

Legal Protection for Victims of Illegal Investment through Loss Recovery

Original Article

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Abstract

The fast expansion of digital asset trading, especially in cryptocurrency, comes with considerable dangers due to unpredictable market fluctuations and uncertain regulations, resulting in a rise in illegal investment scams and substantial losses for the victims. In response to this pressing issue, this research aims to analyze the characteristics of cryptocurrency investment in digital investment and victim fund recovery as legal remedies for consumers in illegal investment. The research approach used includes the statutory approach, conceptual approach, and case study. The research results show that digital investment actors demonstrate significant growth in digital asset trading volumes such as cryptocurrency. However, while the digital investment model provides enormous potential, there are also several risks related to market volatility and regulatory uncertainty. Victim fund recovery as legal remedies for consumers in illegal investment as a form of legal protection for victims of illegal digital investment fraud crimes is a form of protection for society, which can be realized in various forms, such as fulfilling victims' rights namely compensation - something given to parties who experience losses proportional to calculating the losses they experienced.

Keywords: Consumer Protection, Cryptocurrency, Illegal Investment, Loss Recovery.

1. Introduction

The era of great transformation marked by the development of cyber technology and automation creates society becoming increasingly aware of the advancement of internet technology that is increasingly easy to use. The globalization era also results in increasing sophistication in information technology fields thus influencing the emergence of various forms of crime (Suhariyanto, 2012). Information technology until now can be used as good or bad potential considering it provides contributions in improving security, growth and human order while also being able to become an effective facility for criminals (Maskun, 2022). The easier society uses the internet, the easier it becomes for many criminal actors to carry out various ways of obtaining illegal profits and causing many losses to others, such as the currently prevalent digital investment fraud schemes (Pratama et al., 2025).

According to Article 1 number 5 of the Financial Services Authority Regulation of the Republic of Indonesia Number 27 of 2024 Concerning the Implementation of Digital Financial Asset Trading Including Crypto Assets (hereinafter referred to as OJK Regulation 27/2024), Digital Financial Assets are financial assets that are stored digitally, including crypto assets.

The regulations used to provide rules regarding digital investment related to protecting the rights of digital investment victims in handling digital fraud cases are besides using Article 378 of the Criminal Code also using Article 45 letter a paragraph (1) jo Article 27 paragraph (2) and 28 paragraph (1) of Law Number 19 of 2016 concerning Amendments to Law Number 8 of 2008 concerning Information and Electronic Transactions and amended again with Law



Number 1 of 2024 concerning Second Amendment to Law Number 11 of 2008 concerning Information and Electronic Transactions (hereinafter referred to as ITE Law).

The development of digital investment lately has become a very practical alternative for society in making investments, this is because digital investment is an online trading system through internet technology devices, where all investors no longer need to visit and/or communicate with brokerage offices. All processes in investment are carried out with internet access that can be run anywhere at any time. The illegal digital investment fraud scheme makes irresponsible parties able to promise and obtain very fast profits and causes society to have interest in making such illegal investments that make them victims of illegal investment fraud.

Many people are attracted to advertisements that are promoted attractively and provide promises that the investment made can return instantly as requested and the profits are multiple. It is not uncommon for society to only focus on the results and the amount of profit that will be obtained later instantly and easily, this can be examined from questions about the profits that will be obtained when various new investments arise. If currently advertising and promoting information is very easy using online media, so that perpetrators can easily promote illegal stock investments to the public by promising certain large profits. The majority of society will be tempted by the lure that promises large profits without caring about the risks that will come later.

Related to online trading platforms having additional regulations governing them, namely Financial Services Regulation Number 39/POJK.04/2014 concerning Trading Platform Sales Agents, basic regulations regarding online trading platforms are contained in Law 4/2023 and additional regulations issued by Financial Service Authority (OJK) namely mutual fund regulations conducted online. However, OJK has not specifically included these regulations in one regulation covering online trading platforms.

There are various forms of online fraud that need to be found about National Research on Digital Fraud in Indonesia: Modes, media and recommendations (Fitriyanti, 2022). Showing society's vulnerability to online fraud is very high, there are examples of illegal investments that often occur in Indonesia, namely fraudulent investment schemes, there are reported account numbers totaling 64,219 and blocked account numbers totaling 28,568 so far, with reported fund losses amounting to Rp. 994.3 billion with total victim funds that have been blocked amounting to Rp. 127 billion. Indonesia Anti Scam Centre (IASC) will continue to develop its capacity accelerated in handling fraud cases in the financial sector (OJK, 2025).

Showing society's vulnerability to online fraud is very high, one example of online fraud that is rampant in Indonesia is illegal investment fraud, reported account numbers totaling 64,219 and blocked account numbers totaling 28,568. So far, total reported fund losses amount to Rp994.3 billion and total victim funds that have been blocked amount to Rp127 billion. Indonesia Anti-Scam Centre (IASC) will continue to increase its capacity to accelerate handling of fraud cases in the financial sector (OJK, 2025).

There are 3 (three) cases that have similarities, namely illegal investment fraud schemes in the case of Doni Salmanan in the Quotex trading platform case, Indra Kenz in the Binary Option case, and the case of Hendry Susanto in the Fahrenheit Robot Trading case, where all three cases show many criminal actors have legally and convincingly carried out unlawful acts by disseminating false news (hoaxes) and deceiving that cause losses to consumers in electronic transactions and have committed money laundering crimes.

For example, the Binomo case by Indra Kenz, an influencer suspected of conducting investment fraud (fraudulent investment) or illegal investment through the Binomo application platform, this issue initially arose when there were 8 (eight) victims of illegal investment who reported to the Criminal Investigation Agency (bareskrim) police to provide

reports on February 3, 2022, the victims stated there were forms of losses they received from illegal investment with the Binomo application reaching Rp. 2,400,000,000 (two billion four hundred million rupiah). Not only reporting the application, the victims also reported the owner and several partners who participated in promoting the trading application (Guritno & Santosa, 2022). In the Binomo application fraud case with the reported party Indra Kesuma alias Indra Kenz amounting to Rp 25,630,725,124. Binary Option Affiliate Marketer has caused many victims and very large losses, one factor why this happened is due to lack of understanding about the fraudulent investment such as how the game mechanism is not explained in detail by the Affiliate Marketers. Binary Option Affiliate Marketer victims are parties who become clients of Binary Option Affiliate Marketer who do not have competence.

Further, the case number 3692 K/Pid.Sus/2023 of Doni Salmanan who promoted the Quotex trading application to the public and provided ways to trade to obtain profits. When examining the above issue, there is legal ambiguity in resolving digital investment crime problems, where victims do not get legal protection due to regulations that significantly regulate the return of losses experienced by victims so that victims do not have legal certainty in seeking justice related to their losses. Based on this background, this research aims to analyze the characteristics of fraudulent investment in digital investment, as well as analyze victim fund recovery as legal remedies for consumers in illegal investment.

2. Methods

This research is conducted using legal research methods, considering the characteristics and nature of legal science has normative properties. The problem approach used in this research is statutory approach, conceptual approach, and case study. The statutory approach is carried out by studying the material content contained in laws and studying the ontological basis, philosophical principles, and ratio legis of these laws (Setiawan et al., 2022). Meanwhile, the conceptual approach is implemented by reviewing views, doctrines of scholars who create definitions, concepts, and legal principles that are very significant to the legal problems to be studied.

The statutory approach is used to conduct further study regarding the legal basis. The statutory approach is carried out by studying laws and regulations that are related to legal issues. This is similar to Jhony Ibrahim's opinion who states that the legislative approach is something that must be used considering this research is conducted on legal materials. The intended statutory approach is to conduct study and analysis of legal materials used in this thesis writing in the form of legal rules that have normative nature such as laws and regulations. Secondary legal materials used in this research are legal materials in the form of publications about law that are not official documents, namely legal literature both from legal books, newspapers, papers, journals and internet sites related to the problems raised by the author. Opinions of experts and scholars in articles, journals or websites needed in writing.

Researchers use techniques to collect primary legal materials by conducting research and inventory of laws and regulations that are very relevant to legal problems in this research. Then for secondary legal materials, the collection technique is by searching in articles, books, internet, or library studies. Legal material analysis is carried out by classifying primary and/or secondary legal materials with problem formulations to be studied. And analysis is carried out on primary and/or secondary substance to obtain principles, norms and explanations that can be used to solve legal problems raised. If controversial discussions are found or contrary to principles, norms, and explanations, then preference principles will be used (prioritized), if

legal materials regarding their substance do not have conflicts and are related to each other, then systematic analysis will be used.

3. Results and Discussion

3.1. Characteristics of Illegal Investment in Digital Investment

3.1.1. Cryptocurrency Concept and Transaction Structure

The definition of legal tender is a payment instrument that is officially recognized in a country issued by the Government and determined by the Central Bank to conduct financial transactions. In general, in a country that has determined its legal tender such as paper money, metal, digital money originating from conventional money issued by each country's banking. For example, in Indonesia money has paper and metal forms which are the names of legal tender that are officially recognized and stipulated in Bank Indonesia regulations as stipulated in Article 2 paragraph (1) Bank Indonesia Regulation No. 17/3/PBI/2015 concerning the Obligation to Use Rupiah which states that every party is obliged to use rupiah in transactions carried out in the Territory of the Unitary State of the Republic of Indonesia (Widyarani et al., 2022). Seeing the phenomenon of transaction shifts towards digital, this can become a promising business opportunity for anyone. Currently it is shifting towards a more advanced direction that no longer uses physical money, but uses digital currency or virtual currency protected by cryptocurrency. Currency formed using complex cryptocurrency is not easy to counterfeit or transfer to parties who do not have access to it. Many cryptocurrencies have started to emerge and can be used in various transactions. Cryptocurrency is digital currency using encryption techniques to regulate each new currency unit and verify each fund transfer. This digital currency began operating independently without government or central bank interference (Habiburrahman et al., 2022).

Supervision conducted by OJK aims to create stable and sustainable financial services growth, to achieve consumer protection. One means to create continuity between OJK interests and consumers is by providing consumer dispute resolution mechanisms with financial service institutions. OJK creates regulations regarding dispute resolution mechanisms in the financial services sector as regulated in Article 29 letter e of Law 21/2011, which essentially gives OJK the task of facilitating consumer complaint resolution who feel harmed by financial service business actors. By preparing several complaint service procedures creating complaint mechanisms and providing facilities in resolving these complaints (Syafitri, 2021).

The digitalization era in financial services in Indonesia has brought significant changes in how society accesses and uses financial products. OJK as a controller has an important role in facing challenges and benefit opportunities arising from digitalization era changes. The formation of OJK arose due to concerns from various parties related to Bank Indonesia supervision. The formation of OJK consists of 3 (three) namely advances in financial services in Indonesia, several sectoral problems in financial services, and mandates from Article 41 paragraph (1) of Law 3/2004. Lack of bank supervision and regulations that do not support banking world health, are hoped to be improved to produce a more flexible financial system framework. Reforms in banking law aspects are very expected to be solutions and simultaneously solve future problems (Sutedi, 2014).

The emergence of OJK is expected to solve effective and integrated supervision in the financial services sector, easier supervision and more effective and integrated coordination, easier supervision and more efficient coordination so that activities in the financial services

sector can be organized in an orderly, fair, transparent and accountable manner capable of realizing a financial system that grows sustainably and stably and is able to provide protection for consumer and community interests, supervision of the financial sector in Indonesia including capital markets is conducted by OJK (Huda et al., 2024).

3.1.2. Forms of Digital Investment

Cryptocurrency is a currency whose circulation cannot be controlled by central banks and its users are limited only to parties who use it. Bitcoin is not valid when used as a payment instrument in Indonesia. Meanwhile, the validity of using cryptocurrency for investment purposes is allowed and cryptocurrency can also be bought and sold like gold trading, where gold is one of the investment instruments included in the type of futures commodities according to laws and regulations. Cryptocurrency investment in Indonesia is also increasing, due to cryptocurrency prices that continue to experience price increases causing more and more people to conduct investment in cryptocurrency digital assets.

The growth of digital investment or cryptocurrency is increasingly rapid and known by all society, this is because digital assets have the potential to have high profits. The Director of Economics CELIOS, projects digital economy sector growth in 2025, covering online trade, online transportation, digital payments, digital lending, and online travel. In 2025 digital payment transaction values are projected to reach Rp2,908.59 trillion, increasing sharply from Rp2,491.68 trillion in 2024, or about 16.73%. Therefore, a number of new problems emerge that will be faced by digital investment namely related to regulation. There are several risks that need to be considered by society, especially to conduct investment in digital investment.

In providing protection for digital investors, Law Number 4 of 2023 concerning Development and Strengthening of the Financial Sector (Law 4/2023) was enacted. This is a financial sector reform step, also in strengthening protection aspects for customers in the financial services sector in Indonesia. Law 4/2023 has at least 3 (three) protection effort objectives for consumers namely creating a consumer protection ecosystem capable of providing legal certainty and handling complaints and dispute resolution that are relative and efficient, creating awareness among financial sector business actors regarding responsible business behavior that is fair, through asset protection, privacy, and consumer data and improving consumer awareness, capability and independence regarding financial sector business actor products and/or services as well as increasing consumer empowerment.

Risk supervision can be defined as a process of identification, assessment and priority of risks to be followed by coordination of economic resources to minimize, monitor and supervise to enable activities that can cause losses (Hubbard, 2020). Quoting Davis and Spekman's opinion that risk is the possibility of several variations contained in expected results by implying an uncertainty. Furthermore, uncertainty can be defined as the main determinant of risk that may not be completely eliminated but can be mitigated with risk management steps, which may not be completely eliminated but can be mitigated with several steps in managing risks (Spekman & Davis, 2004).

There are several reasons why these risks can arise namely there are regulations that do not yet have certainty regarding digital investment control. OJK as an institution that has authority in regulating and supervising financial service institutions does not yet have appropriate regulations in providing regulations for internal digital investment. OJK only takes action against violations that are carried out when there are reports or complaints from victims. OJK only conducts independent actions against violations originating from secondary data namely related to financial reports and others.

3.1.3. Cryptocurrency Investment Supervision

According to the provisions of Law 21/2011 OJK is an independent institution, free from interference from other parties that has functions, duties, supervision, examination, and investigation. The purpose of establishing the Financial Services Authority (OJK) is so that all activities in the financial services system are organized regularly, fairly, transparently, accountably, and able to realize a financial system that grows stably and sustainably, and is able to protect consumer and community interests. The Financial Services Authority (OJK) in its supervision field, only supervises three financial sectors namely banking, capital markets, and Non-Bank Financial Industry (IKNB). Other sectors are under the supervision of related agencies.

The main function of digital investment supervision in Indonesia is to ensure security, stability, and investor protection, as well as maintain financial market integrity. This supervision is conducted by the Financial Services Authority (OJK) and other related institutions. Different from supervision of illegal investment institutions, which is conducted by a team called Investment Alert Task Force (SWI). The Investment Alert Task Force is a team formed based on Bapepam-LK Chairman's Decree No. Kep208/BL/2007 established on June 20, 2007 and extended with Bapepam-LK Chairman's Decree No. Kep-124/BL/2012 established on March 19, 2012 and is the result of cooperation between several related agencies such as the Financial Services Authority (OJK), Bank Indonesia, Ministry of Trade, and others. Although there are already institutions and teams that directly supervise activities in the financial services sector, there are still many fraud cases such as the rampant illegal investment cases. Counted since 2016 to 2025, there have been 682 illegal investment entities found and handled by the Investment Alert Task Force.

OJK has taken strategic steps in crypto asset supervision through the implementation of regulatory sandbox. This sandbox framework functions as a trial mechanism that allows OJK to evaluate various aspects such as business processes, financial instruments, and governance of operators. With this approach, OJK can identify and overcome potential risks and ensure that innovations in the digital asset sector remain aligned with security and compliance standards needed to protect consumer interests (Copy of Circular Letter of the Financial Services Authority of the Republic of Indonesia Number 21/Seojk.02/2019 Concerning Regulatory Sandbox). Through regulatory sandbox, OJK aims to ensure that digital financial innovations being tested meet several important requirements, namely: having innovative nature and forward vision; using information and communication technology as the main means in providing services in the financial services sector; supporting financial inclusion and literacy; having broad benefits and can be used generally; capable of being integrated with existing financial services; prioritizing collaborative approaches; as well as considering consumer protection and data security aspects (Copy of Circular Letter of the Financial Services Authority of the Republic of Indonesia Number 21/Seojk.02/2019 Concerning Regulatory Sandbox).

Through regulatory sandbox, OJK can assess potential risks and benefits from new crypto technology or products. Companies wanting to participate in this program are required to meet certain criteria and submit applications to OJK. After approval, they are given permission to conduct trials on a limited scale under strict supervision. This approach helps OJK understand more deeply the dynamics of the crypto asset market, so they can formulate more appropriate and effective policies. The Financial Services Authority (OJK) has launched regulatory sandbox for the crypto industry, as regulated in POJK No. 3 of 2024 concerning Implementation of Financial Sector Technology Innovation (ITSK). Indodax CEO, Oscar Darmawan, stated that this sandbox provides space for crypto industry players to experiment

and develop financial technology in a controlled environment. This step is also part of the transition of crypto supervision from Bappebti (Commodity Futures Trading Regulatory Agency) to OJK, which is expected to increase public trust in digital assets (Ramli & Setiawan, 2024).

3.1.4. Elements of Illegal Investment

Illegal investment, or often called fraudulent investment, has several elements that need to be watched. These elements include promises of high returns in a short time, claims without risk, unclear company legality, and the existence of ponzi or pyramid scheme practices. Illegal investment crime perpetrators are rampant, because many people still do not understand investment and hope to obtain large profits in making investments. Perpetrators take advantage of society's lack of information by hiding behind Article 16 of Law 10/1998. Illegal investment in cryptocurrency, or crypto currency, is often characterized by several elements that make it potentially harmful to investors. These elements include offering unrealistic high returns, lack of transparency in operations, and the absence of clear regulations and supervision from relevant authorities.

Criminal actors can conduct illegal investments because many people still have minimal education about investment along with investors who always expect large profits in investing. Perpetrators will take advantage of society's ignorance by hiding behind Article 16 of Law 10/1998, essentially that those who collect funds must be banks with Bank Indonesia leadership licensing, except as regulated by separate Laws in Article 16 of Law 10/1998, the words "regulated by separate Laws" are used as a cover for institutions that "hide" behind separate Laws, one of which is savings and loan cooperative institutions, whose fund collection is regulated in Law No 17 of 2012 Concerning Cooperatives (hereinafter referred to as Law 17/2012) and Regulation of the Minister of Cooperatives and Small and Medium Enterprises of the Republic of Indonesia Number 09 of 2018 Concerning Implementation and Development of Cooperatives (hereinafter referred to as Permenko 9/2018).

Illegal investment is an act that meets the elements of criminal acts regulated in several Indonesian laws and regulations such as the Criminal Code, Law 10/1998, Law 7 of 2014 concerning Trade (hereinafter referred to as Law 7/2014), Law Number 8 of 2010 Concerning Prevention and Eradication of Money Laundering Crimes (hereinafter referred to as Law 8/2010). Everyone who wants to make investments will try to conduct investments such as stocks, property, saving in banking, even forex trading and others. Because they seek the largest possible profits in making investments. Many people choose investments with the aim that their future life is guaranteed due to inflation reduction and minimizing taxes. Especially after the Covid-19 pandemic, almost all aspects are still adapting post-pandemic including digital investment which is increasing because people want to use digital investment for interaction. Digital investment makes it easy to make investments because it only uses mobile devices, this turns out to have positive impacts but also negative impacts, many parties take advantage of the momentum by seeking personal gain by creating illegal investments (Rahmah, 2020).

The definition of illegal or fraudulent investment can be interpreted as companies that are illegal or fraudulent regarding the products offered or the company's legality. For instance, the modus operandi of the illegal Quotex investment platform where fraud with binary option mechanisms is promoted by affiliates, because in the definition of fraud itself is the act of someone who deceives with a series of lies, fake names, and fake circumstances intended to benefit themselves. Besides that, fraud is also a collection of lies with fake sentence arrangements arranged into stories about something as if the story is a truth.

Affiliate marketer comes from the word affiliation in KBBI affiliation means relationship as a member or branch, in essence affiliation is a basic human need to be with other humans. Affiliation in general has the power to make other people use the products they promote, in this case binary option trading Affiliate marketer are people who promote Binary Options to wider communities to attract violators (Natanael et al., 2021). There are 3 (three) elements that must be fulfilled for an act to be called gambling including activities involving gaming, elements of speculation or chance, and betting practices. The Quotex platform that uses trading procedures is said to be online gambling disguised as investment, where this investment has illegal or fraudulent nature because it fulfills the above elements namely:

- a. Game: This Quotex Platform provides offers to investors who have made deposits in the Quotex platform where investors are required to open and guess the value of certain commodities;
- b. Speculative/Luck-based: The Quotex Platform provides offers to investors to estimate future asset prices (no certainty) for certain times showing that future assets are uncertain namely based on probability.
- c. Betting: Investor deposits if investor guesses correctly, then the investor will obtain profits and if investor guesses wrongly then the deposit deposited will be lost and the amount of money will enter the Quotex service platform.

In this case, '*modus operandi*' itself means operational methods that have special characteristics of a criminal perpetrator. In fraud cases disguised as Binary Option investment, there are various modus operandi carried out by perpetrators including using social media as a means to attract potential victims, creating fictitious trading learning classes, selling trading robots which are only fiction, besides that perpetrators also deceive about the existence of affiliate marketer relationships between perpetrators and Binary Option service providers and reveal the wealth results obtained from trading results (Sudrajat, 2023).

3.2. Victim Fund Recovery as Legal Remedies for Consumers in Illegal Investment

3.2.1. Consumer Protection in Digital Investment

Basically, consumers can be interpreted as temporary and final consumers, final consumers can be distinguished as users or can also be stated as subjects who use goods or services that have the purpose to be used directly without conducting production and/or redistribution if interpreted as final consumers are users of a product (Nasution, 2002). Furthermore, consumers are the use of goods or services that aim to be able to conduct production and/or redistribution processes used to provide changes to a product to become a different product or resell products related to final consumers (Fibrianti, 2020).

The development of digital investment in Indonesia greatly affects consumer rights and welfare in increasing legal awareness, consumer protection regulations and focus on service quality and products. Data privacy and security become the main spotlight with protection from cybercrimes that is increasingly strengthened (Saragih & Bagaskara, 2023). Innovation in payments and transactions such as digital wallets provides more options for consumers while transaction protection using security technology helps reduce fraud risks. In improving consumer knowledge and government regulation socialization also has an important role in providing protection to consumers and enabling wise decisions.

Law 8/1999 provides protection to consumers meant in it is protection for final consumer types, this is emphasized in the explanatory section of Law 8/1999 which states that final consumers meant in the definition in Article 1 number 2 8/1999 namely stating

protection in 8/1999 does not provide coverage for all types of consumers, but only for final consumer protection. Therefore, for consumer protection law to be applied there are 2 (two) steps that must be carried out. First, public ignorance/unawareness of the meaning of consumer legal protection law namely to protect consumers must begin to be improved by conducting awareness through education. Consumer awareness is still low so there is an imbalance between consumers and business actors. Society must have awareness that the values held by Indonesian society are values of togetherness and mutual help so in this case consumer protection is not only merely to protect oneself but also to help protect other consumers. This is a legal culture that must be held by society. Talking about legal culture is the same as talking about legal awareness in general (Syarhan, 2021).

The government through designated institutions such as the National Consumer Protection Agency will study reports and responses from both parties so they can take steps to prevent similar incidents from happening to other consumers. This model of reporting consumer rights violation cases must be educated to society comprehensively and massively which in its implementation can be helped by organizations or communities that care about consumer protection. The purpose of having a consumer rights violation reporting model is so that consumer self-protection capabilities are formed both for oneself and for other consumers as a whole which in essence is part of their role in organizing consumer protection. Consumers must have the ability to protect starting from themselves so that later "herd immunity" or group ability to protect members of the group will be formed. With herd immunity, consumers will automatically be protected by themselves.

Consumer protection related to digital assets becomes very important where there is customer data that needs privacy protection, effective regulations become key to overcoming potential abuse of consumer rights. Along with the development of digital investment, attention regarding consumer protection aspects and appropriate regulations will create a healthy and fair digital investment environment. Legal boundaries of consumer protection, there are several definitions related to consumer protection. The definition of consumer law as defined by Nasution (2002) is the entirety of principles and norms that regulate relationships and problems of provision and use of product goods and/or services between providers and users in social life. However, the boundaries of consumer protection law as a special part of consumers are the entirety of principles and rules that provide regulations and protect consumers in relationships and problems of provision and use in social life (Nasution, 2002). Government Regulation Number 57 of 2001 concerning the National Consumer Protection Agency provides the definition of consumer protection namely all efforts that guarantee the existence of legal certainty to provide protection to consumers.

It can be examined that crypto asset consumers have already fulfilled the criteria as consumers in the Law 8/1999 regulation namely groups of final consumers and crypto assets can be classified as commodities that have the form of goods and/or services so that Law 8/1999 has relevance to provide protection and guarantee the rights and obligations of crypto asset customer consumers who have positions as consumers in crypto digital asset transactions. Furthermore, crypto assets, can be grouped as certain commodities this is regulated in Article 1 number 7 of Futures Trading Supervisory Agency Regulation Number 5 of 2019 concerning Technical Provisions for Implementation of Crypto Asset Physical Markets in futures exchanges. It can be explained that crypto assets are digital forms that belong to commodities that have no physical form. Commodities themselves according to Law 10/2011 are interpreted as all goods, services, rights and other interests and every derivative of commodities that can be traded and become subjects of futures contracts, sharia derivatives and others.

The development of technology that is so still provides both positive and negative impacts on society, there are examples of negative impacts namely business actors and consumers have unequal positions, because consumers in transactions in this digital era can lead to positions as objects useful for obtaining the largest possible profits for business actors (Dewi, 2015).

In line with this statement, there are crypto asset consumers who in this case are digital asset users not impossible to obtain bad risks but business actors have bad intentions. One case that can prove the existence of such risks is the case of crypto asset fraudulent investment by business actors namely Electronic Dinar Coin Cash (hereinafter referred to as EDCC) business actors are known as illegal companies not registered with OJK or bappebti (Commodity Futures Trading Regulatory Agency) but conduct crypto asset investment fund collection business. After that, crypto asset digital transactions, crypto asset consumers in principle can be categorized as final consumers. This situation crypto asset consumers are consumers who aim as users for personal interests. This situation is significant when examining the provisions of Article 1 number 2 UUPK which emphasizes that consumers are groups of users of goods and/or services available in society, users aim to fulfill personal, family, other people or other living being needs and have the purpose to be resold.

Forms of legal protection for victims of illegal digital investment fraud crimes are forms of protection for society, which can be realized in various forms, such as fulfilling victims' rights namely compensation something given to parties who experience losses proportional to calculating their losses, returning goods that have been taken, replacing costs arising from criminal acts or replacing damage arising from criminal acts there is other assistance namely counseling, medical services, legal assistance and information provision (Mansur & Gultom, 2007).

The government has taken steps in the form of legal protection for illegal investment victims who have been harmed this is emphasized by the existence of OJK this is in accordance with the provisions of Article 5 of Law 21/2011 namely OJK's function as organizer of integrated regulatory and supervisory systems for all activities in the financial services sector or it can be explained that OJK must participate in handling illegal digital investment cases because they are related to activities occurring in the financial services sector, as well as regarding the essence of OJK's formation objectives. This is emphasized according to the provisions of Article 4 letter C of Law 21/2011 namely OJK has interests in providing protection for consumers and society.

In providing protection for crypto investors, there are regulations through Law 4/2023 this is financial sector reform including strengthening consumer protection aspects in the financial services sector in Indonesia. This law has at least 3 (three) consumer protection effort objectives namely first realizing a consumer protection ecosystem capable of creating legal certainty and handling complaints and problem resolution that is effective and efficient, realizing an environment for financial sector business actors (PUSK) regarding responsible business behavior. Second fair treatment through asset protection, privacy and consumer data and improving the quality of products and/or services of financial sector business actors. Third in efforts to increase awareness, capability and independence of consumers regarding financial sector business products and/or services as well as increasing consumer empowerment.

Before Law 4/2023 was enacted, Bappebti (Commodity Futures Trading Regulatory Agency) had responsibility for supervising crypto assets in Indonesia. However, after the enactment of new regulations regarding crypto asset supervision, OJK took over this responsibility fully according to the provisions of Article 6 letter e of Law 4/2023. OJK

currently regulates capital markets, banking services, insurance and pension funds, but now has supervisory duties for activities in the Financial Sector Technology Innovation sector including digital financial assets and crypto assets. Article 213 of Law 4/2023 provides an explanation regarding the scope of financial sector technology innovation namely payment systems, securities transaction settlement, capital collection, investment management, risk, fund collection and/or distribution, market support, activities related to digital financial assets, including crypto and other digital financial service activities. Administrative systems can be carried out by OJK this is with Article 285 of Law 4/2023 which states that OJK has the authority to impose administrative sanctions on business actors who commit violations according to laws and regulations and their implementing regulations. Sanctions that can be imposed are written warnings, fines, license cancellation, license revocation, even writing the names of parties involved in violations of people who are not suitable for conducting business in the financial sector.

3.2.2. Elements That Fulfill Illegal Investment

Investment or capital investment activities, the definition of investment itself is long-term or short-term capital investment activities that aim to obtain profits. Currently investment is increasingly developing which results in variations in making investments that originally investment was only in physical form such as gold, land and houses but developed into financial activities such as stocks, forex, and crypto. In the practice of investment in the form of financial activities it is more practical to carry out with only capital software investors or traders can carry out these activities, where they are called investors because the actors themselves carry out investment while traders are people who carry out investment with short-term periods.

Carrying out investment activities in the form of financial assets results in many people being tempted to make investments, public demand that is very high for investment using this technology is utilized by criminal actors to collect many profits. The modus operandi used is by wrapping investment activities to cover crimes carried out and not easily read by state apparatus. Criminal actors use this method so that the activities they carry out appear legitimate or legal in the eyes of the law. In principle, investment activities are regulated in Law 25/2007 in this regulation explaining general provisions, principles and objectives of capital investment. Due to this Law, investment can be said to be legally valid activities, but if legal activities are used as criminal acts there should be explicit regulations regarding such acts. Related to illegal investment cases, they should fall into the civil category considering investment activities there are agreements between one party and another so if there is default it can be sued through civil procedural law. The provisions of Article 1365 BW state that every individual who violates the law is required to replace losses for their mistakes, but civil suits alone are not sufficient considering many victims feel harmed and include the realm of public interest violations, therefore illegal investment crimes can be categorized as criminal acts.

Related to the development of problems regarding digital investment cases can apply the ITE Law according to the provisions of Article 1 paragraph (1) and paragraph (2) where there is a definition of electronic transactions namely legal acts carried out using computers or other electronic media, while electronic information is a collection of electronic data in various forms not only limited to writing. When examining this Article it is known for the definition and use of electronic media, but if electronic media is used as illegal investment crime disguised as trading then what is charged with criminal acts as meant in Article 28 paragraph (1) of the ITE Law which states deliberately misleading to cause consumer losses in electronic transactions.

Related to the definition of electronic transactions as meant in Article 1 paragraph (1) of the ITE Law has similarities with the provisions of Article 378 of the Criminal Code namely providing affirmation of fraud elements where in that article mentions the phrase misleading which is included in a series of lies because dishonest acts according to what is contained in Article 378 of the Criminal Code there are developments where there is the use of electronic transactions, besides that what becomes the differentiator in both articles lies in the formulation of Article 378 of the Criminal Code which has the requirement that there are elements of benefiting oneself or others where these elements do not exist in Article 28 paragraph 1 of the ITE Law. There are cases of illegal investment disguised as robot trading namely capital investment activities which in Law 25/2007 provides a definition as a form of capital investment activities, both by domestic or foreign capital investors. In capital investment there is a market in it containing various assets such as land, houses and gold, but due to increasingly developing times the form of investment changes entirely to digital in the form of stocks, forex or crypto. In capital investment such as stocks, forex or crypto, investors can also carry out their transactions offline. In principle, the elements of illegal investment criminal acts disguised as trading are in the trading market not in the form of transactions between the parties. Therefore, the ITE Law is actually not sufficient to provide regulations for criminal acts in digital investment problems.

Investors cannot determine online trading places but can only carry out trading that has been determined by the operator. The operator in this case is the perpetrator of digital investment crime in the name of robot trading. The purpose of the operator is to manipulate fictitious trading charts that have been arranged in as much detail as possible by the operator, trading charts in this case are in the form of candlesticks or known as graphics in trading that make it easier to analyze technical aspects of market prices (Amri & Hasan, 2021). When examining that the position of the criminal act lies in the investment market not in the transactions carried out, but in the affirmation in Article 28 paragraph (1) of the ITE Law states the element of spreading false news in the context of online transactions which should be in digital investment transactions with this robot trading can be carried out with conventional transactions. Related to transactions that can be carried out offline, Article 378 of the Criminal Code can be applied to criminal perpetrators, but this article has not fulfilled all its elements considering that in criminal acts electronic means cannot be used in the form of transactions but as explained above lies in the investment market where the market uses electronic means in displaying market prices.

3.2.3. Legal Remedies for Victim Fund Recovery in Digital Investment

The definition of compensation in criminal acts is not a new concept, in corruption crimes the concept of criminal compensation is known, where in this case it can be considered that the State is a victim in the criminal act (Effendi, 2011). Compensation or legal remedy is a way of fulfilling rights or compensation given to parties who experience losses due to actions of other parties as a result of negligence, errors or intentional mistakes according to court decisions. Compensation is a requirement according to court decisions. Compensation is a form of obligation and form of responsibility imposed on those who have acted against the law and because their actions cause losses to other individuals.

Prejudicieel geschil in the context of illegal investment recovery refers to disputes or legal problems that must be resolved first before decisions can be made regarding the return of funds from investments considered illegal. This often involves criminal and civil acts that are interconnected, so there needs to be resolution of civil problems (for example, breach of contract) before deciding whether there are criminal acts of fraud or embezzlement.

Combining *Prejudicieel Geschil* with NCB Asset Forfeiture by PPATK, prosecutors and the supreme court, will produce fund recovery, asset recovery and victim loss recovery from illegal investment that is almost perfect, because all property assets belonging to perpetrators will be well investigated after that the use of *Prejudicieel Geschil* mechanisms can be ensured to prevent decisions regarding status about contradictory evidence with criminal decisions so that the goal of recovery and return of illegal investment or investment fraud victim losses can be fulfilled.

There are several cases of digital investment criminal acts that cause losses to society and it is not uncommon for victim parties not to get back the funds they own.

Table 1. Cases of Digital Investment Crimes and Associated Financial Losses

No	Digital Investment Case	Charges and Demands	Decision	Loss Recovery Status
1	Digital Investment Crime by Indra Kesuma alias Indra Kenz. Case Number id.Sus/2022/PN case No.1240/Pid.Sus/2022/PN.Tng	<ul style="list-style-type: none"> - Article 45 paragraph (2) Jo Article 27 paragraph (2) ITE Law - Article 45A paragraph (1) Jo Article 28 paragraph ITE Law - Article 378 Criminal Code - Article 3 Money Laundering Prevention and Eradication Law - Article 4 Money Laundering Prevention and Eradication Law 	Decision The Panel of Judges States Defendant INDRA KESUMA Als INDRA KENZ Has been proven legally to carry out criminal acts of spreading untrue news in electronic transactions causing losses to victims and also money laundering.	Judge at District Court decided that Victims do not get compensation Judge at High Court granted compensation request to victims
2	Investment crime committed by Doni Salmanan in case Number 576/SUS/2022/PN/BLB	<ul style="list-style-type: none"> - Article 45A paragraph (1) Jo Article 28 paragraph (1) ITE Law - Article 378 Criminal Code - Article 3 Money Laundering Prevention and Eradication Law - Article 4 Money Laundering Prevention and Eradication Law 	Decision on case No.576/PID. SUS/2022/PN BLB States that defendant Doni Muhammad Taufik alias Doni Salmanan is proven legally to carry out criminal acts by spreading untrue news that misleads in electronic transactions causing losses to victims as in the first charge of Public Prosecutor, and states that defendant is not proven to carry out money laundering as in the second charge of Public Prosecutor	Victims do not get compensation
3	Digital investment fraud committed by Fakarich or Fakar Suhartami Pratama as Indra Kenz's mentor. Case number 1835/Pid. Sus/2022/PN Mdn	<ul style="list-style-type: none"> - Article 45A paragraph (2) Jo Article 27 paragraph (1) ITE Law - Article 45A paragraph (1) Jo Article 28 paragraph (1) ITE Law - Article 378 Criminal Code 	Decision States Defendant Fakar Suhartami Pratama is proven legally to carry out criminal acts of spreading false news in electronic transactions causing	Victims get loss recovery

No	Digital Investment Case	Charges and Demands	Decision	Loss Recovery Status
			losses to victims and receiving or controlling transfer or using wealth property known or reasonably suspected to be results of criminal acts.	
4	Binary option instrument fraud commodity futures broker (PBK), on OCTAFX online trading platform. Case number 665/Pid. Sus/2022/PN JKT. SEL	<ul style="list-style-type: none"> - Article 45A paragraph (1) Jo Article 28 paragraph (1) ITE Law Jo Article 55 paragraph (1) Criminal Code - Article 378 Criminal Code jo Article 55 paragraph (1) Criminal Code 	Decision Panel of Judges states that Defendant 1. Benni Setiawan and Defendant 2. Melissa Vincentia Jonathan have been proven to deliberately together carry out criminal acts of spreading untrue news that misleads in electronic transactions causing losses to victims.	Victims do not get compensation
5	Fraud committed by umrah and hajj agent first travel. Case Number First: 83/ Pid.B/2018/ YN. Dpk Appeal: 195/ PID/2018/PT BDG Cassation: 3096 K/ Pid.Sus/2018	<ul style="list-style-type: none"> - Article 378 Criminal Code jo Article 55 paragraph 1 Criminal Code jo Article 64 paragraph (1) Criminal Code - Article 372 Criminal Code jo Article 55 paragraph 1 Criminal Code jo Article 64 paragraph (1) Criminal Code - Article 3 Money Laundering Prevention and Eradication Law jo Article 55 paragraph (1) Criminal Code jo Article 64 paragraph (1) Criminal Code. 	Decision No 365 PK/Pid.Sus/2022 decides that Defendant 1. ANDIKA SURACHMAN and Defendant 2. ANNIESA DESVITASARI HASIBUAN have been proven to together carry out criminal acts of fraud and money laundering as subsequent crimes.	Victims Get compensation
6	Gold fraud ponzi scheme by Budi Hermanto Case Number 10 82/ Pid.B/2022/PN Tng	<ul style="list-style-type: none"> - Article 378 jo Article 65 paragraph (1) Criminal Code - Article 372 jo 65 paragraph (1) Criminal Code 	Decision Panel states that defendant Budi Hermanto Carried out criminal acts of fraud and money laundering	Victims get compensation
7	Indosurya Savings and Loan Cooperative Fraud 779/Pid.B/2022/ PN Jkt.Brt	<ul style="list-style-type: none"> - Article 46 paragraph (1) UURI No. 10 of 1998 concerning Amendments to UURI Number 7 of 1992 concerning Banking Jo Article 55 paragraph (1) Criminal Code - Article 378 Criminal Code Jo. Article 55 paragraph (1) Criminal 	Judge decided to release and free the defendant in the Indo Surya KSP fraud case	Victims do not get compensation

No	Digital Investment Case	Charges and Demands	Decision	Loss Recovery Status
		Code Jo. Article 64 paragraph (1) Criminal Code - Article 372 Criminal Code Jo. Article 55 paragraph (1) Criminal Code Jo. Article 64 paragraph (1) Criminal Code - Article 3 Jo. Article 10 Money Laundering Law - Article 4 Jo. Article 10 Money Laundering Law		

When looking at the above data, all charges filed by public prosecutors in fraud cases are Article 378 of the Criminal Code, furthermore it is known that several victims do not get compensation and only some are returned to victims. In the gold ponzi scheme fraud case carried out by Budi Hermanto in this case the judge granted the request for compensation merger submitted by victim's legal counsel in accordance with Article 98 of Criminal Procedure Code and ordered that evidence assets that were confiscated from evidence 265 to 287 be returned to victims proportionally (Kuswandi, 2022). Furthermore, in the first travel case which after going through a fairly long court process, now a decision has been obtained that has permanent legal force (*inkracht van gewijsde*) the supreme court decided that victim assets that were previously confiscated for the state are now returned to victims.

In Article 1 number 11 of Law Number 31 of 2014 Amendment to Law Number 13 of 2006 Concerning Protection of Witnesses and Victims (abbreviated as Law 31/2014) restitution is compensation given to victims or their families by perpetrators or third parties. Article 7A paragraph (3) states that Submission of Restitution requests can be made before or after court decisions that have obtained permanent legal force through LPSK.

It can be concluded that digital investment cases clearly cause losses to victims and do not obtain justice. Although criminal perpetrators have been sentenced to imprisonment, from the victim's side they may not necessarily obtain what they want from the perpetrator's actions. In principle, victims do not care about criminal punishment of perpetrators, what is important for victims is obtaining compensation as a form of justice by society (Chen et al., 2017).

4. Conclusion

Characteristics of Illegal Investment in Digital Investment have become the main focus in global financial markets. Many digital investment actors show significant growth in digital asset trading volumes such as cryptocurrency. However, while digital investment models provide enormous potential, there are also several risks related to market volatility and regulatory uncertainty. Digital investment is a condition of digital asset capital investment such as stocks, cryptocurrency, and other digital assets through online platforms. Several elements of digital investment are digital assets, digital investment platforms, blockchain technology, analysis and research, and diversification and risk management.

Victim fund recovery as legal remedies for consumers in illegal investment as a form of legal protection for victims of illegal digital investment fraud crimes is a form of protection for society, which can be realized in various forms, such as fulfilling victims' rights namely

compensation something given to parties who experience losses proportional to calculating their losses. The government has taken steps in the form of legal protection for illegal investment victims who have been harmed this is emphasized by the existence of OJK this is in accordance with the provisions of Article 5 of Law 21/2011.

It is hoped that the government provides specific regulations related to digital investment that is increasingly developing so that in the future people who want to make digital investments obtain legal certainty so as not to cause risks of criminal events in the future, and people should always be vigilant regarding illegal digital investments. Victim fund recovery for victims of illegal investment crimes should have the government provide special regulations so that if there are digital investment crimes then victims who experience losses due to such matters get legal protection in the form of fund recovery.

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