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Effectiveness of Regulation and Law Enforcement against Illegal Investment Organizers Post-P2SK Law

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Abstract

Illegal investments in Indonesia cause substantial public losses and threaten financial system stability. This study analyzes legal threats against illegal investment operators and evaluates the effectiveness of Law No. 4 of 2023 on Financial Sector Development and Strengthening (P2SK Law) in protecting the public. Using a normative legal method with statute and conceptual approaches, the study examines legislation, legal literature, and official publications from the Financial Services Authority (OJK). Findings show that the P2SK Law explicitly prohibits unauthorized fundraising (Article 237) and imposes strict sanctions, including 5-10 years imprisonment and fines up to IDR 1 trillion (Article 305). OJK Regulations 22/2023 and 14/2024 strengthen preventive and enforcement mechanisms through integrated supervision and Satgas PASTI. The study concludes that P2SK significantly enhances legal protection and deterrence against illegal investments. Strengthening financial literacy, optimizing Satgas PASTI, and consistent law enforcement are essential for effective public protection and sustainable financial stability.

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1. INTRODUCTION

Investment, both legal and illegal, is a key component in the business world because it directly relates to fundraising mechanisms, market confidence, and financial sector stability. The phenomenon of illegal investment in Indonesia has caused losses to the public and...Rp. 139.67 The 2017-2023 period revealed gaps in the financial business regulatory system that need to be strengthened through clear legal instruments (OJK, 2024). In response, the Financial Services Authority (OJK) issued the Financial Services Authority Regulation (PP). **(**(POJK Number 22 of 2023 concerning Consumer and Community Protection in the Financial Services Sector, which integrates consumer protection aspects into the entire operational cycle of Financial Services Business Actors (PUJK), including product development, information delivery, and dispute resolution. This aligns with the mandate of Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector (UU P2SK) to strengthen the protection framework in the financial sector. Therefore, research on the regulation and enforcement of illegal investment operators after the enactment of the P2SK Law is an important contribution to the development of business law and the establishment of a healthy business climate.

Public trust is the primary foundation for maintaining the stability of a country's financial system. When the public begins to doubt the integrity of financial institutions, public participation in formal activities such as banking and investment declines, which can ultimately lead to instability in the overall financial system (Kartik Anan et al., 2009). Illegal investments, characterized by their lack of transparency and lack of authorization from authorities, directly undermine this public trust by abusing formal business mechanisms for quick profits, without considering the sustainability and security of public funds.

Furthermore, illegal investments have the potential to create distortions in financial markets. Investment schemes promising high returns without official oversight often divert public funds from official financial instruments to informal channels, disrupting market balance and liquidity (Proxis Consulting, 2024). Return is the rate of return earned from an investment over a specific period, either in the form of income (*yield*) and capital gains (*capital gain*) (Hartono J, 2017). This increases the risk of market volatility and reduces the financial system's resilience to external shocks, such as a crisis of confidence or economic shocks. Volatility is a statistical measure of how much the price of an asset or portfolio changes over a certain period of time, reflecting the level of investment risk (Zvi Bodie et al., 2018). So, the risk of market volatility means the risk of fluctuations (rises and falls) in the price or value of assets in the financial market in a relatively short period of time. Modern economic principles suggest that restoring trust after such erosion requires significant time and effort.

The growth of illegal investment in Indonesia also adds to the challenges facing regulatory authorities such as the Financial Services Authority (OJK) in maintaining the stability of the national financial system. The OJK, through its PASTI Task Force, blocked and terminated thousands of illegal financial entities throughout 2023, including 40 illegal investment entities, in an effort to restore public trust and maintain the integrity of the financial system (OJK, 2024). However, challenges remain as perpetrators increasingly disguise their schemes in digital formats, disseminating them through social media and apps, making prevention and enforcement increasingly complex.

The enactment of the P2SK Law marked a significant turning point in strengthening the protection and prevention of illegal investments. Article 237 of the P2SK Law emphasizes the prohibition on collecting funds without a permit, and Article 305 increases the criminal penalties. This is further reinforced by POJK 22 of 2023 concerning consumer protection and POJK 14 of 2024 concerning the establishment of the PASTI Task Force. One of the significant breakthroughs following the enactment of the P2SK Law is the establishment ofTask Force for Handling Unlicensed Business Activities in the Financial Services Sector (Satgas PASTI) through POJK 14 of 2024The PASTI Task Force not only shuts down illegal entities but also conducts public education, coordinates with law enforcement officials, and strengthens public complaint channels (POJK, 2024). This function is expected to increase public trust in the legal system and the formal financial sector. This regulation is a strategic effort to address the legal vacuum and restore a sense of security for businesses and the public in investing. However, the reality on the ground still requires strengthened coordination between law enforcement agencies and mass education to truly restore public trust.

Based on the description, this study formulates the main problems to be studied, namely: (1) how are the legal regulations regarding the implementation of illegal investment in Indonesia before and after the enactment of the Law on Development and Strengthening of the Financial Sector (UU P2SK); (2) what is the role of the Law on P2SK together with its regulatory instruments, including POJK 22 of 2023 and POJK 14 of 2024, in providing legal protection to the public while restoring public trust in the financial system; and what are the obstacles in enforcing illegal investment law in Indonesia and what are the improvement strategies so that public protection can be more optimal.

Thus, this research not only provides theoretical contributions to the development of economic law and the financial sector, but also offers practical recommendations to strengthen the effectiveness of the implementation of the P2SK Law in tackling illegal investment.

2. RESEARCH METHODS

The research uses normative legal research. Normative legal research is research conducted by examining library materials or secondary data alone (Peter Mahmud, 2017). This research uses primary legal materials, including relevant laws and regulations, as well as secondary legal materials in the form of literature, doctrine, and the opinions of legal experts. The approach used is a statutory approach. **(***statute approach***)** and conceptual approach **(***conceptual approach*). The technique of collecting legal materials is carried out through literature studies. **(***library research*), by reviewing regulations, official documents, and relevant literature to obtain a comprehensive basis for analysis.

3. RESEARCH RESULTS AND DISCUSSION

1. Legal Regulations Regarding the Implementation of Illegal Investments in Indonesia Before and After the Enactment of the Law on the Development and Strengthening of the Financial Sector (UU P2SK)

Before the enactment of Law Number 4 of 2023 concerning the P2SK Law, regulations regarding illegal investment in Indonesia were fragmented and scattered across various regulations. Legal regulation of online investment in Indonesia, prior to the introduction of specific regulations, often relied on general articles such as Articles 372 and 378 of the Criminal Code and the Electronic Information and Transactions Law, which did not optimally regulate the severity of sanctions for perpetrators of illegal investment (Joehani, 2022). Unlicensed fundraising practices were generally prosecuted under the fraud provisions of the Criminal Code (KUHP), particularly Article 378, or under the provisions of the Banking Law, which prohibit the collection of public funds without permission from Bank Indonesia or the Financial Services Authority (OJK). Furthermore, the Capital Markets Law and the Electronic Information and Transactions Law (ITE) were also used to prosecute perpetrators, although they did not specifically mention the term "illegal investment." This fragmented regulation weakened legal certainty and often led to overlapping authority between law enforcement agencies. Illegal online investment practices in Indonesia before regulatory updates were often only processed through the fraud provisions of the Criminal Code and the ITE Law, which indicates weak legal certainty and high regulatory ambiguity as loopholes for perpetrators of financial crime (Keysi et al., 2023).

Following the enactment of the P2SK Law, regulations regarding illegal investments gained a more comprehensive legal basis. Article 237 of the P2SK Law expressly prohibits any party from collecting funds from the public without a permit, while Article 305 stipulates a much more severe criminal penalty, namely a maximum prison sentence of 10 years and a maximum fine of IDR 1 trillion. In addition to criminal penalties, the P2SK Law also regulates administrative sanctions as stipulated in Articles 293 to 295. The presence of these provisions provides clarity and strengthens legal protection for people who have the potential to become victims of illegal investments. The P2SK Law is a milestone in financial sector reform in Indonesia, as it not only organizes supervisory institutions but also strengthens consumer protection and the stability of the national financial system (Idul Mukti et al., 2023).

In addition to the provisions in the P2SK Law, the Financial Services Authority (OJK) also strengthened derivative regulations through OJK Regulation No. 22 of 2023 concerning Consumer Protection in the Financial Services Sector and OJK Regulation No. 14 of 2024 concerning the PASTI Task Force. POJK 22/2023 emphasizes preventive aspects, such as mandatory information transparency and consumer education, while POJK 14/2024 strengthens the coordination function between institutions in eradicating illegal entities, including the authority to block digital access and handle public reports. This step demonstrates a shift in approach from merely repressive to more systematic prevention and protection. Strengthening repressive protection is realized through the PASTI Task Force, which comprises members from various institutions, including the Financial Services Authority (OJK), Bank Indonesia, the National Police, the Attorney General's Office, the Ministry of Communication and Information, and the Ministry of Trade. Its primary function is to coordinate the handling of illegal investments, including blocking websites and applications, handling public reports, and taking action against perpetrators. With this regulation, the government is no longer merely reacting but is instead establishing an integrated oversight mechanism to restrict the scope for unauthorized investment.

For example, in 2024, the PASTI Task Force, under the coordination of the Financial Services Authority (OJK), successfully shut down and blocked more than 1,300 illegal investment entities operating through social media and online applications (OJK, 2024). One prominent case involved the closure of the investment platforms "FX Family" and "ATG Trading," which were found to have collected public funds without authorization and caused billions of rupiah in losses. The handling of these cases demonstrated the increasing effectiveness of inter-agency coordination, despite challenges in the speed of enforcement and low levels of public financial literacy.

From this description, it can be concluded that normatively, there has been a paradigm shift in the legal regulation of illegal investments, from a repressive, criminal-based approach to an integrated supervisory system. There are fundamental differences between the regulations before and after the enactment of the P2SK Law. Before the P2SK Law, illegal investments could only be processed using fraudulent articles or limited sectoral regulations, resulting in relatively weak public protection. However, after the enactment of the P2SK Law, a more comprehensive single legal umbrella, the threat of heavier sanctions, and stronger institutions through the Financial Services Authority (OJK) and the PASTI Task Force were introduced. This is expected to increase public trust in the financial system and strengthen the stability of the financial services sector in Indonesia (Iman, 2020).

2. The Role of the P2SK Law and POJK Regulations Regarding Legal Protection for the Community and Public Trust in the Financial System

Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector (P2SK Law) serves as the primary legal framework for strengthening public protection against the rise of illegal investment practices in Indonesia. This regulation expands the authority of the Financial Services Authority (OJK) to oversee not only conventional financial services institutions but also new entities such as fintech and digital assets, which were previously underserved (Gunawan, 2020).

According to Soerjono Soekanto, legal effectiveness is measured by the extent to which legal norms are complied with and implemented in society. This effectiveness is influenced by five factors: legal substance, law enforcement officials, facilities and infrastructure, the community, and legal culture. Based on this framework, the P2SK Law can be deemed effective if its substance is clear, its officials (OJK, PASTI Task Force) are capable of carrying out their functions properly, and the community has an adequate level of financial literacy.

One of the key instruments of the P2SK Law is OJK Regulation No. 22 of 2023 concerning Consumer and Community Protection in the Financial Services Sector. This regulation is preventive in nature, emphasizing the obligation to be transparent about product information and prohibiting misleading offers (*mis-selling*), as well as dispute resolution through financial mediation mechanisms. With this system, the public receives protection from the product offering stage, thus preventing potential losses before they escalate. In addition to preventive protection, the repressive aspect is strengthened through OJK Regulation Number 14 of 2024 concerning the PASTI Task Force (Task Force for the Eradication of Illegal Financial Activities). This task force is cross-institutional, involving the OJK, Bank Indonesia, the Police, the Attorney General's Office, the Ministry of Communication and Information, and the Ministry of Trade, with the authority to block illegal websites or applications and follow up on public reports. With this coordinated pattern, handling illegal investments is faster and is not hampered by overlapping authority between institutions.

The existence of the P2SK Law and its instruments is also expected to restore public trust in the national financial system. Previous cases of illegal investment, such as bogus arisan (social savings and credit) or trading *platform* activities, have undermined public trust and caused significant losses (Jerry Peryanto et al., 2023). With the introduction of new regulations, the public is assured that the state not only acts after losses occur but also actively participates in prevention through comprehensive regulations. This aligns with Satjipto Rahardjo's view that the law should exist to protect the public in a concrete way, not merely as a written norm.

Advantages P2SK Law brings significant changes by granting the Financial Services Authority (OJK) broader authority to oversee financial services institutions, including fintech, digital assets, and modern financial instruments. This is considered a response to the weakness of previous regulations, which often lagged behind developments in financial practices (Gunawan, 2020). Furthermore, the enactment of POJK 22/2023 and POJK 14/2024 strengthens public protection through preventive, repressive, and coordinative approaches. With institutional designs like the PASTI Task Force, the state demonstrates its commitment to closing the gap between illegal investments that have been detrimental to the public. However, there are also weaknesses in the implementation of the P2SK Law. First, this regulation is still relatively new, so not all technical tools for implementation are fully available (Agus Riyanto, 2023). Second, although the Financial Services Authority (OJK) is granted broad authority, limited human resources and technological capacity present obstacles to oversight, particularly in the highly dynamic digital sector. Third, the effectiveness of legal protection remains vulnerable to disruption by low levels of legal awareness and financial literacy, making them easy targets for illegal investments (Jerry Peryanto et al., 2023).

The challenge ahead is how to make the P2SK Law not merely a normative regulation, but truly effective in practice. One way is to strengthen collaboration between the Financial Services Authority (OJK), law enforcement officials, and relevant ministries so that coordination does not stop at the formal level but results in swift action on the ground (Kinanti Balqis et al., 2023). Furthermore, financial literacy programs must be massively expanded, especially in areas with limited access to information. As Satjipto Rahardjo argued, the law must be positioned as a living instrument within society (*living law*), so that legal protection does not stop at the text of the law, but the benefits are truly felt by the people.

Based on this discussion, the P2SK Law and its derivative regulations (POJK 22/2023 and POJK 14/2024) represent a significant step forward in strengthening legal protection for the public against illegal investment practices. Its advantages lie in the expansion of the OJK's authority, the introduction of preventive and repressive protection mechanisms, and cross-agency coordination through the PASTI Task Force. This demonstrates a paradigm shift from sectoral regulation to integrated supervision that is more responsive to the dynamics of the modern financial sector. The legal protection stipulated in the P2SK Law will only be optimal if accompanied by increased institutional capacity, synergy between authorities, and a sustainable financial literacy program. In this way, the P2SK Law can truly provide real protection for the public while maintaining the stability of the national financial system.

Thus, the effectiveness of post-P2SK Law regulation and law enforcement has not been fully optimized. Normatively, the legal substance is adequate and provides a strong legal basis. However, structurally, institutional capacity and public literacy are still needed to sustainably achieve the primary objectives of the P2SK Law, namely, financial system stability and consumer protection.

4. CONCLUSION

Based on the research results and discussion outlined above, it can be concluded that the regulation and enforcement of laws against illegal investment operators in Indonesia have undergone significant developments following the enactment of Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector (UU P2SK). Before the P2SK Law, legal regulations were fragmented and scattered across various sectoral laws, such as the Criminal Code, the Electronic Information and Transactions (ITE) Law, the Banking Law, and the Capital Markets Law. This situation has led to overlapping authorities and a lack of legal certainty for victims of illegal investment.

Following the enactment of the P2SK Law, legal regulations have become more comprehensive and integrated. Article 237 explicitly prohibits unauthorized fundraising, while Article 305 increases the penalty for perpetrators, with penalties of up to 10 years in prison and a maximum fine of IDR 1 trillion. Furthermore, institutional strengthening through the Financial Services Authority (OJK) and the establishment of the Task Force for Handling Unlicensed Business Activities in the Financial Services Sector (Satgas PASTI) provide an integrated oversight mechanism capable of shutting down thousands of illegal investment entities. OJK Regulation No. 22 of 2023 and POJK No. 14 of 2024 also strengthen the preventive and repressive aspects of legal protection by emphasizing transparency, consumer education, and cross-agency coordination.

Normatively, the P2SK Law and its derivative regulations demonstrate a shift in the legal paradigm from a repressive approach to integrated, preventive oversight. However, empirically, the effectiveness of its implementation still faces several obstacles, such as limited human resources at the Financial Services Authority (OJK), the challenges of dynamic digital oversight, and low public financial literacy. Therefore, Soerjono Soekanto believes that legal effectiveness will only be achieved if the five supporting factors—legal substance, law enforcement officials, infrastructure, society, and legal culture—are aligned.

Thus, the effectiveness of regulation and law enforcement against illegal investment operators following the passage of the new P2SK Law can be considered optimal if accompanied by increased institutional capacity, coordination between authorities, and the ongoing strengthening of public financial literacy. These efforts are not only crucial for preventing financial crime but also for restoring public trust in the national financial system and creating a healthy, transparent, and equitable investment climate.

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