

**NATIONAL ECONOMY RECOVERY BY CROWDFUNDING POLICY AS
ALTERNATIVE IN MSME FINANCING****Rudolf Haiti¹, Lu Sudirman²**¹Faculty of Law, Universitas Internasional Batam, Indonesia, 1951024.rudolf@uib.edu²Faculty of Law, Universitas Internasional Batam, Indonesia**ABSTRACT**

The covid-19 pandemic has been affecting MSME actors significantly. One of the problems faced by MSME actors due to this pandemic, is difficulty in collecting business capital. Therefore, the Indonesian Government presents crowdfunding as a solution. The crowdfunding itself intends to strengthen MSME financially and encounter investors and MSME actors in one platform. Crowdfunding collects funds from the community and is managed by a crowdfunding provider institution. In this case, information technology-based crowdfunding is one of the MSME capital solutions during the COVID19 pandemic. This information technology-based crowdfunding provides alternative capital for MSMEs other than conventional banks and financing institutions, sourced from public funds (crowd funds). This study aims to provide an overview of how crowdfunding can be alternative funding in Indonesia and overcome MSME capital difficulties based on capital market laws and OJK regulations (The Indonesian Financial Services Authority). This legal research uses doctrinal research methods to analyze whether this crowdfunding policy can be an opportunity for economic recovery in Indonesia. The results of this study indicate that crowdfunding can be a funding solution in Indonesia and an alternative in economic recovery after the COVID-19 pandemic based on regulations issued by OJK in POJK (the Indonesian Financial Services Authority Regulation) Number 57 of 2020.

ARTICLE INFO**Keywords:**

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Scope Article

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INTRODUCTION

In 1997, some crises hit Indonesia, beginning with the crisis of the rupiah exchange rate against the US dollar and the monetary crisis that affected the Indonesian economy called economic recession.¹ As a result of the economic crisis, it worsened the economic situation in Indonesia; only Micro, Small, and Medium Enterprises (MSMEs) remained. Based on this situation, MSMEs are believed to be able to overcome economic recovery and at the same time, play an important role in driving national economic development. MSMEs play a role in economic growth, maintaining economic stability, absorbing labour, distributing development results, developing the business world, and adding to the APBN (the Indonesian state Budget) and APBD (the Indonesian Local government budget) through

¹ Suci, Y. R. (2017). Perkembangan UMKM (Usaha mikro kecil dan menengah) di Indonesia. *Jurnal Ilmiah Cano Ekonomos*, 6(1), 51-58., hlm. 51.

taxation. MSMEs have an important role in business development in Indonesia and are also the forerunner of the growth of large businesses; this sector should receive special attention not only from the government and investors but also from MSME actors themselves.²

Throughout the history of the Indonesian economy, MSMEs have shown their resilience in facing economic crises, both domestically and globally. However, the COVID-19 outbreak has emerged as an obstacle for the MSMEs compared to previous economic crises. The economic downturn during the COVID-19 was exacerbated by various lockdown policies to reduce the spread of COVID-19.³ Furthermore, this COVID-19 outbreak has been declared a pandemic by the World Health Organization (WHO), considering the spread of COVID-19 in mainland China, especially Wuhan, has reached various countries worldwide.⁴ This spreading has resulted in every country trying to break the ropes of the spreading and reduce the number of victims.⁵ One of the government's efforts to anticipate the development of COVID-19 is implementing of a lockdown policy.⁶ This policy has led to the widespread practice of working from home, reducing the number of employees, to termination of employment.⁷ This caused low consumption and people's purchasing power impact on decreasing demand for MSMEs, especially those engaged in the tourism, transportation, and trade sectors.⁸

One of the main problems MSME actors face during the COVID-19 pandemic is the difficulty of obtaining business capital. Based on these problems, the information technology-based crowdfunding service is one of the MSME capital solutions during the COVID19 pandemic. Information technology-based crowdfunding provides alternative capital for MSMEs other than conventional banks and financing institutions sourced from collected public funds.⁹ Equity crowdfunding is presented as an alternative instrument to increase the absorption of investment funds from the public and invite the Indonesian people to encourage economic growth. Crowdfunding itself is a funding technique for projects or business units involving the wider community.¹⁰ Crowdfunding is a new idea in financing or refinancing the activities of organizations or companies that are collected through online portals called crowdfunding platforms.¹¹ Crowdfunding is on the rise as an alternative to traditional funding practices. This practice is proliferating in Indonesia and worldwide as a service that efficiently meets the needs of creditors and debtors, respectively.

² Amah, N. (2013). Bank Syariah dan UMKM Dalam Menggerakkan Roda Perekonomian Indonesia: Suatu Kajian Literatur. *Assets: Jurnal Akuntansi dan Pendidikan*, 2(1), 48-54., hlm. 52.

³ Ibrahim, R. A., Yaqin, C., & Simbolon, M. J. (2021). Optimalisasi Pengaturan Layanan Urun Dana (Crowdfunding) Berbasis Teknologi Informasi Sebagai Solusi Permodalan Usaha Mikro, Kecil, Dan Menengah Di Masa Pandemi COVID-19. *Lex Renaissance*, 6(4), 732-751., hlm. 733.

⁴ Disemadi, H. S. (2021). Fenomena Predatory Lending: Suatu Kajian Penyelenggaraan Bisnis Fintech P2P Lending selama Pandemi COVID-19 di Indonesia. *Pandecta Research Law Journal*, 16(1), 55-67., hlm. 57.

⁵ Pratiwi, D. K. (2021). Inovasi Kebijakan Pemerintah Daerah dalam Penanganan COVID-19 di Indonesia. *Amnesti Jurnal Hukum*, 3(1), 37-52., hlm. 42.

⁶ Disemadi, H. S. (2021). Stimulus Kredit Perbankan: Kebijakan Penanggulangan Risiko Kredit Akibat Coronavirus Disease 2019 (COVID-19) di Indonesia. *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)*, 10(3), 563-577., hlm. 565.

⁷ Rifa'i, A. (2021). *Analisis yuridis kebijakan pemerintah melakukan perubahan kebijakan keuangan negara tahun 2020 dalam penanganan COVID-19* (Doctoral dissertation, UIN Sunan Ampel Surabaya), 1-151., hlm. 8.

⁸ Soleha, A. R. (2020). Kondisi UMKM masa pandemi COVID-19 pada pertumbuhan ekonomi krisis serta program pemulihan ekonomi nasional. *Jurnal Ekombis*, 6(2), hlm. 166.

⁹ Sari, N. R., Bulutoding, L., Aditya, R., & Jannah, R. (2020). Equity Crowdfunding for SMEs: Sharia Compliance Challenge amid the COVID-19 Pandemic. *Jurnal Iqtisaduna*, 6(2), 198-213., hlm. 201.

¹⁰ EQUITY CROWDFUNDING JADI ALTERNATIF PERMODALAN <https://sikapiuangmu.ojk.go.id/FrontEnd/CMS/Article/20569> . Diakses pada tanggal 10 Februari 2022.

¹¹ Cahyadi, I. (2016). Tantangan Internasionalisasi UKM di Indonesia dalam Menghadapi Masyarakat Ekonomi ASEAN. *Kajian*, 20(2), 129-143., hlm. 132.

Crowdfunding is a concept that is fully published publicly via the internet. The concept is an inspiration from the concepts of microfinance and crowdsourcing.¹²

Crowdfunding is a social activity in this digital era that has experienced significant developments every year. The crowdfunding platform that records the largest transactions and is constantly raising donations currently is 'Kitabisa.com'. This crowdfunding platform raises funds from organizations, communities to foundations, all of whom can start campaigns on 'Kitabisa.com' with various categories.¹³ Crowdfunding has made tremendous progress and has grown to become a billion-dollar global business over the last five years. The most successful nascent part is crowdlending, referred to as peer-to-peer lending or market lending. New segments such as royalty-based crowdfunding, hybrid forms of crowdfunding, and token presale or initial coin offerings represent relatively small market volumes. Depending on the platform's authority, their business model often bypasses traditional financial intermediaries.¹⁴

Lukmanul Hakim published the results of previous studies on crowdfunding. The study results stated that securities crowdfunding is indeed alternative financing for micro-enterprises. It is expected to develop micro-enterprises amidst difficulties in accessing financing and increase the capacity of micro-enterprises that were initially informal to become formal businesses so that micro-enterprises are no longer said to be bankable.¹⁵ Furthermore, Nurul Hutami & Irwansyah stated that the 'Kitabisa' application is continuously promoted because it adds exciting features to help users. Those features involve saving favourite fundraisers, searching for fundraisers, donating through various payment models, and paying off the obligation to pay zakat.¹⁶ Viodi Childnadi Widodo & Dona Budi Kharisma, in their research, stated that equity crowdfunding has started in Indonesia but is not yet well known. Moreover, to increase public understanding of equity crowdfunding regarding their rights and obligations as users, the Indonesian Government and OJK must provide a minimum of basic investment knowledge, so that novice investors are not rash, which can cause them to be legally harmed.¹⁷ Based on the results of previous research publications, there are similarities in the themes raised, namely crowdfunding policies. However, this research will focus on studies related to economic recovery for MSMEs through crowdfunding policies, considering that during the COVID-19 pandemic, all sectors were affected, from the upper to the lower classes. However, it is difficult for middle and lower business actors to get back up and rebuild their businesses. This research is divided into 2 subjects. First, it will discuss crowdfunding arrangements as alternative financing in Indonesia. Second, it will examine the prospects of crowdfunding policy to recover the economy of MSMEs after the COVID-19 pandemic in Indonesia. This research is expected to add insight into the problems studied, thus providing an overview of how

¹² Rachmaniyah, F., & Nugroho, A. Y. (2019). Fenomena Perkembangan Crowdfunding di Indonesia. *EKONIKA*, 4(1), 1-13., hlm. 3.

¹³ Harahap, E. P., Aini, Q., & Anam, R. K. (2020). Pemanfaatan Teknologi Blockchain Pada Platform Crowdfunding. *Technomedia Journal*, 4(2), 199-210., hlm. 205.

¹⁴ Pamesti, P. I., & Heradhayksa, B. (2020). Kepastian Hukum Mekanisme Equity Crowdfunding melalui Platform Santara. id sebagai Sarana Investasi. *Jurnal Hukum Ekonomi Islam*, 4(1), 20-37., hlm. 22.

¹⁵ Hakim, L. (2022). Securities Crowdfunding Sebagai Alternatif Pembiayaan Pada Pelaku Usaha Mikro dalam Perspektif Teori Hukum Pembangunan. *Res Nullius Law Journal*, 4(1), 32-41., hlm. 39.

¹⁶ Hutami, N., & Irwansyah, I. (2019). Pemanfaatan Aplikasi Mobile Kitabisa Dalam Pelaksanaan Crowdfunding Di Indonesia. *Jurnal Komunikasi*, 13(2), 183-194., hlm. 192.

¹⁷ Widodo, V. C., & Kharisma, D. B. (2020). Problematika Perlindungan Hukum Terhadap Para Pihak Dalam Transaksi Layanan Urutan Dana Melalui Penawaran Saham Berbasis Teknologi Informasi (Equity-Based Crowdfunding). *Jurnal Privat Law*, 8(2), 230-236., hlm. 235.

compatible the theory and facts in the field are. It is hoped that this research can be used as a reference.

METHODS

This legal research is a type of doctrinal research. Doctrinal research is qualitative and perspective research. In the doctrinal method, the law will be interpreted from a perspective as an ideal value system, law as a conceptual system, and law as a positive legal system.¹⁸ This method is used to analyze whether this crowdfunding policy can be an opportunity for economic recovery in Indonesia. This study will also examine how the legal certainty and protection of the policy will be.

RESULT AND DISCUSSION

Crowdfunding Arrangements as Alternative Financing in Indonesia

The development of technology is a common thing, and it creates more opportunities and new methods in various fields.¹⁹ Crowdfunding is a breakthrough in the financial world that continues to spread to all levels of society and not only low-income groups now.²⁰ In order to maintain financial market conditions that have a significant impact on the economy, monitoring of its performance is required. Problems that may be faced in implementing crowdfunding are legality and security. Investment crowdfunding will undoubtedly be the domain of the Indonesian Financial Services Authority, which is regulated in Indonesian Law Number 21 of 2011 concerning the Financial Services Authority, while other types of crowdfunding (non-investment) are regulated in Indonesian Law Number 9 of 1961 concerning Collection of Money or Goods.²¹ The Indonesian Financial Services Authority (In Indonesia: *OJK*) is an institution whose role is to organize and supervise all activities in the financial sector. The formation of *OJK* was intended to restructure the institutions that regulate and supervise the financial services sector. This formation is mandated in Indonesian Law Number 23 of 1999 concerning Bank Indonesia and amended several times, most recently by Indonesian Law Number 6 of 2009 concerning the Stipulation of Government Regulation in place of Law Number 2 of 2008 concerning the Second Amendment to Indonesian Law Number 23 of 1999. In addition, the formation of the *OJK* is also due to the development of the financial sector, the conglomeration of financial service institutions, the increasing number of violations across the financial services industry, and the lack of optimal protection for consumers' financial services. *OJK* is an organizer of an integrated regulatory and supervisory system for all activities in the financial services sector. *OJK* always acts independently in carrying out its duties, including regulating and supervising financial service activities in the banking sector; financial services activities in the capital market sector; and financial service activities in the insurance sector, pension funds, financing institutions, and other financial service institutions.²²

Information technology-based crowdfunding arrangements in Indonesia apply a digital-based registration mechanism to optimize the trust of crowdfunding participants.

¹⁸ Qamar, N., & Rezah, F.S. (2020). *Metode Penelitian Hukum : Doktrinal dan Non-Doktrinal*. Makassar: CV.Social Politic Genius(SIGn), hlm. 5.

¹⁹ Oktaviani, N. T. (2020). *Urgensi Pengaturan Pasar Sekunder dalam Equity-based Crowdfunding (Studi Komparatif Indonesia dengan Amerika Serikat)* (Doctoral dissertation, Universitas Gadjah Mada). 1-2., hlm. 2.

²⁰ Rahmatullah, B. (2018). *Analisis Yuridis Urgensi Pengaturan Tentang Donationbased Crowdfunding Di Indonesia Dalam Rangka Kepastian Hukum* (Doctoral dissertation, Universitas Brawijaya). 1-110., hlm. 6.

²¹ Akbar, D. S. F., & satu permasalahan yang dihadapi Indonesia, S. (2016). Konsep crowdfunding untuk pendanaan infrastruktur di Indonesia. *Kemenkeu. Go. Id*, 1-2., hlm. 2.

²² Keuangan, O. J. (2017). Otoritas Jasa Keuangan. *Salinan Peraturan Otoritas Jasa Keuangan Nomor, 65*, hlm. 27.

This act was based on the fact that MSMEs have a higher level of risk than corporations because the implementation of governance is not as comprehensive as corporations. For this reason, Article 47 paragraph (1) of the Indonesian Financial Services Authority Law Number 57 of 2020 considering Securities Offering Through Information Technology-Based Crowdfunding Services states that issuers (MSMEs) are required to obtain a permit by registering their business entity through the online integrated organizer's website.²³ At the end of 2016, OJK issued POJK (Indonesian Financial Services Authority Regulation) Number 77/POJK.01/2016 concerning Information Technology-Based Money-Lending Services. This regulation is the basis for implementing peer-to-peer (P2P) lending or online lending and borrowing, a type of financial technology (fintech), including regulations regarding supervision carried out by OJK to implement these business activities.²⁴ The implementation of Fintech P2P Lending in POJK Number 77 is categorized as other financial service institutions included in the supervision of the Non-Bank Financial Industry. Like other financial service institutions, the implementation of P2P Lending fintech must be supervised by the OJK, which has the authority to supervise micro-prudential in Indonesia.²⁵ The general difference between the supervision of fintech carried out by Bank Indonesia, and OJK is that Bank Indonesia handles fintech included in the payment system category, including companies that provide payment gateway, remittance, e-wallet, switching services, and others. Meanwhile, OJK handles fintech engaged in P2P lending/financing, crowdfunding, insurance, and others. Types of supporting business activities or fintech enablers such as e-KYC, robo advisors, big data, and others will be handled across authorities. Based on the research results, the supervision carried out by OJK on the implementation of fintech P2P Lending activities or online lending and borrowing are currently only at the pre-operational stage of the business. The main focus of OJK after the promulgation of POJK Number 77/POJK.01/2016 is the submission of registration and licensing for companies engaged in lending and borrowing services or P2P lending as part of the pre-operational stage of the business supervision.²⁶

It was previously mentioned that crowdfunding is part of the fintech that the OJK supervises. Crowdfunding is an alternative method of business funding that is proliferating and is increasingly popular in both developed and developing countries. Crowdfunding is fundraising from the public to finance a project, loan to individuals/businesses or other needs through an internet-based platform. According to the Oxford Dictionary, crowdfunding is a project or venture financing activity with fundraising from the community, which makes a relatively small contribution. It usually works via the internet. Crowdfunding can be described as "the practice of funding a project or venture by raising money from a large number of people whom each contribute a relatively small amount typically via the internet." On the other hand, crowdfunding is a funding technique for projects or business units that involve the wider community.²⁷ OJK has officially issued

²³ Ibrahim, R. A., Yaqin, C., & Simbolon, M. J. (2021). Optimalisasi Pengaturan Layanan Urut Dana (Crowdfunding) Berbasis Teknologi Informasi Sebagai Solusi Permodalan Usaha Mikro, Kecil, Dan Menengah Di Masa Pandemi COVID-19. *Lex Renaissance*, 6(4), 732-751., hlm. 741.

²⁴ Disemadi, H. S., & Regent, R. (2021). Urgensi Suatu Regulasi yang Komprehensif Tentang Fintech Berbasis Pinjaman Online Sebagai Upaya Perlindungan Konsumen di Indonesia. *Jurnal Komunikasi Hukum (JKH)*, 7(2), 605-618., hlm. 609.

²⁵ Disemadi, H. S. (2021). Legal Aspects Of 'Gali Lubang Tutup Lubang'in Fintech P2p Lending Business During Covid-19. *Tadulako Law Review*, 6(2), 237-256., hlm. 240.

²⁶ Santi, E., Budiharto, B., & Saptono, H. (2017). Pengawasan Otoritas Jasa Keuangan Terhadap Financial Technology (Peraturan Otoritas Jasa Keuangan Nomor 77/pojk. 01/2016). *Diponegoro law journal*, 6(3), 1-20., hlm.15-16.

²⁷ Hutomo, C. I. (2019). Layanan Urut Dana Melalui Penawaran Saham Berbasis Teknologi Informasi (Equity Crowdfunding). *Perspektif*, 24(2), 65-74., hlm. 67.

regulations regarding crowdfunding services through information technology-based stock offerings or equity crowdfunding. The regulation was issued in *POJK* Number 37/POJK.04/2018 Regarding Crowdfunding Services Through Information Technology-Based Shares Offering on December 31, 2018. The new regulation is expected to provide space for pioneering companies or start-up companies to access funding in the capital market. It is at the same time increases inclusion or a condition where every member of the community has access to various quality, timely, smooth and safe formal financial services at affordable costs according to the needs and abilities of each financial person in Indonesia. *OJK*, as the supervisory authority, applies a market conduct-based supervisory approach to crowdfunding activities. This supervision will encourage the implementation of information disclosure by share issuers, the formation of a credible operator, and the establishment of a secure and reliable information technology system in crowdfunding activities.

Investors interested in investing through crowdfunding need not worry because crowdfunding already has a legal guideline from the *OJK*, namely *POJK* Number 57/POJK.04/2020 concerning Securities Offering Through Information Technology-Based Crowdfunding Services. This regulation replaces *POJK* Number 37/POJK.04/2018, which previously only regulated crowdfunding services based on shares and sharia shares. Through this regulation, MSMEs have been facilitated in obtaining financing sources through the capital market by offering securities in shares, bonds and *sukuk*. Crowdfunding is a change (transformation) from the previous form, namely equity crowdfunding. Therefore, crowdfunding is an alternative source of financing for MSMEs that are not yet bankable. Through the crowdfunding instrument, especially MSMEs, government partners can obtain financing quickly, easily, and cheaply. Crowdfunding is also a new instrument that investors can use as an alternative investment portfolio. The crowdfunding instrument in the form of shares is an investment offered to investors to become part of the ownership which has a duration of five years and can be extended or as long as the business is running. Investors of this instrument will get a return in the form of profit-sharing or dividends periodically if the business is running, which depends on the company's performance. Meanwhile, the crowdfunding instrument in the form of bonds/*sukuk* is an investment offered to investors in debt securities with a maximum duration of two years. Investors of this instrument will get a return in a yield (coupon) whose amount is fixed every year. Stock instruments can be traded in the secondary market, while bonds/*sukuk* instruments are not traded in the secondary market.²⁸

Although *OJK* has provided signs for the agreement's contents between the issuer and the organizer, there is no specific standard regarding this agreement in Indonesia.²⁹ The form of the agreement can be in an authentic deed or a private deed. Therefore, the agreement between the issuer and the value crowdfunding organizer may have different contents as long as it contains the negligible provisions as regulated in Article 44 of *POJK* Number 37/POJK.04/2018 concerning Crowdfunding Services Through Information Technology-Based Share Offerings. The agreement's contents between the issuer and the organizer will undoubtedly impact the investor, who is not involved in the agreement between the issuer and the organizer but receive the agreement's impact. On the other hand, the standard form of agreement between the operator and the investor provides a legal

²⁸ Suryanto, S. (2021). Securities Crowdfunding: Transformasi Pembiayaan Usaha Kecil dan Menengah di Indonesia. *AdBispreneur: Jurnal Pemikiran dan Penelitian Administrasi Bisnis dan Kewirausahaan*, 6(2), 163-171., hlm. 169.

²⁹ Diba, N. F., Disemadi, H. S., & Prananingtyas, P. (2020). Kebijakan Tata Kelola Otoritas Jasa Keuangan (OJK) Di Indonesia. *Ekspose: Jurnal Penelitian Hukum dan Pendidikan*, 18(2), 868-876., hlm. 870.

consequence; in this case, the investor does not have the opportunity to negotiate the terms of the agreement but only has the option to accept or reject the contents of the agreement. When the investor decides to accept the provisions in the standard agreement, the investor only needs to click agree on a particular button that has been provided by the operator on the system they have. The standard form of the agreement between the investor and the provider can provide an excellent opportunity for the operator to include a provision that lets the operator own initiative, to add or replace any provisions in the agreement or to change, postpone, or terminate services at any time.³⁰

Crowdfunding investment has several risks. Firstly, business actors fail, resulting in the investment value being completely lost, and when the issuer is liquidated, the issuer cannot provide dividends to investors. Secondly, business actors can fail to pay dividends to investors in the early years. Thirdly, financial backers cannot sell the stock due to the illiquid investment or the shares are not posted on the stock exchange. Fourth, value crowdfunding services use an online system; that is why fraud and forgery are very likely to occur. Not only that, but the possibility of digital crime is also very high. Fifth, this investment creates three elements in the formation of new media, namely devices, channels, and contexts.³¹ The most considerable risk for investors with their status as shareholders is the failure of the Issuer's business. If the business fails, the Investor will not get any return on the paid-up capital. In fact, as minority shareholders, Investors are not entitled to participate in determining the company's running. In addition, Investors will also be faced with limited information regarding management actions by the management of companies controlled by the Issuer. Asymmetric information between Investors and Issuers can cause a moral hazard that is detrimental to the Investors. There is not much that Investors can do because it is not their right to manage the company as a minority shareholder.

Before deciding to invest in ECF, it is important to determine how much confidence the Investor has in the Issuer's business and how much risk he/she wants to take. Suppose the target market is a developing economy. In that case, some investors do not have sufficient experience and knowledge in the capital market, which takes their own risk to burden the capital. The choice is that the ECF Operator needs to take a more significant role in helping Investors measure the existing risks, the desired risk appetite, and their ability to overcome risks. The result can be achieved by conducting personal risk profiling of Investors. It is the process of evaluating investors' data and information such as age, income, savings, loans, expenses, fund allocation plans, investment objectives, and their experience and knowledge of the types and risks of the business they are interested in. The results of the information evaluation will produce a risk profile that investors can use to objectively determine options that follow their capacity, tolerance, and needs. The more data that is processed, the better the results obtained. The ability of the ECF Operator to provide data analytics and a suitable scoring model will help Investors determine the appropriate investment.³²

Prospects of Economic Recovery of MSMEs after the COVID-19 pandemic through Crowdfunding Policy

³⁰ Hartanto, R. (2020). Hubungan Hukum para Pihak dalam Layanan Urun Dana Melalui Penawaran Saham Berbasis Teknologi Informasi. *Jurnal Hukum Ius Quia Iustum*, 27(1), 151-168., hlm. 165.

³¹ Pamesti, P. I., & Heradhayksa, B. (2020). Kepastian Hukum Mekanisme Equity Crowdfunding melalui Platform Santara. id sebagai Sarana Investasi. *Jurnal Hukum Ekonomi Islam*, 4(1), 20-37., hlm.28.

³² Iskandar, Y. Equity Crowdfunding, Alternatif Pendanaan UMKM yang Layak Diperhitungkan <https://www.hukumonline.com/berita/baca/lt5f83c129a0cbd/equity-crowdfunding-alternatif-pendanaan-umkm-yang-layak-diperhitungkan?page=2>. Diakses pada 8 Januari 2022.0

When borrowing capital from banks, it generally requires complete documentation of good financial records of business results, and some banks have policies to provide collateral in the form of assets. The problem is that not all MSME actors can provide these requirements, and the limited availability of bank branch offices is not evenly applied in all regions in Indonesia. To meet the long-term funding needs of MSMEs, the Indonesian government presented crowdfunding, a method of raising funds with a joint venture scheme carried out by business owners to start or develop their business. Later, Investors can buy and get ownership through shares, proof of debt ownership, or joint ownership certificates. The business shares are acquired according to the percentage of the value of the contribution. With crowdfunding, investors and parties who need funds can easily meet each other through an online platform. Investors will get profits in the form of dividends or profit-sharing from the business profits, distributed periodically. The interested Investors do not have to worry too much because crowdfunding already has a legal guideline from the Indonesian Financial Services Authority, regulated in the *OJK* Regulation, namely *POJK* Number 57/POJK.04/2020 concerning Securities Offerings Through Information Technology-Based Crowdfunding Services.

The COVID-19 pandemic has a significant impact on the entire world, thus affecting all sectors, especially the MSME sector. As a result of this pandemic, the Indonesian government has taken steps to minimize the number of COVID-19 cases by enacting Large-Scale Social Restrictions (In Indonesia: *PSBB*) as a state policy to protect its citizens from COVID-19 spreading. The enactment of this policy makes people reluctant to leave their homes and causes market demand to decline, particularly for MSMEs. When compared to business sectors such as limited liability companies, which have medium-to-high-scale businesses, MSMEs tend to be more difficult to obtain capital assistance during the COVID-19 pandemic.³³ Due to the absence of transparent financial management and lack of managerial and financial capabilities, MSMEs are classified as 'Unbankable', or it can also be interpreted as not being able to get loans or assistance from banks.³⁴

According to the Indonesian Law Number 20 of 2008 concerning Micro, Small, and Medium Enterprises, in Article 1 paragraph 11, it states "*pembiayaan yaitu penyediaan dana oleh Pemerintah, Pemerintah Daerah, Dunia Usaha, dan masyarakat melalui bank, koperasi, dan lembaga keuangan bukan bank, untuk mengembangkan dan memperkuat permodalan Usaha Mikro, Kecil, dan Menengah*" (Translate: financing is the provision of funds by the Government, Regional Government, Business World, and the community through banks, cooperatives, and financial institutions. non-banks, to develop and strengthen the capital of Micro, Small and Medium Enterprises). Then in Article 8 letter A, it states "*memperluas sumber pendanaan dan memfasilitasi UMKM untuk dapat mengakses kredit perbankan dan lembaga keuangan bukan bank*" (Translate: expand funding sources and facilitate MSMEs to be able to access bank credit and non-bank financial institutions.³⁵ However, applying for bank credit often creates new problems in the form of enormous interest that must be paid every month, making it difficult for business actors. Therefore, the solution is to fund non-bank financial institutions, which is crowdfunding, and its activities are carried out officially according to the laws and regulations in Indonesia.

³³ Soemarsono, A. A., & Sofianti, U. D. (2021). Perspektif Hukum Mengenai Penggunaan Securities Crowdfunding pada Masa Pemulihan Ekonomi Akibat Pandemi. *Jurnal Hukum Lex Generalis*, 2(8), 607-626., hlm. 610.

³⁴ Budiarto, R. dkk (2018). *Pengembangan UMKM Antara Konseptual dan Pengalaman Praktis*. UGM PRESS., hlm. 33.

³⁵ Undang-Undang Republik Indonesia Nomor 20 Tahun 2008 Tentang Usaha Mikro, Kecil, dan Menengah.

OJK is present in society to provide solutions in financing facilities for MSMEs by providing technology-based funding sources called crowdfunding. In his book, Ethan Mollick describes crowdfunding very comprehensively and in detail. In this case, crowdfunding is an alternative or an effort by a group of people to fund a business. Individuals make small contributions but can generate huge amounts of funds, and only by using the internet MSME actors can get it without having a financial intermediary, as stipulated in conventional financing.³⁶

Crowdfunding is a financing scheme known as "democratic funding". The concept of crowdfunding is collecting funds on a small scale but obtained from many people and then collecting significant funds. In 2014 crowdfunding has become very popular and phenomenal in the international arena, with the number of crowdfunding platforms reaching 1,250 and successfully raising funds reaching USD 16.2 billion. For 2015 the success of raising funds reached USD 34.4 billion. The funds obtained doubled, and in 2016 the crowdfunding platform is estimated to increase to 2,000 units that can raise funds exceeding venture capital, which is around USD 60 billion. It certainly illustrates that crowdfunding can be alternative funding that MSMEs can use.³⁷ The crowdfunding concept aims at those who want to advance their business but are constrained by capital. The rapid development of technology and the ease of finding information and transactions via the internet have made this crowdfunding platform fast-growing and easily recognized by business actors. However, the limitations of the Indonesian people who are less in using the internet, so not many people know this information. It is a source of funding for the MSME sector to develop and advance its business.³⁸ Each equity crowdfunding implementer displays a business profile on various social media of their respective MSMEs; this also has a good impact in popularizing MSMEs and their products in all circles of society. MSME actors who successfully take advantage of this opportunity can connect with the equity crowdfunding network and stakeholders. Policies in using social media save MSMEs from limited funding and use them for business growth and improve the performance of MSME actors. It is an advantage that MSEs cannot obtain in applying for bank credit.³⁹

The presence of crowdfunding in the business world has a significant impact; this is also felt by business actors who have previously used crowdfunding alternatives in their business, for example, easy access to get investors. Due to the easy access to investors, crowdfunding is now a new method for recovering funds after COVID-19. *OJK* opens opportunities for business actors to access funding. In some MSMEs, it is challenging to meet banking requirements. However, because crowdfunding is classified as 'unbankable', it does not require complicated requirements and makes it easier for business actors to overcome these difficulties. The convenience offered by crowdfunding is easy, but the funds provided are also quite large. It encourages MSMEs to continue to advance their business with innovations made by business actors. The benefits of crowdfunding also make MSMEs enter

³⁶ Soemarsono, A. A., & Sofianti, U. D. (2021). Perspektif Hukum Mengenai Penggunaan Securities Crowdfunding pada Masa Pemulihan Ekonomi Akibat Pandemi. *Jurnal Hukum Lex Generalis*, 2(8), 607-626., hlm. 611.

³⁷ Kementerian Keuangan Republik Indonesia. (2016). Mendorong *crowdfunding* untuk Peningkatan Investasi di Indonesia. <https://kemenkeu.go.id/publikasi/artikel-dan-opini/mendorong-crowdfunding-untuk-peningkatan-investasi-di-indonesia>. Diakses pada 7 Desember 2021.

³⁸ Nugroho, A. Y., & Rachmaniyah, F. (2019). Fenomena perkembangan crowdfunding di Indonesia.1-13., hlm. 2.

³⁹ Khabibah, N. A., & Bharata, R. W. (2021). Equity Crowdfunding sebagai Opsi Penyelamatan UMKM dari Krisis Akibat Pandemi. *Fokus Bisnis: Media Pengkajian Manajemen Dan Akuntansi*, 20(1), 58-68., hlm. 65.

the Capital Market Industry so that MSMEs can rise from adversity after COVID-19.⁴⁰ Reporting from 'detik.com', the election in crowdfunding application as an alternative to restore the national economy after COVID-19 will also be felt by the middle and lower classes. It is one of the advantages of crowdfunding itself. Then this can also be an investment to encourage the pace of the national economy in the future so that it will have a significant impact on creating new jobs.⁴¹

The Indonesian government is committed to boost the role of MSMEs as a driver of economic recovery. Through several policies issued by the *OJK*, it is hoped that MSMEs can have more access to funding which is often an obstacle. Director of the Indonesia Stock Exchange, Inarno Djajadi explained several ways for MSMEs to get funds through *OJK* products, namely securities offerings through technology-based crowdfunding services or crowdfunding, which can be a medium of fundraising in the MSME sector. "The product released by the *OJK* in early 2021 is perfect for improving at the same time and making the Indonesian capital market more inclusive," he explained in the webinar 'Crowdfunding MSMEs' on Friday (23/4/2021). Inarno continued that the policy drawn up by *OJK* was also well received by the public, where similar crowdfunding platforms have emerged. "As we know, in the past year, we have been faced with an economic and health crisis due to the COVID-19 pandemic, which has a direct impact on business actors, including MSMEs," he said. With crowdfunding, making funding options in Indonesia more complete, small-scale companies that need funds can access the capital market through securities crowdfunding as a funding medium. "After the company grows, companies can access greater funding in the Indonesian capital market through an IPO (Initial Public Offering) and be listed on the acceleration board," he concluded.⁴²

As a brief description, based on the press release of the Indonesian Ministry of Cooperatives and MSMEs in August 2020, the contribution of MSMEs to Indonesia's gross domestic product reached an average of 60%, while its contribution to absorbing labour reached 96.8% of the total workforce in Indonesia. The COVID-19 pandemic has been going on since the beginning of 2020 and has hit MSMEs in Indonesia. A survey published by the Asian Development Bank in July 2020 showed the impact of the COVID-19 pandemic on MSMEs in Indonesia. 50% of MSMEs closed their businesses, 88% of micro-enterprises did not have cash or savings or ran out of financial financing, and around 60% of micro-enterprises fired the labourers. On several occasions, President Joko Widodo has given directions to support the MSMEs to become a priority in the National Economic Recovery. It was conveyed by the Chief Executive of the *OJK* Capital Market Supervision during the Crowdfunding Webinar-Alternatives for Funding MSMEs on Tuesday (8/6/2021). Given the importance of the role of MSMEs in the national economy and also paying attention to the mandate of the President of the Republic of Indonesia to support the sustainability of MSMEs in Indonesia, *OJK* as the institution mandated to regulate, supervise and protect the Indonesian financial services sector, will always actively participate in realizing this mandate, including supporting government programs in the recovery of the national

⁴⁰ Soemarsono, A. A., & Sofianti, U. D. (2021). Perspektif Hukum Mengenai Penggunaan Securities Crowdfunding pada Masa Pemulihan Ekonomi Akibat Pandemi. *Jurnal Hukum Lex Generalis*, 2(8), 607-626., hlm. 618.

⁴¹ Adolf Roben, *Mendukung Pemulihan Ekonomi dengan "Equity Crowd-Funding"*, diakses dari <https://news.detik.com/kolom/d-5176627/mendukung-pemulihan-ekonomi-dengan-equity-crowd-funding>, diakses pada 15 Desember 2021.

⁴² Fadillah, M.G. *Securities Crowdfunding Dipercaya Jadi Solusi Permodalan UMKM*. <https://www.beritasatu.com/ekonomi/764487/securities-crowdfunding-dipercaya-jadi-solusi-permodalan-umkm>. Diakses pada 8 Januari 2022.

economy. One of the breakthroughs made by the *OJK* in supporting the development of financial technology in the capital market industry was the issuance of *POJK* Number 57/*POJK.04/2020* concerning Public Offerings of Securities Through Crowdfunding Services Based on Information Technology or often known as Crowdfunding. *OJK* in launching Crowdfunding is certainly not without reason. However, with careful consideration and also observing and adopting a very close culture to the community, namely the *Gotong Royong/Ngayah* culture in Balinese terms or *Mappalus* in Minahasa terms or *Masohi* from Maluku, which aims to help others. As previously explained, the term crowdfunding can be interpreted as a collection of funds or joint ventures to help relatives, relatives, or other people who require assistance. These cultures are then absorbed into the form of business activities in the Capital Market through the concept of offering securities. However, the mechanism is carried out through digital applications/platforms or what we often call financial technology crowdfunding.

The culture that has been absorbed into business activities was regulated in *POJK* Number 37 of 2018 concerning Crowdfunding Services through Information Technology-Based Shares Offerings or often called Equity Crowdfunding. As an illustration, until the end of December 2020, the number of MSME publishers/actors who utilized Equity Crowdfunding from 4 new organizers reached 129 publishers (companies), with the number of funds raised reaching Rp191.2 billion. Compared to the total number of MSMEs in Indonesia, which according to data from the Indonesian Ministry of Cooperatives and Small and Medium Enterprises (In Indonesia: *Kemenkop UKM*) in 2018 has reached 64 million business actors, the number of ECF issuers is still minimal. Reflecting on the evaluations that have been carried out, mainly related to *OJK* support for MSMEs, *OJK* decided to revoke *POJK* Number 37 of 2018 and replace it with *POJK* Number 57 of 2020. This change in provisions aims to expand the types of business actors involved, which previously only legal entities such as Limited Company, now includes business entities such as CV, Firms, and Cooperatives. In addition, *POJK* number 57 also expands the types of securities offered, from previously being only in the form of shares, now being expanded to securities in the form of bonds and *sukuk*. In addition to providing convenience from the publisher side, this policy is also expected to provide broad opportunities for retail investors, especially those MSMEs who issue crowdfunding to contribute to economic development in their respective regions. For information, after the issuance of *POJK* Number 57 of 2020, until May 31, 2021, yesterday, the total number of organizers has increased to 5. In addition, the number of publishers/MSME actors who utilize Equity Crowdfunding has also experienced a growth of 17.05% year to date (YTD) to 151 publishers. The funds raised also increased by 43.02% (YTD) to Rp273.47 billion. From the investor side, it also grew by 49.06% (YTD), from previously as of December 31, 2020, only 22,341, to 33,302 investors.⁴³ By looking at the development of the number of publishers from year to year and the amount of capital available, it can be concluded that the concept of crowdfunding can restore the country's economy, especially after the COVID-19 pandemic.

CONCLUSION

Reaching the inability of MSME actors to obtain capital, crowdfunding is a viable alternative. Crowdfunding is used as an economic generator because its activities are safe and do not burden MSME actors. *OJK* is present in society to provide solutions in financing

⁴³ Fadillah, M.G. *Securities Crowdfunding* Dipercaya Jadi Solusi Permodalan UMKM. <https://infopublik.id/kategori/nasional-ekonomi-bisnis/538916/securities-crowdfunding-jadi-alternatif-pendanaan-umkm>. Diakses pada 08 Januari 2022.

facilities for MSMEs by providing technology-based funding sources called crowdfunding. *OJK* made improvements to the ECF in 2020 with the issuance of *POJK* Number 57 of 2020, where *OJK* turned it into crowdfunding. Crowdfunding is predicted as a solution for economic recovery in Indonesia. Generally, the crowdfunding concept aims at MSME actors who want to advance their business but are constrained by capital. The rapid development of technology and the ease of finding information and transactions via the Internet have made this crowdfunding platform fast-growing and easily recognized by business actors. Crowdfunding has the main benefit of facilitating capital financing for MSMEs during the COVID-19 pandemic. In this crowdfunding, it is not only business actors who benefit, but investors or investors also get benefits such as getting dividends on their portfolio of securities.

The COVID-19 pandemic has had a significant impact on the entire world, thus affecting all sectors, especially the MSME sector. As a result of this pandemic, the Indonesian government has taken steps to minimize the number of COVID-19 cases by enacting Large-Scale Social Restrictions (In Indonesia: *PSBB*) as a state policy to protect its citizens from the spread of COVID-19. However, *OJK* is present in society to provide solutions in financing facilities for MSMEs by providing technology-based funding sources called crowdfunding. This crowdfunding encourages MSMEs to continue to advance their business with innovations made by business actors. The benefits of crowdfunding also make MSMEs enter the Capital Market Industry so that MSMEs can rise from adversity after COVID-19. Furthermore, by looking at the development of the number of publishers from year to year and the amount of capital available, it can be concluded that the concept of crowdfunding can restore the country's economy, especially after the COVID-19 pandemic.