# The Role of the Financial Services Authority (OJK) in Supervising Illegal Investments in Indonesia



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Article Info	Abstract
Received: 28 Juny 2023	The purpose of this research is to deepen the extent to which the
Revised: 19 July 2023	Financial Services Authority (OJK) has made laws and regulations
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Accepted. 23 July 2023 <b>Keywords:</b> Violence; Household; Children	Authority is an institution that regulates and supervises financial institutions in Indonesia. However, there are still many illegal or illegal investment activities in society. Monitoring and eradicating illegal investments in Indonesia is the responsibility of the Financial Services Authority. The purpose of this study is to determine the role of the Financial Services Authority in eradicating illegal investments in Indonesia. This type of research is a literature study with a qualitative approach because the data produced is in the form of words or descriptions. Sources of data were analyzed using time series data, library data collection methods and reading, recording and processing research materials. The population in this study is the analysis of related journals. The method used in this research is normative legal research.
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# 1. Introduction

Investasi is derived from the word invest, which means to invest money or other assets. In general, investment can be defined as a task undertaken by a person (alami person) or a business (business), with the goal of increasing or decreasing the value of a commodity (cash money, equipment, etc.).<sup>1</sup> Illegal investment activities are frequently referred to as fraudulent investments since customers are promised a fixed profit/interest every month even when the company is losing money. As can be seen, this type of investment is clearly unnatural; funds are very speculative, and they attempt to avoid banking restrictions by collecting funds from the public in the form of deposits.<sup>2</sup>

The existence of the financial services industry provides services in the financial field

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<sup>&</sup>lt;sup>1</sup> Agata Zwolankiewicz, 'Hardship and Force Majeure as Grounds for Adaptation and Renegotiation of Investment Contracts', *Erasmus Law Review*, 14.2 (2021), 96–103 <a href="https://doi.org/10.5553/elr.000198">https://doi.org/10.5553/elr.000198</a>>.

<sup>&</sup>lt;sup>2</sup> Massimo Bartoletti and others, 'Dissecting Ponzi Schemes on Ethereum: Identification, Analysis, and Impact', *Future Generation Computer Systems*, 102 (2020), 259–77 <https://doi.org/10.1016/j.future.2019.08.014>.

and plays multiple roles in people's lives to make society more competent.<sup>3</sup> The Financial Services Authority (OJK) is an independent body in the financial sector. OJK has the power of political regulators and financial regulators without interference to ensure public financial transactions. The main objective is to achieve regularity, transparency and stability in all transactions in the financial services sector. The Financial Services Authority (OJK) decides to issue licenses or revoke licenses of financial services institutions that do not comply with OJK regulations. In its implementation, there are various types of financial services, including banking services, non-banking services and market capital services.<sup>4</sup>

However, the easier it is for the general public to disseminate and obtain investment information, the more common illegal investment scams (also known as investment scams) become. This practice is carried out by raising public funds, non-compliance and deviating from banking regulations.<sup>5</sup> Without prior approval from OJK (Financial Services Regulatory Authority). Due to the high returns that come with illegal investments, it is easy for victims to invest without thinking twice. Against this background, it is necessary to examine the authority of the OJK as a high-level institution empowered to protect the public or victims of general illegal investment practices.<sup>6</sup> The following are a few factors that trigger many illegal investment behaviors in society: 1. People are easily seduced by big wins; 2. Low financial literacy; 3. Bank fraud cases continue to increase, leading to missing persons; trust in official institutions; 4. Simple procedure for registration of illegal investments.<sup>7</sup>

Globalization has inundated the market with a variety of financial options, but keep in mind that this also opens up new avenues for criminal exploitation. The rise of websiteor application-based investment proposals requires caution, since the offenders prey on the public's ignorance to fool by seduction. The community is first urged to place or deposit monies while offering extremely high and unrealistic profits.<sup>8</sup> Based on the description above, the author conducted further research to determine the role of the Financial Services Authority in eradicating illegal investment practices in Indonesia.

<sup>&</sup>lt;sup>3</sup> Ahmad Redi and Luthfi Marfungah, 'Perkembangan Kebijakan Hukum Pertambangan Mineral Dan Batubara Di Indonesia', *Undang: Jurnal Hukum*, 4.2 (2021), 473–506 <a href="https://doi.org/10.22437/ujh.4.2.473-506">https://doi.org/10.22437/ujh.4.2.473-506</a>.

<sup>&</sup>lt;sup>4</sup> Yao Yue and others, 'How Cryptocurrency Affects Economy? A Network Analysis Using Bibliometric Methods', *International Review of Financial Analysis*, 77.71988101 (2021), 101869 <https://doi.org/10.1016/j.irfa.2021.101869>.

<sup>&</sup>lt;sup>5</sup> Ratna Hartanto, 'Hubungan Hukum Para Pihak Dalam Layanan Urun Dana Melalui Penawaran Saham Berbasis Teknologi Informasi', *Jurnal Hukum Ius Quia Iustum*, 27.1 (2020), 151–68 <a href="https://doi.org/10.20885/iustum.vol27.iss1.art8">https://doi.org/10.20885/iustum.vol27.iss1.art8</a>>.

<sup>&</sup>lt;sup>6</sup> Dona Budi Kharisma, 'Urgency of Financial Technology (Fintech) Laws in Indonesia', *International Journal of Law and Management*, 63.3 (2021), 320–31 <a href="https://doi.org/10.1108/IJLMA-08-2020-0233">https://doi.org/10.1108/IJLMA-08-2020-0233</a>.

<sup>&</sup>lt;sup>7</sup> Dian Ekawati, 'Perlindungan Hukum Terhadap Nasabah Bank Yang Dirugikan Akibat Kejahatan Skimming Ditinjau Dari Perspektif Teknologi Informasi Dan Perbankan', *UNES Law Review*, 1.2 (2018), 157–71 <a href="https://doi.org/10.31933/law.v1i2.24">https://doi.org/10.31933/law.v1i2.24</a>>.

<sup>&</sup>lt;sup>8</sup> Carmen Gonzalez, 'Bridging the North-South Divide: International Environmental Law in the Anthropocene', *Pace International Law Review*, 32.2 (2015), 407 <https://digitalcommons.pace.edu/pelr/vol32/iss2/3>.

### 2. Research Method

The type of research uses normative legal research, which is a process to find legal rules, legal principles, and legal doctrines to answer the legal issues faced that produce arguments, theories and new concepts as descriptions in solving the problems faced.<sup>9</sup> According to the field, based on the problems on the subject matter of this study, the nature of the research to be carried out is descriptive, namely the research intended to provide as thorough data as possible about humans, conditions or symptoms studied. Sources and Types of Data in this study are secondary data in the form of legal materials, In research in general distinguished between data obtained directly from the community and from library materials. What is obtained directly from the community is called primary data (or basic data), while those obtained from library materials are usually called secondary data (books).<sup>10</sup> Data collection techniques through literature study, namely reading, reviewing laws and regulations, literature books, papers from legal experts, research journals and others to collect data to complement other data.<sup>11</sup> This research uses qualitative discriptive analysis, namely by describing, interpreting data based on norms, theories and doctrines discussing research materials.

## 3. Results and Discussion

#### **Financial Services Authority (OJK)**

OJK is an entity that oversees and regulates the Indonesian financial services sector. OJK was founded in 2011 to replace the Capital Market and Financial Institution Supervisory Agency (Bapepam-LK) and numerous other financial services sector supervisory entities. One of OJK's primary responsibilities is to protect the public interest, particularly the interests of financial sector consumers. OJK aspires to provide consumers with financial services that are fair, transparent, and dependable.<sup>12</sup> OJK regulates financial institutions such as banks, insurance, and market capital to ensure that they function in line with applicable legislation and do not engage in actions that are harmful to customers. Financial services such as banking, capital markets, mutual funds, finance businesses, pension funds, and insurance are all under the supervision of the Financial Services Authority, a service monitoring body. Existence The Financial Services Authority (OJK) is a sector supervisory agency that needs to be taken into account while considering Indonesian finance because everything needs to be properly prepared to support the OJK's existence.<sup>13</sup>

<sup>13</sup> Wahyu Eko Nugroho, Rinitami Njatrijani, and Paramita Prananingtyas, 'Peran Badan Mediasi Dan Arbitrase Asuransi Indonesia Dalam Penyelesaian Sengketa Klaim Asuransi Jiwa Atas Bukti Klaim "Apa Adanya",

<sup>&</sup>lt;sup>9</sup> Rian Saputra and others, 'Reconstruction of Chemical Castration Sanctions Implementation Based on the Medical Ethics Code (Comparison with Russia and South Korea)', *Lex Scientia Law Review*, 7.1 (2023), 61–118 <a href="https://doi.org/10.15294/lesrev.v7i1.64143">https://doi.org/10.15294/lesrev.v7i1.64143</a>.

<sup>&</sup>lt;sup>10</sup> Rian Saputra, 'Development of Creative Industries as Regional Leaders in National Tourism Efforts Based on Geographical Indications', *Bestuur*, 8.2 (2020), 121–28 <a href="https://doi.org/10.20961/bestuur.43139">https://doi.org/10.20961/bestuur.43139</a>.

<sup>&</sup>lt;sup>11</sup> Rian Saputra, Adi Sulistiyono, and Emmy Latifah, 'Pendaftaran Internasional Sebagai Upaya Perlindungan Indikasi Geografis Dalam Perdagangan Global (Study Peraturan Pemerintah Nomor 22 Tahun 2018)', *Jurnal IUS Kajian Hukum Dan Keadilan*, 7.2 (2019), 237 <a href="https://doi.org/10.29303/ius.v7i2.630">https://doi.org/10.29303/ius.v7i2.630</a>.

<sup>&</sup>lt;sup>12</sup> Ema Rahmawati and Rai Mantili, 'Penyelesaian Sengketa Melalui Lembaga Alternatif Penyelesaian Sengketa Di Sektor Jasa Keuangan', *PADJADJARAN Jurnal Ilmu Hukum (Journal of Law)*, 3.2 (2016), 240–60 <a href="https://doi.org/10.22304/pjih.v3n2.a2">https://doi.org/10.22304/pjih.v3n2.a2</a>>.

OJK is also in charge of ensuring the stability of Indonesia's financial system. They keep an eye on hazards to the financial system's stability, such as credit risk, market risk, and liquidity risk. OJK plays a role in establishing regulations and standards that financial institutions must follow in order to avoid these risks.<sup>14</sup> Furthermore, OJK has the jurisdiction to take corrective measures if financial institutions are shown to be experiencing substantial financial difficulties. As the authority, OJK is also responsible for ensuring that the Indonesian financial market operates efficiently and fairly. OJK monitors capital market activities such as stock and bond trading to prevent market manipulation and other infractions.

OJK has responsibilities for oversight and regulation in addition to contributing to the growth of the financial services industry in Indonesia. To address societal requirements and facilitate economic progress, they promote innovation and reform in the financial industry. By making sure new financial institutions, such banks and insurance firms, comply with the regulations, OJK also issues licenses and supervises their establishment and operation.<sup>15</sup> Consumer protection and education are key components of OJK's job. OJK engages in a number of initiatives to raise financial literacy among the general public, including counseling and international campaigns. Consumers are also given rules and information about their rights and responsibilities when utilizing financial services. Consumer complaints are also received and handled by OJK's complaint unit.<sup>16</sup>

In carrying out supervisory and regulatory duties in the financial services sector in legal protection for the public, the Financial Services Authority is regulated in Article 28 of Law Number 21 of 2011 concerning the Financial Services Authority, which states: "For the protection of consumers and the public, OJK is authorized to take measures to prevent losses to consumers and the public, which includes: 1. Provide information and education to the public on the characteristics of financial services; 2. Request that financial institutions halt their operations if they have the potential to harm the community; 3. Other actions considered appropriate and in conformity with the norms of financial services laws and regulations

#### **Illegal Investments**

Illegal investing through money game schemes or Ponzi schemes involves rotating citizens' cash by giving bonuses to old customers with funds received from new customers. There is no genuine commercial activity to support the payout of profits to citizens; the impact has been foreseen; the money is about to run out in a short period since it has been handed over to other parties who participated first. Furthermore, Illegal Investment activities make advantage of public facilities to entice citizens to engage in the practice. Raising cash from locals is urged to locate exceptionally appealing advantages or with interest rates that exceed

*Diponegoro Law Journal*, 5.02 (2016), 1–13 <https://www.academia.edu/34113996/EKSISTENSI\_HUKUM\_KONTRAK\_INNOMINAT\_DALAM\_RANAH\_BISN IS\_DI\_INDONESIA>.

<sup>&</sup>lt;sup>14</sup> Bayu Mogana Putra, 'Kebijakan Politik Hukum Negara Terhadap Perbankan Syariah', *Jurnal Lex Renaissance*, 6.2 (2021), 407–19 <a href="https://doi.org/10.20885/jlr.vol6.iss2.art14">https://doi.org/10.20885/jlr.vol6.iss2.art14</a>>.

<sup>&</sup>lt;sup>15</sup> Agus Suntoro, 'Implementasi Pencapaian Secara Progresif Dalam Omnibus Law Cipta Kerja', *Jurnal HAM*, 12.1 (2021), 1 <a href="https://doi.org/10.30641/ham.2021.12.1-18">https://doi.org/10.30641/ham.2021.12.1-18</a>>.

<sup>&</sup>lt;sup>16</sup> Riswan Erfa, 'Digitalisasi Administrasi Pertanahan Untuk Mewujudkan Percepatan Pembangunan Nasional Perspektif Kebijakan Hukum (Legal Policy)', *Jurnal Pertanahan*, 10.1 (2021), 39–59 <a href="https://doi.org/10.53686/jp.v10i1.31">https://doi.org/10.53686/jp.v10i1.31</a>>.

reasonable limitations.17

The characteristics/indicators of fraudulent/illegal investment are (1) the possibility of obtaining large/improper returns in a short period of time/quickly; (2) risk-free/risk-free investment guarantee; (3) early membership benefits; (4) Recruiters promise bonuses; (5) Recruitment using public figures/religious leaders/public to attract investment interest; and (6) Unclear legality, e.g.: B. No business license, institutional permit but no business license, and by holding Business license to carry out activities outside the policy. According to OJK, illicit investment is caused by two main factors: a. The culprit, since performers may now more easily submit applications and offers through social media and digital advertisements from abroad, it is challenging to track them down; b. The social, many people are not knowledgeable about investing ideas and are therefore readily seduced by high yield investment opportunities. Illegal investment can take many different forms, including: 1. Investment offer with bidding mode jabon tree with 70% share (owner trees), 20% (land owner), and 10% business Global Media Nusantara/PT Global Agri Business; 2. Fixed-return investment opportunities, such as banking products (PT Asia Dynasty Prosperous); 3. A money game with a tiered system that uses a social media app and a video player called ticktock; 4. Investment opportunities presented as cryptocurrency or cryptoassets with fixed yields of 0.5–3% per day or 15%–90% per month are available; 5. A person who organized a cryptocurrency exchange without Bappepti's consent. Huobi Indonesia, Binance.com, and Indochanger.net

#### **OJK's Role in Supervising and Combating Illegal Investment**

OJK plays a very important role in regulating and supervising all activities in the financial services sector. OJK is tasked with supervising, monitoring and following up on these matters. This is essential for OJK to prioritize and evaluate different components when implementing public oversight and conservation policies. As far as illicit investments are concerned, the role of OJK in fulfilling its supervisory duties is as follows: 1. Formation of the Investment Alert Task Force (SWI) to oversee OJK. OJK is taking coordinated, interagency steps to improve processing efficiency. The Investment Alert Working Group (SWI) collaborative framework will be used to expedite the settlement process; 2. OJK has a preventive effect, ie. H. In general, a preventive or preemptive approach can be interpreted as steps taken to reduce, prevent, or eliminate potential risks that may arise from future adverse events. This is done to protect yourself or the group from potential threats or harm. In principle, preventive measures aim to reduce the likelihood of adverse events occurring. It is often more economical to spend on preventive measures than to reduce the negative impact of events that have already occurred; 3. The OJK plays a repressive role, that is, this can often be interpreted as an active effort to stop ongoing unrest.<sup>18</sup>

Financial Services Authority Regulation Number 1/POJK.07/2013 concerning Consumer Protection in the Financial Services Sector, issued by OJK, will act as a guideline for financial service institutions and the general public. The public can use this law as a guideline because

<sup>&</sup>lt;sup>17</sup> Arman Tjoneng, 'Gugatan Sederhana Sebagai Terobosan Mahkamah Agung Dalam Menyelesaikan Penumpukan Perkara Di Pengadilan Dan Permasalahannya', *Dialogia Iuridica: Jurnal Hukum Bisnis Dan Investasi*, 8.2 (2017), 93 <a href="https://doi.org/10.28932/di.v8i2.726">https://doi.org/10.28932/di.v8i2.726</a>>.

<sup>&</sup>lt;sup>18</sup> Henry Donald Lbn. Toruan, 'Legal Implications of Bank Loans Turn into Corruption', *Jurnal Penelitian Hukum*, 16.1 (2016), 339–48.

it explains which financial businesses are subject to OJK oversight, what types of complaints the public can file, and what steps complaints and requirements go through. In the legal context, repressive measures include the imposition of a penalty, fine, or jail, as well as extra sanctions that can be applied when a violation or dispute arises and/or after a violation or dispute has occurred. In general, whatever the government does must be based on the idea of advancing justice. When efforts to implement preventative legislation fail, repressive measures will be implemented. Meanwhile, the OJK's responsibility in combating unlawful investments is as follows: 1. Carry out actions to communicate information and enhance public knowledge about the features of fundraising and investment management operations; 2. Resolving financial industry problems now could lead to future dangers or disagreements. As a result, OJK published regulations outlining the standards that financial service providers must meet when responding to consumer complaints.; 3. Making legislation to provide victims of unlawful investments with legal protection. Circular Letter of the Financial Services Authority Number 12/SEOJK.07/2014 about Submission of Information in the Framework of Product Marketing and or Financial Services Services was published by the Financial Services Authority (OJK); 4. Established an Investment Alert Task Force to increase effectiveness in responding to complaints and alerts from the general public regarding questionable fundraising methods that took place nearby. In 2016, Regional Investment Alert Task Forces were established throughout 35 districts.

In the meanwhile, OJK's duty in combating unlawful investments is to: 1. Engage in activities to educate the public about the features of fundraising and investment management activities. In an effort to raise understanding of illicit investments through outreach efforts, OJK offers educational training at various institutions through seminars, focus group discussions (FGD), or organizes teleconferences. OJK also invites specialists to talk. Additionally, OJK arranges informational gatherings and events, particularly by bringing journalists from various media, so that they can engage the public in conversation about the value of investing and, specifically, how to avoid illicit investment among the public; 2. Resolving financial industry problems now could lead to future dangers or disagreements. As a result, OJK published regulations outlining the standards that financial service providers must meet when responding to consumer complaints. Disagreements arise between customers and financial service institutions frequently when complaints are handled by these institutions. Consumers have two options if they are dissatisfied with how their complaint was handled: they can go to court or use an LAPS (alternative dispute resolution agency); 3. Making legislation to provide victims of unlawful investments with legal protection. Circular Letter of the Financial Services Authority Number 12/SEOJK.07/2014 about Submission of Information in the Framework of Product Marketing and or Financial Services Services was published by the Financial Services Authority (OJK). Financial Services Authority Regulation Number 1/POJK.07/2013 Concerning Consumer Protection in the Financial Services Sector, which will serve as a benchmark for financial service institutions and the public, has also been issued by the Financial Services Authority (OJK); 4. An Investment Alert Task Force has been formed to increase efficiency in responding to complaints and notifications received from the public.19

<sup>&</sup>lt;sup>19</sup> Wisnu Prabowo, Satriya Wibawa, and Fuad Azmi, 'Perlindungan Data Personal Siber Di Indonesia', *Padjadjaran Journal of International Relations*, 1.3 (2020), 218 <a href="https://doi.org/10.24198/padjir.v1i3.26194">https://doi.org/10.24198/padjir.v1i3.26194</a>>.

According to the provisions of Article 28 paragraphs 2 and 3 of Law Number 21 of 2011 concerning the Financial Services Authority, OJK has the authority to ask financial service institutions to cease their operations if those operations have the potential to harm the community and to take other actions that are deemed necessary and in accordance with the laws governing the financial services sector. The use of this article is a response to public complaints from consumers who are harmed by the existence of illegal investment activities. The existence of this article is an OJK step to provide legal protection at the repressive stage, specifically by asking financial service institutions to stop their activities if these activities have the potential to harm society, and take actions deemed necessary. In order to prevent harm to the community as a whole, it is necessary to be able to remove business licenses from businesses that make illegal investments and to sanction those companies.

## 4. Conclusion

The Financial Services Authority (OJK) is an independent body responsible for the regulation, supervision, inspection and investigation of the financial services sector under Act No. 21 of 2011. Illegal investment or illegal investment refers to investment activities that violate regulations and are not approved by OJK. Illegal investments often promises fixed profits and does not comply with the bank's internal regulations. Community fundraising OJK plays an important role in monitoring and cracking down on illegal investments. OJK also conducts community outreach and education, resolves disputes, provides legal protection for victims of illicit investments, and forms a regional investment alert working group. OJK is expected to protect the public from illegal investments, maintain consistency in the financing system, and accelerate sustainable economic growth through its active role and appropriate measures.

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