

LEGAL POLICY OF INFORMATION TECHNOLOGY BASED STOCK SERVICES IN THE CAPITAL MARKET

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Abstract: *In the current digital era, information technology has been widely used for the development of the financial industry which encourages the growth of alternative financing for the business world, especially start-ups or novice business actors as a means of investment for the community. This is in line with the establishment of RI Presidential Regulation Number 95 of 2018 concerning Electronic-Based Government Systems (SPBE) which aims to realize clean, effective, transparent, accountable, as well as quality and reliable governance. One form of its activity is Crowdfunding Services Through Information Technology-Based Stock Offerings (Equity Crowdfunding), namely stock offering services carried out by issuers to sell shares directly to investors through an open network of electronic systems. This type of research is normative juridical with a statutory approach and legal principles. Using data sourced from secondary data by processing data from primary legal materials, secondary legal materials and tertiary legal materials which are then analyzed qualitatively. The results of the study show that with the existence of policies regarding the implementation of crowdfunding services through information technology-based stock offerings, the national economy accelerates because in transactions using electronic media that is more practical, makes it easier for people to make transactions, develops trade and the national economy, and realizes financial inclusion targeted by the government.*

Keywords: *Stocks, Information Technology. Capital market law*

Introduction

The capital market is a place for buying and selling shares. This capital market activity is regulated in Law No. 8 of 1995 concerning Capital Markets. Stock offering transactions through information technology began to develop and became a medium for the public to invest in the capital market sector. However, the investment climate also really needs good legal instruments so that it can run smoothly and provide protection for the parties involved in the transaction. (Suriyadi. 2020: 160)

The capital market is a stock trading activity that is protected by law and policies made by the Capital Market supervisory and regulatory agency. (Abdul R. Saliman. 2017: 8) In the current era of globalization, digital technology is developing very rapidly. Indonesia is entering the digital era with the use of the internet in government service activities known as the digital society 5.0 era. In accordance with RI Presidential Regulation Number 95 of 2018 concerning Electronic-Based Government Systems (SPBE) to improve governance that is clean, effective, transparent, accountable, as well as quality and reliable. There are several factors for SPBE goals to be realized. First, the availability of an integrated system, Second, placing Human Resources with integrity and appropriate in their field, Third, it must be carried out on an ongoing basis (article: Ombudsman.go.id Ita Wijayanti. 2020). Presidential Decree Number 95 of 2018 is also in line with the objectives of the establishment of the Republic of Indonesia Minister of

Administrative and Bureaucratic Reform Regulation Number 26 of 2020 concerning Guidelines for Evaluation of the Implementation of Bureaucratic Reform. Where there are eight areas of change that represent each change program. One that is related to SPBE is Management Arrangement Business activities using the internet (with electronic technology devices) are often referred to as electronic commerce (e-commerce) or electronic business (e-business), which in principle business with e-commerce is a business activity without papers (paperless trading). (Munir Fuady. 2012: 407). This condition on the other hand actually encourages the growth of the number of investors in the capital market. According to the Director of the Indonesia Stock Exchange (IDX), digital transformation allows various levels of society to reach the stock exchange. It was recorded that investors in the capital market rose 26 percent to more than 3.1 million (Suhardini, E. D. (2021) .

The Financial Services Authority as the authority that supervises activities in the financial services sector applies a market conduct-based supervisory approach to crowdfunding activities. With this approach, the Financial Services Authority encourages the application of information disclosure by Issuers, the formation of credible Providers, and the establishment of a safe and reliable Information Technology system in Crowdfunding activities.

Literature Review

A. Stocks

The establishment of a company is determined by the existence of capital. The form of capital in a company is called a share, thus shares are a sign of someone's ownership of a company (Article 1 of Law No.40 of 2007). .According to the Big Indonesian Online Dictionary, the meaning of shares is: 1 part; share; sero (capital): embedded in various companies.

Legal subjects who make equity participation in a Limited Liability Company are called shareholders. Shareholders will have very high power in a PT if they have gathered in a meeting called the General Meeting of Shareholders (Ida Nadirah.2019: 53). Shareholders are given proof of share ownership for the shares they own (Article 51 UUP). Proof of ownership of these shares is known as a share certificate. The position of shares as the basic capital for the establishment of a PT and the company's performance are very important in a company so that if the company wants to develop it requires large capital or shares.

Shares are movable objects and give their owners the right to: a. attend and vote at the GMS; b. receive payment of dividends and remaining assets resulting from liquidation; c. exercise other rights under the law.

B. Information Technology in the Capital Market

The development of the digital economy has given rise to new innovations in the financial sector. New innovations in financial services that utilize the sophistication of popular technology with the term financial technology (fintech). Financial technology is essentially a technology that connects the financial sector with users or the general public. The innovations offered by Fintech are very broad and in various segments, be it B2B (Business to Business) to B2C. Fintech has the potential to influence people's transaction habits to become more practical and effective. This causes fintech to potentially affect economic growth in Indonesia. According to a study by the Institute for Development of Economics and Finance (Indef) together with the Indonesian Fintech Association (Aftech), the impact of the financial technology industry (Fintech) on the Indonesian economy reached Rp. 25.97 trillion.

Based on the classification according to Bank Indonesia (BI), one type of fintech that is currently developing is crowdfunding. Crowdfunding is a new innovation in the world of finance. Crowdfunding is an internet-based financial intermediation scheme that collects funds from the general public, also known as the crowd. In its development, Crowdfunding is not only

a financial intermediary institution but also plays a role in establishing the rule of social capital. One of the financial technologies (fintech) in the field of crowdfunding that is currently developing is equity crowdfunding. Fintech equity crowdfunding companies offer applications that can bring together owners with startups or SMEs that need an injection of funds. This certainly opens opportunities for startup or SME businesses to get funding to run their business. (Viodi Childnadi Widodo and Dona Budi Kharisma. 2020: 230-231)

Method

This paper uses the method of literature review (literary study) with a quantitative descriptive approach. Mestika states that literature or literature study can be interpreted as a series of activities related to methods of collecting library data, reading and recording and processing research materials. According to the method used, data sources were obtained from books, written articles and documents related to written studies. In connection with the data used by the author is data in the form of written works such as books, articles, etc., in collecting various data the author seeks from various sources of literature (library) by reading, studying, associating, and noting materials or materials needed to obtain information related to the discussion of the study. Data analysis is the process of selecting and collecting data obtained systematically (Sugiyono, 2019). Data analysis is done by organizing the data, dividing it into units, synthesizing, organizing it into patterns, selecting the most important data to be studied and drawing conclusions. The data analysis technique used in this research is content analysis. This analysis technique is intended to collect and analyze official documents, documents whose validity and validity are guaranteed, both statutory and policy documents as well as research results (Sadiah, 2015).

Result and Discussion

Implementation of Legal Policy Services through Information Technology-Based Share Offerings in the Capital Market legal policy in the capital market sector is an innovation so that both individuals and companies can own shares of an Issuer company more efficiently, so that Issuer companies can further develop their business and Investors can take advantage of the shares they own from an information technology-based share offering in other words Investors participated as the owner of the Issuer's company that made an offer of shares in crowdfunding services (Ana Rokhmatussa'diyah and Suratman. 2015: 192). In general, the purpose of Information Technology-Based Stock Offering Crowdfunding Services is to advance the general welfare of the Indonesian people through economic growth. (Adi Fahrudin. 2014: 1) .

The Creative Economy and Digital Economy can be "disruption" or disrupt conventional economic sectors, for this they need to be regulated wisely. (Iswi Hariyani. 2019: 46).The development of the digital economy has given rise to new innovations in the financial sector. New innovations in financial services that utilize the sophistication of popular technology with the term financial technology (fintech). Financial technology is essentially a technology that connects the financial sector with users or the general public. The innovations offered by Fintech are very broad and in various segments, be it B2B (Business to Business) to B2C. Fintech has the potential to influence people's transaction habits to become more practical and effective. This causes fintech to have the potential to affect economic growth in Indonesia

According to a study by the Institute for Development of Economics and Finance (Indef) together with the Indonesian Fintech Association (Aftech), the impact of the financial technology industry (Fintech) on the Indonesian economy reached Rp. 25.97 trillion. Investors on the other hand will also get shares of certain limited liability companies for the funds that have been deposited with the organizing company. Equity crowdfunding practices that make it easier for companies to obtain funding are in line with the financial inclusion targeted by the government.

This financial inclusion itself has been regulated in Presidential Regulation Number 82 of 2016 concerning the National Strategy for Financial Inclusion (SNKI) that an inclusive financial system is realized through public access to financial services so that it can increase economic capacity and pave the way out of poverty and reduce economic disparities. (Ratna Hartanto. 2020: 154)

Legal certainty greatly influences economic policy steps to be taken, so legal provisions function to regulate and limit various economic activities in the hope that economic development will not ignore the rights and interests of the community. (Neni Sri Imaniyati and Panji Adam Agus Putra. 2017: 14-15). therefore the implementation of information technology-based stock offering crowdfunding services remains based on Law Number 8 of 1995 concerning Capital Markets, Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions, Law -Law Number 21 of 2011 concerning the Financial Services Authority, POJK Number 37/POJK.04/2018 concerning Crowdfunding Services through Information Technology-Based Stock Offerings, as well as POJK Number 3/Pojk.04/2021 concerning Organizing Activities in the Capital Market Sector.

Crowdfunding services through technology-based stock offerings are called Equity crowdfunding. Crowdfunding is simply defined as crowdfunding or public fundraising activities through the internet which is massive in nature because it can involve many parties who do not know each other in a short time. (Iswi Hariyani. 2019: 45) This explanation is as set forth in Article 1 point 1 of the Financial Services Authority Regulation Number 37 / POJK.04 / 2018 concerning Crowdfunding Services Through Information Technology-Based Stock Offerings (Equity crowdfunding), which states: "Crowdfunding Services Funding Through Information Technology-Based Stock Offering (Equity crowdfunding), hereinafter referred to as Crowdfunding Services, is the provision of stock offering services carried out by issuers to sell shares directly to investors through an open electronic system network. Article 5) (1) POJK Number 37/POJK.04/2018, which must obtain a permit from the OJK, is carried out within a period of 12 months and the collection of funds cannot exceed Rp. 10,000,000,000, while the implementation is as follows:

1. There is a statement from the organizer listed on the organizer's website. (Article 23)
2. Limitation of share offerings (Article 24) only once within a 12 month period with a maximum nominal value of IDR 10,000,000,000 (ten billion)
3. The bidding period (Article 27) is a maximum of 2 months or 60 days.
4. Purchase of shares (Article 29) by depositing a certain amount of funds in an escrow account through screening by the operator. After the agreed time, the issuer delivers the results via an escrow account to investors. (Muhammad Rusydi Kadir: 27)
5. Delivery of Shares (Article 30 and Article 31)
6. Submission of funds to administrators which are forwarded to the issuer and delivery of shares to administrators which are forwarded to investors.
7. Requirements as an investor or financier include having the ability to analyze the risk of the shares purchased. (Pas Ingrid Pamesti and Bagas Heradhayksa. 2020: 27-28).

The existence of information technology-based stock offering crowdfunding services has an impact on national economic growth, this is in line with the mandate of the ITE Law in Article 4 letter b of the ITE Law, namely "to develop trade and the national economy in order to improve people's welfare". and the public to participate in echoing the implementation of this crowdfunding service (Article 40 and Article 41 paragraph (1) of the ITE Law.

Legal arrangements in the implementation of crowdfunding services through information technology-based stock offerings Financial Services Authority Regulation Number 37 /POJK.04/2018 is the main reference for creating national economic growth, because basically

this crowdfunding service activity aims to help the public, both Issuers and Investors to boost the economy. So that the government is helped to realize the development of start-up companies in the framework of economic development. In other words, the rule of law in crowdfunding services can be directly proportional to the goals of economic growth. Some legal concepts that can affect economic development because of their ability to predict (predictability), procedural ability, the modification of goals, balancing, accommodation, and clarification of a status. (Neni Sri Imaniyati and Panji Adam Agus Putra. 2017: 16)

Explicitly to see the legal consequences of information technology-based stock offering crowdfunding services for national economic growth, it can be examined based on legal considerations for the formulation of laws and regulations relating to crowdfunding activities, be it the Capital Market Law, the Law ITE, OJK Law and POJK Number 37 /POJK.04/2018. Therefore, after an in-depth study, it can be seen that crowdfunding can result in national economic growth due to the following factors:

1. The Financial Services Authority needs to support start-up companies to contribute to the national economy by providing alternative funding sources based on information technology;
2. In line with the results achieved by national development and in anticipation of economic globalization;
3. Utilization of Information Technology plays an important role in trade and growth of the national economy to realize people's welfare;
4. In order to realize a national economy that is able to grow in a sustainable and stable manner, it is necessary that activities in the financial services sector are carried out regularly, fairly, transparently and accountably, and are able to create a financial system that grows in a sustainable and stable manner and is able to protect the interests of consumers and society

Equity crowdfunding can be an alternative funding that can be used by startup companies and MSMEs who want to expand their business segment. Usually, startup businesses, especially on a small scale, will experience difficulties in borrowing capital from banks. The low presentation of the credibility of the borrower and the low probability of returning, and the absence of collateral assets that can be used if the borrower defaults. With a new breakthrough, such as equity crowdfunding, it will make it easier to open funding opportunities for startup businesses and MSMEs. In addition, funding through equity crowdfunding usually has lower costs than borrowing from a bank. Likewise for funders, investing through equity crowdfunding provides a higher return than deposits in a bank, although with a higher risk as well. (Viodi Childnadi Widodo and Dona Budi Kharisma. 2020: 231)

Conclusion

Information technology-based stock offering crowdfunding services are aimed at increasing equity, growth and stability of the national economy towards increasing people's welfare and is a new source of financing for the business world in the Capital Market sector.

The implementation of crowdfunding services through information technology-based stock offerings is regulated in Law Number 8 of 1995 concerning the Capital Market, Article 23-Article 31 POJK Number 37/POJK.04/2018, Article 44, Article 45 and Article 64 POJK Number 37/ POJK.04/2018. And Article 3 and Article 17 of Law Number 19 of 2016 concerning Information and Electronic Transactions, this is for legal certainty for the parties and obliges the parties to prioritize good faith in their implementation. creating a national economy. With the existence of this information technology-based crowdfunding service policy, according to a study by the Institute for Development of Economics and Finance (Indef) together with the Indonesian Fintech Association (Aftech), the impact of the financial technology industry (Fintech) on the Indonesian economy has increased significantly.

Suggestion

The implementation of crowdfunding services through stock offerings should have been followed by the rules above, in particular the law. This is because even though POJK Number 37/POJK.04/2018 has regulated this matter, the rules above do not describe in detail or even explain the position of the deed in the form of an electronic document in the crowdfunding service. This reflects the lack of strong legal protection for parties, especially investors, to ask for their rights when they have sent funds to the crowdfunding service provider in question

References

- Adi Fahrudin. 2014. *Pengantar Kesejahteraan Sosial*. Bandung: PT. Refika Aditama.
- Abdul R. Saliman. 2017. *Hukum Bisnis Untuk Perusahaan: Teori dan Contoh Kasus*. Jakarta: Kencana.
- Ana Rokhmatussa'diyah dan Suratman. 2015. *Hukum Investasi & Pasar Modal*. Jakarta: Sinar Grafika.
- Ida Hanifah, dkk. 2018. *Pedoman Penulisan Tugas Akhir Mahasiswa*. Medan: CV. Pustaka Prima.
- Ida Nadirah. 2019. *Buku Ajar Hukum Dagang Dan Bisnis Indonesia*. Medan: CV Pustaka Prima
- Munir Fuady. 2012. *Pengantar Hukum Bisnis: Menata Bisnis Modern di Era Global*. Bandung: PT. Citra Aditya Bakti.
- Neni Sri Imaniyati dan Panji Adam Agus Putra. 2017. *Hukum Bisnis: Dilengkapi dengan Kajian Hukum Bisnis Syariah*. Bandung: PT. Refika Aditama.
- Salim HS dan Erlies Septiana Nurbaini. 2019. *Penerapan Teori Hukum Pada Penelitian Tesi dan Disertasi*. Jakarta: PT. RajaGrafindo Persada.
- Soeryono Soekanto, 2014. *Penelitian Hukum Normatif*. Jakarta: PT. RajaGrafindo Persada.
- Kitab Undang-Undang Hukum Perdata.
- Undang-Undang Nomor 8 Tahun 1995 tentang Pasar Modal.
- Undang-Undang Nomor 19 Tahun 2016 tentang Perubahan Atas Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik.
- Undang-Undang Nomor 21 Tahun 2011 tentang Otoritas Jasa Keuangan.
- Peraturan Otoritas Jasa Keuangan Nomor 37 /POJK.04/2018 tentang Layanan Urun Dana Melalui Penawaran Saham Berbasis Teknologi Informasi (*Equity Crowdfunding*).
- Peraturan Otoritas Jasa Keuangan Nomor 3 /Pojk.04/2021 tentang Penyelenggaraan Kegiatan Di Bidang Pasar Modal.
- Iswi Hariyani. "Kajian Hukum Bisnis Jasa Crowdfunding Properti". *dalam Jurnal Legislasi Indonesia*, Volume 16, Nomor 1, Maret 2019.
- Pas Ingrid Pamesti dan Bagas Heradhayksa. "Kepastian Hukum Mekanisme Equity Crowdfunding melalui Platform Santara.id sebagai Sarana Investasi". *dalam Jurnal Hukum Ekonomi Islam*, Volume 4, Nomor 1, July 2020.
- Suhardini, E. D. (2021). Analisis Regulasi Kebijakan Pasar Modal Di Indonesia Pasca Pandemi Covid-19. *Wacana Paramarta: Jurnal Ilmu Hukum*, 20(1), 15-33.
- Suriyadi. "Perlindungan Hukum Pengguna Layanan Urutan Dana melalui Penawaran Saham Berbasis Teknologi Informasi". *dalam Jurnal Panorama Hukum*, Volume 5, Nomor 2, Desember 2020.
- Viodi Childnadi Widodo dan Dona Budi Kharisma. "Problematika Perlindungan Hukum Terhadap Para Pihak Dalam Transaksi Layanan Urutan Dana Melalui Penawaran Saham Berbasis Teknologi Informasi (*Equity-Based Crowdfunding*)". *dalam Jurnal Privat Law*, Volume VIII, Nomor 2, Juli-Desember <https://www.ombudsman.go.id/artikel/r/artikel--pemerintahanberbasiselektronik-dalam-pelayanan-publik>