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REGULATORY FRAGMENTATION AND INVESTOR PROTECTION IN INDONESIA'S DIGITAL SECURITIES CROWDFUNDING: REVISITING LEGAL CERTAINTY THROUGH RADBRUCH AND *MAQASID AL-SHARIAH*

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Abstract This study aimed to examine the triggers of legal uncertainty in the implementation of securities crowdfunding in Indonesia, starting with issues related to investor protection on platforms licensed by the Financial Services Authority (OJK). Theoretically, existing investigations on the concept were predominantly concerned with doctrinal and regulatory issues, while reconstruction through the integration of Gustav Radbruch's theory of legal certainty and *Maqasid al-Shariah* remained insufficiently explored. An empirical legal design was used with a qualitative data approach. Furthermore, data sources consisted of primary and secondary forms. Primary data were obtained from observations of 4 OJK-licensed platforms, 135 public comments collected from Instagram, X, and the official review column of the platform on the Play Store. The data were analyzed using thematic analysis following 6 frameworks, namely introduction, coding, theme development, review, definition, and reporting, focusing on the substance and implementation of regulations related to securities crowdfunding in Indonesia. The analysis was conducted using the theory of legal certainty and the *Maqasid al-Shariah* doctrine. The results showed that legal uncertainty was obtained from contractual structures, overlapping norms and authorities, as well as the absence of dispute resolution mechanisms in regulations impacting investor legal protection. This was because the regulations were oriented towards procedural aspects. Therefore, a preventive and repressive paradigm shift toward securities crowdfunding law was supported through the integration of the Radbruch Triad and *Maqasid al-Shariah*. Efforts to strengthen legal certainty were further recommended by formulating regulations at the same level as the law on the implementation of digital securities crowdfunding, focusing on a strong and integrated legal foundation.

Keywords: Securities Crowdfunding, Legal Certainty, Legulatory Overlap, Investor Protection, Fintech Regulation, *Maqasid al-Shariah*, Indonesia.

Abstrak: Penelitian ini bertujuan untuk mengkaji pemicu ketidakpastian hukum dalam implementasi *securities crowdfunding* di Indonesia, khususnya persoalan yang berkaitan dengan perlindungan investor pada platform yang telah memperoleh izin dari Otoritas Jasa Keuangan (OJK). Secara teoretis, penelitian mengenai konsep tersebut selama ini lebih banyak berfokus pada aspek doktrinal dan regulasi, sementara rekonstruksi melalui integrasi teori kepastian hukum Gustav Radbruch dan *Maqasid al-Shariah* masih belum banyak dikaji. Penelitian ini menggunakan desain penelitian hukum empiris dengan pendekatan data kualitatif. Sumber data terdiri atas data primer dan sekunder. Data primer diperoleh melalui observasi terhadap 4 platform yang berizin OJK serta 135 komentar publik yang dihimpun dari Instagram, X, dan kolom ulasan resmi platform pada Google Play Store. Data dianalisis menggunakan analisis tematik melalui enam tahapan, yaitu pengenalan data, pengodean, pengembangan tema, peninjauan tema, pendefinisian tema, dan pelaporan, dengan berfokus pada substansi dan implementasi regulasi terkait *securities crowdfunding* di Indonesia. Analisis dilakukan dengan menggunakan teori kepastian hukum dan doktrin *Maqasid al-Shariah*. Hasil penelitian menunjukkan bahwa ketidakpastian hukum bersumber dari struktur kontraktual, tumpang tindih norma dan

kewenangan, serta belum tersedianya mekanisme penyelesaian sengketa dalam regulasi yang berdampak pada perlindungan hukum bagi investor. Kondisi tersebut terjadi karena regulasi masih berorientasi pada aspek prosedural. Oleh karena itu, penelitian ini mendukung pergeseran paradigma hukum *securities crowdfunding* dari pendekatan preventif dan represif melalui integrasi Trias Radbruch dan *Maqasid al-Shariah*. Penguatan kepastian hukum selanjutnya direkomendasikan melalui pembentukan regulasi yang berkedudukan setingkat undang-undang mengenai penyelenggaraan *securities crowdfunding* digital, dengan menitikberatkan pada landasan hukum yang kuat, komprehensif, dan terintegrasi.
Kata kunci: *Securities Crowdfunding*, Kepastian Hukum, Tumpang Tindih Regulasi, Perlindungan Investor, Regulasi *Fintech*, *Maqasid al-Shariah*, Indonesia.

INTRODUCTION

The development of information technology has led to major changes in various areas of life, including the economic and financial sectors.[1] This is manifested in the development of digitalization that has changed and opened up space for innovation financing.[2] For example, the creation of digital crowdfunding, which expanded rapidly in the early 2000s, was largely driven by the global financial crisis. Crowdfunding was developed as a community-based financing mechanism that mobilized contributions from the public (the crowd) through online platforms. Initially, the framework was without any expectation of financial returns, providing interest-free microloans to micro-entrepreneurs in developing countries, as exemplified by Kiva in the United States. This model evolved globally and expanded beyond donation- and lending-based schemes into the credit and investment markets.[3] Crowdfunding has become an inclusive alternative source of funding, especially for projects experiencing difficulty in accessing conventional funding sources, such as micro-enterprises, social initiatives, and humanitarian aid. This concept is classified into four main types, namely Equity-based (providing capital or investment in exchange for ownership of shares), Loan-based (providing loans or credit facilities with interest), Reward-based (providing rewards or incentives to contributing parties without expecting anything in return), and Donation-based Crowdfunding (raising funds in the form of donations).[4]

The securities crowdfunding sector in Indonesia has experienced significant growth, showing a positive trend. In July 2023, the number of investors on securities-based crowdfunding platforms reached 156,632, with total invested funds amounting to IDR 911.35 billion. Similarly, the number of securities issuers increased to 423 entities.[5] The latest developments in 2025 showed that the number of issuers registered with the Indonesian

[1] Sentot Imam Wahjono dkk., "Research on the Success of the Crowdfunding Platform Performance in the Funder Dana Project Indonesia Facebook Community," *BASKARA : Journal of Business and Entrepreneurship* 6, no. 1 (2023): 126–38, https://doi.org/10.54268/baskara.v6i1.18343.
[2] Helen Toxopeus dkk., "Investor types and campaign dynamics in investment crowdfunding: A herding and collective action perspective," *Research Policy* 54, no. 9 (2025): 105303, https://doi.org/https://doi.org/10.1016/j.respol.2025.105303.
[3] Eugenia Macchiavello, "Investment-Based Crowdfunding Platforms and Their Regulation," *SSRN Electronic Journal*, advance online publication, 2023, https://doi.org/10.2139/ssrn.4474757. [1].
[4] Hanifiansyah Ilham Nugroho, "Equity Crowdfunding: The Secondary Market's Implementation and Legal Protection for Investors Using Technology-Based Crowdfunding: Comparative Research of Indonesia–United States of America," *Pancasila and Law Review* 4, no. 2 (2023): 143–58.
[5] Afif Noor dkk., "Overcoming Regulatory Hurdles in the Indonesian Crowdfunding Landscape," *Volksgeist: Jurnal Ilmu Hukum dan Konstitusi* 6, no. 2 (2023): 245–60, https://doi.org/10.24090/volksgeist.v6i2.9447.

Securities Depository (KSEI) increased by 5.9% from the previous year, reaching 534 entities. Investors also increased to 184,545, with 875 securities registered. The total assets held at KSEI amounted to IDR 1,640.6 billion, as reported in the POJK Socialization. This rapid development requires high-quality regulations to ensure the implementation of crowdfunding. Therefore, the Financial Services Authority (OJK) continues to update the regulations. The OJK issued Regulation Number 37/POJK.04/2018 on Crowdfunding Services Through Information Technology-Based Share Offerings. In 2020, this regulation was declared invalid and replaced by OJK Regulation Number 57/POJK.04/2020. On August 25, 2021, the previous OJK Regulation was amended to OJK Regulation Number 16/POJK.04/2021.[6] OJK Regulation Number 17 of 2025 was issued regarding securities crowdfunding in July 2025. The enactment revoked the previous regulation to improve the quality of crowdfunding services, particularly by strengthening transparency, oversight, and governance of providers (POJK Socialization, 2025). This creates a conducive industry climate as well as a safe and reliable funding ecosystem that protects the interests of investors and the public.[7]

As an implementation of the regulation, OJK has granted operational permits to several securities crowdfunding platforms. These include the Santara, Bizhare, and Shafiq platforms based on Decree Number KEP-59/D.04/2019, Decree Number KEP-71/D.04/2019, and Decree Number KEP-37/D.04/2019, respectively. These permits reported that all crowdfunding activities on the platforms met the standards of legal compliance, governance, and investor protection in accordance with applicable regulations. Furthermore, the implementation is legally under the direct supervision of the OJK.

In practice, several OJK-licensed platforms have faced serious issues that cast doubt on the effectiveness of oversight and legal certainty for investors. These include numerous investor complaints widely discussed in digital public spaces, such as conversations on Instagram and X, regarding unclear dividend distributions, lack of transparency in financial reports, and delays in complaint resolution (Instagram and X, 2025). The issues have a financial and psychologically significant impact on investors. These lead to financial losses such as the loss of funds invested in securities issuers. A sense of uncertainty, worry, and disappointment is created with the protection system guaranteed by OJK regulations and supervision. This impacts investor confidence and interest in participating in securities crowdfunding.[8]

Academic discourse on securities crowdfunding has developed in a fragmented manner. The literature is oriented toward dogmatic legal studies, which evaluate certainty through the framework of the capital market, OJK Regulation, and the study conducted by Afif Noor.[9] Conversely, several previous studies are dominated by analyses of securities crowdfunding through an Islamic law perspective, but are limited to formal sharia compliance, such as

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[6] Mohammad Yunies Edward dkk., *Crowdfunding di Indonesia* (UNISNU PRESS, 2025). [104].

[7] M. Rusidi Aviv, "Analisis Kritis Kelemahan Pengaturan Aturan Urun Dana di Indonesia," *Jurnal Tana Mana* 6, no. 1 (2025): 564–69.

[8] "Pembaruan Hukum Publik Syariah: Perspektif Abdullah Ahmed Al-Na'im," *Al-'Adalah* 11, no. 2 (2014), https://doi.org/10.24042/adalah.v12i2.3018.

[9] Afif Noor, "The Legal Regulatory Framework of Sharia Securities Crowdfunding in Indonesia," *Masalah-Masalah Hukum* 51, no. 4 (2022): 433–44, https://doi.org/10.14710/mmh.51.4.2022.433-444.

Pitaksanyatin et al.,[10] Moh Ali Maulidi,[11] and Muhammad Habibi Miftakhul Marwa.[12]These studies made academic contributions, but tend to operate separately, failing to comprehensively explain the Islamic and juridical perspectives on digital securities crowdfunding. The tension between the speed of fintech innovation was not addressed through securities crowdfunding, which required flexibility to ensure public benefit, and the demand for positivistic or rigid legal certainty. Therefore, this study aims to fill the gap by examining securities crowdfunding, investigating the dialectic between positive and Islamic law, as well as formulating regulations through a dialogue between Gustav Radbruch's legal certainty and Ibn Asyur's *Maqasid al-Shariah*.

According to Gustav Radbruch, legal certainty has three basic values, namely utility (*zweckmassigkeit*), justice (*gerechtigkeit*), and legal certainty (*rechtssicherheit*), closely related to the principles of *Maqasid al-Shariah*. A new analytical framework can be produced as a tool to evaluate securities crowdfunding regulations comprising formalistic and substantive ethical aspects. This is because legal certainty is no longer interpreted narrowly as compliance with the Capital Market Law and/or OJK Regulation, but rather as an instrument that ensures the absence of information asymmetry, transparent profit distribution, clear dispute resolution space, and economic stability without affecting digital financial innovation.

LITERATURE REVIEW

Securities crowdfunding has recently attracted attention and has become a very interesting issue in the field of economic law. This is because the development of digital securities crowdfunding shows a positive trend as an alternative funding source for MSMEs to obtain business capital from public retail investments on digital platforms. Existing literature agrees that digital securities crowdfunding has enormous strategic potential in increasing financial inclusion for business owners and promoting public participation in investing to drive economic growth. However, some existing literature also shows serious problems related to legal harmonization, investor protection, and the legal relationship between the parties in the transaction. This condition indicates that the development requires technological innovation and broad access to funding, as well as a comprehensive regulatory and governance framework to guarantee legal protection. In this context, previous studies on digital securities crowdfunding can be mapped into several key trends as follows:

The first dominant trend is the analysis of digital crowdfunding implementation focused on legal certainty and protection for investors in regulations, such as a study conducted by Afif Noor et al. (2023) entitled *"Overcoming Regulatory Barriers in the Indonesian Crowdfunding Landscape"*. Crowdfunding regulations are underdeveloped, with minimal legal certainty and protection.

[10] Pitaksanyatin Yuspin Wardah, Marjanah, Iramadyah Dyah, Arief Budiono, "The Sharia Compliance Of Securities Crowdfunding: Studi Kasus UKM," *Diponegoro Law Review* 8, no. 2 (2023).
[11] Moh Ali Maulidi, "Analisa Penerapan Sharia Compliance Securities Crowdfunding (Studi Kasus Fundex Platform)," *Jurnal Warta Ekonomi* 7, no. 1 (2024): 219–32.
[12] Haris Muhammad Habibi Miftakhul Marwa, Sholahuddin Al-Fatih, Mohammad Azam Hussain, "The Position And Role Of The Sharia Supervisory Board In Ensuring Sharia Compliance Equity Crowdfunding In Indonesia," *Jurnal Hukum UNISSULA* 39, no. 2 (2023): 24.

This is because existing regulations are unable to answer several important issues. The legal rules governing donation-based and reward-based crowdfunding are also weak due to the absence of clear and firm operational guidelines.[13] Yuni Fajrina et al. (2025), in a study entitled *Legal Analysis of Securities Crowdfunding from the Perspective of Investment Law and Capital Market Law*, showed that legal protection for crowdfunding activities was not fully realized.[14] This was confirmed by Husnul Khatimah (2024) in *"Legal Protection in Securities Crowdfunding: Analysis of the Roles of Issuers, Investors, and Organizers."* The results report that OJK Regulation Number 16/POJK.04/2021 contains provisions regarding the obligations and rights of issuers, investors, and organizers. Violations of agreements in the implementation of securities crowdfunding include administrative sanctions and do not explicitly regulate criminal sanctions for unlawful acts. Therefore, legal protection is not provided for parties affected during transactions.[15] In this trend, securities crowdfunding is studied using a normative approach, remaining limited to legal dogma. The analysis focuses on OJK Regulation Number 16/POJK.04/2021 and the Capital Market Law, without comprehensively examining others related to the transactions, such as the Electronic Information and Transactions Law (ITE Law) and Limited Liability Company Law. This study can be considered irrelevant to the current context since OJK Regulation Number 16/POJK.04/2021 has been revoked and replaced by OJK Regulation Number 17 of 2025.

The second dominant trend is the comparative analysis on the implementation of securities crowdfunding in Indonesia with other countries, which emphasizes the comparative study of regulatory models and differences in the form of personal data protection. This include studyconducted by Syarifah Zahra Al Haddar and Inda Rahadiyan entitled *"Regulation of the Principle of Openness in Securities Crowdfunding (Comparison Between Indonesia and the United States)"*. The results show that the United States, as a developed country, has provided regulations on the principle of openness by setting a minimum limit for securities offerings, as well as requiring the existence of an independent third party acting as a public accountant. Indonesia lacks these regulations and is not sufficient in providing legal certainty and protection.[16] Furthermore, a study conducted by Fithriatus Shalihah and Roos Niza Mohd Shariff entitled *"Identifying Barriers to Investor Data Protection and Privacy in Securities Crowdfunding: Experiences from Indonesia and Malaysia"* showed that personal data protection in digital Securities Crowdfunding was not running optimally due to the absence of regulation. Malaysia has regulations that govern personal data protection, as stated in the Personal Data Protection Act (PDPA Law) 2010. In practice, several obstacles persist due to low legal awareness.[17] A study by Zalfa Fattaya, entitled

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[13] Noor dkk., "Overcoming Regulatory Hurdles in the Indonesian Crowdfunding Landscape."

[14] Yuni Fajrina dkk., "Analisis Yuridis Securities Crowd Funding dalam Perspektif Undang-Undang Penanaman Modal dan Undang-Undang Pasar Modal," *Jurnal Ilmiah Global Education* 4, no. 4 (2023): 2600–2606.

[15] Husnul Khatimah, "Perlindungan Hukum dalam Equity Crowdfunding: Analisis Terhadap Peran Penerbit, Pemodal, Penyelenggara," *UNES Law Review* 6, no. 4 (2024): 12464–72.

[16] Inda Rahadiyan Syarifah Zahra Al Haddar, "The Regulation Of Disclosure Principle In Equity Crowdfunding (A Comparison Between Indonesia And United States Of America)," *Mimbar Hukum* 33, no. 2 (2012): 436–64.

[17] Fithriatus Shalihah dan Roos Niza Mohd Shariff, "Identifying Barriers To Data Protection and Investor Privacy in Equity Crowdfunding: Experiences From Indonesia and Malaysia," *UUM Journal of Legal Studies* 13, no. 2 (2022): 215–42, https://doi.org/10.32890/uumjls2022.13.2.9.

"Regulation of Securities Offerings Through Securities Crowdfunding: A Comparison of Indonesian and Singaporean Laws," suggested that the most fundamental difference between the implementation of securities crowdfunding in Indonesia and Singapore was the use of different approaches. Singapore adopts a Principles-Based approach focused on Intermediary Integrity, where organizers are required to meet high Capital Market Services License (CMS) standards and use investor segmentation (Accredited vs. Retail) to direct protection. In contrast, Indonesia applies a Rules-Based approach that prioritizes inclusivity by imposing specific restrictions on the issuer profile (non-conglomerate MSMEs) and implementing direct interventions to address retail investor risk through income-based investment limits.[18] In this trend, studies on securities crowdfunding tend to adopt a normative approach. The studies focus on a comparative analysis of Indonesia's success relative to other countries, failing to address Sharia aspects in achieving ideal investor-friendly standards.

The third dominant trend in securities crowdfunding studies is Sharia compliance. Previous experts have analyzed the concept through classical Islamic jurisprudence. Several studies have concluded that Sharia securities crowdfunding, a capital instrument for MSMEs in Indonesia, complies with Islamic law by avoiding the risks of uncertainty, as well as prohibiting interest and gharar (unlawful activity).[19] However, others show that crowdfunding is a funding system vulnerable to exploitation by individuals seeking wealth through approaches comprising gambling (maisir), *gharar* (uncertainty), and *riba* (usury). These practices are inconsistent with Islamic economic principles and will affect many people.[20] Some studies have used the *Maqasid al-Shariah* theory, where securities crowdfunding practices offering sharia securities and following the DSN MUI fatwa Number 140/DSN-MUI/VIII/2021 are in accordance with the principles of *Maqasid al-Shariah*.[21] Related studies are limited to the Sharia perspective, and the use is directed at normative justification (halal-haram).

Several investigations examining digital securities crowdfunding in Indonesia tend to show limitations in integrating regulations with societal realities, particularly in cases arising on OJK-licensed platforms. Therefore, this gap is filled by examining the implementation of digital securities crowdfunding in Indonesia, using an empirical legal approach, to assess predictability and investor protection. Legal certainty in the regulations is analyzed, such as Law Number 19 of 2016 on Electronic Information and Transactions, Law Number 40 of 2007 on Limited Liability Companies, and OJK Regulation Number 17 of 2025, which have not been sufficiently investigated in the literature. Gustav Radbruch's legal certainty and Ibn Asyur's *Maqasid al-Shariah* are also integrated as a philosophical and ethical normative framework for

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[18] Zalfa Fattaya, "Pengaturan Penawaran Efek Melalui Equity Crowdfunding : Perbandingan Yuridis Indonesia dan Singapura," *Media Hukum Indonesia (MHI)* 4, no. 1 (2025): 494–508.

[19] Fauzatul Laily Nisa Nur Anis Machfudloh, "MSME Capital Instruments Through Sharia Equity Crowdfunding," *Al-Muhasabah Jurnal Ekonomi, Manajemen, Akuntansi dan Keuangan* 01, no. 01 (2024).

[20] Aqilah Hafizhah dan Novien Rialdy, "Konsep Crowdfunding Di Indonesia Dalam Perspektif Syariah Compliance," *Journal of Islamic Economics and Finance (JoIEaf)* 1, no. 2 (2024): 173–78.

[21] Maimun Muhammad Iksan Purnomo, Muhammad Zaki, Gandhi Liyorba, "Tinjauan Hukum Ekonomi Syariah Dan Hukum Positif Terhadap Pelaksanaan Equity Crowdfunding Di Indonesia," *Indonesian Journal of Sharia Economic Law* 03, no. 01 (2025): 1–11.

reconstructing securities crowdfunding regulations that balance legal certainty with the values of justice to achieve societal benefits.

METHOD

An empirical juridical approach was used to examine the implementation of law among the community (law in action).[22] The analysis focused on the implementation of digital securities crowdfunding legal rules such as OJK Regulation Number 17 of 2025 on Securities Offerings Through Information Technology-Based Crowdfunding Services, Law Number 8 of 1995 on the Capital Market, Law Number 11 of 2008 with Number 19 of 2016 on Electronic Information and Transactions, among other relevant regulations. The extent to which the regulations guaranteed legal certainty for the community, especially investors, who often failed to implement digital securities crowdfunding, has also been assessed. The indicators for measuring legal certainty were drawn from the theoretical framework proposed by Gustav Radbruch. In this context, legal certainty could not be separated from the values of justice and utility. The theoretical frameworks of *Maqasid al-Shariah* by Muhammad al-Tahir Ibn Ashur, which included general (*al-maqasid al-'ammah*) and specific objectives (*al-maqasid al-khassah*), were adopted. The concept of *al-ammah* was used to measure the social impact or public benefit of securities crowdfunding. Meanwhile, the concept of al-khassah was used to measure the effectiveness and role of regulation in maintaining the digital securities crowdfunding ecosystem.[23]

A qualitative approach was used to understand problems in a social context, prioritizing direct inclusion through observation and interaction.[24] Furthermore, the data sources consisted of primary and secondary forms. Primary data was obtained through observations on 4 digital securities crowdfunding platforms, selected through a sampling strategy, which adhered to strict criteria such as platforms being licensed by the OJK and having a publicly accessible track record of complaints containing investor losses. Observations were also conducted on 135 public comments collected from Instagram, X, and the official review section of the platform on the Google Play Store, during the period following the issuance of OJK Regulation Number 17 of 2025, from July to November 2025. These comments were selected using keyword-based tracking, including failed buybacks, lack of dividends, dispute resolution, and the absence of issuer financial reports. Filtering was performed using inclusion and exclusion criteria to avoid bias in the data. Exclusion criteria were also applied to eliminate spam, emotional reactions without legal substance, and comments from anonymous accounts. Conversely, inclusion criteria focused on comments containing a chronology of investor losses, up to the point of

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[22] Jonaedi Efendi dan Johnny Ibrahim, *Metode penelitian hukum: normatif dan empiris*, Cet. 2 (Prenada Media, 2018). [150].

[23] Abdul Mujib, "The failure of Indonesian e-commerce law in adapting to digital economy," *Ijtihad: Jurnal Wacana Hukum Islam dan Kemanusiaan* 25, no. 2 (2025): 213–30, https://doi.org/10.18326/ijtihad.v25i2.213-230.

[24] M.Askari Zakaria, et al., Metodologi Penelitian Kualitatif, Kuantitatif, Action Research, Research And Development: R N D, Cet. Ke-1 (Kolaka: Yayasan Pondok Pesantren Al Mawaddah Warahmah, 2020), pp. 28-29.

data saturation. Secondary data consisted of laws and regulations related to the implementation of digital securities crowdfunding in Indonesia, as well as sources from books, articles, previous investigations, and legal experts' opinions.[25]

Data collection methods used observation and documentation techniques. Observations were carried out by systematically observing the securities crowdfunding platform and focused on operational aspects, including the platform's terms of use, which acted as electronic contracts. Furthermore, observations were conducted on several public conversations in digital spaces, including the comment sections of the official accounts on Instagram, X, and the Google Play Store. Documentation was used by reviewing several legal documents related to digital securities crowdfunding. The data were processed and analyzed using thematic analysis, following a six-part framework, namely introduction, coding, theme development, review, definition, and reporting.[26] The first stage of familiarization was conducted by repeatedly collecting and reading several investor comments. The second stage was the formation of initial codes, with each comment being assigned a descriptive label related to legal substance, such as the absence of financial reports and the platform's lack of accountability. The third stage comprised theme development by grouping the initial codes into larger themes representing the level of legal certainty, such as investor protection and public predictability. The fourth stage was the review of the themes' relevance to investor complaints. Each theme was defined, and the final step was to create a report examining the interrelationship with securities crowdfunding regulations. Furthermore, the analysis used Gustav Radbruch's theory and Ibn Asyur's *Maqasid al-Shariah* to reconstruct ideal regulations.

Data validity was tested using source triangulation techniques and cross-referenced sources from regulatory documents, platform terms of use, and investor complaints to ensure consistency of results on legal uncertainty in securities crowdfunding operations. Peer-reviewed discussions were also conducted with business law academics to ensure accurate interpretations. Even though the data were sourced from publicly available digital spaces, ethical considerations were still applied, such as maintaining privacy by anonymizing platform and investor names using alphabetical codes (Platforms A, B, C and Commentators A, B, C). Data collection was limited to comments posted through public accounts, indicating that owners consciously shared information publicly.

RESULTS

Typology of Investor Complaints Regarding Securities Crowdfunding

Securities crowdfunding platforms licensed by the OJK have normatively reported a guarantee of certainty and legal protection for investors. As the institution directly supervising the platform's operations, the OJK legitimizes that the organizers have met the principles of accountability, transparency, and good financial governance. Therefore, public trust is higher

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[25] Didi Sukardi dkk., "Digital Transformation of Cooperative Legal Entities in Indonesia," *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 24, no. 2 (2024): 68–86, https://doi.org/10.30631/alrisalah.v24i2.1563.

[26] Azmiyah Rahma Zanjabila Najmah, Namirah Addeliani, Citra Afny Sucirahayu, *Analisis Tematik Pada Penelitian Kualitatif* (Salemba Medika, 2023).

and becomes a distinct attraction for participation in the platforms. Empirical studies have reported several types of investor complaints regarding securities crowdfunding on licensed platforms. These complaints can be broadly categorized as follows:

1. Financial Transparency

Financial transparency is an absolute right for investors. This variable enhances trust, provides a basis for performance evaluation, and informs the objective monitoring of MSMEs' financial health, including decisions on retaining or selling shares. Financial transparency can serve as a benchmark for calculating dividends received. Transparency is achieved through the submission of periodic reports from issuers, as explicitly stipulated in Articles 108 to 110 of OJK Regulation Number 17 of 2025. Organizers play a crucial role in ensuring this concept, acting as a proxy for investors or retailers to monitor and supervise the management of issuer projects. However, studies into investor experiences with securities crowdfunding, public conversations on Instagram, the X app, and the official review section of the platform on the Google Play Store showed several complaints regarding the lack of transparency and accountability of organizers for funds invested in issuers. There is a high level of information asymmetry in MSME funding, leading to unclear dividend distribution and the loss of investor capital. This is driven by the lack of provisions concerning organizers' liability for losses suffered by investors, and legal sanctions for the lack of transparency in project progress reporting, as stipulated in OJK Regulation Number 17 of 2025. The regulations have focused on administrative procedural rules for the implementation of digital crowdfunding in Indonesia. Therefore, legal sanctions remain administrative in the form of restrictions or suspensions on business activities to impact the continuity of the digital crowdfunding industry, leading to a lack of legal protection for investors and a decline in public trust in the implementation of digital securities crowdfunding in Indonesia.

2. Secondary Liquidity

A challenge faced in securities crowdfunding is the risk of illiquid shares. This has been widely complained about by investors, who often struggle to cut losses early when business performance begins to deteriorate. Investors can lose all capital when the company goes bankrupt. In the context of securities crowdfunding, OJK Regulation Number 17 of 2025 stipulates several restrictions, including a timeframe that allows trading to take place only during March, June, September, and December, and a frequency limit restricting the concept to investors registered with the provider. This severely limits stock trading, leading to significant capital losses, with no clear resolution available. OJK Regulation Number 17 of 2025 positions stock liquidity as a pure business risk.

3. Dispute Resolution Facilities

Dispute resolution facilities are an important instrument for restoring investor rights in securities crowdfunding transactions. However, many investors lack sufficient predictability regarding the resolution of disputes. This has led to complaints alleging that litigation institutions rejected reports of financial losses due to a lack of clarity on whether the cases fall under criminal or civil law. This uncertainty is driven by the lack of clear regulations concerning dispute resolution procedures and efforts, as stipulated in OJK Regulation Number 17 of 2025.

The Reality of Electronic Contract Structures and Overlapping in the Securities Crowdfunding Legal Framework as the Root of Investor Complaints

a. Electronic Contracts

The securities crowdfunding process includes the execution of electronic contracts that stipulate terms and conditions. The main contracts are drawn up between the organizer and the share issuer, as well as between the organizer and the investors. These establish the rights and obligations of each party, providing a legal basis for regulating crowdfunding. Additionally, electronic licensing mechanisms are used to formalize agreements, simplifying the process of buying and selling shares. [27] The implementation of electronic contracts in securities crowdfunding includes investors simply clicking agreement to the platform's terms of use. The contracts remain binding and create rights and obligations, as stipulated in Government Regulation Number 17 of 2019 on the Implementation of Electronic Systems and Transactions. The existence is accepted as evidence in court, as stipulated in Article 5 of the ITE Law.[28]

The implementation of digital securities crowdfunding in Indonesia reports contractual conflicts that contribute to inadequate investor protection. The primary concern is the inclusion of terms of use that contain a disclaimer or exoneration from the organizer.[29] This comprises a statement that limits or denies legal responsibility for risks arising from the transaction.[30] The form of this statement is: "*The investor declares that it will protect, guarantee, release, and discharge the organizer from any claims, demands, lawsuits, demands for compensation, liability claims, and/or other similar demands, whether direct or indirect, for any loss, property damage, physical or mental injury, related to the business/project and/or management of the issuer's business/project activities.*" Furthermore, a clause states that "*the investor acknowledges and understands that every business has its own risks. Therefore, by investing through platform A, investors hereby understand all risks that may occur in the future, including business, investment, liquidity, scarcity of dividend distribution, dilution of share ownership, electronic system failure, and default on securities. In relation to these risks, investors hereby release A from all claims, demands, and compensation related to risks that will arise or may occur due to the business activities/projects of the issuer.*" In this contract structure, the platform is positioned as a technological intermediary, absolving legal responsibility for investor losses arising from information asymmetry between investors and issuers. This leads to manipulation or the omission of financial statements to avoid dividend payment obligations or moral hazard. The terms of use are designed to protect the platform's business stability by shifting all business and legal risks to the financiers or investors.

The presence of an exoneration clause is contrary to existing laws and regulations, as stipulated in Article 47 paragraph 2 of Government Regulation Number 17 of 2019, where

[27] Hilma Rohmatul Ummah dkk., "Sharia Fintech : Crowdfunding as MSMEs Financing," *Al-Muamalat: Jurnal Ekonomi Syariah* 11, no. 1 (2024): 115–36.

[28] Rizky P. P. Karo Karo dan Teguh Prasetyo, *Pengaturan perlindungan data pribadi di Indonesia: perspektif teori keadilan bermartabat* (Nusa Media, 2020). [98-103].

[29] Pauzi Muhammad dkk., "Actualizing Islamic Economic Law in the Digital Era: A Study of the Application of Khiyar al-Majlis in Electronic Contracts," *JURIS (Jurnal Ilmiah Syariah)* 23, no. 2 (2024): 205–14, https://doi.org/10.31958/juris.v23i2.11573.

[30] Kinan Kalam Khalifa, "Kriteria Iktikad Baik pada Klausul Disclaimer dalam Kontrak Elektronik," *Perspektif Hukum*, no. 8 (2024): 174–94, https://doi.org/10.30649/ph.v24i2.312.

"electronic contracts made with standard clauses should comply with statutory provisions." According to the Consumer Protection Law, standard agreements are prohibited from containing clauses that exonerate, transfer, or delegate the business actor's responsibilities to consumers. Furthermore, investors' freedom of choice is limited to a *"take it or leave it"* (accept-or-reject) model, creating an imbalance in the legal standing between investors and providers. This is because investors have no right to negotiate the terms of the agreement, violating the freedom of contract as stipulated in Article 1338 of the Civil Code. The real implication is the lack of legal remedies available in the event of losses, as agreements are binding and become law for the parties (pacta sunt servanda). This is also fueled by the lack of clear regulations regarding the standardization of contracts between providers and investors, as stipulated in Chapter IX of the crowdfunding service agreement in OJK Regulation Number 17 of 2025.[31]

b. Overlapping the Legal Framework for Digital Securities Crowdfunding in Indonesia

The legal framework for securities crowdfunding has been subjected to significant changes, particularly following the issuance of OJK Regulation Number 17 of 2025, which revoked OJK Regulation Number 16/POJK.04/2021. However, this amendment does not fully guarantee legal certainty and protection for investors due to the following normative overlap:

1. Overlapping Law Number 8 of 1995 on Capital Markets and OJK Regulation Number 17 of 2025 on Securities Offerings for Information Technology-Based Crowdfunding Services.

   Law Number 8 of 1995 on Capital Markets does not explicitly regulate equity or securities crowdfunding. However, this is relevant to the implementation of digital securities crowdfunding and serves as a regulatory consideration in the formulation of OJK Regulation Number 17 of 2025 on securities offerings for information technology-based services.

   Article 1, paragraph 13 of Law Number 8 of 1995 states that the capital market is activities related to public offerings and securities trading, public companies concerning the securities issued, as well as institutions and professions related to securities. Furthermore, Article 1 paragraph 15 stipulates that public offerings are activities carried out by an issuer to sell securities to the public in accordance with the procedures outlined in the law and the implementing regulations.[32] Based on the securities crowdfunding scheme, public offerings are a process of raising funds from the public (investors) through a digital platform to fund a specific company or project in exchange for securities (shares, bonds, or debentures). Therefore, securities crowdfunding falls within the capital market field.

   The discussion is strengthened in Article 2 paragraph 1 of OJK Regulation Number 17 of 2025, where *"crowdfunding services activities are financial services activities in the capital market sector."* This provision explicitly establishes that securities crowdfunding is part of the

[31] Ismail Wahyudi dkk., "Kuantifikasi Objek Jual-Beli dalam Transaksi Borongan di Kota Metro: Perspektif Hukum Islam: Kuantifikasi Objek Jual-Beli dalam Transaksi Borongan di Kota Metro: Perspektif Hukum Islam," *Journal of Islamic Law* 2, no. 1 (2021): 94–118, https://doi.org/10.24260/jil.v2i1.165.

[32] Law Number 8 of 1995 on Capital Market

capital market sector and should be subject to the regulation, supervision, and basic principles applicable to the capital market. These include rules regarding transparency, legal responsibility, and sanctions, as preventive and repressive measures against risks affecting investors. The provision raises issues when connected to Article 3 paragraph 1, where *"public offerings is not considered as defined in the Capital Market Law when: a. securities offerings are conducted through an organizer licensed by the OJK, b. securities offerings are conducted within a maximum period of 12 (twelve) months; and c. the total funds raised are a maximum of IDR 10,000,000,000.00 (ten billion rupiah)".*[33] This regulation creates considerable ambiguity because crowdfunding is recognized as a capital market activity, but is not categorized as "public offerings" as stipulated in Law Number 8 of 1995 on Capital Market provided certain requirements are met.

The overlap is closely related to the status of securities crowdfunding, which affects the level of legal certainty and investor protection. This is because crowdfunding activities that do not meet specified requirements cannot be considered public offerings. The implementation of the services in the form of stock offerings, as referred to by the government, differs from the provisions stipulated in the Capital Market Regulation. Therefore, securities crowdfunding is not carried out through the Indonesia Stock Exchange (IDX) mechanism.[34] In this mechanism, investors cannot be protected by the preventive and repressive regulations in the Capital Market Law. Article 3 paragraph (2) of OJK Regulation Number 17 of 2025 states that *"Under certain conditions the OJK may determine the total value of fundraising other than the value referred to in Article 3 paragraph 1 letter C."* This provision creates problems in terms of legal predictability for the public. The lack of clear indicators for "certain conditions" has led to multiple interpretations, creating uncertainty for organizers, issuers, and investors in assessing crowdfunding activities within the scope of public offerings as stipulated in Law Number 8 of 1995.

During the socialization of OJK Regulation Number 17 of 2025, the Assistant Director for Capital Market Supervision, Financial Derivatives, and Carbon Exchanges stated that securities crowdfunding procedures were excluded from public offerings since issuers were not equated with issuers. Several provisions in the schemes refer to Law Number 40 of 2007 on Limited Liability Companies, including regulations on share buybacks. This shows the complexity of the regulations, where some aspects refer to regulations on limited liability companies in compliance with the Capital Market Law, which has implications for public predictability.

2. Overlapping Law Number 19 of 2016 on Amendments to Law Number 11 of 2008 on Electronic Information and Transactions with OJK Regulation Number 17 of 2025.

   The implementation using an electronic system allows MSMEs or startups to access crowdfunding from investors on a digital platform provided by the organizer. The

[33] Financial Services Authority Regulation Number 17 of 2025 on Securities Offerings for Information Technology-Based Crowdfunding Services

[34] Irawati, "Supervisory Role of The Financial Services Authority in Utilizing Equity Crowdfunding in Indonesia," *Law Reform* 16, no. 1 (2020).

processes of issuing securities, raising funds, providing information on investment transactions, and other related activities are performed on the platform. This condition indicates that the concept should comply with the provisions stipulated in Law Number 19 of 2016 on Information and Electronic Transactions (ITE) to provide protection and security to investors from all risks. Preventively, protection is realized through several provisions, namely in Article 15 paragraph (1) of the ITE Law, where an electronic system is organized reliably and safely to enable proper operation.[35] This regulation ensures that the electronic system operates properly to minimize the risk of digital securities crowdfunding transactions. The implementation is regulated in Article 6 paragraph 1 of Government Regulation Number 71 of 2019 on the Implementation of Electronic Systems and Transactions, which requires every electronic system organizer to register. In paragraph (3), the registration is submitted to the Minister through an integrated electronic business licensing service in accordance with applicable laws and regulations. This regulation requires providers to have license of organizer issued by the Indonesian Ministry of Communication and Informatics.[36]

Article 5 of OJK Regulation Number 17 of 2025 allows organizers to obtain an OJK license. This creates overlapping authority because the two institutions have different supervisory roles. The OJK oversees securities transactions and investor protection, while the Ministry of Communication and Informatics manages electronic system security and user data protection. Therefore, crowdfunding providers should adapt to two regulatory frameworks with different licensing mechanisms and administrative sanctions.

DISCUSSION

Implementing Digital Securities Crowdfunding: Gustav Radbruch's Perspective and Ibn Asyur's *Maqasid al-Shariah*

Maqasid al-Shariah is the moral foundation in the formation of law that serves to balance legal certainty, justice, and public welfare, as developed by Ibn Asyur. This theory offers two main dimensions, namely *al-maqāṣid al-ʿāmmah* and *al-maqāṣid al-khāṣṣah*, as the basis for developing dynamic and contextual law.[37] From the perspective of *al-maqāṣid al-ʿāmmah*, securities crowdfunding regulations should promote public welfare, reflecting the concepts of *al-fitrah, samahah* (ease), *musawah* (equality), and *hurriyah* (freedom) in transactions.[38] Humans are created with fitrah or natural tendencies to need, help, and work together. In the modern context, the existence of securities crowdfunding is a manifestation of human nature, a form of large-scale cooperation facilitated by technology to provide *samahah*. The community or

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[35] Law Number 19 of 2016 on Amendments to Law Number 11 of 2008 on Electronic Information and Transactions

[36] Shalihah dan Mohd Shariff, "Identifying Barriers To Data Protection and Investor Privacy in Equity Crowdfunding: Experiences From Indonesia and Malaysia."

[37] Mujib, "The failure of Indonesian e-commerce law in adapting to digital economy."

[38] Darul Faizin, "Kontribusi Muhammad At-Tahir Ibnu Asyur Terhadap Maqasid Asy-Syari'ah," *El-Mashlahah* 11, no. 1 (2021): 1–12.

investors contribute funds to help MSMEs lacking capital to develop businesses. The creation of regulations to control the practices can certainly realize the goal of utility (*zweckmassigkeit*), as a fundamental pillar of law. According to Gustav in the book "*Einführung in die Rechtswissenschaften*," each fundamental value in law must be considered with other concepts. This is because the value of utility cannot be separated from justice (*gerechtigkeit*) and legal certainty (*rechtssicherheit*). [39] However, Gustav tends to prioritize justice in the presence of conflicts.

According to Gustav Radbruch, justice comprises two concepts, namely distributive and commutative justice.[40] The reality of securities crowdfunding in Indonesia shows that many investors lose capital and fail to receive dividends, even though the funded business is operating. The lack of transparency in issuers' financial reports has led to information asymmetry. In this context, OJK Regulation Number 17 of 2025 does not accommodate protection for investors against losses experienced or provide a clear resolution. From a distributive justice perspective, the law does not guarantee protection for the rights of injured investors. The absence of standardized regulation governing standard-form agreements used on digital securities crowdfunding platforms leads to an unequal legal position. Investors cannot negotiate the terms of the agreement, making the concepts of *musawah* (equality) and *hurriyah* (freedom) appear unclear. The inclusion of an exculpatory clause in the agreement, where the organizer is unilaterally released from legal liability, deprives the law of the function as an instrument of commutative justice and transforms the concept into a mechanism of domination. Therefore, the *maqasid al-ammah* and the value of justice in the implementation of securities crowdfunding have not been ideally realized.[41]

Regarding the value of legal certainty, Gustav divides the concept into two types, namely legal certainty by law and within law. Legal certainty by law is achieved when the law is just and should remain useful.[42] The implementation of digital securities crowdfunding is regulated by several laws and regulations, including the Capital Market Law, the ITE Law, the Limited Liability Company Law, OJK Regulation Number 17 of 2025, and the provider's contract with investors. The complexity shows that legal certainty within law should be achieved through regulations. However, Gustav emphasized that legal certainty within law was important as a guarantee to function as a rule obeyed and referred to three principles, namely clear, consistent, and predictable. These principles are indispensable for maintaining public order and social

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[39] Mario Julyano dan Aditya Yuli Sulistyawan, "Pemahaman terhadap asas kepastian hukum melalui konstruksi penalaran positivisme hukum," *Crepido* 1, no. 1 (2019): 13–22.

[40] Muklis Al'anam, "Teori Keadilan Perspektif Gustav Radbruch : Hubungan Moral Dan Hukum," *Jurnal Humaniora* 9, no. 1 (2025): 119–33.

[41] Asa'ari dan Nuzul Iskandar, "Ijtihād Qaḍāʾī under Bureaucratic Governance: Judicial Practice in the Religious Court of Sungai Penuh and Padang Panjang, Indonesia," *JURIS (Jurnal Ilmiah Syariah)* 25, no. 1 (2026): 185–200, https://doi.org/10.31958/juris.v25i1.16603.

[42] Budi Astuti dan Muhammad Rusdi Daud, "Kepastian Hukum Pengaturan Transportasi Online," *Al-qisth law review* 6, no. 2 (2023): 205–44.

stability.[43] The level of legal certainty includes the following when the principles are connected to the implementation of digital securities crowdfunding in Indonesia:

1. The law should be clear.

Several regulations lead to multiple interpretations, particularly OJK Regulation Number 17 of 2025, the fundamental regulation for the implementation of securities crowdfunding in Indonesia. Some articles remain conditional in nature, leaving no indicators to determine the conditions in Article 3 paragraph (2). Therefore, clarity in the regulations must be inadequate.

2. The law should be consistent.

The legal framework for the implementation exhibits inconsistencies across regulations, particularly between Law Number 8 of 1995 and OJK Regulation Number 17 of 2025 on the capital market and crowdfunding services, respectively. This inconsistency is found in Article 2 paragraph 1 of OJK Regulation Number 17 of 2025, which classifies securities crowdfunding as a financial services activity. The clause indicates the requirement that the securities crowdfunding mechanism comply with the parent provisions, namely Law Number 8 of 1995. However, several other provisions in the OJK Regulation create new terms and conditions in the equity scheme, distinguishing the framework from the conventional capital market. This conflicts with the legal principle of *lex superiori derogat legi inferiori* (the Capital Market Law can override OJK Regulation Number 17 of 2025 as a lower law in the hierarchy of legislation during conflict). However, another principle states that *lex specialis derogat legi generali* (a specific law governing securities crowdfunding, such as OJK Regulation Number 17 of 2025, can override a more general law, such as Law Number 8 of 1995 on the capital market). This conflicting principle creates ambiguity in determining the legal reference to follow during conflict since each possesses theoretically valid justification.

3. The law should be predictable.

Based on an analysis of digital crowdfunding regulations, which show ambiguity and inconsistency, predictability within society is undoubtedly affected. This is because the public cannot clearly predict the legal consequences of each action or decision. Furthermore, the overlapping supervisory authority between the OJK and the Ministry of Communication and Information Technology, as stipulated in the OJK Regulation and the ITE Law, increases the difficulty of predicting who is legally responsible, especially when investor losses occur due to system failures. Furthermore, OJK Regulation Number 17 of 2025 does not provide detailed regulations regarding the types of violations in securities crowdfunding and the resolution mechanisms. This provision regulates supervision and administrative sanctions for providers. However, there is no further law regarding repressive investor protection, particularly regarding conflicts related to late dividend distribution, misuse of investment funds, electronic system failures, or lack of transparency in information or progress reports on funded projects by issuers. Investors who suffer losses lack legal certainty regarding the appropriate resolution pathway through administrative mechanisms at the OJK, alternative dispute resolution (APS), civil

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[43] Mohammad Wangsit Supriyadi dkk., "Pokok pikiran dan sumbangsih fundamental Gustav Radbruch terhadap perkembangan ilmu dan hukum," *Quantum Juris: Jurnal Hukum Modern* 7, no. 1 (2025). [404].

lawsuits in court, or criminal prosecution. In this context, legal certainty in the implementation of securities crowdfunding remains elusive. The implementation does not necessarily guarantee legal certainty. From the perspective of equity principles, the legal framework aims to strengthen governance, stabilize the digital financial ecosystem, and maintain a balance between individual and public interests, while preventing losses, manipulation, and related risks. However, legal uncertainty creates opportunities for material losses for investors, which can lead to the decline of Indonesia's digital securities crowdfunding ecosystem. Numerous international studies have shown that the quality of the legal framework, which protects minority investors and bankruptcy resolution regulations, has a significant impact on the growth of crowdfunding platform usage.[44] The success of crowdfunding in the United States is influenced by the existence of an investor-friendly legal infrastructure and framework, which serves as a quality signal for investors to increase participation in capital raising.[45]

Reconstructing Legal Certainty in the Implementation of Digital Securities Crowdfunding in Indonesia

Digital securities crowdfunding regulations have not achieved justice and legal certainty. The implementation has violated the concepts of *maqasid al-ammah* and *al-khassah*. Therefore, a reconstruction of digital securities crowdfunding regulations is necessary. Specialist regulations are explicitly reported in OJK Regulation Number 17 of 2025 on securities offerings through technology-based crowdfunding services. However, the regulation is at the implementation level since the hierarchical position does not have the same legal force as a law. This situation can lead to complexity and overlapping regulations with higher-level aspects, such as Law Number 8 of 1995 on Capital Markets, Law Number 19 of 2016 on Electronic Information and Transactions, Law Number 40 of 2007 on Limited Liability Companies, and a lack of regulations on legal protection for investors in securities crowdfunding, since the primary focus of the OJK Regulation remains on administrative procedures.[46]

Reconstruction is conducted through the integration of the Radbruch Triad and Ibn Asyur's *Maqasid al-Shariah* as a philosophical and ethical normative framework used to shift the paradigm toward a preventative and repressive securities crowdfunding law. In practice, this can be achieved by rebuilding a regulation that is equivalent to a law and comprehensively regulates digital securities crowdfunding based on the principles of *Maqasid al-Shariah*. The achievement is through an omnibus-style regulatory approach by consolidating other legal provisions into a more integrated regulation. This approach enables legislators to formulate a comprehensive regulatory framework that integrates the Capital Market, the Limited Liability Company, and the ITE Laws to establish greater legal certainty. The integrated framework must

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[44] Ahmed Sewaid dkk., "From novice to serial entrepreneur: How institutions influence relaunching decisions on international crowdfunding platforms," *Technovation* 149 (2026): 103355, https://doi.org/https://doi.org/10.1016/j.technovation.2025.103355.

[45] Douglas J. Cumming dkk., "Institutional quality and success in U.S. equity crowdfunding," *Research Policy* 54, no. 1 (2025): 105114, https://doi.org/https://doi.org/10.1016/j.respol.2024.105114.

[46] K. N. Sofyan, "Formulasi Hukum dan Pentingnya Jaminan Kepastian Hukum Produk Pangan Halal dalam Hukum Nasional," *Nurani: jurnal kajian syari'ah dan masyarakat* 15, no. 2 (2015): 47–74, https://doi.org/10.19109/nurani.v15i2.282.

strengthen the governance of electronic systems, enhance data security, optimize the secondary market, provide effective dispute resolution mechanisms, and ensure adequate legal protection for investors.[47] Clear legal responsibilities should also be imposed on organizers, including the obligation to conduct due diligence on issuers aiming to raise funds. Furthermore, the framework must prescribe explicit administrative, civil, and criminal sanctions for legal violations during operation, particularly those including inadequate issuer transparency or moral hazard. The presence of the regulation serves as *lex superiori* and *lex specialis*. The implementation of crowdfunding has a strong, clear, consistent, and predictable basis, ensuring the assurance of legal certainty. Furthermore, centralized regulation based on a single, solid, and integrated law prevents overlapping authority between institutions, such as the OJK and the Ministry of Communication and Information Technology. This allows the securities crowdfunding ecosystem to develop in a healthy, transparent manner, oriented toward the principles of justice and public benefit.

CONCLUSION

In conclusion, the rapid development of fintech through digital securities crowdfunding services in Indonesia faces significant legal challenges. This is because current regulations fail to guarantee legal certainty for investors, driven by overlapping norms and authorities. OJK Regulation Number 17 of 2025, as a specialist rule, also remains oriented toward procedural and administrative aspects, failing to provide public implementability, particularly regarding investor legal protection. This situation creates tension between justice, benefit, and legal certainty, potentially affecting the *maqasid al-ammah* and *al-khassah*. Therefore, a regulatory reconstruction is proposed by integrating the Radbruch Triad and Ibn Ashur's *Maqasid al-Shariah* as a philosophical and normative-ethical framework. The integrated approach aims to shift the legal paradigm toward a securities crowdfunding regime that incorporates preventive and repressive legal protections, while balancing the principles of justice and legal certainty to promote *maslahah* (benefit) for investors, organizers, and securities issuers. In practical terms, this objective can be realized through the enactment of a comprehensive statute governing digital securities crowdfunding, adopting an omnibus-style legislative approach grounded in the principles of *Maqasid al-Shariah*. The analysis of sharia economic law is enriched, and a strategic basis is provided for regulators to formulate policies in minimizing losses and injustice. The result contributes to the development of the *Maqasid al-Shariah* theory, directing the reconstruction of the understanding that *Maqasid al-Shariah* is related to the level of normative justification (*halal-haram*) and understood as an operational framework to read the dynamics and build ideal regulations in digital finance.

The limitations include the scarce primary data sources, which are only obtained through observations from a platform and public conversations on IG and X. Therefore, the recommendation for further investigation is to examine digital securities crowdfunding through

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[47] Akramov Akmaljon Anvarjon Ugli dkk., "Legal Issues of Digital Asset Inheritance from an Islamic Law Perspective," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 25, no. 2 (2025): 191–212, https://doi.org/10.18326/ijtihad.v25i2.191-212.

comprehensive stages, such as using interviews or quantitative assessments on the effectiveness of OJK Regulation to provide legal clarity. Further studies are also suggested to examine securities crowdfunding from a sharia perspective, such as a review of fatwas issued by the National Sharia Council of the Indonesian Council of Ulama (DSN-MUI).

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All authors have read and approved the final version of this manuscript and agree to take responsibility for all aspects of the work, ensuring that any questions regarding the accuracy or integrity of any part of the work are properly investigated and resolved.

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The authors declare that they have no known competing financial or nonfinancial interests, including personal relationships, that could have appeared to influence the objectivity of the research presented in this article.

Declaration of the Use of AI

The authors declare that the use of AI was limited to assisting in improving the readability and writing style of the manuscript, as well as formatting citations. All content generated with the aid of AI and any resulting changes were carefully reviewed and verified by the authors. AI was not used to replace the intellectual contributions of the authors in conceptualization, analysis, interpretation of findings, or formulation of conclusions. The authors remain fully responsible for the accuracy, integrity, and originality of the content presented in this manuscript.

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