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Original Article

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Analysis of Legal Protection of Investors in Capital Markets: Perspective of Law No. 8 of 1995, Law No. 21 of 2011, and Law No. 11 Year 2020

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Abstract
Legal protection is a key element in strengthening aspects of law enforcement in a country, including in the economic and legal fields. This protection involves the interests of investors, for which investment law in a country must include regulations to protect investors and their invested capital. This research examines the legal protection of investors in the Indonesian capital market with reference to Law No. 8 of 1995 concerning the Capital Market, Law No. 21 of 2011 concerning the Financial Services Authority (OJK), and Law No. 11 of 2020 concerning Job Creation. The research method used is normative juridical with a statute approach and conceptual approach. The problem formulations in this study are: (1) How is the effectiveness of legal protection for investors based on the provisions of Law No. 8 of 1995 and Law No. 21 of 2011? (2) What significant changes does Law No. 11 of 2020 bring to the investor protection mechanism and its impact? This study found that Law No. 8 of 1995 and Law No. 21 of 2011 have provided a comprehensive legal framework for investor protection, but Law No. 11 of 2020 brought a number of changes that affect capital market regulation and investor protection. These changes, including regulatory adjustments and strengthened supervision, are expected to improve investor protection. This research emphasizes the importance of consistent implementation and effective law enforcement to achieve the goal of optimal legal protection.

Keywords: Legal protection; capital market; financial services authority

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Introduction

Legal protection for investors in the capital market is an important foundation in maintaining the stability and integrity of financial markets. In Indonesia, Law no. 8 of 1995 concerning Capital Markets (UU No. 8/1995) is the main regulation that regulates various aspects of the capital market, starting from public offering mechanisms to investor protection. This law aims to create a transparent and fair market and provide protection for investors from detrimental practices. This law provides a clear legal framework for supervision and law enforcement in the capital market, although challenges in implementation remain.

The role of the Financial Services Authority (OJK), which is regulated in Law no. 21 of 2011 (UU No. 21/2011), is a crucial element in the investor protection system. This law strengthens the capacity for supervision and law enforcement in the capital market through the establishment of the OJK as an institution that has broad authority in regulating and supervising financial markets. According to Susanto, OJK has the main responsibility in ensuring transparency and fairness in the capital market, as well as protecting investor rights from unethical or manipulative market practices.

Issuance of Law no. 11 of 2020 concerning Job Creation (UU No. 11/2020) brings significant changes to capital market regulations by optimizing licensing policies and procedures. This change is

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intended to increase the efficiency and competitiveness of the Indonesian capital market. Arif revealed that although this reform aims to simplify the process and attract more investment, it is important to evaluate its impact on investor protection, especially in the context of more flexible law enforcement and supervision. This evaluation is key to ensuring that reforms do not sacrifice existing protections for market efficiency.

Method

The research method in this study uses a normative juridical approach with two main approaches: the statutory approach (statute approach) and conceptual approaches (conceptual approach). The legislative approach focuses on analysis of relevant statutory texts, namely Law no. 8 of 1995 concerning Capital Markets, Law no. 21 of 2011 concerning the Financial Services Authority, and Law no. 11 of 2020 concerning Job Creation, to understand the applicable legal and regulatory provisions. As explained by Deliar Noer, this approach allows researchers to assess the consistency and implementation of regulations in the context of legal protection for investors. Meanwhile, a conceptual approach is used to explore legal theories and concepts underlying legal protection in the capital market, such as the concepts of justice, transparency and accountability. This approach is useful for assessing how these concepts are integrated in existing regulations and for analyzing their implications for capital market practice. This is in line with the views of Muladi and Barda Nawawi Arief regarding the importance of conceptual analysis in understanding the application of legal theory in legal practice.

Discussion

Law no. 8 of 1995 concerning Capital Markets is the main basis for capital market regulation in Indonesia. This law regulates various important aspects related to investor protection, such as the obligation to disclose information by issuers. Article 8 Law no. 8 of 1995 requires issuers to submit annual reports that include audited financial reports and other material information. This obligation is intended to ensure that investors have access to relevant information to make data-based investment decisions.

The obligation to disclose information is a crucial aspect of investor protection because it helps reduce asymmetric information between issuers and investors. With transparency, investors can better identify potential risks and opportunities. Research shows that accurate and timely disclosure of information can increase investor confidence and capital market stability. However, the implementation of this obligation is often faced with challenges, including non-compliance from some issuers.

Law no. 21 of 2011 concerning the Financial Services Authority (OJK) expands the scope of investor protection by providing stronger supervisory authority to the OJK. Article 2 Law no. 21 of 2011 states that the OJK is tasked with protecting the interests of the public and maintaining financial system stability through regulation and supervision of the financial services sector. With the existence of the OJK, supervision of issuers' compliance with capital market regulations becomes more effective.

OJK's role in supervising capital markets includes making more detailed regulations, as well as carrying out audits and examinations of public companies. OJK has the authority to impose administrative sanctions on companies that violate capital market regulations, including firm action against violations of information disclosure. This increases issuer compliance and provides more protection for investors.

OJK also functions in resolving disputes between investors and public companies. Article 6 Law no. 21 of 2011 gives OJK the authority to mediate to resolve disputes. It is hoped that this dispute resolution mechanism will provide a faster and more efficient alternative to the traditional litigation process, so that investors can obtain a fair solution without having to go through a lengthy legal process.

Apart from that, Law no. 8 of 1995 gives investors the right to file complaints regarding actions that are detrimental to them in the capital market. Article 17 of this Law stipulates that investor complaints must be processed by the competent authorities to find appropriate solutions. This arrangement aims to provide a way for investors to claim their rights if violations occur that harm them.

Although both laws provide a comprehensive legal framework, challenges in implementation often arise. Research shows that the effectiveness of legal protection is often hampered by a lack of resources for monitoring and inconsistent law enforcement. To increase investor protection, it is necessary to evaluate and adjust existing mechanisms to make them more responsive to dynamic capital market developments.

Evaluation of legal protection based on Law no. 8 of 1995 and Law no. 21 of 2011 shows that although there have been significant efforts to protect investors, there is still room for improvement. Tighter supervision and more consistent law enforcement are needed to overcome existing challenges. Therefore, it is important for regulators to continuously update and improve regulations and supervisory mechanisms to suit evolving market needs.

Law no. 11 of 2020 concerning Job Creation (Job Creation Law) brings significant changes in various sectors, including the capital market. One of the main changes brought about by the Job Creation Law is adjustments to capital market regulations to support ease of doing business and investment. Article 77 of the Job Creation Law simplifies the business licensing process and reduces regulations that are considered to hinder investment. This change aims to increase the attractiveness of the Indonesian capital market for domestic and foreign investors.

The Job Creation Law also changes the provisions regarding the regulation and supervision of issuers in the capital market. In Article 77 of the Job Creation Law, there are provisions that give greater authority to the Financial Services Authority (OJK) in terms of licensing and supervision. This is expected to speed up the approval and supervision process for issuer activities, thereby increasing capital market efficiency. The increase in OJK authority aims to improve the quality of supervision and protection of investors.

One of the main impacts of the Job Creation Law is changes in the dispute resolution mechanism in the capital market. This law introduces new, more efficient procedures for resolving disputes between investors and issuers. Article 88 of the Job Creation Law regulates commercial courts which are intended to handle capital market disputes more quickly and specifically. This provides a more effective alternative for investors to assert their rights and resolve disputes.

The Job Creation Law also emphasizes the need for transparency in the disclosure of information by issuers. The provisions in this law strengthen the obligation to disclose more detailed and accurate information. Article 67 regulates that issuers must provide relevant and material information in a timely manner to avoid fraud and market manipulation. These changes aim to protect investors by ensuring that they have access to information that may influence their investment decisions.

In addition, the Job Creation Law introduces incentives for companies listed on the stock exchange to increase public participation and diversity of investment products. Article 80 of this Law provides fiscal and non-fiscal incentives for issuers who are committed to better transparency and accountability. This incentive is expected to encourage more companies to list on the stock exchange, thereby providing more investment choices for investors.

However, the changes introduced by the Job Creation Law have also faced criticism. Some parties argue that regulatory simplification could reduce legal protection for investors if it is not balanced with adequate supervision. This criticism shows the importance of striking a balance between ease of doing business and investor protection to ensure capital markets remain safe and function well.

In the context of the impact of the Job Creation Law on investor protection, it is important to consider how this new regulation integrates with previous regulations, especially Law no. 8 of 1995 and Law no. 21 of 2011. The Job Creation Law should complement existing regulations by providing a framework that is more flexible and responsive to market changes. These adjustments are important to ensure that investor protection is maintained within a more modern and efficient legal framework.

Overall, Law no. 11 of 2020 concerning Job Creation brings various changes that have an impact on investor protection in the capital market. This change reflects efforts to increase the competitiveness of the Indonesian capital market while strengthening legal protection for investors. Continuous evaluation is required to ensure that these changes not only make investing easier but also maintain the integrity and security of capital markets.

Conclusion

Based on the research results and discussions that have been described, the following can be concluded:

Effectiveness of Legal Protection Based on Law no. 8 of 1995 and Law no. 21 of 2011: Law no. 8 of 1995 concerning Capital Markets and Law no. 21 of 2011 concerning the Financial Services Authority (OJK) has generally created a fairly comprehensive legal protection framework for investors. UU no. 8 of 1995 provides the legal basis for transparency, information disclosure, and issuer responsibilities which are important for protecting investors' interests. These regulations establish mandatory disclosure of material information, which helps investors make more informed investment decisions and reduces the risk of fraud and market manipulation. Meanwhile, Law no. 21 of 2011 strengthens investor protection by giving OJK greater authority in terms of supervision and law enforcement. OJK has the authority to regulate, supervise and take action against violations in the capital market. With the existence of the OJK, supervision of capital market activities becomes more structured and centralized, increasing investor confidence in the market^2^. Although this regulation strongly supports investor protection, its effectiveness is still influenced by consistent implementation and limited supervisory resources.

Significant Changes Presented by Law no. 11 of 2020 and its Impact: Law no. 11 of 2020 concerning Job Creation brings significant changes to the regulatory structure of the capital market in Indonesia. One of the main changes is the simplification of licensing and supervision processes designed to increase ease of doing business and attract investment. This law gives OJK greater authority in managing the licensing process, which is expected to speed up decision making and increase market efficiency. However, the Job Creation Law also changes the dispute resolution mechanism by introducing new, more efficient procedures through commercial courts. This change aims to resolve capital market disputes more quickly and effectively, providing better protection to investors who experience losses. In addition, this law strengthens the obligation to disclose information by issuers to ensure greater transparency and accountability, which is a positive step in protecting investor rights. Although these changes aim to increase the efficiency and attractiveness of capital markets, it is important to be aware that regulatory simplification does not come at the expense of investor protection. Strict law enforcement and supervision remains necessary to maintain market integrity and protect investors from harmful practices. The impact of the Job Creation Law will depend on effective implementation and a balance between ease of doing business and investor protection.

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