
Legal Protection for Investors in Equity Crowdfunding Practices on the Bizhare Application

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ABSTRACT

This research discusses legal protection for investors in the practice of crowdfunding through the equity crowdfunding model conducted through the Bizhare application. Equity crowdfunding has become a popular method to raise funds from individual investors in the form of shares or ownership in startup companies. However, this practice also involves significant risks for investors, including the risk of loss of investment and the risk of misuse of funds by irresponsible parties. Therefore, legal protection for investors is essential to ensure safety and fairness in the practice of crowdfunding through the Bizhare app. This study involves an analysis of the applicable legal framework related to crowdfunding and investor protection in the relevant countries. In addition, the research methods used include comparative legal analysis as well as a review of crowdfunding practices on the Bizhare app. This research aims to identify the weaknesses and strengths of existing regulations, and provide recommendations for improvements that can strengthen legal protection for investors. As such, this research is expected to provide a better understanding of how the law can play an effective role in protecting investors in crowdfunding practices, so as to promote trust and wider participation in the equity crowdfunding ecosystem. The results of this study provide an in-depth understanding of the legal framework required to protect investors in crowdfunding practices through the Bizhare app.

Keywords: legal protection, investors, crowdfunding, equity crowdfunding

INTRODUCTION

Equity crowdfunding is a funding model where individuals or small investors can invest in growing companies or startups through an online platform (Pamesti, 2020). This practice has become increasingly popular in recent years, including through the Bizhare app. Although equity crowdfunding provides an attractive investment opportunity, there are potential risks that investors need to be aware of. These risks include company failure to achieve business goals, low investment liquidity, and bankruptcy risk. For investors involved in crowdfunding practices through the Bizhare application, it is important to know and understand the legal protections that exist for them (Erisman, 2022.). This legal protection includes regulations and policies governing equity crowdfunding practices, fundraising procedures, disclosure of information to investors, and dispute resolution mechanisms.

Legal protection for investors refers to a series of legal rules and mechanisms established to protect the interests and rights of investors in their investment activities. This legal protection is intended to provide legal certainty, transparency, protection against abuse, and access to dispute resolution mechanisms. In many countries, there are regulations and laws governing capital markets and investment activities. These regulations cover registration requirements, information disclosure, corporate governance, market supervision and investor protection. The aim of this regulation is to create a safe and fair environment for investors. Insider trading refers to stock trading based on information that is not available to the public. Laws usually prohibit insider trading practices and provide sanctions for perpetrators. This aims to protect investors from losses that may arise due to limited access to material information.

Companies listed on stock exchanges are usually required to provide complete, accurate and timely information to investors. This includes financial reports, information about business projections, risks, and

important changes in company operations. The goal is to provide transparency to investors so they can make more informed investment decisions. There are legal mechanisms available for resolving disputes between investors and companies or financial institutions. This may include settlement through arbitration, mediation, or through court proceedings. This mechanism is designed to provide a way for investors to protect their rights in the event of a dispute or violation. The law also provides protection against fraudulent practices and market manipulation. This includes prohibitions against investment fraud, stock price manipulation, dissemination of false information, and other illegal practices that could harm investors.

Governments and financial supervisory institutions may have implemented regulations and policies regarding crowdfunding practices and equity crowdfunding (Rahadiyan, 2022). The background to this journal can explain existing regulations and policies, the extent to which legal protection has been regulated, as well as potential weaknesses or shortcomings in existing legal protection. Through this journal, researchers or readers can understand the legal protection that exists for investors in crowdfunding practices through the Bizhare application. With this understanding, recommendations or proposed improvements can be developed to strengthen existing legal protections or increase investor awareness of existing risks and protections.

RESEARCH METHODS

The type of research used is normative legal research which is also known as doctrinaire legal research, library research, or documentary study. The term "doctrinal legal research" is used because the focus of this research is only on written regulations or other sources that have doctrinal characteristics. (Muhammad Syahrums, 2022). Alternatively, the terms "library research" or "document study" are used because this research is mostly conducted on secondary data found in libraries, such as books and official government documents. In legal science and legal practice, comparisons can be made using legal elements as a basis. The legal system consists of three main components: (1) legal structure, which includes legal institutions; (2) legal substance, which includes legal principles and actions; and (3) legal culture, which includes the system of values adopted. You can compare the three components with each other or as a whole. Furthermore, in this thesis, a statutory approach is used. This approach examines and analyzes all laws and regulations related to the legal issue being discussed (Ishaq, 2017).

RESULTS AND DISCUSSION

Equity Crowdfunding is a funding method in which individuals or small groups can invest in a company or business project by exchanging their funds for ownership of shares in the company (Tripalupi, 2019). Through online platforms, potential investors can contribute funds in smaller amounts, which are then pooled together to achieve the funding targets required by companies seeking funding. In Equity Crowdfunding, investors acquire share ownership in the company or project being funded (Greetings, 2020). This differs from other funding methods such as donations or reward-based crowdfunding, where investors may only receive non-financial rewards such as products or services from the funded company.

Equity Crowdfunding can provide small investors with the opportunity to participate in investments and profit from the growth potential of successful companies. At the same time, companies seeking funding can access funding from a wider range of sources than traditional funding such as bank loans or venture investors (Hutomo, 2019).

Legal protection refers to the efforts and mechanisms that exist in the legal system to protect the rights of individuals, groups, or legal entities from abuse, violations, or unfair treatment. The aim of legal protection is to ensure justice, equality and security for all parties involved in a legal situation (Gede, 2018). Repressive legal protection is legal protection provided through the application of sanctions against perpetrators to enable legal restoration to the actual situation. This type of protection is usually provided

in court. Preventive legal protection is legal protection intended to avoid disputes, such as legal protection before the government sets rules or decisions.

Investment refers to the act or process of placing funds or assets in the hope of earning a profit in the future. Investors are individuals, groups, or entities who invest by providing their funds or assets in order to achieve investment goals, such as capital growth, passive income, or long-term profits (Pramita, 2021). Investors have several different types and profiles. Some examples of investors include (Nuzula, 2020):

1. Individual Investors (Blankespoor, Journal of Accounting Research 57.1): Individuals who use their personal funds to invest in financial instruments, such as shares, bonds, mutual funds, or property. They can be novice investors just starting their investment journey or experienced investors who already have an established investment portfolio.
2. Institutional Investors: Entities such as insurance companies, pension funds, investment funds, venture capital companies, or sovereign wealth funds that manage funds from third parties for investment purposes. Institutional investors tend to have larger amounts of funds and invest on a larger scale (Salm, 2018).
3. Beginner Investors: People who have just entered the world of investment and do not have much experience or knowledge in this matter. They often seek advice and assistance from financial professionals to help them make the right investment decisions. (Yani, 2020)
4. Professional Investor: Individuals who have in-depth knowledge and experience in investing, often working as investment managers, financial analysts, or financial consultants. They may manage investment portfolios for clients or for investment institutions.

Legal Regulation of Equity Crowdfunding Services in Indonesia

In Indonesia, legal regulations regarding Equity Crowdfunding services are regulated by the Financial Services Authority (OJK) through several regulations, namely (Ong, 2020):

1. OJK Regulation no. 37/POJK.04/2018 concerning Technology-Based Funding Services (Fintech): This regulation provides a framework for various types of fintech services, including Equity Crowdfunding. This regulation regulates licensing requirements, operational procedures, consumer protection, risk management and financial reports for Equity Crowdfunding service providers.
2. OJK Regulation no. 77/POJK.01/2016 concerning Public Offering of Ownership-Based Securities in the Form of Shares for Startup Companies through Technology-Based Funding Facilities: This regulation specifically regulates the public offering of ownership-based securities in the form of shares for startup companies through the Equity Crowdfunding platform. This regulation establishes the requirements, procedures and limitations for the public offering of securities to investors through Equity Crowdfunding.
3. OJK Regulation no. 18/POJK.03/2019 concerning Electronic Public Offering of Shares: This regulation regulates provisions related to electronic public offering of shares, which also includes offering shares through Equity Crowdfunding. This regulation establishes technical requirements and procedures for electronic public offering of shares.

Apart from OJK regulations, there are also other relevant regulations that regulate entities and activities related to Equity Crowdfunding, such as the Capital Market Law, Limited Company Law, and other regulations issued by the Ministry of Communication and Information regarding data protection and privacy (Jafar, 2019). Apart from providing investment, Bizhare has officially opened a secondary market service for buying and selling shares with an investor scheme. This makes Bizhare the pioneer of the first platform to launch a secondary market with a system comparable to the Indonesian Stock Exchange (BEI). Heinrich Vincent, CEO of Bizhare, hopes that the technology offered by Bizhare will help achieve the goal of realizing a democratic financial services system with a form of capital market that allows medium-sized businesses and SMEs throughout Indonesia to participate.

Bizhare is a business investment platform that offers fund management services through information technology-based share offerings (Equity Crowdfunding). This has been permitted by the

Financial Services Authority with Decree Number SK: 71/D.04/2019 and also received ISO 270001:2013 information security management system certification in 2019. To help publishers connect with investors, we help them establish business with friends. other investor friends (Aprihasyyati, 2021).

The legal basis for crowdfunding in Indonesia can be found in Law Number 11 of 2020 concerning Job Creation. Although this law discusses various matters related to employment and investment, one of the relevant parts is Article 155A which regulates "Certain Funding through Electronic Systems". This article provides a legal framework for funding models through electronic systems, which includes crowdfunding (Private, 2020).

Based on Law Number 11 of 2020 concerning Job Creation, in the context of crowdfunding, several forms of legal protection are provided including:

1. Platform Obligations: Crowdfunding platforms are required to comply with the requirements and regulations set by the Financial Services Authority (OJK). They must register, report operational activities, and comply with standards set by the OJK. This aims to provide security and protection to investors.
2. Transparency: Crowdfunding platforms are required to provide clear and transparent information to financiers regarding the risks, potential profits, costs and other conditions related to the funded project or venture. This provides protection to investors so that they have adequate understanding before making an investment.
3. Dispute Resolution Mechanism: The Job Creation Law also regulates dispute resolution mechanisms in the context of crowdfunding. If a dispute occurs between the investor and the party raising funds (campaigner), the dispute resolution mechanism can be through mediation, conciliation or arbitration in accordance with applicable regulations.

If compliance with the established regulations is not provided, sanctions that can be given include:

1. Administrative Action: OJK can give administrative action to crowdfunding platforms that violate regulatory provisions, such as warnings, warnings, activity restrictions, or revocation of operational permits.
2. Criminal Sanctions: If there are violations involving criminal elements, parties involved in illegal crowdfunding activities may be subject to criminal sanctions in accordance with applicable law.
3. Compensation: Investors who experience losses due to violations or fraud in crowdfunding activities have the right to obtain compensation from the party responsible.

Policy and Implementation of Equity Crowdfunding in Indonesia

In December 2018, OJK issued regulations regarding Equity Crowdfunding through POJK (Financial Services Authority Regulation) Number 37/POJK.04/2018 concerning Electronic Share Offering Services by Fintech Organizers. This regulation allows startup companies or small businesses to raise funds of up to IDR 10 billion from individual investors through the Equity Crowdfunding platform that is registered with the OJK. Equity crowdfunding, or equity collective funding, is a method of pooling funds in which a small number of investors can invest in a growing company or startup in exchange for company shares. In Indonesia, the policy and implementation of equity crowdfunding is regulated by the Financial Services Authority (OJK) through OJK Regulation Number 37/POJK.04/2018 concerning Information Technology-Based Money Lending and Borrowing Services. Policies and implementation of Equity Crowdfunding in Indonesia include: (Devotion, 2021):

1. License and Requirements: Equity crowdfunding platforms in Indonesia must obtain a license from the OJK to operate. OJK publishes requirements that platforms must meet, including capital, expertise and good governance requirements.
2. Fund Amount Limitation: Each individual investor has a maximum limit on the amount of funds that can be invested in one company through equity crowdfunding. These limits aim to protect individual investors from excessive risk.
3. Limited Funding to Start-ups and Small and Medium Enterprises (SMEs): Equity crowdfunding in Indonesia is primarily aimed at supporting start-ups and SMEs that need access to business capital.

- Companies that meet these criteria can utilize equity crowdfunding to obtain funds from investors.
4. Crowdfunding Platform: OJK regulates equity crowdfunding platforms to carry out its activities. These platforms act as intermediaries between companies and investors, providing information about companies seeking funding, and facilitating the transaction process.
 5. Investor Protection: OJK requires equity crowdfunding platforms to provide clear and accurate information to investors. They must also implement measures to mitigate risks and protect investors' interests.
 6. Monitoring and Supervision: OJK monitors and supervises equity crowdfunding platforms operating in Indonesia to ensure compliance with regulations and investor protection.
 7. Promotion Restrictions: There are restrictions in place regarding the promotion of companies seeking funding through equity crowdfunding. Companies can only promote their offers through official platforms that have received a license from the OJK.

The implementation of equity crowdfunding in Indonesia is still relatively new, and equity crowdfunding platforms have begun to emerge in this country. However, due to strict OJK regulations, the process of raising funds through equity crowdfunding is still in the development stage.

How the business system works at Bizhare

1. Registration: Investors interested in investing through Bizhare must register as members on the platform. Registration includes filling in personal information and identity verification.
2. Project Selection: Bizhare offers investment projects that have passed a strict selection process. These projects are usually property projects, such as residential, commercial or industrial developments. Investors can explore the projects available on the Bizhare platform and choose the project that suits their wishes and investment goals.
3. Investment: After selecting the desired project, investors can invest a certain amount in the project. The minimum investment amount is usually set by the project and may vary.
4. Investment Agreement: Once investors select a project and invest, they will sign an investment agreement with Bizhare. This agreement contains provisions related to share ownership, profit sharing, risks and other legal aspects.
5. Funding and Project Implementation: After achieving the funding target set for a particular project, Bizhare will start the project implementation process. Bizhare will work with developers or related parties to manage the project.
6. Monitoring and Reporting: Bizhare provides investors with regular information about project developments, finances and performance of the companies they invest in. Investors can track the progress of their investments through dashboards or reports provided by Bizhare.
7. Profit Sharing: When the project generates profits, Bizhare will distribute profits to investors according to the percentage of share ownership owned.
8. Exit or Sale of Shares: At a certain stage, investors can choose to exit or sell their shares in the project. Bizhare will facilitate the share sales process, including finding buyers who are willing to buy the shares(Oktavia, 2019).

CONCLUSION

As an equity crowdfunding platform, Bizhare has an obligation to protect investors' interests. However, it is important to remember that investing in equity crowdfunding platforms carries inherent risks, and there is no guarantee of profit or complete protection against loss. Bizhare, like other equity crowdfunding platforms in Indonesia, is subject to regulation and supervision from the Financial Services Authority (OJK) which aims to protect investors and ensure transparency and compliance with applicable regulations. Bizhare must comply with OJK requirements, including providing clear, accurate and complete information to investors.

However, investors also have a responsibility to conduct their own research before making an

investment decision. Before investing through Bizhare or any other equity crowdfunding platform, investors are advised to understand the risks associated with such investment, read the investment agreement documents, and consult with competent financial or legal advisors. OJK issues various regulations related to equity crowdfunding, including OJK Regulation Number 37/POJK.04/2018 concerning Information Technology-Based Money Lending and Borrowing Services. These regulations regulate the operational requirements, investor protection and governance of equity crowdfunding platforms. Capital Market Law: Law no. 8 of 1995 concerning Capital Markets is a law that regulates capital markets in Indonesia. Equity crowdfunding is part of the capital market, and this activity must comply with the provisions stated in this law.

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