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Legal Liability of Securities Crowdfunding Platforms in Protecting Digital Investors: An Analysis of POJK No. 17 of 2025

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Abstract
The Study aims to analyze the obligations of Securties Crowdfunding platform operators in omplementing due diligence and anti fraud strategiws, as well as ti determine the limits of their leal liability for investor losses under POJK Number 17 of 2025 and POJK Number 12 of 2025. This research employs a normative juridical method with statue and conceptual approach, supported by digital documentation studies and limited digital observation to examine the alignments between legal norms and their practical implementation. The finding that platform operatos play a strategyc role as gatekeepers in ensurig transoparency and investor protection through the implementation of due diligence and anti fraud mechanisms.However, in practice, these obligations have not been optimally in preventing post disbursement fraud, futhermore, a regulatory gap is identified regarding the absence of obligation to verify investor,s source of funds, This studry concludes that platform liability is conditional and must be determined base on the analysis of the causes of loss potentially extending ti civil, admnistrative. And criminal lability in the cases of negligence or legal violations.

INTRODUCTION

The development of the digital economy in Indonesia shows a significant trend, marked by the rapid growth of Micro, Small, and Medium Enterprises (MSMEs) and startups. MSMEs, as the backbone of the national economy, contribute approximately 60% to GDP and absorb nearly 97% of the workforce, with around 64 million businesses recorded as of January 2025.[1] Meanwhile, technology-based startups have increased by 10.7% since January 2025, reaching a total of 3,501 startups. This figure is the highest in Southeast Asia, accounting for 49.9% of the region, placing Indonesia sixth globally.

This rapid development inevitably demands inclusive, efficient, flexible, and reliable access to capital to support business growth and maintain competitiveness. In line with this, the development of financial technology (fintech) in Indonesia has also accelerated, transforming the financial system. Fintech enables financial services such as payments, transfers, lending, and investments to be conducted in a practical and fast manner, making them more efficient in terms of time and cost. One form of such innovation is crowdfunding, or collective funding services.

According to the Oxford Dictionary and Merriam-Webster, crowdfunding is a method of raising funds from a large number of people to finance a project or business.[2] Lambert, meanwhile, defines it as an internet-based fundraising method, either in the form of donations or rewards, aimed at supporting specific objectives.[3] Etymologically, crowdfunding is derived from two words: "crowd," meaning a large group of people, and "funding," meaning financing. Thus, crowdfunding can be understood as funds collected from many individuals to finance a particular activity. Securities crowdfunding generally consists of four types: donation crowdfunding, where contributors provide funds without compensation; reward crowdfunding, where contributors receive rewards or recognition; lending crowdfunding, where contributors receive repayment of principal along with interest; and equity crowdfunding, where contributors obtain shares in the funded business entity.[4]

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[1] Kementerian Koordinator Bidang Perekonomian Republik Indonesia,"Pemerintah Dorong UMKM Naik Kelas,Tingkatkan Kontribusi Terhadap Ekspor Indonesia,"*ekon.go.id*,(diakses pada 30 November 2025), https://www.ekon.go.id/publikasi/detail/6152/pemerintah-dorong-umkm-naik-kelas-tingkatkan-kontribusi-terhadap-ekspor-indonesia,diakses pada 8 Desember 2025

[2] Yearicho dalam Ma'rifatul Azizah,et,all,Fintech Equity Crowdfunding Syariah Sebagai Solusi Akses Permodalan UMKM,*Jurnal Ekonomi Bisnis*,Vol.30 No.2 (2024),P.100

[3] Cindy Hutomo,Layanan Urun Dana Melalui Penawaran Saham Berbasis Teknologi Informasi,*Jurnal Perspektif,*Vol.24 No.2(2019),P.67.

[4] Cristoper Pribadi, Implementasi Equity Crowdfunding Berbasis Teknologi Informasi Berdasarkan POJK No.37/POJK.04/208, *Jurnal Indonesian Notary*,Vol.2 No.5, 2020, P.100-101

According to a report by the Indonesian Crowdfunding Services Association (ALUDI), at least 18 securities crowdfunding operators have obtained official licenses from the Financial Services Authority (OJK). As of June 2025, the total funds raised reached IDR 1.7 trillion, with 927 issuers and 191,000 investors.[5] One of the major contributors in this mechanism is Bizhare, managed by PT Investasi Digital Nusantara, which became a significant platform following the enactment of OJK Regulation No. 37 of 2018. Bizhare applied for an OJK license in January 2019 and officially obtained approval as a technology-based crowdfunding service provider through OJK Decree No. Kep-7/D.04/2019 in November 2019.[6] This decision positioned Bizhare as one of the three startups licensed by OJK to operate as securities crowdfunding providers. As of September 2025, Bizhare has recorded more than 350,000 investors, funded approximately 200 businesses, and successfully raised IDR 300 billion, reflecting a 126% increase compared to the end of 2024.[7]

The implementation of Securities Crowdfunding (SCF) in Indonesia has entered a new phase with the enactment of OJK Regulation No. 17 of 2025. This regulation serves as a comprehensive refinement to address evolving legal dynamics, replacing previous regulations (OJK Regulation No. 16/2021, No. 57/2020, and the initial framework under No. 37/2018). Two main mechanism enhancements are introduced in this latest provision. First, the minimum paid-up capital requirement for operators has been significantly increased from IDR 2.5 billion to IDR 25 billion. This policy functions as a fit and proper test by OJK to ensure financial capacity, strengthen institutional stability, and mitigate operational risks that may harm investors and issuers. Second, the frequency of share trading in the secondary market has been expanded from twice a year to four times a year (March, June, September, and December).

Conceptually, the offering of securities through Securities Crowdfunding differs from public offerings on the Indonesia Stock Exchange (Initial Public Offering) regulated under the Capital Market Law.[8] SCF is not categorized as a public offering as stipulated

[5] Ferry Saputra,Winarto,"ALUDI Catat Dana yang Dihimpun Securities Crowdfunding Rp.1,7 Triliun per Juni 2025"*Kontan.co.id*. (3 September 2025) https://amp.kontan.co.id/news/aludi-catat-dana-yang-dihimpun-securities-crowdfunding-rp-17-triliun-per-juni-2025 Diakses pada 12 Desember 2025

[6] Keputusan Anggota Dewan Komisioner Otoritas Jasa Keuangan No KEP-71/D.04/2019 Tentang Pemberian Izin Usaha Penyelenggara Layanan Urun Dana Melalui Penwaran Saham Berbasis Teknologi Informasi Kepada Investasi Digital Nuantara,pada 6 November 2019

[7] Ferrry Saputra,werdiningsih,Bizhare Catatkan Dana yang Dihimpun Sebesar Rp.300 Milyar per September 2025,*Kontan.co.id*,(2 November 2025), https://keuangan.kontan.co.id/news/bizhare-catatkan-dana-yang-dihimpun-sebesar-rp-300-miliar-per-september-2025, diakses pada 13 Desember 2025

[8] Undang Undang No.8 Tahun 1999 Tentang Pasar Modal.

in Article 3 paragraph (1) of OJK Regulation No. 17 of 2025.[9] Therefore, this funding mechanism does not require registration statements to OJK or listing on the Indonesia Stock Exchange (IDX). Essentially, this scheme is intended for private companies, particularly MSMEs and certain startups, through licensed platforms with specific funding limits, making it a simpler alternative financing method, albeit with relatively high risks.[10]

Article 2 paragraph (1) of OJK Regulation No. 17 of 2025 states that crowdfunding services are part of financial service activities, and paragraph (2) affirms that parties conducting such activities are categorized as operating within the capital market sector. This means that all Securities Crowdfunding activities carried out by business entities within the financial services sector are fully bound by the principles of Know Your Customer (KYC), prudence, transparency, and orderliness.[11] This includes the implementation of due diligence processes on prospective issuers, which must be conducted by the operator as the primary party. In addition, SCF operators are required to implement anti-fraud strategies as stipulated in Article 1 paragraph (3) and Article 2 of OJK Regulation No. 12 of 2024 concerning the Implementation of Anti-Fraud Strategies for Financial Service Institutions.[12] Referring to Article 1 paragraph (4) of the regulation, fraud is defined as intentional acts of deviation aimed at deceiving or manipulating financial service institutions, consumers, or other parties—either internally or externally—that may cause losses to related parties and provide direct or indirect benefits to the perpetrator.

Adler Manurung explains that fraud always involves elements of intent, malicious purpose, deception, concealment, and abuse of trust. He classifies such misconduct into two main categories: internal fraud and control system fraud. Furthermore, he categorizes fraud into four forms: corruption, asset misappropriation, financial statement manipulation, and fraudulent financial transactions.[13] This aligns with Law No. 8 of 1995

[9] Pasal 3 Peraturan Otoritas Jasa Keuangan No. 17 Tahun 2025 Tentang Tentang Penawaran Efek Melalui Layanan Urun Dana, Berbasisi Teknoloi Informasi.
[10] Yusian.s,wisnu,Mentari, ecurities Crowdfunding : Kajian Reguasi Pasar Modal di Indonesia,*Journal of Indonesian Law*,Vol.5 No.1, 2024, P.45.
[11] Bob. Baidhowi. Novita, Aspek Hukum dalam Penerapan Prinsip Know Your Customer (KYC) Pada Lembaga Perbankan, *Yayasan Daaeng Krueng Mane*,Vol. 2 No.6, 2025, P.399.
[12] Pasal 1 Peraturan Otoritas Jasa Keuangan No.24 Tahun 2024 Tentang Penerapan Strategi Anti Fraud Bagi Lembaga Jasa keuangan.
[13] Adler *Manurung,Fraud Keuangan Indonesia*,Cet 1,(Jakarta,PT.Aler Manurung Press,2023),P.3-4.

on the Capital Market, which explicitly prohibits fraudulent acts, deception, false statements, and the omission of material facts in securities offerings or trading activities.[14]

In practice, Securities Crowdfunding platforms play a highly crucial and decisive role due to their function in assessing and selecting prospective issuers to be offered to the public. Through this process, platforms effectively shape the decision-making space for investors, as only eligible issuers are granted access to funding. This position places platforms not merely as technology providers but as gatekeepers responsible for filtering risks from the outset, particularly those related to potential fraud and business feasibility through due diligence processes. This role becomes even more critical considering that investors in Securities Crowdfunding are predominantly retail investors who rely heavily on information provided by the platform. If due diligence is conducted carelessly or dishonestly, the risk of fraud and misleading information increases, potentially resulting in investor losses. In such circumstances, the failure of platforms to fulfill their responsibilities cannot be viewed merely as a business risk but rather as an issue of governance and legal compliance.

Although several studies have examined the development of financial technology and Securities Crowdfunding mechanisms in Indonesia, most of them focus on industry growth, funding models, and general investor protection. Studies that specifically analyze the obligations of operators in implementing prudential principles through due diligence, anti-fraud strategies, and their practical implementation remain limited. Furthermore, few studies comprehensively examine the liability of operators in cases of investor losses resulting from failures in these aspects. Normatively, OJK Regulation No. 17 of 2025 in conjunction with OJK Regulation No. 12 of 2024 assigns responsibility to operators for investor protection. However, in practice, platforms often position themselves merely as electronic system providers without fully carrying out their obligations.

Based on this discourse, this study formulates two main research questions: (1) how are the obligations and implementation of securities crowdfunding operators in applying due diligence and anti-fraud strategies to protect investors, based on an analysis of OJK Regulation No. 17 of 2025 and OJK Regulation No. 12 of 2024 (case study of the Bizhare platform)? and (2) what are the limits of legal liability of operators for investor losses resulting from failures in due diligence and fraud (case study of Bizhare)?

[14] Fael Ratu,Tindak Pidana Penipuan,Manipulasi Pasar,Perdagangan Orang Dalam,Berdasarkan UU No 8 Tahun 1995,*Jurnal Lex Crimen*,Vol.8 No.1,(2019),P.15.

Through this research entitled "Legal Liability of Securities Crowdfunding Platforms in Protecting Digital Investors: An Analysis of OJK Regulation No. 17 of 2025," this study aims to construct parameters of legal compliance for operators and formulate the concept of the limits of platform liability for investor losses. Theoretically, this research is expected to contribute to enriching the literature on digital capital market law, particularly regarding normative obligations and liability doctrines of crowdfunding platform operators. Practically, it is expected to serve as a risk mitigation reference for operators such as Bizhare, a legal protection guideline for investors, and strategic input for the Financial Services Authority (OJK) in strengthening policies for digital investor protection.

METHODS

This research is a normative legal study (juridical-normative) aimed at examining and analyzing the norms governing the liability of Securities Crowdfunding operators in protecting digital investors. The approaches used are the statutory approach and the conceptual approach. The statutory approach is employed to examine various relevant legal provisions, particularly the Financial Services Authority Regulation (POJK) No. 17 of 2025 concerning the Offering of Securities through Information Technology-Based Crowdfunding Services, as well as POJK No. 12 of 2024 concerning the Implementation of Anti-Fraud Strategies for Financial Service Institutions, along with other related laws and regulations. Meanwhile, the conceptual approach is used to analyze legal concepts such as legal liability, due diligence, professional negligence, and investor protection.

The legal materials used in this study consist of primary, secondary, and tertiary legal sources. Primary legal materials include relevant laws and regulations, such as the Capital Market Law, the Indonesian Civil Code (KUHPerdata), and related POJK regulations. Secondary legal materials include legal literature, academic journals, books, and previous research relevant to the topic. Tertiary legal materials include legal dictionaries and other sources that support the understanding of legal terminology. The collection of legal materials is conducted through digital documentation studies, by tracing and reviewing legal documents, literature, and scientific sources available electronically, as well as conducting digital observation of the implementation of Securities Crowdfunding practices on the Bizhare platform to assess the conformity between the applicable norms (das sollen) and their implementation (das sein).

The legal materials in this research are analyzed qualitatively using a descriptive-analytical method, by elaborating, interpreting, and constructing the applicable norms, and then comparing them with practices occurring in the field. This analysis aims to

identify both conformity and gaps between legal regulations and their implementation, as well as to formulate legal arguments regarding the limits of operator liability in protecting investors within the Securities Crowdfunding mechanism.

RESULT AND DISCUSSION

1. Framework of Obligations and Measures of Securities Crowdfunding Operators in Implementing Due Diligence and Anti-Fraud Strategies

The success of Securities Crowdfunding implementation largely depends on investor trust. To maintain this trust, operators are required to ensure legal certainty and investment security by prioritizing the application of investor protection principles through the enforcement of legal norms, both in conducting business feasibility assessments and in implementing anti-fraud strategies within financial service institutions in accordance with established standards. Therefore, the analysis of its implementation must begin with a review of the applicable regulations, as follows:

a. Juridical Review of the Obligation to Conduct Issuer Due Diligence by Operators Based on POJK No. 17 of 2025

The provisions in POJK No. 17 of 2025 affirm that before an issuer can offer securities through a platform, the operator must first conduct an examination and assessment of the feasibility of prospective fund recipients. This obligation indicates that the operator bears responsibility for ensuring the eligibility of prospective issuers as well as the accuracy of the information to be presented to investors. From the perspective of legal protection theory proposed by Philipus M. Hadjon, this due diligence obligation constitutes a concrete form of preventive legal protection, aimed at preventing losses for all parties, particularly investors, by filtering out ineligible issuers from the outset.[15] However, this regulation assumes that operators possess the capacity and independence comparable to supporting institutions in the conventional capital market. Considering that most SCF operators are startups, the effectiveness of this preventive protection heavily depends on the internal integrity of the platform; any failure or negligence may result in legal consequences through the imposition of sanctions.[16]

The obligations and prohibitions imposed on operators are explicitly regulated in Chapter V of POJK No. 17 of 2025, particularly Article 59(a), which stipulates that operators must review information documents and evidence of the feasibility of

[15] Edy Purwito,Konsep Perlindungan Hukum Konsumen dan Tanggung Jawab Hukum Pelaku Usaha Terhadap Produk Gula Pasir Kadaluarasa di Kota Surabaya, *DEKRIT (Jurnal Magister Ilmu Hukum),*Vol.13 No.1, 2023, P.114
[16] *Ibid.*

prospective issuers. This review must at least include documents of legal entity establishment or proof of business legality, organizational structure or management, capital structure and financial statements, permits related to the business activities or projects to be funded, debtor data obtained from the OJK financial information system, issuance history of prospective issuers, and confirmation that shareholders, directors, or commissioners have never caused a company to be declared bankrupt. Essentially, this review reflects the implementation of the Know Your Customer (KYC) principle through the 5C analytical approach (Character, Capacity, Capital, Collateral, and Condition) applied to prospective issuers.[17]

This review obligation aims to ensure that prospective issuers have clear legal status, do not violate the law, possess viable business conditions, and do not have financial track records that could result in losses. Through the examination of management structures, operators identify responsible parties, while analysis of capital and financial statements is used to assess financial conditions and the company's capability to execute projects and generate returns for investors, as well as to ensure that the funding process is free from indications of unlawful conduct.

In assessing issuer eligibility, operators must ensure that both the issuer and its management have no history of non-performing loans, as stipulated in Article 60 paragraphs (1) and (2). This aims to evaluate financial track records while preventing default risk. In banking practice, this condition is referred to as Non-Performing Loan (NPL), namely the inability of a debtor to fulfill obligations for principal and interest payments in accordance with the agreement. Ismail, as cited by Pipit Sari, explains that NPL represents problematic credit conditions occurring when a debtor is no longer able to meet obligations to the bank, either partially or entirely, in accordance with the agreed credit terms.[18] Non-performing loans can affect financial stability in Indonesia's banking sector, reduce public trust, and potentially slow economic growth.[19] Therefore, this review process can also be understood as an effort to maintain national economic stability and growth. The examination of debtor history through the OJK information system is intended to prevent multiple financing that could lead to misuse of funds or overfinancing, as regulated in Article 79 paragraphs (1) and (2). Additionally, the

[17] Ashofatul Lailyilah, Urgensi Analisa 5C Pada Pemberian Kredit perbankan Untuk Meminimalisir Resiko, *Jurnal Yuridika*, Vol. 29 No. 2, 2014, P. 224.
[18] Pipit Sari, Faktor Faktor yang Mempengaruhi *Non Performing Loan* (Studi Kasus Pada PT.Bank Rakyat Indonesia Tbk Cabang Binjai), *Jurnal Akuntansi Bisnis & Publik*, Vol. 9 No.1, 2018, P.58.
[19] Vovila Dalmen, Pengaruh Kredit Macet Terhadap Kestabilan Keuangan Perankan di Indonesia, *Jurnal Penelitian Multidisiplin Nusantara,* Vol.6 No.1, 2025, P.11.

requirement that issuers must not have been declared bankrupt or involved in bankruptcy proceedings is essential to maintaining their integrity and credibility in managing business activities or projects.

Furthermore, operators are required to ensure that the process of offering securities through crowdfunding services is conducted in an orderly manner until all rights and obligations of the parties are fulfilled. This includes the protection of confidentiality, integrity, and security of data, documents, and information provided by issuers. Operators must also provide online communication channels between investors and issuers, and disclose transparently various potential risks, such as business risk, investment risk, liquidity risk, potential electronic system failures, and the possibility of default on debt securities or sukuk. In addition, operators are required to provide complaint-handling services, establish refund mechanisms if an offering is legally canceled, and clearly disclose the types and amounts of fees and other expenses arising in fundraising activities.

These obligations aim to ensure legal certainty, protect data and the interests of all parties, and create transparency in the provision of crowdfunding services. Access to communication and information disclosure helps reduce information asymmetry, enabling investors to make informed investment decisions. Meanwhile, complaint and refund mechanisms function as protective instruments in the event of disputes or failures in the offering process. Therefore, these obligations must be consistently implemented, as they form the foundation for building trust within the Securities Crowdfunding ecosystem. Without proper implementation, the risks of data misuse, lack of transparency, and investor losses will increase, ultimately undermining the integrity and sustainability of technology-based fundraising systems.

In addition to these general obligations, the Financial Services Authority also regulates specific obligations tailored to the type of securities offered, considering differences in characteristics and risk levels. Based on Article 64 paragraphs (1)–(3), for debt securities or sukuk, operators are required to review the legality of the funded project and ensure that sukuk have obtained a compliance statement from a sharia expert. This obligation implies that operators function not merely as administrative intermediaries but also as parties conducting substantive verification of legal aspects and sharia compliance. The objective is to ensure that the project has a valid legal basis and, particularly for sukuk, does not contradict sharia principles, thereby providing certainty and security for investors. Furthermore, based on Article 65, operators are required to act as trustees representing the interests of securities holders. In this capacity, operators are responsible for monitoring project implementation, supervising the fulfillment of issuer

obligations, managing collateral, and ensuring the distribution of payments to investors. This obligation reflects an active supervisory function inherent in operators, extending beyond the fundraising stage. The purpose of this regulation is to provide continuous legal protection for investors, ensuring that invested funds are managed appropriately and that investor rights are fulfilled.

Thus, the regulation of these specific obligations is essential, as debt securities and sukuk carry relatively higher default risks compared to equity instruments. The role of the operator as trustee serves as an additional safeguard mechanism to minimize potential investor losses and maintain trust in the Securities Crowdfunding system.

However, from a critical perspective, although POJK No. 17 of 2025 has strictly regulated the due diligence process for prospective issuers, the regulation still reveals a normative gap (wet vacuum). This is because it does not specifically require operators to trace the history or source of funds of investors. The absence of comprehensive Customer Due Diligence (CDD) obligations regarding investor financial profiles potentially creates a legal loophole that may be exploited by irresponsible parties to use Securities Crowdfunding platforms as a means for money laundering (AML) activities.[20]

b. Construction of the Obligations of Securities Crowdfunding Operators in Implementing Anti-Fraud Strategies as an Effort to Protect Investors

As part of financial service sector activities, as stipulated in Article 2 of POJK No. 17 of 2025, the operation of Securities Crowdfunding is not only subject to the prudential principle but is also required to implement risk control mechanisms to mitigate potential losses for all parties involved. This requirement is reinforced by a normative framework established by the Financial Services Authority (OJK), particularly through POJK No. 12 of 2024 concerning the Implementation of Anti-Fraud Strategies for Financial Service Institutions. This regulation mandates that all financial service institutions—including commercial banks, insurance companies, reinsurance companies, securities companies, and other financial institutions, whether conventional or sharia-based—must implement anti-fraud strategies, as explicitly stated in Article 3 paragraph (1).

Referring to POJK No. 12 of 2024, the implementation of an anti-fraud strategy constitutes a set of policies and systematic measures designed to control and mitigate fraud risks. These strategies are formulated by considering the processes, characteristics, and potential risks of fraud in a comprehensive manner and are implemented through measurable control efforts. The anti-fraud strategy consists of four main stages:

[20] M. Rizky., S.Dewi,Analisis Penerapan Pencegahan Pencucian Uang dengan Metode *Customer* dan *Enhanted Due Diligence* di PT.Pegadaian Cabang Pancoran Mas, Moneter Jurnal Ekonomi dan Keuangan, Vol.3 No.3 ,2025 ,P.166

prevention, detection, investigation and reporting, and sanctions, followed by monitoring, supervision, and performance evaluation. Fraud, as defined in this regulation, generally includes acts such as corruption, asset misappropriation, fraudulent reporting, deception, and information leakage.

Through the prevention pillar, financial service institutions are required to build an organizational culture that upholds integrity while identifying potential operational risks. Under the detection pillar, institutions must establish mechanisms capable of identifying indications of fraud at an early stage, for example through reporting systems, whistleblowing mechanisms, and effective internal supervision. To ensure that these strategies are not merely formalities, the regulation requires operators to establish a dedicated unit or appoint a responsible officer specifically tasked with managing anti-fraud implementation—commonly associated with risk management functions—as stipulated in Articles 6 and 8. This unit or function should ideally be carried out by individuals with appropriate expertise and in accordance with established standards.

Furthermore, to enhance awareness and understanding of anti-fraud implementation, operators are required to conduct education and competency development programs, both internally and externally. Upon deeper analysis, the obligation to implement anti-fraud strategies fundamentally represents a direct manifestation of the principles of Good Corporate Governance (GCG), particularly the principles of accountability and responsibility. As institutions that collect public funds, SCF operators are required not only to pursue business profitability (profit-oriented) but also to establish sound corporate governance as part of achieving social and economic justice.

Without structured implementation of GCG, the pillars of prevention and early detection of fraud—whether originating internally or externally—will be ineffective, thereby failing to ensure substantive legal protection for all parties within the investment ecosystem. Although the Securities Crowdfunding mechanism is not explicitly mentioned in POJK No. 12 of 2024, SCF operators, as entities under the supervision of the Financial Services Authority, remain bound to implement these provisions comprehensively. This is essential as a form of integrating risk control principles and investor protection within the financial services ecosystem.

c. Implementation of Due Diligence on Prospective Issuers in the Securities Crowdfunding Mechanism: A Case Study of Bizhare (PT Investasi Digital Nusantara)

Conceptually, due diligence is a series of investigative, auditing, and comprehensive evaluation processes covering the legal, financial, and operational aspects of an entity before a decision is made. In the Securities Crowdfunding (SCF) mechanism, this stage

functions as a risk mitigation tool aimed at ensuring that funding recipients possess legitimate legal status, credible track records, adequate management, and sound business prospects, thereby protecting investors' funds from potential fraud. As one of the pioneers in SCF fundraising in Indonesia, Bizhare (PT Investasi Digital Nusantara) implements this prudential principle within strict operational standards. The due diligence process for prospective issuers at Bizhare is conducted under the supervision of the Chief Financial Officer (CFO), led directly by Gatot Adi Wibowo, and must go through several systematic and measurable stages.[21]

1. Acquisition & Pitching Stage

The initial stage of issuer selection at Bizhare is carried out through the Acquisition & Pitching process, which involves screening prospective issuers by requiring the completion of documents based on the Initial Document Checklist as a form of preliminary administrative verification. Subsequently, the analysis team evaluates the business profile, competitive advantages, and business prospects to apply prudential principles in minimizing investor risk. The results of this assessment are then discussed in a Pre-Investment Committee Meeting involving various divisions to collectively determine business feasibility. This process generally takes 3–5 working days. This stage aims to ensure that only prospective issuers who meet administrative requirements and demonstrate viable business prospects can proceed to the next stage. Thus, this mechanism serves as an initial filter to reduce investment risk and maintain the quality of issuers offered to investors.

2. Analysis and Deepening Stage

After passing the Pre-Investment Committee Meeting stage, prospective issuers undergo further due diligence for approximately 14 working days. This stage includes the analysis of financial statements in accordance with Indonesian Financial Accounting Standards (PSAK), examination of bank statements, and assessment of financial health. In addition, credit scoring is conducted using the 5C approach to evaluate integrity, business capacity, business conditions, and collateral, including a 125% collateral requirement for debt securities and sukuk. Verification is also carried out through independent institutions such as PEFINDO, review of business contract documents, and assessment of sharia compliance by the Sharia Supervisory Board (DPS) for equity-based funding. This stage concludes with a direct on-site survey to verify business existence, operational activities, and the validity of collateral assets. This process aims to ensure that

[21] Sean Anthony, *Laporan Magang Kerja Mengenai Profil dan Struktur Kepengurusan Bizhare*, Universitas Multimedia Nusantara, 2021,P.10.

prospective issuers not only meet administrative requirements but also possess sound financial conditions, viable business prospects, and accountable collateral. Therefore, this stage functions as a substantive verification instrument to minimize default risk and enhance investor protection.

3. Review and Approval Stage

After reviewing the documents and information of prospective issuers, the operator conducts an Investment Committee (IC) Meeting to evaluate the potential success of the business or project, the appropriateness of fund allocation based on the Budget Plan (RAB), and the implementation timeline. At this stage, the operator also validates collateral objects, particularly for securities in the form of bonds and sukuk. This deliberation process is carried out within a maximum period of 14 working days. This stage aims to ensure that funding decisions are based on comprehensive and measurable analysis, that the use of funds aligns with the proposed plan, and that the provided collateral has accountable value and legal validity. Thus, this stage serves as a final control mechanism before the offering is conducted to minimize investor risk.

4. Publishing Stage

After being declared to have passed the Investment Committee Meeting stage, the issuer is required to submit a statement letter and guarantee regarding the validity of the information contained in the prospectus to ensure the accuracy and reliability of the disclosed data. Subsequently, the securities offering is published for a period of 45 working days. If the funding target (fully funded) is achieved, the funds will be disbursed within a maximum of 8 working days to be used for business or project activities. During the offering period, the operator also provides information regarding the issuer's profile and business activities as a form of transparency to investors. This stage aims to ensure the validity of information, transparency of the offering process, and certainty in the fund disbursement mechanism. However, compliance at the initial due diligence stage does not automatically eliminate the potential for fraud after fund disbursement. Therefore, the current due diligence practices function more as a risk mitigation effort at the initial stage and as a means of protecting platform reputation, rather than as a mechanism capable of fully eliminating all investment risks for investors.

d. Implementation of Anti-Fraud Strategies in the Securities Crowdfunding Mechanism: A Case Study of Bizhare (PT Investasi Digital Nusantara)

In general, POJK No. 12 of 2024 concerning the Implementation of Anti-Fraud Strategies for Financial Service Institutions (including the SCF mechanism) explicitly defines the types of actions categorized as fraud, which include: (a) corruption, such as conflicts of interest, bribery, and unlawful gratuities; (b) asset misappropriation,

including the misuse of cash, inventory, and other assets; (c) fraudulent reporting, such as overstating or understating assets or income; (d) acts of deception; (e) information leakage; and all other acts deemed equivalent to fraud.

In its operations, the Bizhare platform, managed by PT Investasi Digital Nusantara, implements strict and structured mechanisms and procedures. One concrete example is that the platform is supported by professional teams with competencies in analyzing and selecting prospective funding recipients, including acquisition teams, analysis and pitching teams, operational teams, and business strategy teams. These teams are responsible for ensuring that companies offered to the public are legally sound, financially viable, and free from information manipulation, whether conducted by internal or external parties. In the context of securities offerings, the platform has implemented an escrow account system, which serves as a temporary holding account for investor funds before they are disbursed to the issuing company. This mechanism aims to prevent the misuse of funds by irresponsible parties. The escrow account mechanism also applies to the distribution of profits (dividends) from issuers.

In addition, Bizhare applies a Joint Access system, which is a shared monitoring mechanism over the use of funds obtained through crowdfunding. Through this system, the operator has access to monitor, supervise, and control the use of funds by the issuer to ensure compliance with the proposed business plan. As a result, funds from the escrow account cannot be withdrawn unilaterally by the business owner; instead, they require joint approval (dual approval) from supervisory parties, and only if the intended use aligns with the Budget Plan (RAB) submitted in the funding proposal. Although this joint access account is designed as a risk mitigation measure, from a juridical perspective it may create new legal vulnerabilities. The operator's direct access to the issuer's financial data places it in control of material non-public information. This condition of information asymmetry is highly susceptible to internal misuse, while the dual approval process—exclusively involving the operator and the issuer—may be prone to collusion and potential deviations from the approved budget plan.

Furthermore, as part of investor protection efforts, Bizhare implements a Share Cost Locking system, which restricts the transfer or sale of investor shares within a certain period after the investment is made. Shares obtained through the SCF scheme are recorded in the system of the Indonesian Central Securities Depository (KSEI), and during the lock-up period, such shares cannot be traded. This mechanism not only maintains the stability of issuer share ownership and prevents short-term speculative practices (such as pump-and-dump schemes), but also functions to prevent potential insider trading. By restricting share sales during a specific period, parties with access to

internal company information are prevented from immediately conducting transactions to gain profit before such information becomes available to other investors.[22] Ultimately, share cost locking serves as a control instrument that helps create a fairer investment environment and maintains price stability during the early stages of funding.

To support the effectiveness of investor protection mechanisms, Bizhare has also obtained ISO/IEC 27001:2022 certification, an international standard for Information Security Management Systems (ISMS), issued by Société Générale de Surveillance (SGS), an independent auditor recognized and registered with the Ministry of Communication and Informatics of the Republic of Indonesia.[23] This standard provides a systematic framework for organizations in managing information security through risk identification, security controls, and continuous monitoring. Conceptually, it is based on three main pillars of information security: confidentiality, integrity, and availability. To implement these principles, ISO/IEC 27001:2022 establishes 93 security controls grouped into four main areas: organizational controls, people controls, physical controls, and technological controls.[24] These controls regulate, among others, information security policies, access management, technological infrastructure protection, and system monitoring. Through structured implementation of these controls, organizations are expected to minimize the risks of data breaches, information manipulation, and system misuse. Ultimately, the application of this standard aims to maintain system integrity. Several studies have shown that the systematic implementation of policies, procedures, and controls based on ISO/IEC 27001:2022 significantly contributes to strengthening information security systems across business processes.[25]

However, the implementation of ISO/IEC 27001:2022 primarily reflects responsibility in securing electronic systems. This international standard does not directly correlate with mechanisms for preventing financial crimes that may be committed by issuers. There is a fundamental distinction between the system's capability to protect data (data security) and the operator's capacity to mitigate investment risks (investment security). Therefore, the presence of such certification does not automatically constitute

[22] Moh. Raka Saputra dkk, Analisis Hukum Atas Insider Trading Sebagai Kejahatan Bisnis Implikasi dan Tantangan Penegakana Hukum di Indonesia,*Res Nullius Law Journal*, Vol.7 No.1, 2025, P.37-38.
[23] Bimantoro.Fathomi Aji, Rekomendasi Implementasi 11 Kontrol Keamanan Informasi baru ISO 27001;2022 di perusahaan Healthtech XYZ, *The Indonesian Journal of Computer Science*, Vol.3 No.4, 2024.P.6400
[24] Bimantoro.Fathomi Aji, Rekomendasi Implementasi 11 Kontrol Keamanan Informasi baru ISO 27001;2022 di perusahaan Healthtech XYZ, P.6401.
[25] Frangky,Rudolf Sinaga, Penerapan ISO/IEC 27001;2022 dalam Tata Kelola Keamanan Sistem Informasi: Evaluasi Proses dan kendala, *Jurnal Nuansa Informatika*, Vol.18 No.2, 2024, P.53.

comprehensive protection, as the risk of fund misappropriation at the issuer's operational level remains a separate risk entity that requires different supervisory instruments.

In practice, the Bizhare platform also provides various reporting services to investors, both regarding the progress of ongoing business or projects and for handling complaints related to the platform's services. Through this mechanism, investors can obtain periodic information on the performance of funded issuers and have channels to submit complaints or issues arising during the investment process. The provision of reporting and complaint-handling services forms part of the operator's efforts to enhance transparency, accountability, and investor protection, as well as to provide a sense of security for investors using Securities Crowdfunding-based investment services.

2. Analysis of the Limits of Liability of Securities Crowdfunding Operators for Investor Losses Arising from Fraud and Due Diligence Failures

Referring to Article 7 paragraph (1) of POJK No. 17 of 2025, in carrying out its operational activities, a Securities Crowdfunding (SCF) operator must take the form of a Limited Liability Company (Perseroan Terbatas/PT) or a cooperative. This status grants the operator the legal position of a legal entity (*rechtspersoon*). Juridically, a legal entity or business entity is recognized as an independent legal subject, similar to a natural person (*natuurlijke persoon*). As a legal subject, the operator has the authority to perform legal acts, possessing rights and bearing obligations independently.[26]

a. Limits of Operator Liability: Based on Investment Risk and Operational Failure.

From a juridical perspective, determining the limits of operator liability for investor losses requires an in-depth examination of causality or the source of the loss. This analysis aims to clearly distinguish whether the loss arises purely from business risk or instead results from negligence and failure of the platform in performing its duties and functions (breach of duty). This distinction is crucial in determining which party should legally bear the burden of such losses.[27]

In relation to the doctrine of assumption of risk, this theory emphasizes that an investor who voluntarily invests in the SCF mechanism is deemed to have understood, acknowledged, and accepted the risks or consequences of such an investment decision. This principle is explicitly stated in the Terms of Service of the Bizhare platform, particularly in clause 8(a), which provides that investors understand and acknowledge that every investment through the platform carries inherent risks associated with the issuer's business activities. By investing, investors agree to bear potential risks, including

[26] La Ode Muhram dkk, *Pengantar Hukum Indonesia*, Bandung : CV Media Sains Indonesia, 2022, P.8-12
[27] Defril.H,Nanda,S, Tinjauan Yuridis Keabsahan Kekuatan Eksekutorial Smart Contract Berbasis Blockchain dalam Perspektif KUHPerdata,*Datin Law Jurnal*, Vol.6 No.2,2025, P.120.

business risk, investment risk, liquidity risk, the absence of dividend distribution, the risk of share dilution, and technical risks related to electronic systems.[28]

As an implication of this doctrine, the operator's liability is, in principle, considered minimal, as responsibility primarily lies with the investor as the party making the independent investment decision. This view is consistent with the statement of Lincoln Panjaitan, Senior Manager of the Financial Services Authority (OJK) of North Sumatra, who emphasized that operators cannot automatically be held liable for investor losses, provided that all parties (operators and issuers) have fulfilled their obligations in accordance with applicable regulations.[29]

However, the limitation of operator liability is not absolute and may be nullified if investor losses arise from the operator's failure to perform due diligence obligations. If the operator is proven negligent in carrying out its duties—either in conducting due diligence on issuers or in implementing anti-fraud standards—such conduct may be classified as professional negligence, namely the failure of a professional entity to perform its duties in accordance with the required standards of care or established operational procedures.[30]

In this context, the construction of operator liability within the SCF mechanism is fundamentally based on the principle of fault liability. This principle asserts that a party may only be held liable for damages if it is proven to have committed a fault that caused harm to another party.[31] From a civil law perspective, this is closely related to the concept of unlawful acts (*perbuatan melawan hukum*), which requires the existence of fault, the occurrence of damage, and a causal relationship between the act and the damage, as stipulated in Article 1365 of the Indonesian Civil Code (KUHPerdata).[32]

Furthermore, as a legal entity, the operator is also subject to the principle of vicarious liability, whereby a legal entity may be held responsible for the actions of its employees or representatives acting on its behalf in the course of its operations. Normatively, POJK No. 17 of 2025 provides for administrative liability in the event of violations of obligations established by the supervisory authority, which may result in administrative sanctions such as written warnings, fines, cancellation of business activities, suspension of

[28] Syarat dan Ketentuan Pengguna aplikasi Bizhare,No.8 Huruf (a)
[29] Hasil wawancara dengan Lincoln Panjaitan selaku Senior Manager Otoritas Jasa Keuangan Provinsi Sumatera Utara.
[30] *Istilah Negligence dalam Hukum Perdata Indonesia*, KPU Kab. Yahukimo, https://kab yahukimo.kpu.go.id/blog/read/8930_istilah-negligence-dalam-hukum-perdata-indonesia, diakses pada 27 Februari 2026.
[31] Sari Widiyastuti, *Asas Asas Pertanggung jawaban Perdata*, Cahaya Atma Pustaka,Yogyakarta, 2020, P.92.
[32] Pasal 1365 Kitab Undang Undang Hukum Perdata

operations, revocation of licenses, or annulment of approvals. Moreover, if the conduct involves elements of intent, fraud, deception, or concealment carried out for personal or group gain resulting in harm to others, it may escalate into criminal liability. Criminal liability generally requires the existence of a prohibited act under the law, fault on the part of the perpetrator, and the capacity of the perpetrator to be held legally accountable. Thus, the forms of operator liability may extend across civil, administrative, and criminal domains, depending on the degree of fault and the causal relationship between the operator's actions and the investor's losses. [33]

CONCLUSION

This study demonstrates that the regulatory framework under POJK No. 17 of 2025 has established a relatively comprehensive normative structure in governing the obligations of Securities Crowdfunding (SCF) operators, particularly through the implementation of due diligence and anti-fraud strategies as instruments of investor protection. Within this normative construction, operators are no longer positioned merely as electronic system providers, but rather as gatekeepers with an active responsibility to filter risks from the outset through issuer due diligence processes and the control of potential fraud.

However, the findings of this study reveal a gap between normative provisions and their implementation. Empirically, practices carried out by platforms such as Bizhare indicate that due diligence mechanisms have been implemented systematically and in multiple layers, ranging from administrative verification to substantive analysis. Nevertheless, their effectiveness remains limited to the pre-funding stage and has not been fully capable of anticipating fraud risks in the post-disbursement phase. This indicates that investor protection within SCF remains partial and does not yet cover the entire investment cycle comprehensively.

Furthermore, this study identifies a legal gap in the regulatory framework, particularly the absence of an explicit obligation for operators to conduct source of funds verification for investors. This condition potentially creates a loophole for money laundering activities, which may ultimately undermine the integrity of the SCF system. On the other hand, while the implementation of anti-fraud strategies as regulated under POJK No. 12 of 2024 conceptually adopts the principles of Good Corporate Governance (GCG), in practice it still faces implementation challenges, particularly regarding the

[33] Dwi Kurniawan, Dwi Hapsari, Pertanggungjawaban Pidana Korporasi Menurut Viarious Liability Theory, *JH Ius Quia Iustum*, Vol.29 No.2, 2022, P.328

independence of supervision and the potential for conflicts of interest within internal platform mechanisms, especially in the joint access account system. Additionally, the absence of explicit recognition of SCF as a funding mechanism that is mandatorily subject to anti-fraud strategy requirements may lead to differing legal interpretations.

From the perspective of legal liability, this study confirms that the limits of operator liability are inherently restrictive and depend on the cause of the loss. Losses arising from business risks fall under the responsibility of investors based on the doctrine of assumption of risk. However, if such losses are caused by the operator's negligence or intentional misconduct in carrying out due diligence obligations or implementing anti-fraud measures, the operator may be held liable under the principle of fault liability, whether in civil, administrative, or criminal domains. Thus, the legal position of the operator is conditional, depending on the presence or absence of fault and a causal relationship between the conduct and the resulting loss.

Therefore, the author argues that it is necessary for the Financial Services Authority (OJK) to explicitly affirm in POJK No. 12 of 2024 that Securities Crowdfunding falls within the category of financial service institutions required to implement anti-fraud strategies, in order to avoid divergent interpretations, considering that SCF has distinct characteristics compared to conventional securities offerings. In addition, regulations concerning the obligation to examine the source of funds of investors should be clearly established to mitigate unlawful activities.

Moreover, investors are advised to exercise greater prudence by closely monitoring the joint access account mechanism within escrow accounts to ensure that fund management remains transparent and aligned with its intended purposes, thereby minimizing the risk of misuse. Prospective investors are also encouraged to carefully assess the profile and feasibility of issuers, including legal aspects, risk levels, and business prospects, before making investment decisions, in order to reduce the likelihood of losses within the Securities Crowdfunding scheme.

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