

Regulating Alternative Crowdfunding: Legal Challenges in Advancing Indonesian SMEs Amid Consumer Protection, Transparency, and Strict Platform Oversight—A Comparison with Austria

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Abstract

Alternative crowdfunding has emerged as a vital financing solution for Small and Medium Enterprises (SMEs) in Indonesia, offering funding opportunities beyond traditional financial institutions and fostering economic growth. However, the Indonesian government must address



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risks such as fraud, personal data misuse, and investor losses by ensuring strong legal protection and regulatory oversight. This study examines the legal framework for equity-based crowdfunding and SME empowerment in Indonesia, drawing comparative insights from Austria's well-established regulations. The novelty of this research lies in its comparative approach, which highlights regulatory asymmetries affecting investor confidence and SME access to funding. The urgency is underscored by Indonesia's rapidly expanding digital finance sector, where weak governance could undermine crowdfunding's potential. This normative legal study employs a descriptive-analytic approach, integrating legislative and conceptual perspectives from both jurisdictions. Findings indicate that Austria enforces investment limits, stringent platform accountability, and robust law enforcement, ensuring market stability while supporting SMEs. Conversely, Indonesia should ease SME access to crowdfunding while implementing investment caps to mitigate investor risks. Moreover, Austria's strong judicial oversight and auditing mechanisms serve as a model for Indonesia, which requires enhanced regulatory enforcement and institutional capacity. This study contributes to legal scholarship by proposing a balanced regulatory model that fosters SME participation while ensuring investor protection, transparency, and sustainable market growth. By adopting best practices from Austria and Europe, Indonesia can refine its crowdfunding regulations to drive economic development while maintaining a secure financial ecosystem.

KEYWORDS *Capital, Crowdfunding, Protection, Legal Framework*

I. Introduction

The emergence of crowdfunding as an alternative financing mechanism has played a significant role in addressing the funding challenges faced by Small and Medium Enterprises (SMEs).¹ In Indonesia, where access to

¹ Valeria Stefanelli, Greta Benedetta Ferilli, and Vittorio Boscia. "Exploring the lending business crowdfunding to support SMEs' financing decisions." *Journal of Innovation & Knowledge* 7, no. 4 (2022): 100278; Andreas Schenk, "Crowdfunding

traditional financial institutions remains limited for many SMEs, equity-based crowdfunding presents an opportunity to bridge the financing gap.² However, the rapid growth of crowdfunding platforms has also raised legal concerns, particularly in consumer protection, transparency, and platform accountability. Weak regulatory oversight increases the risks of fraud, financial mismanagement, and investor losses, which could undermine public confidence in crowdfunding as a sustainable financing model. While Indonesia has made efforts to regulate the sector, enforcement mechanisms remain inconsistent, highlighting the need for a more structured and comprehensive legal framework.

Meanwhile, the Organization for Economic Cooperation and Development (OECD) states that Small and Medium Enterprises (SMEs) are independent companies that employ less than a certain number of employees. This number limit varies between countries, with the most common SMEs being companies hiring fewer than 250 employees, such as in the European Union. In several other countries, the limit is less than 200 employees. In the United States, companies that are classified as SMEs are companies with fewer employees. The Organization for Economic Cooperation and Development (OECD) states that Small and Medium Enterprises (SMEs) are independent companies that employ less than a certain number of employees. This number limit varies between countries, with the most common SMEs being companies hiring fewer than 250 employees, such as in the European Union. In several other countries, the

in the context of traditional financing for innovative SMEs." *European Conference on Innovation and Entrepreneurship*. Academic Conferences International Limited, 2015.

² Adelia Dianatul Fikriyah, Sholeha Sholeha, and Aliyya Fathiya Ahmad. "Fintech Equity Crowdfunding Syariah Sebagai Solusi Akses Permodalan UMKM." *Ekonomi Bisnis* 30, no. 2 (2024): 97-107; Musfiroh, Mila Fursiana Salma, Ifan Zidan Aulifa, and Titik Hinawati. "Securities Crowdfunding Sebagai Instrumen Pembiayaan Usaha Mikro Kecil Menengah (UmkM)." *Journal of Management, Economics, and Entrepreneur* 3, no. 1 (2024): 1-19.

limit is less than 200 employees. In the United States, companies that are classified as SMEs are companies with fewer employees.³

In contrast, Austria has developed a robust regulatory framework for crowdfunding, ensuring a balance between investor protection and SME access to capital. The Austrian model enforces investment limits, platform accountability, and stringent legal oversight, supported by strong judicial and auditing mechanisms. This structured approach fosters trust among investors and enhances market stability, allowing SMEs to thrive within a well-regulated ecosystem. By examining Austria's legal framework, Indonesia can gain valuable insights into improving regulatory oversight, consumer protection, and transparency in crowdfunding markets.

In Indonesia, the criteria for SMEs are determined by the amount of capital, as in Law Number 20 of 2008 concerning Micro, Small, and Medium Enterprises in Article 6 states the business criteria by dividing the SME capital, such as micro-businesses having a net worth of IDR. Fifty million with annual sales proceeds of Rp. 300 million. Then, the criteria for small businesses are having a capital of IDR. Fifty million up to a maximum of Rp. Five hundred million with annual sales of more than Rp. Three hundred million to a maximum of Rp. 2.5 billion. Meanwhile, the criteria for medium-sized businesses are having a capital of IDR. Five hundred million up to a maximum of Rp. 10 billion and has annual sales of more than Rp. 2.5 billion up to a maximum of Rp. 50 billion.⁴

Apart from Indonesia, various countries have various definitions and criteria for SMEs. The qualitative description of SMEs is grouped based on characteristics in the form of independent management, ownership is held by a small group of individuals and capital is provided by them themselves, the company's operational area is primarily local, and

³ Sony Hendra Permana, "Strategi Peningkatan Usaha Mikro, Kecil, Dan Menengah (UMKM) Di Indonesia," *Aspirasi: Jurnal Masalah-Masalah Sosial* 8, No. 1 (2017): 93–103, <https://doi.org/10.46807/aspirasi.v8i1.1257>.

⁴ Undang-Undang Nomor 20 Tahun 2008 Tentang Usaha Mikro, Kecil, Dan Menengah

the company is small scale when compared to large units in its field. Therefore, SMEs also have several principal characteristics that differentiate them from large companies, namely flexible, innovative, and fast in implementing policies, and their success predominantly depends on the business owner's skills.⁵

For comparison, many countries (officially called economies) in Asia and the Pacific that are members of the Asia-Pacific Economic Corporation (APEC) also use the criteria of total sales or income and total assets or capital to define SMEs. Some APEC members, such as Mexico and Papua New Guinea, use assessment formulas or matrices based on specific criteria standards. For example, in Australia, the classification criteria for SMEs is based on the number of workers and turnover. Meanwhile, China's classification of SME criteria is based on the number of workers, turnover, assets, and sector/industry.⁶

Regarding problems, SMEs in various countries are always faced with capital problems. But that doesn't mean the problem doesn't have a solution. According to Mukti Fajar, access to financial resources is a classic problem for SMEs. If there are 100 micro and small business actors, around 70-80 entrepreneurs will answer the capital problem. In fact, through the role of Bank Indonesia, banks have always delivered annual plans for financing SMEs since 2003.⁷

⁵ Zakiah Tarigan, Fadilah Dewi, Dan Yanuar Pribadi, "Keberlangsungan Usaha Mikro, Kecil, Dan Menengah Di Masa Pandemi: Dukungan Kebijakan Pemerintah," *Jurnal BPPK: Badan Pendidikan Dan Pelatihan Keuangan* 15, No. 1 (2022): 12–23, <https://doi.org/10.48108/Jurnalbppk.V15i1.666>.

⁶ Tulus T.H. Tumbun, *UMKM Di Indonesia: Perkembangan, Kendala, Dan Tantangan* (Jakarta: Prenada, 2021).

⁷ Mukti Fajar, *UMKM Di Indonesia Perspektif Hukum Ekonomi* (Yogyakarta: Pustaka Pelajar, 2016).

Various capital solutions have been implemented, such as the Government and Regional Governments empowering Medium Enterprises in the field of financing and guarantees by:⁸

1. Facilitate and encourage increased working capital and investment financing through expanding sources and financing patterns, access to capital markets and other financing institutions, And
2. Develop credit guarantee institutions and improve the function of export guarantee institutions.

However, Indonesia only has access to other capital through the stock exchange, namely Crowdfunding (SCF), a method of collecting funds using a joint venture scheme carried out by business or enterprise owners to start or develop their businesses. Later, investors can buy and obtain ownership through shares, proof of debt ownership (bonds), or joint ownership certificates (*Sukuk*).⁹

Countries that have long had alternative funding are Austria; by providing access to capital through venture capital and Crowdfunding, Austria has pioneered designing regulations for crowdfunding funds. 10 Crowdfunding platforms in Austria have been on the market since 2012, when crowdfunding regulations were introduced *en masse*. Different types of Austrian crowdfunding websites focus on donations, debt, or equity and offer investors the opportunity to support non-profits, SMEs, or real estate projects.¹¹

Recent developments and events in Asian countries in Bay McLaughlin's article for Crowdfund Insider notes that the significant

⁸ Pasal 24 Undang-Undang Nomor 20 Tahun 2008 Tentang Usaha Mikro, Kecil, Dan Menengah

⁹ Otoritas Jasa Keuangan, "Securities Crowdfunding Sebagai Alternatif Pendanaan UMKM," 2023, <https://sikapiuangmu.ojk.go.id/Frontend/CMS/Article/30676>.

¹⁰ H Soekarwo, *Berkaca Dari Kegagalan Liberalisasi Ekonomi* (Jakarta: PT Gramedia, 2018).

¹¹ "Find Crowdfunding Platforms In Austria For Investing," Crowdspace, 2023, <https://thecrowdspace.com/Directory/Crowdfunding-Platforms-In-Austria/>.

growth of equity crowdfunding in Southeast Asia was stimulated by changes in regulations in their respective governments. These changes have opened the door to helping small-to-medium enterprises (SMEs) to thrive. The Southeast Asian countries with the most significant crowdfunding growth are Indonesia, Thailand, Singapore, and Malaysia.

In line with this argument, crowdfunding in Indonesia was adopted from the JOBS (Jumpstart Our Business Startup) Law in America, which is a law intended to encourage funding from small businesses in the United States that are supervised by the United States Securities and Exchange Commission, or if in Indonesia just like Financial Services Authority Regulation Number 57 / POJK.04 /2020 provides the opportunity for all citizens to invest in startup companies.¹² However, research by Elisabetta Lazzaro and Douglas Noonan argues that the United States should harmonize Austrian and European Union regulations to overcome obstacles to the progress of its SMEs in terms of consumer protection, transparency, preventing fraud on platforms and developing SMEs by incorporating cultural and creative crowdfunding principles. (CF) and the European Union's crowdfunding legal protection regulations.¹³

But still, the crowdfunding system presents cons to the use of equity platforms, including:¹⁴

1. The condition is the same as giving up a portion of the company's future profits in exchange for cash now;
2. As per Securities Exchange Act (SEC) guidelines, facility providers must disclose company financial details to potential investors, and that means almost anyone can access that information;

¹² Rino Prasetyo, "Penawaran Efek Melalui Layanan Urut Dana Berdasarkan Prinsip Syariah". *Thesis*. (Palembang, Sriwijaya University, 2021).

¹³ Elisabetta Lazzaro Dan Douglas Noonan, "A Comparative Analysis Of US And EU Regulatory Frameworks Of Crowdfunding For The Cultural And Creative Industries," *International Journal Of Cultural Policy* 27, No. 5 (2021): 590–606.

¹⁴ Mohammad Yunies Edward et.al., *Crowdfunding Di Indonesia* (Jepara: UNISNU Press, 2021).

3. There is a risk of failure if an equity crowdfunding campaign is unsuccessful;
4. Equity crowdfunding platforms charge a fee and may keep a percentage of the funds the business raises (often 5-15%) in the form of commission;
5. Traditional investors are unlikely to be interested because reselling shares in small companies without incurring financial losses is difficult.

Crowdfunding is an alternative capital mechanism for SMEs; at least one thing is most important for MSEs and society: protection, ease of access, and continued impact in conditions of stable market movements. Because Crowdfunding is intended to seek capital and profits for SMEs and domestic communities, efforts to implement Crowdfunding in Indonesia for the progress of domestic SMEs are needed to build a people's economy that provides prosperity.

This study aims to examine the legal framework governing crowdfunding in Indonesia, with a particular focus on equity-based crowdfunding, by comparing its regulatory development with that of Austria. The objective is to analyze the legal regulations and protections surrounding equity-based crowdfunding and assess its role in the empowerment of SMEs, drawing insights from Austria's more established crowdfunding ecosystem.

The novelty of this research lies in its comparative approach, which systematically evaluates Indonesia's equity-based crowdfunding regulations in relation to Austria's well-established legal framework. While existing studies have explored crowdfunding in Indonesia, limited research has examined how Austria's legal principles could inform regulatory improvements in Indonesia. By employing a normative legal methodology, incorporating both legislative and conceptual perspectives, this study contributes to the legal discourse by identifying regulatory gaps and proposing a more effective model for Indonesia. Strengthening Indonesia's crowdfunding regulations through lessons from Austria and

other European jurisdictions will not only enhance investor confidence but also support the long-term development of SMEs as key drivers of economic growth.

This research employs a normative legal methodology with a descriptive-analytic approach. It incorporates two primary legal approaches: first, a legislative approach, which involves analyzing statutory regulations on crowdfunding in both Indonesia and Austria; and second, a conceptual approach, which examines the prevailing legal doctrines and theoretical perspectives related to crowdfunding within the framework of legal science in both jurisdictions. This study relies on secondary data sources, including primary legal materials (legislation and official regulations), secondary legal materials (academic literature and legal commentaries), and tertiary legal materials (legal dictionaries). The data collection process follows a library research method, utilizing document studies and case studies as key research instruments. The analysis is conducted qualitatively, with findings derived through deductive and inductive reasoning, ensuring a comprehensive examination of legal norms and their practical implications.

II. The Regulatory Framework of Crowdfunding in Austria

In 2014, Small and Medium Enterprises (SMEs) in Austria accounted for 99.7% of all businesses and employed approximately 68% of the total workforce, highlighting their dominant role in the national economy. However, since 2009, the number of borrowers has shown a declining trend, with the exception of a brief increase in 2011. This decline can be attributed primarily to a contraction in short-term loans, which persisted until 2015. Notably, the reduction in new loans was more pronounced among large corporations than SMEs, resulting in an increase in the proportion of SME loans relative to total loans disbursed. This trend

underscores the growing reliance of SMEs on alternative financing mechanisms, such as crowdfunding, to mitigate challenges in accessing traditional bank loans.¹⁵

Crowdfunding funding alternatives are experiencing increasing demand and are becoming a potential source of funding for SMEs. In 2015, bankrupt companies decreased to 10 per 1,000 compared to 18 per 1,000, the lowest level in 2009. Austria Wirtschafts Service GmbH (Aws) is a guarantee program for SMEs, a protection scheme implemented in 2014-2016. This program aims to provide subsidies for entrepreneurs in restructuring and re-branding, shifting from grants to guarantee programs, and reducing administrative obstacles. Furthermore, to increase access to Crowdfunding, SMEs are also facilitated by a threshold on the capital market (Alternative Financing Act).¹⁶

In August 2015, through regulations specifically targeting securities-based Crowdfunding—namely, the Austrian '*Alternativfinanzierungsgesetz*' (AltFG), by promoting a securities-based crowdfunding market¹⁷ with the availability of crowdfunded capital. As a result, it has attracted political attention. So, policymakers see crowdfunding as a promising opportunity for financing, especially for small and medium businesses.¹⁸

In Austria, when capital is raised through equity and debt securities, the supply is limited to €250 thousand. Small investors are subject to a single issuer limit of double the investor's average monthly income in the previous year and up to 10% of financial assets with a monthly net income of at least €2.5 thousand. The regulatory framework for investment-based

¹⁵ Soekarwo, *Berkaca Dari Kegagalan Liberalisasi Ekonomi*, 70.

¹⁶ Soekarwo

¹⁷ Armin Schwenbacher, "Crowdfunding And The '*Alternativfinanzierungsgesetz*' In Austria," *Ifo DICE Report* 14, No. 02 (2016): 33–36.

¹⁸ Jörg Rocholl, "An Introduction To Crowdfunding," *Cesifo DICE Report* 14, No. 2 (2016): 3–5.

Crowdfunding is built on a regionally based structure. Startup financing mainly refers to the above AltFG laws.¹⁹

According to research by Gary Dushnitsky, Massimiliano Guerini, Evila Piva, and Cristina Rossi-Lamastra in their analysis using data on all crowdfunding platforms launched by the end of 2014 in fifteen major European countries (Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden and the UK). The analysis shows the creation of crowdfunding Platforms for each of the four main crowdfunding models: Donations, Rewards, Loans, and Equity. In the Donation model, no compensation is given to crowd funders because they are only donors. In the other three models, crowd funders receive some form of payment. In the Reward model, participants commit to offering crowdfunders some reward, ranging from immaterial recognition to delivery of an early version of the product/service produced using money raised through the crowdfunding campaign. In the Loan model, compensation usually takes the form of interest payments, and in the Equity model, settlement consists of equity shares, dividends, and voting rights in the funded venture.²⁰

Equity-based crowdfunding mechanisms in Austria are carried out within the securities-based crowdfunding Platform, which operates partially regulated by AltFG. However, many aspects are regulated by *Kapitalmarktgesetz*. In general, Platform operators are required to check the offers made, ensure that the issuer provides the necessary information, and recommend that investors spread the risk through diversification (Risk Spread). Moreover, Platform operators need to disclose information on

¹⁹ Alice Rossi, Silvio Vismara, Dan Michele Meoli, "Voting Rights Delivery In Investment-Based Crowdfunding: A Cross-Platform Analysis," *Journal Of Industrial And Business Economics* 46 (2019): 251–81.

²⁰ Gary Dushnitsky Dkk., "Crowdfunding In Europe: Determinants Of Platform Creation Across Countries," *California Management Review* 58, No. 2 (2016): 44–71.

the Platform itself, including the names of all owners with an ownership stake of at least 25 percent and the annual financial reports of the company operating the Platform.²¹

European countries have been at the forefront of investing in projects through Crowdfunding. In Austria, Microfunds were raised for SMEs, and around 70 projects have raised €11.14 million since 2013. In 2015, Belgium was Europe's seventh primary crowdfunding market, with €37 million raised through Crowdfunding.²² Initially, Crowdfunding was very attractive to entrepreneurs and small businesses as it helped meet their capital needs, which were unavailable in the regular market. Today, companies across many industries and sizes use crowdfunding to finance innovation and engage with audiences. Crowdfunding takes inspiration from microfinance (or microloans), thereby expanding access to capital for those who previously had no means of financing. The main difference between Crowdfunding and previous means of financing is that the Internet has significantly facilitated reaching and convincing large numbers of people and processing high volumes of investment transactions.²³

III. Regulatory Landscape of Crowdfunding in Indonesia: Challenges and Prospects

Indonesia only introduced and implemented this concept at the end of 2018, even though many countries had previously implemented the Equity Crowdfunding concept. Only two registered Equity

²¹ Schvienbacher, "Crowdfunding And The 'Alternativfinanzierungsgesetz' In Austria", 6.

²² Hasnan Baber, "Financial Inclusion And Crowdfunding-A Study Of European Countries," *Review Of Applied Socio-Economic Research* 22, No. 1 (2021): 37–48.

²³ Sven Siebeneicher, Ilker Yenice, Dan Carolin Bock, "Financial-Return Crowdfunding For Energy And Sustainability In The German-Speaking Realm," *Sustainability* 14, No. 19 (2022): 1–23.

Crowdfunding platforms have received permission from the OJK as of November 2019. The two platforms are Santara from PT. Santara Daya Inspiratama received an authorization on September 6 September 6, 2019, and Bizhare from PT—Nusantara Digital Investment received permission on November 6 November 6, 2019.²⁴

Crowdfunding inspired by crowdsourcing is the cooperation, concern, and trust of people connecting and pooling money together, usually via the Internet, to support a venture initiated by another person or organization.²⁵

Crowdfunding in Indonesia increased from 6.5 percent to 93.5 percent. *Kitabisa.com*, *AyoPeduli.com*, and *JointVenture.net* are types of Donation-Based Crowdfunding such as education, environmental, health, and cultural non-profit social sectors. Multiple Platforms Of the existing Crowdfunding mentioned, only one still survives and is still an active fundraising organization, namely *Kitabisa.com*. In 2016, *Kitabisa.com* carried out the largest transaction in Indonesia, pioneered by the Indonesian Muslim community in China and Japan, to raise funds for the Chinese Mosque amounting to IDR 3.2 billion. An example of a platform operating in the creative industry or prize-based Crowdfunding is *Wujudkan.com*. However, in 2017, after five years, *Wujudkan.com* did not reach its maximum target, so it was declared to have stopped operating.²⁶ An example of a business that utilizes equity-based

²⁴ Dalilatiyani Ajrinatia Aprihasyyati Dan Shoimatul Fitria, “Analisis Pengaruh Kinerja Umkm, Kepercayaan Dan Persepsi Risiko Terhadap Niat Investasi Pada Umkm Melalui Platform Equity Crowdfunding Di Indonesia,” *Diponegoro Journal Of Management* 9, No. 2 (2021): 1–9.

²⁵ Wandu Adiansah, Nandang Mulyana, Dan Muhammad Fedryansyah, “Potensi Crowdfunding Di Indonesia Dalam Praktik Pekerjaan Sosial,” *Prosiding Penelitian Dan Pengabdian Kepada Masyarakat* 3, No. 2 (2016): 155–291, <https://doi.org/10.24198/jppm.v3i2.13655>.

²⁶ Rahma Octaviani, Pas Ingrid Pamesti, Dan Bagas Heradhyaksa, “Review Of Equity Crowdfunding Practices Through Santara.Id In The Perspective Of Islamic

Crowdfunding is the Iron Shop Business offered by PT. Rosita Baja Prima via the Santara platform.²⁷

In the research of Mohammad Yunies Edward and friends, citing notes from Sannajust, Roux, & Chaibi (2014), there are at least four types of platforms providing crowdfunding services based on the type of transaction, namely:²⁸

- a. Donation platform: users provide funds for a project without receiving anything in return. The project owner retains its intellectual property;
- b. Non-financial reward platform: considering the existence of an exchange for non-financial rewards, for example, users receive rewards in the form of DVDs if they support funding for film production;
- c. Loan platform: is a form of loan with or without interest; this is given by users to individuals or organizations without intermediary financial institutions;
- d. Equity or co-production platforms from investors interested in the project and into co-productions. There is a right to receive mutual compensation for project success. The person in charge of the project may have to sell part of its intellectual property, unlike other Platform models.

Equity Crowdfunding was first given a legal umbrella on December 31 December 31, 2018, with the stipulation of Financial Services Authority Regulation (POJK) No. 37/POJK.04/2018 concerning Crowdfunding Services through Information Technology-Based Share Offerings (Equity Crowdfunding) by the OJK and stipulated on the same date by the Minister of Law and Human Rights. After two years, the regulation was amended by POJK Number 57/POJK.04/2020 concerning Securities Offerings Through Information Technology-Based

Economic Law,” *Al-Ahkam* 31, No. 2 (2021): 161–82, <https://doi.org/10.21580/ahkam.2021.31.2.9014>.

²⁷ Sentot Imam Wahjono, Anna Marina, and Tri Kurniawati, *Crowdfunding Untuk Dnai UKM Dan Bisnis Start-Up* (Banda Aceh: Syiah Kuala University Press, 2021).

²⁸ Edward et.al, *Crowdfunding Di Indonesia.*, 26.

Crowdfunding Services, which the OJK stipulated on December 10 December 10, 2020, and came into effect on the date of promulgation, namely on December 11 December 11, 2020.²⁹ POJK Number 57/POJK.04/2020 provides an expansion regarding Securities Offerings, which previously in POJK 37/POJK.04/2018 only regulated Share Offerings (equity securities), then became securities offerings which were not limited to equity securities, but also debt and sukuk securities. Therefore, the term used in the latest POJK is Securities Crowdfunding.³⁰

In line with the above, the development of the world of capital markets is also increasingly advanced with forms of investment instruments that are constantly innovating, such as the emergence of new investment instruments for Small and Medium Units ("SMEs"), namely Equity Crowdfunding ("ECF") which has been refined into Securities Crowdfunding ("SCF"). The legal basis for SCF itself is regulated in POJK No.57/POJK.04/2020 concerning Securities Offerings through Technology-Based Crowdfunding Services or what is known as Securities Crowdfunding ("POJK SCF") so that the Law protects the use of SCF and provides certainty to the public.³¹

Regulation of Equity and securities crowdfunding in POJK No. 37/POJK.04/2018 and POJK No. 57/POJK.04/2020, Law Number 8 of 1995 concerning Capital Markets and Law Number 21 of 2011 concerning the Financial Services Authority do not regulate Equity

²⁹ "Peraturan Otoritas Jasa Keuangan Nomor 57/POJK.04/2020 Tahun 2020 Tentang Penawaran Efek Melalui Layanan Urut Dana Berbasis Teknologi Informasi," Diakses 15 Agustus 2023, <http://peraturan.bpk.go.id/details/227071/peraturan-ojk-no-57poj042020-tahun-2020>.

³⁰ Fithriatus Shalihah et.al., *Equity Crowdfunding Di Indonesia* (Yogyakarta: UAD Press, 2022).

³¹ Andini Astarianti Soemarsono Dan Ukhti Dyandra Sofianti, "Perspektif Hukum Mengenai Penggunaan Securities Crowdfunding Pada Masa Pemulihan Ekonomi Akibat Pandemi," *Jurnal Hukum Lex Generalis* 2, No. 8 (2021): 607–26, <https://doi.org/10.56370/jhlg.v2i8.103>.

crowdfunding or securities crowdfunding. Article 2 paragraph (1) POJK no. 57/POJK.04/2020 states that crowdfunding service activities are financial service activities in the capital markets sector. Therefore, it is emphasized in paragraph (2) that parties carrying out Crowdfunding Service activities are considered parties carrying out financial service activities in the capital markets sector. Meanwhile, article 1 number 13 of Law Number 8 of 1995 concerning Capital Markets states that "*capital markets*" are activities related to (1) Public Offerings and Securities trading, (2) Public Companies relating to the securities they issue, and (3) institutions and professions related to Securities.³²

Equity-based Crowdfunding in Indonesia is intended as an intermediary institution that bridges business owners, whether as SME companies, individuals or startup business organizations, or business institutions that have an initiative or a specific business that requires funding with potential investors who are ready to invest their money in the form of equity or shares. The initiator business makes a proposal, which is sent (submitted) to the crowdfunding Platform as campaign material that is close to the desired ideal conditions to attract potential investors' interest.³³ The mechanism of crowdfunding services can be described as a company raising funds only needs to offer securities issued by SME companies as compensation for the investment provided. Fundraising companies function almost the same as securities companies in the primary market. That way, investors will get partial ownership of the SME company and will receive profits (returns) in the form of dividends from the SME company according to the amount of securities they own.³⁴ So basically, the principle of Crowdfunding is the same as

³² Shalihah et.al., *Equity Crowdfunding Di Indonesia*

³³ Wahjono, Marina, and Kurniawati, *Crowdfunding Untuk Dnai UKM Dan Bisnis Start-Up.*, 47.

³⁴ Kehinde James Sunday, "Effective working capital management in small and medium scale enterprises (SMEs)." *International Journal of Business and Management* 6, no. 9 (2011): 271.

other capital market instruments where there is a party who is the center of Crowdfunding operations and a liaison between the parties, the party who receives capital to improve their business, and the party who invests their money, only the difference is regarding the rules and regulations. Funding object intended for financing SME companies.³⁵

IV. Empowering SMEs in Indonesia and Austria: A Comparative Analysis

Recently, regulators worldwide have recognized the economic potential of equity crowdfunding and have begun to relax national securities regulations for crowdfunding activities on the Internet. At least seven jurisdictions have reformed their securities regulations to more effectively address equity crowdfunding needs while protecting investors from fraud to some degree and reducing legal uncertainty for issuing companies.³⁶

The use of innovative services and products has contributed to creative thinking in terms of new sources of financing. The innovation process is characterized by constant development, and financing models could be aligned with that. Crowdfunding, namely collecting funds from the public, has emerged as a new alternative to sustainable innovation. Crowdfunding particularly attracts small and medium-sized companies (SMEs) seeking financing when their products or services are still being prepared for investment. While European crowdfunding volumes are increasing and becoming an essential source of capital for startups and SMEs, the Austrian market for alternative financing could be more significant. In 2014, Platform Austria helped raise a total of 3.6 million—

³⁵ Prasetyo, *Penawaran Efek Melalui Layanan Urut Dana Berdasarkan Prinsip Syariah*, 5.

³⁶ Lars Hornuf and Armin Schwienbacher, "Should Securities Regulation Promote Equity Crowdfunding?," *Small Business Economics* 49, No. 3 (2017): 579–93, <https://doi.org/10.1007/s11187-017-9839-9>.

euros, equal to 0.4 Euro per capita. For comparison, the European average is around 2.1 Euros per capita. Although the legal framework for crowd-investing was changed in the summer of 2015, experts do not think the alternative financing market will grow substantially over the following years.³⁷

The application of Crowdfunding in Austria and European countries has high-level principles that have been discussed at the G20/OECD on SME Financing as follows:³⁸

- a. identify SME financing needs and gaps and improve the evidence base;
- b. strengthening SMEs' access to traditional bank financing;
- c. enable SMEs to access a variety of non-traditional bank financing instruments and channels;
- d. encouraging financial inclusion for SMEs and easy access to formal financing services, including for informal companies;
- e. design regulations that support various financing instruments for SMEs while ensuring financial and investor market stability;
- f. increase transparency in the SME financial market;
- g. improve SME financing skills and strategic vision;
- h. adopt risk sharing principles for publicly supported SME financial instruments;
- i. encourage timely payments in commercial transactions and public procurement;
- j. design public programs for SME financing that ensure replenishment, cost-effectiveness, and user-friendliness;
- k. monitor and evaluate public programs to improve SME finances.

Financial technology has become a focus in several countries over the last ten years. Indonesia has started Fintech for faster and more accurate

³⁷ Stefan Philipp et.al., *Crowdfunding In Sustainable Innovation: Insights From And For Austria* (University of Helsinki: Public Participation in Developing A Common Framework For Assessment And Management of Sustainable Innovation, CASI, 2015).

³⁸ Soekarwo, *Berkaca Dari Kegagalan Liberalisasi Ekonomi*, 69.

financial transaction processes. Fintech is the use of technology in economic systems to produce new products, services, and businesses—the benefits of Fintech for society, in this case, consumers, business people, and the economy. One of the results of financial technology is Crowdfunding, which can be defined as an attempt by budding businesspeople or groups of individuals to fund their businesses by attracting small contributions from large numbers of individuals via the Internet for the provision of financial resources either in the form of donations or in exchange for investment products or some a form of appreciation to support initiatives for specific goals. Crowdfunding emerged as part of a movement where the general public, or a group of people, was invited to participate in the value-creation process.³⁹

V. SME Classification and Crowdfunding Investment Limits: A Comparative Study of Austria and Indonesia

In Indonesia, the classification and limitations of Crowdfunding assets are regulated in the Republic of Indonesia Government Regulation 7 of 2021 concerning the Facilitation, Protection, and Empowerment of Cooperatives and Micro, Small, and Medium Enterprises, which explains the Criteria for Micro, Small, and Medium Enterprises. Medium Enterprises Article 35 paragraph (1) Micro, Small, and Medium

³⁹ Aryan Eka Prastya Nugraha, “Peluang Equity Crowdfunding Di Indonesia,” Dalam *Multikulturalisme Dalam Bingkai Ke-Indonesiaan Kontemporer* (Seminar Nasional Keindonesiaan (FPIPSKR), Semarang: FPIPSKR Universitas PGRI Semarang, 2019), 319–24.

Enterprises are grouped based on business capital criteria or annual sales proceeds, which consist of:⁴⁰

- a. Micro businesses have a maximum business capital of IDR. 1. Billion, excluding land and buildings of business premises;
- b. Small businesses have working capital of more than IDR 1. billion up to a maximum of Rp. 5. Billion excluding land and buildings of business premises And
- c. Medium Enterprises have business capital of more than Rp. 5. Billion up to a maximum of Rp. 10. Billion does not include land and buildings for business premises.

However, Government Regulation Number 7 of 2021 is criticized for mentioning two financial criteria to differentiate the SME layers: capital and turnover. The capital criterion replaces the previous standard, namely assets. The practice in several countries uses company balance sheet criteria confirming assets, liabilities, and equity. Asset criteria are essential for assessing increased business capacity. Investments are also compared with income or profit in the income statement to determine business productivity regarding assets and capital, which is very important for capital owners or investors. There needs to be an explanation for why the asset criterion was omitted in defining SMEs. Apart from that, the parameters regulated in Government Regulation Number 7 of 2021 have an extensive size range. This will make it difficult for banks to map credit risks correctly. The government will also find it difficult to set targets for SMEs that need to be given fiscal support or incentives, for example, which groups are allowed to access UMI financing and which are assisted with interest subsidies and risk guarantees such as in the KUR program. Such criteria and measures can give rise to adverse selection and moral hazard.⁴¹

⁴⁰ Peraturan Pemerintah Republik Indonesia Nomor 7 Tahun 2021 Tentang Kemudahan, Perlindungan, Dan Pemberdayaan Koperasi Dan Usaha Mikro, Kecil, Dan Menengah

⁴¹ Tim Riset PRKKEK-BRIN, "Definisi Dan Model Umkm Naik Kelas (Scaling Up)," Badan Riset Dan Inovasi Nasional, 2022,

In another regulatory dimension, the Indonesian Stock Exchange (BEI) has also implemented new listing rules for small and medium companies wishing to enter the capital market through the acceleration board. The new rules are contained in Regulation Number I-V concerning Special Provisions for the Listing of Shares and Equity Securities Other Than Shares on the Acceleration Board Issued by Listed Companies (Regulation Number I-V) as of July 22, 2019.⁴² Based on these regulations, companies that can list shares on the acceleration board are small-scale companies with assets of less than IDR 50 billion and medium-scale companies with assets ranging from IDR 50 billion to IDR. 250 billion. Apart from investments, the IDX also regulates that companies cannot be controlled directly or indirectly by the controller of the issuer or public company. This is held so that large companies that own small companies can avoid taking advantage of this listing to seek capital.⁴³

Issuers and Public Companies on the Financial Services Authority website, it is explained that issuers can be individuals, companies, joint ventures, associations, or organized groups. So, SMEs can become issuers. SMEs can take advantage of access to financing through the capital market as a funding option. Meanwhile, cooperatives can also conduct an Initial Public Offering (IPO). So, SMEs and Cooperatives can carry out an IPO if they have submitted a Registration Statement to offer or sell securities to the public,⁴⁴ as regulated in Article 70 paragraph (1) of Law Number 8 of 1995 concerning Capital Markets.⁴⁵

https://fiskal.kemenkeu.go.id/files/berita-kajian/file/1672296348_studireferensimodelumkmnaikkelasbrinbkfpdf.pdf.

⁴² Peraturan Nomor I-V Tentang Ketentuan Khusus Pencatatan Saham Di Papan Akselerasi

⁴³ Mochamad Januar Rizki, "Siapa Bilang UMKM Tak Bisa Masuk Pasar Modal? Simak Penjelasan Hukumnya," Hukum Online, 2019, [Www.Hukumonline.Com](http://www.hukumonline.com).

⁴⁴ Syifaa Faradilla, "UKM Dan Koperasi Bisa Go Public, Ini Langkahnya," 2021, www.hukumonline.com.

⁴⁵ Undang-Undang Nomor 8 Tahun 1995 Tentang Pasar Modal

Then, the Regulation of the Financial Services Authority of the Republic of Indonesia Number 57/POJK.04/2020 concerning Securities Offerings Through Information Technology-Based Crowdfunding Services in Article 8 explains that the Organizing legal entity is an Indonesian legal entity in the form of

- a. Limited liability company; or
- b. Cooperative.

In the provisions of Article 8 above, crowdfunding organizers must be legal entities. Then in the provisions of Article 1 of the Republic of Indonesia Financial Services Authority Regulation Number 57/POJK.04/2020, it is explained that there are three parties, namely Crowdfunding Service Providers, from now on referred to as Organizers, are Indonesian legal entities that provide, manage and operate Crowdfunding Services, Issuers are bodies Indonesian businesses, whether in the form of legal entities or other business entities, which issue Securities through Crowdfunding Services and Investors are parties who purchase Issuer Securities through Crowdfunding Services.

Regarding capital for limited liability companies and cooperatives as above, it is explained in Article 11 POJK No. 57 /POJK.04/2020, as follows:

- a. as referred to in Article 8, the organizer must have paid-up capital of at least Rp. 2.5 billion when applying for a permit.
- b. as referred to in Article 8 letter b, the organizer must have at least Rp—2.5 billion capital when applying for a permit.

Apart from Indonesia, in Austria, from July 2013, the Austrian legislator changed the national securities law (KMG, *Kapitalmarktgesetz*) and raised the critical threshold for issues without a prospectus from €100,000 to €250,000. In October 2013, the first equity crowdfunding was offered to investors by the 1000×1000 portal, with the first publisher, Woodero, raising a total of €166,950 after a funding period of almost eight weeks. This amount exceeds the initial critical threshold for issuance

without a prospectus, indicating that issuers would be constrained under the previous regulations. In 2015, Austria adopted new rules (*Alternativfinanzierungsgesetz*) and permitted issues of up to €5,000,000 simply by requesting a highly simplified prospectus from the issuer (*Alternativfinanzierungs-Informations-verordnung*).⁴⁶

The Alternative Financing Act (*Alternativ finanzierungsgesetz – AltFG*) came into force in Austria on September 1, 2015. This Law became the basis for establishing more comprehensive forms of alternative financing, particularly crowdfunding. The new Law is considered at the forefront of crowdfunding Law in Europe. From September 1, the obligation to first publish a complete capital markets prospectus will apply starting with an issuance volume of €5 million. Only a simplified prospectus (prospectus requirements) is required for issuance volumes between €1.5 million and €5 million. One investor can invest up to €5,000 per project. However, a limit of €5 thousand can be exceeded if investors earn a net profit of more than €2.5 thousand per month. In this case, investors can invest twice their net monthly income. Internet platforms must provide certain information regarding issuers (the nature of their business, how they were selected to participate on the Platform, and any fees or remuneration received from issuers or investors). Investments are made with SME publishers or through crowdfunding platforms. Reinhold Mitterlehner, Federal Minister of Science, Research and Economy, stated in a press conference that Crowdfunding is considered a "meaningful complement to traditional credit financing" and aims to strengthen the entrepreneurial spirit in Austria.⁴⁷

The Austrian government implemented two regulatory incentives to facilitate SMEs' access to capital markets. The "AWS Equity Finder"

⁴⁶ Hornuf and Schwienbacher, "Should Securities Regulation Promote Equity Crowdfunding?", 584.

⁴⁷ Armin Schwienbacher, "Crowdfunding and the "Alternativfinanzierungsgesetz" in Austria." *CESifo DICE Report* 14, no. 2 (2016): 33-36.

platform increases access to alternative financing for SMEs by providing subsidies for costs incurred when publishing them on the capital market. Effective January 1, 2016, the tax reform policy reduced the tax base from 36.5 percent to 2.5 percent.⁴⁸

VI. Crowdfunding Legal Protection in Austria and Indonesia

The OECD has established fundamental principles for data protection and privacy that can guide the development of regulatory frameworks.⁴⁹ These principles include the Collection Limitation Principle, which asserts that data should only be collected to the extent necessary for the intended purpose. The Quality Principle emphasizes the importance of maintaining accurate, complete, and up-to-date data. According to the Purpose Specification Principle, data collection should be clearly defined, and its use should be restricted to the specified purpose, with any additional use requiring consent. The Use Limitation Principle further reinforces that data should only be used in accordance with the original purpose, prohibiting unauthorized use.⁵⁰

In addition, the Security Protection Principle mandates that data must be safeguarded against risks such as unauthorized access, alteration, or destruction. The Openness Principle advocates for transparency in data practices, ensuring that individuals are informed about how their data is collected and utilized. The Individual Participation Principle grants individuals the right to access, correct, or challenge the use of their

⁴⁸ Soekarwo, *Berkaca Dari Kegagalan Liberalisasi Ekonomi*, 72.

⁴⁹ See Mark Phillips, "International data-sharing norms: from the OECD to the General Data Protection Regulation (GDPR)." *Human Genetics* 137 (2018): 575-582; Michael Kirby, "Privacy protection, a new beginning: OECD principles 20 years on." *Privacy Law & Policy Reporter* 6, no. 3 (1999): 25-30.

⁵⁰ Shalihah et.al., *Equity Crowdfunding Di Indonesia.*, 79-80.

personal data. Lastly, the Accountability Principle holds organizations accountable for ensuring compliance with these data protection principles within their operations.⁵¹

Apart from referring to the above principles, data protection in Austria is also carried out by the *Datenschutzbehörde* (DSB), Austria's national data protection authority. It replaced the *Datenschutzkommission* (DSK) on January 1, 2014. It is located in Vienna and is responsible for all of Austria's public and private entities. Since 1978, Austria has introduced the Constitutional Right to Data Protection. Austria also gave the European Court of Human Rights (ECHR) constitutional status, where the Right to Privacy is regulated in Article 8 of the Austrian ECHR.⁵²

Personal data protection is constitutionally protected from all aspects, including freedom of opinion and privacy, and security of investment in Crowdfunding. Jörg Rocholl argues, regarding legal protection in Austria, that different types of regulations are needed for different types of Crowdfunding (donations, rewards, securities, and crowdfunding investments). Focusing on crowdfunding securities, Hemingway argues that crowdfunding regulation follows securities regulation in the form of "*mandatory disclosure, liability for fraud, misstatement, or negligence, or substantive regulation as a means of investor protection*" and points to different sets of regulations and their priorities in other countries.⁵³

The legal protection of Crowdfunding in Austria is subject to other relevant national laws and regulations on anti-money laundering, data protection, and consumer protection. As for supporting protection, Austria follows the European Union in that it is also subject to consumer

⁵¹ Shalihah.

⁵² Ofner, Helmut. "Data Protection in Austria." *Implementation of the Data Protection Directive in Relation to Medical Research in Europe*. (London: Routledge, 2017), pp. 3-28.

⁵³ Rocholl, "An Introduction To Crowdfunding", 4.

protection regulations, in particular under Directive 1999/44/EC on the sale of consumer goods and their suitability, Directive 2011/83/EU on consumer rights and the withdrawal of distance sales, and Directive 93/13/EC on unfair terms in consumer contracts.⁵⁴

The main regulatory framework for issuing securities is the Prospectus Directive (EU Directive 2003/71/EC of November 4, 2003, later amended by EU Directive 2010/73/EU of November 24, 2010). Before the offering, the prospectus must be validated by the national regulator in the country where the offering is made. Companies wishing to issue securities to the public must comply with capital market regulations whose main objective is to protect investors and ensure appropriate disclosure of information, including during the securities issuance stage.⁵⁵

The regulations regarding the protection of Austrian crowdfunding investors in the publication of *Alternativfinanzierungs Informationsverordnung* further limit the number of investors who can invest. Investors are defined in terms of investment value within 12 months on securities-based crowdfunding platforms. The basic limit is EUR 5 thousand per issue. However, wealthy investors can invest more, up to 10 percent of the investment amount, or twice their average monthly net income (this is a moderate calculated annually). This limitation is intended to protect non-qualified investors by limiting potential losses to investors, as AltFG may less protect investors due to the absence of a formal prospectus issued. AltFG also gives investors the right to withdraw a signed investment contract within two weeks of being notified of their withdrawal rights (generally when the offer is made to the investor unless the investor is later notified of their withdrawal rights). This mechanism

⁵⁴ Lazzaro and Douglas Noonan, *Op.Cit.*, 20.

⁵⁵ Hornuf and Schwenbacher, "Should Securities Regulation Promote Equity Crowdfunding?", 4.

is in line with the need for consumer protection, allowing consumers to revoke previous decisions within a reasonable period.⁵⁶

The legal and financial literature often focuses on the impact of legal rules on the development of stock markets and economic growth and traditionally investigates investor protection measures applicable to large and public companies. However, there is a growing body of literature on how these laws affect entrepreneurship and the financing of private companies. For example, minimum capital requirements generally affect founding and entrepreneurship, and extensive employment regulations can dampen new firm formation. The Law's impact law on covered companies must be clarified regarding securities regulation. For example, Rajan and Zingales argue that the absence of investor protection regulations can hinder the creation of new companies (SMEs).⁵⁷

Equity-based Crowdfunding emphasizes disclosure and transparency requirements, can reduce information asymmetry, and encourages even more CF growth without overly burdening participants. Governments are more proactive; public officials can consider ways to harness crowdfunding platforms' power to improve their policy-making and funding decisions. Although it involves allocating funds to projects supported by those who are better able to pay (and using crowdfunding platforms), such an approach can complement other funding allocation rules to allow public demand to help influence where the funds go. The public can find ways to use Crowdfunding effectively to promote those sectors and strengthen public investment where they require additional attention.⁵⁸

According to Elisabetta Lazzaro and Douglas Noonan, the protection that can be offered refers to limiting the market size and creating additional complications. For example, changing and aligning state regulations to

⁵⁶ Hornuf and Schwenbacher.

⁵⁷ Maximilian Goethner, Lars Hornuf, Dan Tobias Regner, "Protecting Investors In Equity Crowdfunding: An Empirical Analysis Of The Small Investor Protection Act," *Technological Forecasting And Social Change* 162 (2021): 1–15.

⁵⁸ Lazzaro Dan Douglas Noonan, *Op.Cit.*, 17.

allow all constituents to receive comparable 'consumer' protections could also expand anti-fraud protections. Then, as new rules are introduced for emerging markets, a balance must be struck to encourage entrepreneurship.

When compared with Indonesia, this provision can be found in Article 26 of Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions, namely "*the use of all forms of information via electronic media regarding a person's data must be carried out with the permission of the party concerned unless otherwise determined by a statutory regulation,*" (ITE Law, 2016). If there is some form of violation, the injured party can file a lawsuit for the existing losses. However, in the context of personal data protection, this arrangement still needs to reflect a comprehensive definition.⁵⁹

The protection of users of crowdfunding services in Indonesia is regulated in POJK No. 57/POJK.04/2020 Article 72 which stipulates that the Operator must implement the basic principles of User protection in the form of:

- a. transparency;
- b. fair treatment;
- c. reliability;
- d. data confidentiality and security; And
- e. user dispute resolution is simple, fast, and affordable.

However, provisions regarding data misuse by other parties due to hacking activities by hackers in Indonesia are not covered by regulations that provide heavy sanctions. This can be seen from the Tokopedia case in 2020. Law Number 19 of 2016, concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions, is strengthened in Government Regulation 71 of 2019 regarding

⁵⁹ Shalihah et.al, *Op.Cit.*, 81.

implementing Electronic Systems and Transactions as a legal reference.⁶⁰ Based on existing regulations, crimes involving moving In the hands of information regarding a person's data due to theft activities by outside parties, three sanctions are imposed, which are given in stages if the provisions in the previous article are not heeded by the party committing the unlawful act. The first sanction is in the form of a warning letter. This warning letter is given by the organizer to outside parties who take data without permission as a form of allowing them to have the data in their control returned based on the principle of good faith. The second sanction is publishing the case to the media. If the first warning is not heeded by the party concerned, then the organizer is given the authority to announce the incident to the press so that it can be a lesson learned and also provide a warning to other platforms that may become future targets. The third sanction, the final step in enforcement, is blocking the Platform.⁶¹

However, the legal reference in the case above does not use Law Number 8 of 1999 concerning Consumer Protection, which contains administrative and criminal sanctions,⁶² so this is a weakness in legal protection for investors and SMEs. Then, the liability of crowdfunding defense in Indonesia, when viewed from equity investments in companies that are not registered in Indonesia, is considered relatively expensive from a legal perspective.

Setting up a micro-scale company also requires a minimum capital of 10 billion rupiah. Investing in an existing company requires a lot of time, effort, and costs, including doing a notarial deed, permission from several authorities such as the Ministry of Law and the Investment and Human Rights Coordinating Board, public notification via newspapers more than 30 days in advance, notice of specific changes to the Ministry of Law and

⁶⁰ *Undang-Undang Nomor 19 Tahun 2016 Tentang Perubahan Atas Undang-Undang Nomor 11 Tahun 2008 Tentang Informasi Dan Transaksi Elektronik*

⁶¹ *Ibid.*

⁶² Article 60 and Article 61 *Undang-Undang Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen*

Human Rights, legalization, translation into Indonesian of every legal document, etc. This inefficiency is a real problem because someone must do all this work, even to buy shares in a small or unlisted company.⁶³

According to Ceceh Harianto's research, the effectiveness of implementing crowdfunding policies and regulations differs significantly across developing countries. Weaknesses in regulatory capacity are caused by underdeveloped audit systems, an inexperienced judiciary, inadequate budgets for regulators, lack of qualified human resources, weak regulatory enforcement, corruption, and the weak rule of Law. Additionally, regulators in developing countries receive less pressure from industry, political parties, and social interests than developed countries. Guasch and Hahn suggest that it is essential to increase the capacity to evaluate regulations and select appropriate regulatory instruments and frameworks that are compatible with bureaucratic expertise, resource availability, political support, and economic impact.⁶⁴

The situation of venture capital and angel investors in Indonesia regarding funding for startups and SMEs, as explained above, still needs improvement compared to most developed countries. Crowdfunding is not stand-alone funding but is linked to other funding sources. This can be a springboard for other angel investors and venture capital financing.⁶⁵

Cece Harianto pointed out that the underdeveloped state of venture capital and angel investors in Indonesia means that although startups can use equity crowdfunding, only some will receive further funding from angel investors or venture capital. A previous study in Germany found that without follow-up funding from venture capital, investors in equity crowdfunding projects had little chance of exiting later. Likewise, an exit strategy for equity crowdfunding investors in Indonesia from an

⁶³ Soonpeel Edgar Chang, "Regulation Of Crowdfunding In Indonesia," *Law Review* 18, No. 1 (2018): 41–71.

⁶⁴ Ceceh Harianto, *Regulating Equity Crowdfunding In Indonesia* (Australia: College Of Law And Justice, Victoria University Melbourne, 2020).

⁶⁵ *Ibid.*

acquisition or IPO to gain profits from their investment will be less likely to occur because the start-up is unlikely to obtain follow-on funding from angel investors and venture capitalists. This condition can discourage potential investors in Indonesia from participating in equity crowdfunding.

VII. Conclusion

Regulation of Crowdfunding is a need that must be realized to provide certainty and legal protection to investors and platform founders. In Austria and Indonesia, all parties must follow the regulations to create a good investment climate. Empowering SMEs in Austria and Indonesia is essentially a form of support for improving the economy in their countries, so to achieve this goal, anticipation from stakeholders to avoid losses, fraud, and misuse of personal data is significant. In Austria, data protection and investment protection are contained in the European Court of Human Rights constitution, similar to Indonesia, which protects data and privacy rights through the body and is further regulated by POJK No. 57/POJK.04/2020 and Law Number 19 of 2016.

Empowering SMEs through alternative financing with crowdfunding in these two countries has slight differences in implementation. In Indonesia, Crowdfunding is relatively new and is still rather expensive for SMEs to be included in the list of crowdfunding platforms, whereas in Austria, capital is limited to the amount of investment value but still opens up SMEs with prospects. Indonesia should make it easier for SMEs to enter the crowdfunding market by easing the requirements but limiting the investment value for investors. Apart from that, law enforcement in Austria is quite strict, plus Austria has an advanced audit system and a very effective court. So, for Indonesia, stakeholders must strengthen again regarding regulations, law enforcement, human resources from crowdfunding development, and judges in court.

Recommendations for Indonesian Crowdfunding related to empowering SMEs are carried out at the level of regulations issued by the government, which must be able to encourage the progress of SMEs; in terms of Law, it can refer to Austria and European countries, especially in consumer protection, avoiding fraud, transparency and carrying out strict supervision of the Platform, but still open opportunities for SMEs to become part of Crowdfunding, so that apart from management, guidance is needed for SMEs that will enter the Indonesian crowdfunding system.

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