



## Legal Protection for Victims in Fake Investment on Telegram

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**Abstract** *The Unitary State of the Republic of Indonesia is a country of law that guarantees justice and protection for its citizens. This protection is stated in the 1945 Constitution Article 28G paragraph (1), namely: "Everyone has the right to protection of themselves, their families, their honor, their dignity, and their property under their control, and has the right to a sense of security and protection from the threat of fear to do or not do something that is a basic human right". Fraudulent investment is an act of investment fraud, where the perpetrator asks for funds to be invested in a business that is in fact illegal and does not have a permit from the competent authority. This study aims to determine the form of legal protection for victims and to find out how to avoid fraudulent investment. The research method used is qualitative by using the type of literature study of journal analysis, or other media to become a literature reading that is arranged coherently and neatly. This literature study will look for various relevant articles by citing from various sources.*

**Keywords:** *Protection, Fraudulent Investment, Victims*

### 1. INTRODUCTION

In the current era of globalization, many Indonesians are competing to invest capital in the form of money in order to gain profit or commonly called investment. Investments can generally be made if someone has an income that exceeds their needs, especially their basic needs. Investors can sell it at a higher price or get money because the asset is already owned. The amount of time you have is often the most important thing to consider when making financial investments. The more time you have, the more risks you can take. The more risks you take, the greater the chance of making more money (Hildigardis, 2019).

The development of technology and the increasing openness of financial markets have brought new challenges to the Indonesian people, especially in terms of investment protection. One significant threat that continues to grow is the rampant cases of fraudulent investments. This phenomenon has caused great losses to the community due to the many fraudulent practices that take advantage of the public's lack of understanding of legal and safe investments. Fraudulent investments often appear without official permission from the relevant authorities, resulting in investors being trapped in a fraudulent network that is detrimental. The modus operandi of fraudulent investments is increasingly sophisticated, utilizing technology, especially in the telegram application. Perpetrators often offer large profits without risk, using online securities platforms without official

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permission. The ease of access to investing online, although providing positive opportunities, also opens up loopholes for criminals to deceive the public. Investments made by both the government and private sectors have a very important role in driving economic growth, because investment can create new jobs, increase productivity, and increase people's income (Heidy Menajang, 2019).

In addition, investment also plays an important role in the development of infrastructure and human resources, which in turn can increase a country's competitiveness. In the long term, increasing investment can increase a country's economic capacity and reduce dependence on certain economic sectors. (Andi Kustanto, 2020). Investment is an alternative to increase wealth and generate profits. However, in practice, there are investment practices that are carried out illegally and are detrimental to society. (Natanael et al., 2021) Fraudulent investments or investments that are not registered with the relevant agencies and do not have a valid business license often result in huge losses for the victims who invest. (Tambunan, Diana, 2022).

According to various literature on economic law or business law, the terminology "investment" can mean investment made directly by local investors (domestic investors) which is usually called domestic investment, foreign investors (foreign direct investment, FDI) which is usually called foreign investment, and with investment made indirectly by foreign parties (foreign indirect investment, FII), for FII it is better known as investment in the form of a portfolio, which is an effect through the Capital Market Institution (capital market). Not only investment in Indonesia is currently developing regarding online trading. Trading itself means someone who invests their funds in order to gain profit by taking advantage of price changes in a short period of time. Trading has advantages and risks that are both large, which are called high return high risk. Trading has several types: stock trading, forex trading, and commodity trading.

Data from the Financial Services Authority (OJK) shows that the Investment Alert Task Force (SWI) related to fraudulent investments as of June 2024 The Task Force for the Eradication of Illegal Financial Activities (Satgas PASTI) has stopped 1,366 illegal investment entities and has stopped 9,888 illegal financial entities since 2017 to May 31, 2024. Although preventive efforts have been made, the threat of fraudulent investments remains a serious problem that needs to be addressed comprehensively. One important step that can be taken is to ensure that the selected investment company is registered and

supervised by the OJK. As an independent institution, the OJK plays a role in regulating and supervising financial services activities, including the capital market sector, in order to protect the public from the risk of loss.

Although investment laws or regulations related to capital investment have existed, it is because of the unclear regulations that investment in Indonesia has not been fully regulated, especially if the investment is made through electronic transactions. The proof is that until now there are still many irresponsible parties who claim this investment as a form of criminal fraud, which results in losses for certain parties. Fraud under the pretext of investment or commonly referred to as bogus investment is an act that harms other parties. Bogus investment is also referred to as a crime committed by individuals or groups who take advantage of public trust to raise funds with promises of unreasonable high returns.

The provisions of Article 378 of the Criminal Code (KUHP) explain that fraud is a condition carried out by anyone with the intention of benefiting themselves or others unlawfully, by using a false name or false dignity, by trickery, or a series of lies, moving others to hand over something to him, or to give debt or write off receivables, is threatened for fraud with a maximum imprisonment of four years (Pramita & Hendrayana, 2021).

This study aims to determine the form of legal protection for victims of fraudulent investments on Telegram and to find out how to avoid fraudulent investments.

### **Formulation Of The Problem**

Based on background behind problem Which has outlined so Which become problem in this proposal is as following:

1. What are the legal protection efforts for victims of fraudulent investments on Telegram?
2. How to avoid fraudulent investments?

## **2. RESEARCH METHODS**

The research method used by the researcher is qualitative by using the type of literature study (journal analysis, paper analysis, or other media) to become a literature reading that is arranged coherently and neatly. This research method is with this literature study, namely looking for various relevant articles about political parties on public participation in general elections by citing from various sources. In addition, the data

obtained comes from secondary data from scientific articles that have been published in various accredited national journals.

### **3. DISCUSSION**

#### **Legal Protection for Victims of Fraudulent Investments on Telegram**

Legal protection efforts are certainly very necessary in community life, to guarantee justice and certainty in law. Everyone as stated in Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia that "everyone has the right to be recognized and receive equal legal protection in the eyes of the law". In fact, legal protection is something fundamental to provide a sense of justice and order for everyone (Siagian, 2020). With the existence of legal protection, it will reduce a conflict of interest and protect those interests. In this case, the interest in question is an interest in investing. Then, when discussing cases of illegal investment, of course there are investors who are victims. One of the cases that has occurred is the Judge's Decision Regarding the Criminal Act of Fraudulent Investment in Kuningan Regency (Case Study of Decision Number 48/Pid.B/2023/Pn.Kng) That the perpetrator has been proven legally guilty of committing a criminal act of fraudulent investment so that he was sentenced to imprisonment for 2 (two) years 10 (ten) months.

Although not all illegal investments will claim victims, because there are many investments that are declared illegal and do not yet have permits and continue to operate but there are no or no investors who feel like victims of fraud. But it could be because the investment is considered illegal because it has not met the permit, so illegal investments can also be in the form of investment services that provide proper performance but do not yet have permission from the OJK to run their business but the instruments invested are true.

Legal protection itself is a form of protection given to legal subjects in the form of devices that are both preventive and repressive, both verbally and in writing. Preventive legal protection aims to prevent a conflict or dispute, which directs government actions to be careful in making decisions based on discretion. Preventive legal protection for the community as investors is contained in Article 28 of Law Number 21 of 2011 concerning the Financial Services Authority which reads:

- a) Provide information and education to the public on the characteristics of the financial services sector, its services and products;
- b) Requesting Financial Services Institutions to stop their activities if these activities have the potential to harm the community; and
- c) Other actions deemed necessary in accordance with the provisions of laws and regulations in the financial services sector.

Meanwhile, repressive legal protection aims to resolve a conflict or dispute, including its handling in the judicial institution. Repressive legal protection for victims of fraudulent investments is regulated in Article 378 of the Criminal Code that what is meant by fraud is a condition carried out by anyone with the intention of benefiting themselves or others unlawfully, by using a false name or false dignity, by trickery, or a series of lies, moving others to hand over something to him, or to give debt or write off receivables, is threatened for fraud with a maximum imprisonment of four years. In relation to this, in the provisions of Law Number 19 of 2016 concerning Information and Electronic Transactions or ITE. Article 28 paragraph (1) states that: "Any person who intentionally and without the right to spread false and misleading news that results in consumer losses in electronic transactions." So, if someone commits an act that contains false or untrue news and makes other people get lost or suffer losses, then it is clear that it violates the provisions of this Law. Where fraud in an investment will certainly harm investors who have provided their capital.

The next legal effort that can be done is restorative justice, which is a theoretical framework that discusses the evolution of the criminal justice system by emphasizing the importance of marginalized groups and victims, and also combines methods that are in line with the existing conventional criminal justice system. Restorative justice is a framework that prioritizes the improvement of individuals involved in an incident that causes harm, including perpetrators, victims, and communities affected by the violation. The restorative justice program is run based on the fundamental idea that criminal acts committed by perpetrators are not only contrary to the law, but also cause harm to victims and the wider community (Santoso, 2021) . By implementing this approach, the practice of illegal investment can not only be reduced and perpetrators of crimes receive appropriate punishment, but compensation suffered by victims can also be achieved. Restorative justice can be applied to illegal investments, but still with the consent of the

victim. If restorative justice is applied in cases of illegal investment, there must be optimization in terms of finding the perpetrators, both the main perpetrators and other perpetrators involved in the illegal investment case carried out in coordination between the Investment Alert Task Force and the National Cyber Agency to avoid other parties who reopen illegal investment offers. If it continues to the adjudication or prosecution stage, restitution can be carried out by involving LPSK (Witness and Victim Protection Agency).

### **How to Avoid Fraudulent Investments**

In general, we need to know first three characteristics of fraudulent investments. First, there is no official permit from the authorized party, namely the Financial Services Authority (OJK) or if there is a permit, the permit is fake. Usually, the legal entity of this investment is unclear. Second, fraudulent investments always offer unreasonable profits. Third, fraudulent investments can stop at any time. In fact, official investments are sustainable and it is very unlikely to be stopped suddenly. This termination of investment is an opportunity for the perpetrator to run away with the victim's money. There are several efforts that can be made by prospective investors before we invest in a company.

The strategies that can be developed include knowing information about the type of investment that will be explored, this education is carried out so that people can avoid fraudulent investments by being vigilant and not immediately agreeing if they get an offer of extraordinary attractive profits. Indeed, not all investment offers promise profits, but it is better to always be vigilant if you get a suspicious offer with the lure of very large profits. Try to do a simple calculation to estimate whether the offer is reasonable or not, then ask for a copy of the marketing and sales plan from a company, especially in the investment sector, namely by checking the investment company's licensing documents. Every financial institution or product, especially those that collect public funds and investment management must have an official permit from the relevant and authorized agencies. So don't immediately agree to a company that does not have a permit, aka fraudulent, then understand the concept of high risk, high return, in addition, avoid promoters who are unable to explain their company's business plan, and finally , understand the concept of demand and supply that applies to similar products on the market.

The government also plays a very active role in preventing and overcoming cases of fraudulent investment that have spread across various internet sites and have claimed many victims of fraud. There are several ways that the government can issue in preventing fraudulent investment in Indonesia, such as:

1. Clarify the rules on how to invest online. What is meant is that an entrepreneur who forms an online investment site has rules on special requirements that must be achieved before forming an online investment site or "fake investment" and what is expected is that this site will have difficulty developing.
2. It is required to have an official permit in forming an investment site on the Internet. With this permit, the perpetrators will find it difficult to carry out their criminal actions in the internet world or "fake investments". Only online investments that have an official permit that can operate in the internet world can be used.
3. Create official data on legal online investment sites to make it easier for people to choose the official investment site they want to use (Arif, 2020)

#### **4. CONCLUSION**

Based on the description explained by the author above, the conclusions that the author can draw from this research are as follows:

1. Criminal legal protection for victims of investment crimes is in two (2) forms, namely: Preventive and repressive protection. Preventive protection is more directed at the attitudes and actions of the community in making decisions to invest or before making an investment, which is emphasized in Article 28 of Law Number 21 of 2011 concerning the Financial Services Authority. While repressive legal protection itself is an effort made after the occurrence of fraud on the fake investment which will be processed and handled in the judicial institution. In this case, law enforcement follows the regulations contained in the regulations or provisions relating to investment such as Law Number 19 of 2016 concerning Information and Electronic Transactions (UU ITE) and Article 378 concerning fraud contained in the Criminal Code (KUHP).
2. The way to avoid fraudulent investments is to find out information about the type of investment that will be explored, then ask for a copy of the marketing and sales plan of a company, especially in the investment sector, then understand the concept of high risk, high return, in addition to avoiding promoters who are unable to explain their

company's business plan, and finally understand the concept of demand and supply that applies to similar products on the market. As a result, through these strategies, investors can be helped in financial planning carefully for the future and in order to avoid the rampant fraudulent investments.

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