminal law. Law enforcement efforts against fraudulent investments are regulated in various provisions, including in the Criminal Code (KUHP) and related laws such as Law no. 10 of 1998, Law no. 7 of 1992 concerning Banking, and Law no. 21 of 2008 concerning Sharia Banking.

Protection of the investing public is a priority, and prevention efforts involve increasing public understanding of legal and safe investments. The public is expected to be able to distinguish between legitimate investments and fraudulent investments by identifying the type of investment, assessing the credibility of the company, understanding the risks and potential profits, as well as checking the permits held by investment managers.

Investors also need to be careful of investment offers that are too fantastic, and understand basic investment concepts such as "high risk, high return" and "low risk, low return." Checking OJK regulations that supervise investment managers is an important step to ensure the legality and security of investments. Apart from prevention efforts, law enforcement against fraudulent investments involves articles in the law that determine corporate responsibility. If legal entities are involved, prosecution can be carried out against those who give orders or act as leaders in fraudulent investment activities. Public understanding and legal awareness of investment is very important to prevent fraudulent investments. This awareness can help the public avoid detrimental investment traps and ensure law enforcement against fraudulent investment practices.

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