



## Legal Protection Model for Victims of Illegal Investment Crimes

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**Abstract:** The purpose of this study is to analyze and construct a model of legal protection for victims of illegal investment crimes. This research is a type of normative research using several approaches, namely the *statute approach*, *case approach*, and conceptual approach. The analytical technique used in this study is using analytical descriptive techniques. The results showed that the legal protection model for victims of illegal investment is to reform the Money Laundering Law with an *asset recovery* approach to the Corruption Eradication Law. The concept contained in Article 18 of the Corruption Eradication Law is an additional crime that can be conceptualized in the provisions of the Money Laundering Law.

**Keywords:** Legal Protection; Victim; Illegal Invitation.

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## I. Background

Economic growth is closely related to business, both influence each other.<sup>1</sup> Gregory Mankiw argues that macroeconomics has a very important role in a business, if a country's business develops well, then sources of state income such as investment will come so that labor is increasingly absorbed and state income will increase, especially in the form of taxes.<sup>2</sup>

The purpose of investment is to meet its needs for goods and services. In general, people carry out investment activities because they are required by "primary needs". Then, the second impulse to invest is one's desire for "secondary needs" goods and services. This proves that business activities will have major implications for a country that is closely related to a country's economy. Indonesia has a system that aims to analyze changes in the Indonesian economy that have a major impact on business and society or markets, namely macroeconomics.<sup>3</sup>

Talking about the welfare of life, it is also closely related to "*criminal*" crime is one form of "deviant behavior" that is always inherent in all levels of people's lives. Demand after demand for the welfare of an individual who justifies all means to fulfill his desires, triggers deviant behavior as a real threat to the social norms that underlie life or social order, which can cause discomfort and insecurity, and social tension.

Furthermore, stocks are one option that is considered effective when you want to invest for the long term. However, often people misunderstand the function and purpose of investing as a whole and investing in certain stocks. Often people focus only on immediate results and subsequent profits. This can be seen in the question of the benefits that will be obtained when a new type of investment appears. Especially now that the dissemination of information is very easy to do *online*, actors can easily promote this illegal capital market investor to the public by promising a certain amount of profit. Most people will be tempted by the lure of large profits without worrying about risks in the future, that's why the phenomenon of illegal investment arises.<sup>4</sup>

Illegal investment is a fraud in investment that can cause losses and usually does not have a clear license and scheme. Illegal here implies that a securities company as a

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<sup>1</sup> Asri Elies Alamanda and Darminto Hartono, "Perlindungan Konsumen Atas Pencabutan Izin Usaha BPR Oleh Otoritas Jasa Keuangan," *Journal of Judicial Review* 23, no. 1 (June 1, 2021): 57-70, <https://doi.org/10.37253/JJR.V23I1.4361>.

<sup>2</sup> Winda Fitri and Elvianti Elvianti, "Tinjauan Yuridis Penegakan Hukum Terhadap Investasi Bodong Yang Memakai Skema Ponzi," *Jurnal Pendidikan Kewarganegaraan Undiksha* 9, no. 3 (October 11, 2021): 598-611, <https://doi.org/10.23887/JPKU.V9I3.38511>.

<sup>3</sup> Amalia Nuril Hidayati, Malia : Jurnal, and Ekonomi Islam, "Investasi: Analisis Dan Relevansinya Dengan Ekonomi Islam," *MALIA: Jurnal Ekonomi Islam* 8, no. 2 (August 16, 2017): 227-42, <https://doi.org/10.35891/ML.V8I2.598>.

<sup>4</sup> I Gusti et al., "Perlindungan Hukum Terhadap Investor Dalam Transaksi Jual Beli Saham Melalui Perusahaan Sekuritas Ilegal Berbasis Online," *Jurnal Konstruksi Hukum* 3, no. 1 (January 24, 2022): 147-52, <https://doi.org/10.22225/JKH.3.1.4410.147-152>.

liaison between issuers and investors is a limited liability company whose existence is not legally valid.<sup>5</sup>

People's lack of understanding of how to invest safely can make them vulnerable to investment scams, leading to investment scams. It is like an institution that manages public funds and invests in various types of investments. But in reality, it's just a "Money Game", the movement of money from one investor to another, and so on.<sup>6</sup>

The criminal act of fraudulent investment fraud (illegal) *modus operandi* varies, offered by the perpetrators. One of the main modes carried out is a return that is much higher than other investment instruments, such as investing in banks and the capital market. The lure (*return*) is quite highly accepted by the community, without the community wanting to know how business operations work to manage and develop their business. This is a lapse of some time after the funds/capital are collected. Later, it was discovered that this investment company began to falter to return the desired return, which in the end occurred at a standstill and/or could not be returned to the paid-up capital.<sup>7</sup>

The illegal investment practices that are often used in Indonesia, according to Ahmad Gozali, are in the form of a "pyramid ponzi scheme" taken from the name of an Italian mafioso who settled in the United States under the name "Charles Ponzi". The mode, Ponzi schemes are multilevel investment schemes (pyramids). Recorded in 2008, namely the case of *Madoff Investment Securities*, which is a fraudulent investment using a Ponzi scheme, starting from Charles Ponzi founded *The Security Exchange Company* in 1919 by promising investment with a reward system where when investors invest their money and succeed in finding investors again will get a profit of 40% from everyone below who is invited from the first level to the bottom. Where the profit from this Ponzi scheme is patchwork way, where the investment profit is obtained from rotating the money of newly entered investors to cover the results of previous investor payments.<sup>8</sup>

Furthermore, the application of laws and criminal sanctions against fraudulent investment activities is closely related to the criminal act of fraud legalized in Article 378 of the Criminal Code (hereinafter referred to as the Criminal Code), according to Moeljatno<sup>9</sup>, The criminal arrangement in this article is about the act of *bedrock*. The prohibition of fraudulent investment is regulated in Article 378 of the Criminal Code which confirms that:

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<sup>5</sup> *Ibid.*

<sup>6</sup> Yoppy Ariansyah and M. Zen Abdullah, "Perlindungan Hukum Terhadap Korban Tindak Pidana Penipuan Investasi Bodong Sapi Perah Di Wilayah Kabupaten Muaro Jambi (Studi Kasus CV. Nur Asrof Sejahtera)," *Legalitas: Jurnal Hukum* 13, no. 2 (December 31, 2021): 201-8, <https://doi.org/10.33087/LEGALITAS.V13I2.288>.

<sup>7</sup> *Ibid.*

<sup>8</sup> Leonard & Ariawan, Akibat Investasi, and Ilegal Leonard, "Analisis Perlindungan Hukum Terhadap Ganti Kerugian Akibat Investasi Ilegal," *Jurnal Hukum Adigama* 4, no. 2 (December 29, 2021): 4428-49, <https://doi.org/10.24912/ADIGAMA.V4I2.18011>.

<sup>9</sup> Moeljatno. *Kitab Undang-Undang Hukum Pidana (KUHP)*. (Jakarta: Bumi Aksara, 2001).

"Whosoever with intent to benefit himself or others unlawfully, by using a false name or false dignity, by deceit, or series of lies, moves another person to deliver anything to him, or to give a debt or write off a receivable, shall be punished with fraud with imprisonment for not more than four years".

In addition, it is also regulated in Article 3 of the Law on the Prevention and Eradication of Money Laundering which reads:

"Any person who places, transfers, transfers, spends, pays, grants, deposits, carries abroad, changes form, exchanges for currency or securities or other acts on Property that he knows or reasonably suspects is the result of a criminal act as referred to in Article 2 paragraph (1) to conceal or disguise the origin of the Asset shall be convicted of Money Laundering with the most imprisonment 20 (twenty) years and a maximum fine of Rp10,000,000,000.00 (ten billion rupiahs)".

Meanwhile, it is also regulated in Article 46 of the Banking Law:

"Whoever collects funds from the public in the form of deposits without a business license from the Chairman of Bank Indonesia as referred to in Article 16, shall be punished with imprisonment of at least 5 (five) years and a maximum of 15 (fifteen years and a fine of at least Rp10,000,000,000.00 (ten billion rupiahs) and a maximum of Rp200,000,000,000.00 (two hundred billion rupiah)."

Handling, an Investment Alert Task Force has been formed by the Financial Services Authority (OJK) consisting of 13 Ministries and Institutions with a memorandum of understanding as a form of cooperation in handling illegal investments. Data from the Investment Alert Task Force shows that the activities of illegal investment entities are growing rapidly, especially now that Indonesia has entered the digital era. Some illegal investment cases that have attracted public attention, include the DNA Pro case, *Oxtrade*, *Quotex*, *Binomo*, *Fahrenheit*, and *Evotrade*. These illegal investment entities both offer high-yield investments using both Ponzi schemes and pyramid schemes.

But it is very unfortunate, in Indonesia itself in the last decade (2011-2020) it was recorded at Rp114.9 trillion with details of losses in 2011 amounting to Rp.68.62 trillion, in 2012 amounting to Rp.7.9215 trillion, in 2014 amounting to Rp.0.235 trillion, in 2015 amounting to Rp.0.289 trillion, in 2016 amounting to Rp5.4 trillion, in 2017 amounting to Rp.4.4 trillion, in 2018 it was Rp.1.4 trillion, in 2019 it was Rp.4 trillion and in 2020 it was Rp.5.9 trillion. The number of entities handled by the Investment Alert Task Force from 2017 to 2020 continues to increase with details in 2017 of as many as 79 illegal investment entities, 2018 as many as 106 illegal investments, 404 fintech peer-to-peer lending illegal, in 2019 as many as 442 illegal investments, 1,493 fintech peer to peer lending illegal, 68 illegal pawns, in 2020 as many as 349 illegal investments, 1,026 fintech peer to peer lending illegal, 75 pawn illegal, and in 2020 as

many as 14 illegal investments 133 fintech peer to peer lending *illegal*.<sup>10</sup> Meanwhile, it was recorded that in March 2022 the Investment Alert Task Force again found 20 entities that made unlicensed investment offers, namely: 9 entities conducting *money games*; 3 entities conducting unlicensed trading robot activities; 3 entities conducting unlicensed crypto asset trading activities; 5 miscellaneous entities.

Gambar 1. Illegal Investment Appendix, Maret 2022



**LAMPIRAN  
DAFTAR INVESTASI ILEGAL**

No.	Nama Entitas	Kegiatan Usaha yang Dihentikan
1	PT Enel Kekuatan Hijau	<i>money game</i> dengan modus penjualan pembangkit listrik
2	AGT Kantors/Advance Global Technologies	<i>money game</i> dengan modus periklanan
3	Ace Gold/Ace Emas	<i>money game</i> dengan modus jual beli emas
4	RichNewb	<i>money game</i>
5	Nagaya	penyelenggara aset kripto tanpa izin
6	HIVESIS	penyelenggara aset kripto tanpa izin
7	Bank Coin Cash	penyelenggara aset kripto tanpa izin
8	PT Pusat Teknologi Indonesia/Intelektual Digital Dragon	penyelenggara <i>robot trading</i> tanpa izin
9	Quantum Metal	perdagangan logam mulia tanpa izin
10	PT JS Internasional Ltd Co	investasi ilegal dengan mencatut logo OJK

Source. Financial Services Authority.

Thus, it is necessary to see the authority possessed by the Financial Services Authority (OJK) in providing protection for the public against Illegal Investment activities, *moral hazard* practices in Illegal Investment activities occur due to the weak supervision system of financial institutions caused by several factors, namely: (a) weak financial supervision system in Indonesia; (b) the absence of information exchange between financial supervisory agencies; (c) there is still a high level of egocentricity among financial institution supervisory agencies.<sup>11</sup>

Given that illegal investment is an activity that causes losses to individuals and the state, legal protection efforts oriented towards preventive and repressive efforts are needed. Preventive legal protection (before the occurrence of a criminal act of fraudulent investment fraud), while the repressive efforts in question are not only aimed at criminal punishment for perpetrators but there is a need for legal protection in the form of returning losses due to illegal investment crimes themselves.

<sup>10</sup> Thaus Sugihilmi Arya Putra, "Bijak Dalam Berinvestasi," Kemenkeu RI, 2021, <https://www.djkn.kemenkeu.go.id/kanwil-kalbar/baca-artikel/14481/Bijak-Dalam-Berinvestasi.html>.

<sup>11</sup> Hermansyah, *Hukum Perbankan Nasional Indonesia Cetakan Pertama*, Pertama (Jakarta: Kencana Prenada Media Group, 2005). Hal. 215

## 2. Research Problems

Based on the description of the problem above, the formulation of the problem can be drawn, namely, What is the model of legal protection for victims of illegal investment crimes?

## 3. Research Methods

This research is a type of normative research using several approaches, namely the *statute approach*, *case approach*, and conceptual approach. The analytical technique used in this study is using analytical descriptive techniques. That is, researchers describe and provide an overview in the form of an explanation of the data obtained and then analyzed based on applicable theories and principles by making predictions and studying the implications that are then given conclusions.

## 4. Analysis and Discussion

### 4.1. Legal Protection Model for Victims of Illegal Investment Crimes

Interpreting the concept of legal protection which means protecting everyone's interests, the concept of legal protection can be seen in *abstract* and *concreto*. Protection *in the abstract* means that the substance of a rule of law must provide protection. While legal protection *in concreto* means that law enforcement practices must provide protection.<sup>12</sup> That is, protection cannot be realized by APH in carrying out its duties (law enforcement / *in concreto*) when the substance (*in abstracto* / applicable laws and regulations) does not guarantee the protection in question.

According to Lawrence M. Friedman, there are several elements in the legal system, one of which is a legal system that has a structure. The legal system is constantly changing, but the parts of that system change at different speeds, and each part changes not as fast as certain other parts.<sup>13</sup> In the criminal law system, from the beginning basically, criminal law only focuses the subject on the perpetrator, even though from a crime, the greatest loss suffered is the victim of the crime. There are very few laws or regulations governing victims and their protection.<sup>14</sup>

Conditions that show that the interests and rights of criminal offenders in the Criminal Procedure Code are shown and take precedence over the interests and rights of the victims themselves. This can be seen in the Criminal Procedure Code, where from the beginning of the examination process the rights of perpetrators of criminal acts are protected, namely the right to obtain legal assistance, get good treatment, not justified by torture, the right to provide violence without pressure and coercion and others, while the rights of victims are not accommodated at all by the Criminal Procedure

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<sup>12</sup> Zainal Arifin Mochtar & Eddy O.S Hiariej, *Dasar-Dasar Ilmu Hukum: Memahami Kaidah, Teori, Asas Dan Filsafat Hukum* (Yogyakarta: Red & White Publishing, 2021). Hal. 13

<sup>13</sup> Lawrence M. Friedman, *American Law: An Introduction = Hukum Amerika: Sebuah Pengantar / Lawrence M. Friedman; Penerjemah: Wishnu Basuki, Cet. 1 (Tatanusa, 2001)*. Hal. 7

<sup>14</sup> Mardjono Reksodiputro, *Kriminologi Dan Sistem Peradilan Pidana: Kumpulan Karangan Buku Kedua* (Pusat Pelayanan Keadilan dan Pengabdian Hukum, 1994).. Hal. 81

Code so that it is visible to the naked eye resulting in less than optimal protection of victims.

Furthermore, the rights of victims are taken over by the state, victims as parties directly harmed by their interests have been represented by the State whose role as executors of legal processes is considered no longer necessary to have several rights that protect them in judicial proceedings.<sup>15</sup> Moreover, regarding the loss of victims of illegal investment according to Tongam L. Tobing<sup>16</sup> that the state and/or government cannot provide compensation to victims of illegal investment fraud because there is no legal basis. The legal basis is important for the guarantee of security of the invested funds so that if it is said to be illegal, there is no legal basis for the government to guarantee compensation.

In the case of illegal investment, investors will invest in the form of money to benefit from the money invested so it becomes a polemic if investor money is used by the perpetrator in the crime so that the victim will not get the loss back completely, or the victim's money is changed by the perpetrator into goods and then confiscated and must be returned to the victim so that it must be sold first but there is no mechanism for how to sell the goods and who authorized to sell the goods.<sup>17</sup> While weaknesses in criminal justice there is no mechanism for matching confiscated goods to the total loss of the victim, which ensures the victim's loss is equal to the property confiscated.<sup>18</sup> According to the author, this situation will make the return of funds for victims of illegal investments more difficult, because one of the characteristics of illegal investments is having many victims.

In general, the concept of returning evidence has been regulated in the Criminal Procedure Code, namely in Article 215 which states that "Return of confiscated objects confiscated objects is carried out unconditionally to the most entitled, immediately after the verdict is handed down if the convicted person has fulfilled the contents of the verdict." As for confiscated objects Article 39 of the Code of Criminal Procedure, it is stated that those that can be subject to confiscation are:

- 1) Objects or bills of suspects or defendants which in whole or in part are alleged to have been obtained from a criminal act or as a result of a criminal act;
- 2) Objects that have been used directly to commit a criminal offense or to prepare it;
- 3) Objects used to obstruct the investigation of criminal acts;
- 4) Objects specifically made or used to commit criminal acts;

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<sup>15</sup> Weny Almoravid Dunga, "Implementasi UU Perlindungan Saksi Dan Korban Di Kota Gorontalo," *Jurnal Mimbar Hukum* 21, no. 2 (2009): 40705, <https://doi.org/10.22146/JMH.16270>.

<sup>16</sup> Safyra Primadhyta, "Melihat Perlindungan Negara Bagi Korban Investasi Ilegal," accessed June 12, 2023, <https://www.cnnindonesia.com/ekonomi/20220422073820-92-788104/melihat-perlindungan-negara-bagi-korban-investasi-ilegal>.

<sup>17</sup> H. (Heri) Jerman, "Pemulihan Aset Hasil Kejahatan Sebagai Bentuk Perlindungan Hukum Terhadap Korban Kejahatan," *Dih: Jurnal Ilmu Hukum* 13, no. 25 (2017): 371003, <https://doi.org/10.5281/zenodo.1171069>. 149-161

<sup>18</sup> *Ibid.*

- 5) Other objects that have a direct connection with the criminal act committed.

Next, confiscation which is also associated with confiscation whether it is connected with the proof of the case and shall be ordered confiscation by the judge of the seized property to be handed over to the person entitled to return to the person or persons named in the judgment, unless the property is by the judge's decision seized for the state, to be destroyed or to be destroyed until it can no longer be used or if it is still needed as evidence for other cases (Article 46 paragraph (2) of the Criminal Procedure Code), or deprivation associated with additional crimes, namely as stipulated in Article 39 of the Criminal Code, that can be deprived are:

- a. Goods belonging to the convict obtained for crime;
- b. Items belonging to the convict that have been intentionally used to commit a crime.

Referring to Article 39 of the Criminal Code and Article 46 of the Criminal Procedure Code are used as the basis for asset confiscation activities of illegal investment actors, but the legal basis used can be a counterattack for victims of illegal investments who want to get their losses back because this legal basis is used by judges to take all confiscated assets of perpetrators to the State. After all, the court can hand over all confiscated proceeds to the government, and if the victim cannot prove that the goods are proceeds The confiscation belongs to him.<sup>19</sup>

While referring to article 253 of the Code of Criminal Procedure, the Public Prosecutor can apply for cassation because *judex factie* is wrong to return the evidence to the state and not to the victim. Here the prosecutor will prove that the evidence belongs to the victim but it will be difficult for victims of illegal investments because of the losses suffered by victims of illegal investments in the form of money so it will be difficult to prove with property rights.

Given that the subject of Illegal Investment has not been accommodated in the law specifically, some laws and regulations related to illegal investments that are most likely to protect the return of victims' losses are the Money Laundering Law. In the TPPU Law, there is a mechanism for returning victims' losses if the losses are caused by money laundering crimes carried out by the Financial Transaction Reporting and Analysis Center (PPATK), which is the central institution that coordinates the implementation of efforts to prevent and eradicate money laundering in Indonesia. If the alleged perpetrator of the crime is not found by the Investigator within thirty days, the Investigator may apply to the District Court to decide that the property is a state asset or returned to the rightful person under Article 67 paragraph (2) of the Law on the Prevention and Eradication of Money Laundering.

Even if the entrance for *asset recovery* refers to the Law on the Prevention and Eradication of Money Laundering. The problem is that the arrangement is too

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<sup>19</sup> Aldika Yafi Raharjo, "Pengembalian Kerugian Korban Sebagai Akibat Investasi Ilegal Oleh Koperasi," *Jurist-Diction* 3, no. 6 (November 2, 2020): 1957-78, <https://doi.org/10.20473/JD.V3I6.22952>.



minimalist because it discusses more the criminalization of an act and equipment to be used for asset tracing, while regarding the assets resulting from crime that can be traced, how to return it, especially those that have become one mixed with the wealth of the perpetrator himself, has not been regulated.

Regarding Article 39 letter a of the Criminal Code, these items are the object of the Money Laundering Crime which from the beginning of the investigation should have been confiscated, because this is the focal point of the Money Laundering Crime, namely *follow the proceed of the crime or trace the proceeds of crime*. Thus, the decision of this deprivation depends largely on the professionalism of the investigator, both in terms of confiscation and in terms of blocking, although it can also be pursued under Article 81 of the Money Laundering Act through confiscation made at the time of trial.

However, this concept for the author is still very weak when viewed in practice, because the results of crime, especially in the form of money and goods, are often not intact but have changed by being mixed with the legitimate property of the perpetrators themselves. This shows that our criminal law and criminal justice system have not been able to reach *the asset recovery* area.

As explained earlier that illegal investments contain elements of criminal acts such as fraud, and money laundering, and will have difficulty in obtaining victim losses. If in the case if the *predicate offense* is embezzlement, then the completion of the recovery of its assets becomes more complicated.

As a result, it is not uncommon for every case to not be able to recover the victim's losses so then the victim takes the civil route by filing a civil lawsuit against the law 1365 of the Civil Code or through the LPSK. This shows that there are still weaknesses in Indonesia's criminal law that have not been able to effectively and efficiently ensure justice for victims of illegal investment crimes. The treatment is different for victims who are countries and victims who are people. Because the legal substance of the money laundering crime does not guarantee the return of losses to victims of the original crime, it is not surprising that the nature of *following the money* is only limited to criminalization and assistance in *predicate offense* disclosure even though it involves a new legal structure of fraudsters, namely the *Indonesian Financial Transaction Reports And Analysis Centre*.

According to the author, to create a model of legal protection for the return of losses for victims of illegal investment crimes by updating the Money Laundering Law through the *asset recovery* approach in the Corruption Eradication Law. Because the Money Laundering Law, among others, emphasizes that in the concept of anti-money laundering, the perpetrators and proceeds of criminal acts can be known through tracing for the proceeds of the crime to be subsequently seized for the state or returned to the rightful.

Furthermore, corruption and money laundering have a close relationship. Furthermore, corruption is one of the original crimes of money laundering as stipulated in Article 2 paragraph (1) of the Money Laundering Law. If corruption becomes a *predicate offense*, the assets of the perpetrator will be confiscated and

auctioned to compensate for state financial losses due to his actions. Compared to embezzlement as a *predicate offense*, it is clear that there is no criminal solution if the facts show that the assets of the victim of the crime have been mixed with the legitimate assets of the perpetrator causing the victim's loss not to be fully recovered.

Simply put, if the *predicate offense* is a criminal act of corruption, then an additional crime can be imposed in the form of substitute money as Article 18 of the Corruption Eradication Law, namely by confiscation and then auction, then state losses are returned/recovered while the rest is certainly returned to the perpetrator because it is money / legal assets from the perpetrator. Meanwhile, if *the predicate offense* is embezzlement as above, then the completion of asset recovery becomes more complicated.

Looking at the *asset recovery* model in the Corruption Eradication Law in dealing with these problems, namely with the provisions of Article 18 of the Corruption Eradication Law regarding substitute money and the seizure and confiscation of the perpetrator's assets, in the case of embezzlement that allows it to be confiscated and then auctioned, while the auction proceeds are by the losses suffered by the state and obtained by the defendant, it is returned to The state instead of state financial losses (substitute money), while the rest of course, if it is the defendant's legitimate money/assets, will be returned to the defendant.

The concept of *asset recovery* is only found in handling cases of criminal acts of corruption, while in other cases, especially illegal investment as a criminal offense as long as there is no such concept recovering victims' assets has difficulties due to the lack of legal substance that currently exists in the Criminal Justice System.

Referring to the provisions of Article 18 paragraphs (1) and (2) of the Corruption Eradication Law:

- 1) In addition to additional crimes as referred to in the Criminal Code, additional crimes are:
  - a) Confiscation of tangible or intangible movable property or immovable property used for or obtained from a corruption crime, including a company owned by the convicted person in which the corruption crime was committed, as well as from goods that replace such goods;
  - b) Payment of substitute money in the amount as much as possible is equal to the property obtained from corruption.
  - c) Closure of all or part of the company for a maximum of 1 (one) year;
  - d) Deprivation of all or part of certain rights or removal of all or part of certain benefits, which have been or may be granted by the Government to the convicted person.
- 2) If the convict does not pay the replacement money as referred to in paragraph (1) point b no later than 1 (one) month after the court decision that has obtained permanent legal force, then his property can be confiscated by the prosecutor and auctioned to cover the replacement money.

This means that the state should be able to guarantee legal protection *in abstracto* to be used as a reference by APH to carry out *concreto* protection that can provide equal justice for victims of illegal investments which is equated when the state is a victim of corruption, because of the *asset recovery* approach model. In the criminal act of corruption, it is more effective to recover state assets so that it can be applied to illegal investment crimes with follow-up money laundering crimes.

Therefore, the concept of Article 18 of the Corruption Eradication Law, which is an additional crime, should be included in the provisions of the Money Laundering Law. The concept of protection of the return of losses for victims of illegal investment crimes from perpetrators should be conceptualized with a mechanism that is closest to the provisions of the Corruption Eradication Law, it's just that the prison substitute for indigent defendants should not be applied in the original crime in the form of general crimes. So that if the defendant is incapacitated, the provisions of the claim for compensation that are regulated civilly can still be implemented.

The model offered by this author can be sought by the government to update Law No. 8 of 2010 concerning the Eradication of Money Laundering by including the concept of *asset recovery*, especially for assets victims of illegal investment crimes by adding criminal substitute money, but if they do not pay within a certain time, the assets of the perpetrators will be auctioned and then returned to the victims of the act. The crime of illegal investment amounting to the property harmed by the perpetrator as the concept of *asset recovery* in the Corruption Eradication Law. Thus, it can provide legal certainty for victims of illegal investment crimes against fully recoverable losses.

## 5. Conclusion

The model of legal protection for victims of illegal investment is to update the Money Laundering Law with an *asset recovery* approach to the Corruption Eradication Law. The concept contained in Article 18 of the Corruption Eradication Law is an additional crime that can be conceptualized in the provisions of the Money Laundering Law. So the protection of the return of losses to victims of illegal investment crimes from perpetrators can be done with a mechanism that is closest to the provisions in the Corruption Eradication Law. Thus, the optimization of the return of losses for victims of illegal investment crimes will be achieved.

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