



Legal protection for online securities companies (applications) affected by the global economic recession

Andra Ridholah Tafaka¹, Budi Santoso²

¹ Master of Law Student, Diponegoro University, Central Java, Indonesia

² Lecturer, Diponegoro University, Semarang City, Central Java, Indonesia

Abstract

The global recession which resulted in skyrocketing global inflation led to the emergence of energy and food crises in a number of countries. This increase in inflation was responded by tightening liquidity and increasing interest rates in developed countries. This situation has led to global financial market volatility, capital outflow, weakening of the exchange rate and an increase in the cost of funds. This condition was followed by a downward correction in the projected global economic growth. This has led to stagflation, namely the weakening of the global economy and has an impact on investment rates, especially users of online investment applications. Gradually, the reduced investment will also have an impact on Investment/Security Applications. The form of legal protection obtained by investors in the activity of buying and selling shares in online-based securities companies can be carried out in the form of preventive protection (prevention) and repressive protection (imposition of sanctions). As for preventive legal protection by the Financial Services Authority, namely the existence of rules to prevent violations that can cause losses contained in Law no. 21 of 2011 concerning the Financial Services Authority.

Keywords: online investment, global economic recession, legal protection

Introduction

In the era of globalization, almost all countries pay great attention to the capital market. The capital market is defined as long-term trading of financial instruments (securities), both in own capital (stocks) and debt (bonds), both issued by the government (public authorities) and by private companies (private sectors). Budi Untung, Capital Market Business Law, (H. Munandar Dadang, 2011) ^[4].

According to Tjiptono Darmadji and Hendi M. Fakhruddin explained that: "The capital market is a market for various long-term financial instruments that are usually traded, both in the form of debt and own capital. Financial instruments that are traded in the capital market such as stocks, bonds, warrants, rights, convertible bonds, and various derivative products such as options (put or call)". Djoko Imbawani Atmadjaja, Indonesian Commercial Law. (Adrian Sutedi, 2009) ^[2].

The capital market brings together those who need (long-term) funds with those who need investment facilities in financial products. To be able to invest in the capital market, an intermediary for a Securities Company is needed. Article 1 point 5 of Law Number 8 of 1995 concerning Capital Markets (hereinafter referred to as the Capital Markets Law) states that securities are securities, namely debt acknowledgments, commercial papers, stocks, bonds, proof of debt, units of participation in collective investment contracts, futures contracts on securities and any derivatives of securities. A Securities Company is a party that has obtained a permit from the OJK to carry out business activities as a Broker-Dealer, Underwriter, and Investment Manager. A Securities Company can carry out one of the business activities but can also carry out all three simultaneously. This depends on the capital capacity and readiness of the company's resources ("Bekenal..OJK", n.d).

Securities Companies in Indonesia are divided into 2 (two) types, namely Securities Companies and Investment Managers. A Securities Company is a company that has obtained a business license from the OJK to be able to carry out business activities as a Broker-Dealer, Underwriter, or other activities in accordance with the provisions stipulated by the Capital Market Supervisor. Securities companies are currently often used as intermediary media to carry out transactions in the form of buying shares. Business activities carried out by securities companies, among them:

1. Securities Brokerage

- a. Carry out activities of buying and selling securities (securities) for the benefit of themselves or other parties;
- b. Buying and selling of securities such as stocks and bonds can be done on the Stock Exchange or through transactions outside the stock exchange (Over-the-Counter/OTC transactions).

2. Securities underwriter

- a. Assist prospective Issuers (public companies) in carrying out an Initial Public Offering (IPO), with or without the obligation to purchase the remaining unsold Securities;
- b. The term Public Offering of Shares is also known to the public by the name of going public.

Investment is one of the most important activities in the world of economics and business because investors have the hope that it will generate profits in the future. The rapid development of telecommunication technology and computer technology has resulted in a multifunctional internet. Technological advances have brought changes and shifts in trading activities by utilizing internet media. This is

known as electronic commerce or abbreviated as E-Commerce. Securities Companies are no exception, which in their development appear in the form of Applications such as Magic, Most, Seeds, etc. Online investment applications must be registered and under the supervision of the Financial Services Authority (OJK).

However, investments that are part of the global economy are certainly inseparable from the threat of an economic recession which is predicted to occur in 2023. Problems can arise for companies, including Investment/Security Applications as there is a World Bank prediction that there is a possibility of a global economic recession in 2023. This prediction feels even more real with several indications that have started to occur, such as the aggressive increase in benchmark interest rates by central banks of various countries in an effort to reduce the inflation rate (Bisnis Indonesia, October 1, 2022) "Steps to Avoid Recession Risk". Another indication is that companies in many countries are starting to reduce production due to declining global demand. Then, the strengthening of the United States (US) dollar against almost all currencies in the world, a phenomenon commonly called the *ultradollar*. This condition shows that many investors choose to place their funds in US dollars because they are considered safer. The *ultra-dollar* phenomenon gives a very strong signal that the world economy is moving towards a recession (Kontan, 27 September 2022) "Ultra Dollar Signs a Global Recession", *Cash*, 27 September 2022, p. 1. Factors triggering a global economic recession that are feared to occur next year include the Covid-19 pandemic, the Russia-Ukraine war, high inflation rates, an increase in the benchmark interest rate, and a decline in global demand. Global inflation has skyrocketed due to the supply chain crisis due to the COVID-19 pandemic which has been going on for more than 2 years. This was also exacerbated by the uncertain end of the Russian-Ukrainian war. Until the emergence of energy and food crises in several countries. The increase in inflation was responded by tightening liquidity and increasing interest rates in developed countries. This situation has led to volatility in global financial markets, capital outflows, weakening exchange rates and increased cost of funds. This condition was followed by a downward correction in the projected global economic growth. This has led to stagflation, which is the weakening of the global economy and has had an impact on investment rates, especially users of online investment applications. Based on the background above, the author is interested in writing a paper entitled "Legal Protection for Online Securities Companies (Applications) Affected by the Global Economic Recession". From the background of the problem, the author wants to examine how the impact of the recession is on Investment/Security applications and how legal protection is for Investment/Security Applications when they are affected by a global recession.

Research Method

This legal research is a normative legal research, which includes norms and legal rules as well as legal rules systematically. Normative legal research is a literature-based research. The materials needed in the research are Secondary, Primary and Tertiary Materials. The research approach used in this study is a qualitative research approach. Data collection was carried out through a study of primary legal documents and secondary legal documents.

The main legal documents considered include reliable international media and current legal regulations. The review of secondary legal documents includes books, journals, articles, research results, conference reports which are mainly related to research topics and problems.

Discussion

1. The Impact/Influence of the Recession on Investment/Security Applications

In this era of globalization, investment is one of the most important activities in the world of economy and business because investors have the hope that they will generate profits in the future. Halim (2003) ^[1] explains that investment is one of the business activities that is very well known and in demand by the public. Stocks are one of the most targeted types of investment by investors (Schroders in www.kompas.com). In this case, the capital market is very helpful for both investors and companies to see the movement of stocks and various securities or other securities by using various analysis related to investment in making a decision and can predict the condition of stock prices in the future.

Telaumbanua and Sumiyana (2008) state that an efficient securities market is a market where the securities traded reflect all information that occurs quickly and accurately. The increasing number of investors, the movement of the JCI and the development of the capital or securities markets in Indonesia have made securities companies try to find ways to make investment activities run effectively and efficiently. It is the development of technology and information that provides solutions to make it easier and safer for investors to make investments, especially stock investments. This can be proven by the fact that many securities companies provide an application for investing online or commonly known as online trading.

Konan and Balasubramanian (2000) term online investment application systems which can also be referred to as e-brokerages because these systems function as intermediaries or liaisons between investors and companies. Almost the same as brokers in general, only this investment system can be done online. With this application, investors only need to connect an internet connection to make investments, including stock investments. When compared to offline or conventional investment mechanisms, of course online investment applications can facilitate stock investors in terms of good costs and benefits.

An efficient capital market will respond quickly to all relevant information. If the information is positive, it will have a positive impact on stock prices, otherwise if the information is negative, it will have a negative impact on stock prices. Usually this can be expressed by changes in stock prices that exceed normal conditions, causing abnormal returns (Saragih, Sadalia, & Silalahi, 2019) ^[8].

A recession is a negative growth in real economic growth or it can be said that there is a decline in a country's gross domestic product or national income for two consecutive quarters. An economic recession marked by a weak global economy and its impact on the world's national economies. Simultaneously, an economic recession will result in a decrease in all economic activities, including company profits, employment and investment (Blandina, *et al*, 2020). Investment/Security Applications that have obtained business licenses from the OJK and can carry out activities as Underwriters, Broker-Dealers and or Investment

Managers as well as other activities according to OJK regulations. Companies that sell or offer securities are called issuers. Another definition of an issuer is a company, either private or state-owned, that seeks capital from the stock exchange by issuing securities. The cooperation scheme between the Investment Application and the Issuer is to act as a securities broker for issuers in selling or offering securities to the public.

The period of public offering of shares to the public can be done for 1-5 working days. In the event that the demand for shares from investors exceeds the number of shares offered (over-subscribed), an allotment is necessary. Money ordered by investors whose share orders are not fulfilled must be returned (refunded) to investors after the allotment. Distribution of shares will be carried out to investors buying shares electronically through KSEI (not in the form of a certificate). The company submits an application for listing of shares to the Exchange accompanied by documentary evidence that the Registration Statement has been declared effective by the OJK, prospectus documents, and a report on the composition of the company's shareholders. The Indonesia Stock Exchange will give approval and announce the listing of the company's shares and the ticker code for the purpose of trading shares on the Exchange. This stock code will be widely known to investors when conducting company stock transactions on the Indonesia Stock Exchange. After the shares are listed on the Exchange, investors will be able to trade company shares to other investors through brokers or Securities Companies (Investment Applications) which are Exchange Members registered on the Indonesian Stock Exchange (StaticData20_Dec-2015).

Companies can work with underwriters to obtain an overview of the asking price from investors for the planned stock offering. Pricing usually involves a book building process, during which investor interest is gathered and considered. As an intermediary, Investment/Security Applications provide information between investors and issuers, as well as being the spearhead of the capital market in increasing investment movement and volume. The more investment volume, the more profitable the Investment/Security Application as an intermediary.

However, on the other hand, the global recession, which resulted in skyrocketing global inflation, led to the emergence of energy and food crises in several countries. This increase in inflation was responded by tightening liquidity and increasing interest rates in developed countries. This situation has led to global financial market volatility, capital outflow, weakening of the exchange rate and an increase in the cost of funds. This condition was followed by a downward correction in the projected global economic growth. This has led to stagflation, namely the weakening of the global economy and has had an impact on the rate of investment, especially users of online investment applications. Gradually the reduction in investment will also have an impact on Investment/Security Applications. The weakening of people's purchasing power will of course occur because they will be more selective in using their money by focusing on meeting their needs first. This is even more burdensome for Securities Companies that are required to have Net Adjusted Working Capital (MDKBD) according to their business activities.

For Securities Companies that cannot meet the minimum MDKBD limit, Securities Companies can be suspended

until they are filed for bankruptcy by Bapepam-Financial Institutions based on Article 2 paragraph (4) Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payments in the event that the Debtor is a Securities Company, Stock Exchanges, Clearing Guarantee Institutions, Depository and Settlement Institutions, Bapepam can apply for a declaration of bankruptcy. However, after the formation of the Financial Services Authority, the authority to file for bankruptcy has shifted to the authority of the Financial Services Authority.

2. Legal Protection for Investment/Security Application Parties When Affected by a Global Recession

Carrying out the activities of buying and selling shares, the capital market does not only bring together sellers and buyers but also requires other capital market players who have an equally important role in it. Where they carry out transaction activities from the initial issuance of shares to the stage of completion.

Basically, Issuers can issue Securities without using the services of a Securities Company. In this case, the price fixing is carried out by the Issuer concerned. The use of Securities Company services is intended to help Issuers market and or sell the offered Securities so that there is certainty of obtaining the proceeds from selling the said Securities. Meanwhile, the decision to invest in the Securities offered is entirely in the hands of the investor. Therefore, using the services of a Securities Company affiliated with an Issuer can basically be equated with offering Securities without using the services of a Securities Company. However, the guarantee must really pay attention to the possibility of a conflict of interest. Thus, the relationship between the Issuer and the Securities Company is not a dominant factor for investors as long as the said relationship is clearly disclosed in the Prospectus. By including in the Prospectus the existence of the relationship referred to in this Article, investors can know and assess the degree of independence of the said Securities Company acting as Underwriter for Securities issued by Issuers. What is meant by "other relationships that are material in nature in this Article, includes among others business relationships that are material in nature between Issuers and Underwriters such as debt-receivable relationships and the provision of certain services.

Securities Companies or Investment Advisers are required to keep all records related to customer orders, transactions and investment activities. Thus, such records can be known at any time by the customer for the purpose of verification. Securities companies are required to keep daily bookkeeping of Securities kept at the Securities Company or owned by the Securities Company through the Securities Ledger and prepare the Subsidiary Ledger Report in accordance with the Subsidiary Ledger Report as referred to listed in the Appendix which is an integral part of the Financial Services Authority Regulation regarding the maintenance and reporting of Net Adjusted Working Capital. Article 2 Regulation of the Financial Services Authority Number 54 /Pojk.04/2020 Concerning Control and Protection of Securities Kept by Securities Companies. Article 4 A Securities Company is obligated to place a client's Securities under the direct control of the Securities Company, provided that:

- a. The Securities Company takes swift and effective action to ensure that the Securities in the Long Position of the client's Securities account are under the direct control of the Securities Company;
- b. Free Securities that are not under the direct control of the Securities Company after a period of 5 (five) working days must be replaced with Securities purchased by the Securities Company; and
- c. In the event: the Securities Company has set aside money in the amount of the fair market value of the Securities which are not yet under the direct control of the Securities Company and are in a special account at the bank under the name of Securities Company for the benefit of the account holder to guarantee Free Securities which are not Securities under direct control Securities Company; and The Securities Company has been actively and continuously taking the best and correct actions to ensure that the said Securities are under the direct control of the Securities Company, the Securities Company can extend the time period of 5 (five) working days to buy Securities as referred to in letter b.

However, the global recession that affected the economy had an impact on weakening people's purchasing power which had an impact on the amount of investment that would make it difficult for Securities Companies. Securities companies are required to have Net Adjusted Working Capital (MDKBD) according to their business activities. For Securities Companies that are unable to meet the minimum MDKBD based on Stock Exchange Number III-G Concerning Suspension and Revocation of Exchange Membership Approval it stipulates that the Indonesia Stock Exchange can suspend securities companies until they are filed for bankruptcy by Bapepam-Financial Institutions Article 2 paragraph (4) of Law -Law No. 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment in the event that the Debtor is a Securities Company, Stock Exchange, Clearing Guarantee Institution, Depository and Settlement Institution, Bapepam can submit a declaration of bankruptcy. However, after the formation of the Financial Services Authority, the authority to file for bankruptcy has shifted to the authority of the Financial Services Authority. Until now, the main focus is legal protection for investors. Investors are often considered as a party that is vulnerable to taking risks in capital market activities. Some of the risks that arise in capital market activities are as follows (Sutedi, 2009):

1. Financial risk, namely the risk suffered by investors or financiers as a result of the issuer's inability to fulfill the obligation to pay dividends/interest principal investment;
2. Market risk, namely the risk resulting from a substantial decline in market prices, both in general in shares and certain shares due to changes in the level of economic inflation, financial management of state companies, and changes in government policies;
3. Psychological risk, namely the risk for investors who act emotionally in dealing with stock prices based on optimism and pessimism can increase and decrease stock prices.

Through the Decree of the Board of Commissioners of the Financial Services Authority Number Kep-43/D.04/2013 dated 11 September 2013 concerning the Granting of Business Licenses for the Implementation of Investor Protection Funds to PT Organizers of the Indonesian Securities Investor Protection Program (P3IEI) or known as the Indonesia Securities Investor Protection Fund (Indonesia SIPF) officially becomes a company that has the authority as an Investor Protection Fund Provider. The Securities Investor Protection Fund is an institution established to protect investors' assets in the capital market from losses caused by risks of crime by employees or management of securities companies and risks of bankruptcy of securities companies. As an institution that aims to protect investors, PT P3IEI allocates Investor Compensation Reserves (CGRP) which are funds that can be used at any time to provide compensation to investors by P3IEI which has the authority to administer and manage the said reserve funds. Capital market law contains rules that are institutional regulation and functional regulation. The first nature is the rules in the capital market institutions while the second is the rules that cover activities, procedures, permits and other things that form the basis of the capital market (Nasarudin, 2008). The existence of capital market law is intended so that the capital market can run regularly. Michael James Watson Q.C. explained that one of the principles that needs more attention in capital market law is the principle of fairness in the market which will guarantee equal distribution of information, opportunities, and investment risks to all investors (C.S.T., 2011).

The form of legal protection that is obtained by investors in the activity of buying and selling shares in online-based securities companies can be carried out in the form of preventive protection (prevention) and repressive protection (imposition of sanctions). As for preventive legal protection by the Financial Services Authority, namely the existence of rules to prevent violations that can cause losses contained in Articles 28 and Article 29 of Law No. 21 of 2011 concerning the Financial Services Authority. Furthermore, repressive legal protection is carried out by forming an Investment Alert Task Force, forming an Investor Protection Fund (IPF), issuing POJK No. 1/POJK.07/2013 related to Consumer Protection in the Financial Services Sector and if a dispute occurs between a consumer and a financial services institution, the OJK has the authority to conduct legal defense for the public as consumers. Repressive legal protection is also regulated by civil, criminal and administrative law. This legal protection is contained in various articles in UUPM No. 8 of 1995.

Until now, securities companies are on the side that must be responsible for all activities in stock trading/investment. In fact, the impact of the global economic recession has not only affected investors, but has also had an impact on securities companies. Therefore, it is important for the government to also accommodate legal protection for securities companies affected by the global economic recession.

Conclusion

1. The Online Investment Application System provides solutions to make it easier and safer for investors to make investments. Investment/Security Applications that have obtained business licenses from the OJK and can carry out activities as Underwriters, Broker-Dealers

- and or Investment Managers as well as other activities according to OJK regulations. However, the global recession that affected the economy had an impact on weakening people's purchasing power and would also impact investment through Investment/Security Applications. For a Securities Company unable to meet the minimum MDKBD, the Securities Company may be suspended until it is filed for bankruptcy;
- Carrying out the activities of buying and selling shares, the capital market does not only bring together sellers and buyers but also requires other capital market players who have an equally important role in it. Where they carry out transaction activities from the initial issuance of shares to the stage of completion. However, the global recession which affected the economy and impacted the Online Investment Application System did not yet have legal protection. Until now, the main focus is legal protection for investors. Investors are often considered as a party that is vulnerable to taking risks in capital market activities.

References

- Abdul, *Halim*. 2003. Analisis Investas. Edisi Pertama. Jakarta: Salemba Empat, 2003.
- Adrian Sutedi, Metode Penelitian Hukum, Sinar Grafika, Jakarta. *Atmadjaja, Djoko Imbawani*. 2012. *Hukum Dagang Indonesia*. Malang. Penerbit *Setara. Press*, 2009.
- CST K. Modal Hukum Dagang. Djambatan, Jakarta, 2011.
- H Munandar Dadang. E-Business. *CV ANDI OFFSET*. Yogyakarta, 2011.
- Nasarudin ML. Aspek Hukum Pasar Modal. Alumni Bandung, 2008.
- Balasubramanian S, Konana P, Menon NM. Customer satisfaction in virtual environments: A study of online investing. *Management Science*, 2003;49(7):871-889.
- Binsar I. K. *Telaumbanua dan Sumiyana*. 106. Event Study: Pengumuman Laba Terhadap Reaksi Pasar Modal (Study Empiris, Bursa Efek Indonesia 2004-2006)
- Saragih, Enny Magdalena, Isfenti Sadalia, Amlis Syahputra Silalahi. The Impact of Presidential Election on Abnormal Return, Trading Volume Activity, Security Return Variability in Banking Industries Listed on the Indonesia Stock Exchange. *International Journal of Research and Review*, 2019;6(5):246-261.
- Undang-Undang Nomor 37 Tahun 2004 Tentang Kepailitan dan Penundaan Pembayaran Utang
- Peraturan Otoritas Jasa Keuangan Nomor 54 /Pojk.04/2020 Tentang Pengendalian Dan Perlindungan Efek Yang Disimpan Oleh Perusahaan Efek
- Surat Keputusan Dewan Komisioner Otoritas Jasa Keuangan Nomor Kep-43/D.04/2013 tentang Pemberian Izin Usaha Penyelenggaraan Dana Perlindungan Pemodal
- Berkenalan dengan Perusahaan Sekuritas dan Manajer Investasi
<https://sikapiuangmu.ojk.go.id/FrontEnd/CMS/Article/10453> diakses tanggal 17 November 2022 pukul 17.00 WIB
- Prediksi IHSG Selasa (27/9) Turun, Ini Pilihan Saham Analis Untuk Raih Cuan
<https://investasi.kontan.co.id/news/prediksi-ihsg-selasa-279-turun-ini-pilihan-saham-analis-untuk-raih-cuan> diakses tanggal 17 November 2022 pukul 18.00 WIB
- Inflasi Oktober 2022 Lebih Rendah Dari Prakiraan Awal
https://www.bi.go.id/id/publikasi/ruang-media/news-release/Pages/sp_2429522.aspx diakses tanggal 18 November 2022 pukul 19.30 WIB
- Panduan IPO (Go Public)
[https://www.idx.co.id/Portals/0/StaticData/Information/ForCompany/Panduan-Go-Public%20 Dec-2015.pdf](https://www.idx.co.id/Portals/0/StaticData/Information/ForCompany/Panduan-Go-Public%20Dec-2015.pdf) diakses tanggal 18 November 2022 pukul 17.00 WIB