

THE LEGAL REGULATORY FRAMEWORK OF SHARIA SECURITIES CROWDFUNDING IN INDONESIA¹

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Abstrak

Industri Securities Crowdfunding (SCF) Syari'ah berkembang pesat di Indonesia dengan jumlah penyedia dan pengguna yang terus meningkat, namun juga memiliki risiko yang sangat tinggi. Untuk membangun kepercayaan dan memastikan keamanan investasi, diperlukan kerangka hukum yang kuat. Kajian ini menggunakan statute approach untuk mengkaji kerangka hukum pengaturan SCF Syari'ah. Hasil penelitian menemukan bahwa meskipun Pasal 33 UUD 1945 menjadi dasar pengaturan SCF Syari'ah, industri ini tidak diatur secara khusus oleh undang-undang. Sebagai gantinya, Otoritas Jasa Keuangan menerbitkan POJK No. 57/2020 berdasarkan UU No. 21/2011. Namun, ke depan, industri SCF Syari'ah harus diatur dengan undang-undang untuk memberikan kepastian dan perlindungan hukum yang maksimal bagi pengguna atau konsumen.

Kata Kunci: *Regulasi; Securities Crowdfunding Syari'ah; Kepatuhan Syari'ah; Perlindungan Hukum.*

Abstract

The Sharia SCF industry is thriving in Indonesia with an increasing number of providers and users, but it is also very high risk. To establish trust and ensure investment security, a strong legal framework is needed. This study uses a statutory approach to examine the legal regulatory framework for Sharia SCF. The research found that while Article 33 of the 1945 Constitution forms the basis of Sharia SCF regulations, the industry is not specifically regulated by law. Instead, the Financial Services Authority issued POJK No. 57/2020 based on Law No. 21/2011. However, in the future, the Sharia SCF industry must be regulated by law to provide maximum legal certainty and protection for users or consumers.

Keywords: Regulation; Sharia Securities Crowdfunding; Sharia Compliance; Legal Protection.

A. Introduction

Securities crowdfunding (SCF) is a source of funding that has increased from year to year. In 2018, the number of SCF service providers was only two platforms, but a year later, or in 2019, to be precise, the number of providers increased one hundred percent to 4 providers and lasted until 2020. In 2021, the number of SCF service providers increased by three platforms until the end of 2021 recorded seven platforms. Based on the records of the Indonesian Crowdfunding Services Association (ALUDI), the only association whose existence is

¹ Article written based on independent research in 2022.

determined by the Financial Services Authority, as of November 2022, 11 SCF operators had obtained operational licenses from the Financial Services Authority, and 22 verified SCF operators (ALUDI, 2022a). The number of investors in SCF services from year to year has also increased. If in 2018, the number of investors was only 1,380 entities, two years later, or in 2021 to be exact, the number of investors will reach 93,733. In June 2022, the number of SCF investors again increased to 111,351 entities (Rahardyan, 2022).

The growth of SCF is also demonstrated by the increasing number of small, micro, and medium enterprises issuing securities and the number of funds channeled by SCF organizers to companies offering these securities. Based on data from the Financial Services Authority, in 2018 the number of issuers was only 14 micro, small and medium companies. Two years later, it increased sharply to 195, and in June 2022, there were 237 micro, small, and medium enterprises issued securities. Funds from investors disbursed by SCF service providers have also increased well from year to year (Atmoko, 2022). In 2018, funds disbursed by organizers were only at IDR 6.47 billion; two years later gained IDR 184.90 billion; and in June 2022, funds distributed by SCF organizers to micro, small, and medium enterprises as securities issuers increased to IDR 548.35 billion (ALUDI, 2022b).

There are two kinds of models used by SCF service providers in Indonesia in carrying out their service operations, namely, a conventional economic system that tends to be capitalistic and an Islamic economic system (Shaid, 2022). SCF that uses the Islamic Economic system is better known as Sharia crowdfunding securities or Sharia SCF. In terminology, Sharia SCF is an offering of securities in the form of shares or Sukuk made by issuers through an electronic system to investors through a platform provided by SCF service providers (Majid and Nugraha, 2022). SCF service providers must obey Islamic law principles that apply to economic activities in carrying out their business activities as part of the Sharia economic system. These principles include not containing gambling, fraud, usury, abuse, bribery, illicit goods, and immorality (Noor et al., 2022).

The existence of Sharia SCF in Indonesia is remarkable by the emergence of PT. Shafiq Digital Indonesia (Shafiq) and PT. LBS Crowdfunding (LBS Crowdfunding) is an SCF service provider that provides an unusual platform to offer Sharia-compliant bonds and shares. Shafiq and LBS Crowdfunding are Sharia SCF service providers that have obtained licensed status, while seven other organizers are applying for licenses from the Financial Services Authority. The seven Sharia SCF organizing platforms in the process of applying for authorization are PT. Urun Bangun Negeri, PT Halalvestor Global Asia, PT Xaham Fintek Equity, PT. Syirkah Dana Investama, PT Amana Karya Technology, PT Kandang Karya Technology, and PT. Alfin Digital Indonesia (ALUDI, 2022a). SCF organizers are applying for a license with the Financial Services Authority and may not raise funds. Thus, Shafiq and IBS Crowdfunding are Sharia SCF service providers that can carry out business activities such as raising funds by offering securities from micro, small, and medium-sized business actors in Indonesia to investors interested in purchasing shares or Sukuk offered.

Sharia SCF as part of the Islamic finance industry contributes to the gross domestic product of 29% of the capital market sector, in the last five years, which reached 647%, or 91,703 investors, was able to drive an increase in volume in Sharia SCF transactions. In 2021, Sharia SCF managed to raise IDR 8.83 billion in funds, of which IDR 4.49 billion was fully funded, and the remaining IDR 4.34 billion is still in the funding process (Duniafintech.com, 2022). Shafiq, as one of the Sharia SCF organizers, will have been able to channel IDR 100 billion in funding to micro, small, and medium entrepreneurs by 2022 (Nurfitriyani, 2022). This achievement makes Shafiq the only Sharia-certified SCF organizer who has successfully facilitated fundraising based on shares and sukuk for micro and small enterprises.

The development of the Sharia SCF requires mature regulations so that its existence as an instrument that facilitates micro, small, and medium business actors in accessing funding

through the issuance of securities does not harm service users or the organizers themselves. Fundraising through SCF is high risk because most of the issuers are start-up businesses that do not have sufficient collateral and do not have a guarantee of repayment if they fail to pay (Alhammad, AlOthman, and Tan, 2021). Several risks can befall the parties (SCF service providers, investors, and securities issuers) in the Sharia SCF service, including; investment risk, electronic failure, scarcity of dividend distribution, and default on Sukuk securities (Soemarsono and Sofianti, 2021). Legality is needed to guarantee the existence of SCF to create trust among service users and assurance of the funds invested (Pratami, Danarahmanto, Nugraha, and Sari, 2022). Failure to protect the parties in Sharia SCF services will result in an economic crisis and an effect on economic stability (Astuti, Suhariningsih, Sukarmin, and Hamidah, 2021). For this reason, regulations are needed to protect providers and users of Sharia SCF services in Indonesia because the absence of rules that guarantee legal certainty will weaken the protection of the parties in the Sharia SCF service.

This research will examine the regulatory framework for Sharia SCF in Indonesia, especially service operations and the protection of parties, as well as assurances of Sharia compliance in Sharia SCF services in Indonesia. This regulatory framework is significant to research because Indonesia is lagging in creating a legal framework for digital transformation (Muryanto, Kharisma, and Ciptorukmi Nugraheni, 2022). In financial technology, regulation is more important in supporting the growth and development of financial technology (Kowalewski and Pisany, 2022). Fintech will not be as effective as it can be if the regulatory framework does not adequately support them (Aulia, Yustiardi, and Permatasari, 2020). One of the things that must exist in fintech regulations that apply Sharia principles is assurance that their operations are under Sharia principles and protection for service users as consumers (Noor et al., 2021). For this reason, the regulatory framework in Indonesia must be able to accommodate the existence and operation of a Sharia SCF, provide protection for service users, and ensure Sharia compliance. A vigorous regulatory framework enhances sharia SCF as a source of funding that can be utilized by micro, small, and medium enterprises to realize just social welfare based on the principle of kinship under Pancasila and the Constitution of the Republic of Indonesia of 1945.

B. Research Method

This study is part of qualitative research that is classified as doctrinal research using a statutory regulation approach which aims to provide a structured explanation of a norm governing a particular field of law (Tan, 2021). The data source comes from secondary data including primary legal materials in the form of laws and regulations and secondary data contained in journals in the form of articles and other written works (Budianto, 2020). Data collection techniques by conducting document studies. The data obtained was analyzed qualitatively by describing the data in detail, completely and systematically.

C. Result and Discussion

The increasing development of the Sharia SCF in Indonesia requires a regulatory framework that can accommodate the existence of the Sharia SCF and its operations and provide protection for stakeholders, especially those directly related to it, such as Sharia SCF service providers, investors, and securities issuers. In terminological terms, the legal regulatory framework is the rules, ordinances, directives, regulatory policies, guidelines, recommendations, and procedures issued by the authorities from time to time, including any amendments made to them (Insider, 2022). The regulatory framework can also be defined as the rules, rights, and obligations of businesses, governments, and citizens set out in legal documents. These legal documents include the constitution, laws, regulations, and related treaties (Natural Resource Government Institute, 2015). Based on this understanding, the regulatory framework for Sharia SCF in this study

includes the constitutional basis and laws and regulations related to Sharia SCF, both in the form of legal and technical rules governing Sharia SCF, such as the POJK.

Sharia SCF, as a financial service based on information technology, requires a "smart" regulatory framework. Several fundamental criteria serve as guidelines for measuring smart regulation, namely protecting constituents, developing in response to advances in science, technology, and the global market, and involving the private sector in their formulation to protect the public interest (Ekatjahjana, Hauerstein, and Heilmann, 2019). These smart regulations will help SCF grow as a source of funding for micro, small, and medium enterprises. However, these "smart" regulations must have a vigorous legal basis that regulates basic norms and becomes a reference for the rules under them (Apendi, 2021). These basic norms are the state constitution which is explained in the law.

1. Regulatory of Sharia Securities Crowdfunding in the Constitution and Laws

The state constitution is the main law, which guides the legislature in drafting regulations that will apply to all levels of society in the country (Basuki, 2019). In Indonesia, the country's constitution is externalist in the Constitution of the Republic of Indonesia 1945. For this reason, all regulations that apply in Indonesia must not conflict with the 1945 Constitution, which contains basic principles in the administration of the state, including financial and economic activities such as the Sharia SCF. The Constitution of 1945, besides functioning as a political, social, and legal constitution, is also an economic constitution, which contains the basic norms of economic policy that are binding on the government and society (Harvelian, 2016). The position of the 1945 Constitution as an economic constitution is seen in Chapter XIV entitled "National Economy and Social Welfare." The 1945 Constitution is the highest law and policy in the economic field (Asshiddiqie, 2008). Economic policies in the 1945 Constitution are the aspirations of the national economy to achieve a prosperous, just, and prosperous society based on respect for people's economic rights to develop economic activities that can improve their welfare.

Normatively, the philosophical and juridical basis for community economic activities in the Constitution of 1945 is contained in Article 33 paragraphs 1 and 4. However, the provisions of this Article may not be understood partially but must be elaborated consistently with the goals of the state, namely a just, prosperous, and prosperous society. Understanding how to link the provisions of Article 33 of the Constitution of 1945 with the goals of the state will result in the conception that Sharia SCF as an investment instrument and a source of funding for micro, and small enterprises can encourage community economic activities through job creation, increased income, and fulfillment of community needs (Nelly, Harianto, Majid, Marliyah, and Handayani, 2022). SCF, as part of the Sharia crowdfunding, can increase access to capital, improve the welfare of entrepreneurs, and grow the national economy. SCF is also able to have a positive effect on small and medium enterprises by encouraging people to become entrepreneurs by utilizing the funding provided by Sharia SCF (Faudzi, Bakar, and Ahmad, 2021). Microbusiness development through SCF can create social welfare for all communities and business actors (Hakim, 2022).

The role of Sharia SCF in developing micro, and small enterprises and the concrete manifestation of the people's economy, which has implications for the people's welfare, has a vigorous legal basis because it is listed by Article 33 of the Constitution of 1945, which is based with Pancasila. Thus, the Sharia SCF as a form of economic activity from, by, and for the community has a legal basis in the constitution, especially Article 33 as the basis of populist economic activity based on kinship and economic democracy. However, Article 33 of the Constitution of 1945 has not been followed up with a law governing the existence of the Sharia SCF.

Sharia SCF is a form of funding service offered via electronic fundraising and paid for in the form of stocks, bonds, or Sukuk (Financial Services Authority, 2022). Compensating funding in stocks, bonds, and Sukuk makes Sharia SCF similar to fundraising through the capital market. In Article 1 Point 13, Law No. 8 of 1995 concerning Capital Market stated that the capital market is an activity involving public offerings and securities trading, public companies issuing securities, and securities-related institutions and professions. According to this understanding, the Sharia SCF platform and the capital market share similarities as institutions that facilitate securities offerings. However, the Capital Market Law does not stipulate a fundraising model whose mechanism is carried out in the Sharia SCF.

2. Regulatory of Sharia Securities Crowdfunding in Financial Services Authorities Regulation

Referring to Law No. 21 of 2011, the Financial Services Authority (OJK) is a state institution that has the authority to regulate the financial services industry, including Sharia Securities Crowdfunding (SCF). In 2012, crowdfunding began to grow in Indonesia, both for-profit and non-profit (Wirawan, 2019). Non-profit crowdfunding is engaged in the health and education sectors, while those that are for-profit are based on crowdfunding (peer-to-peer lending). The growth of crowdfunding widened into equity-based fundraising, called equity crowdfunding (ECF). The increasing need for funding for micro, and small enterprises has prompted the OJK to expand the scope of offering securities in ECF services, not only based on equity but also expanding into bonds and Sukuk. For this reason, the OJK issued POJK No. 57/POJK.04/2020 (hereinafter referred to as POJK 57/2020), which replaces POJK No. 37/POJK.04/2018.

Along with the development and growth of SCF and the need to make adjustments to fulfilling obligations for private electronic system operators for registration purposes at the Ministry of Communication and Informatics as stipulated in Government Regulation No. 71 2019 and Minister of Communication and Information Regulation No. 5 2020, and to create legal certainty, the OJK made changes to POJK No. 57/2020 with POJK No. 16/POJK.04/2021. POJK No. 16/POJK.04/2021 made several changes to POJK No. 57/2020 in the form of deleting article provisions and adding new article provisions, as shown in Table 1.

Table 1.
Addition and Reduction of Articles in POJK No. 57/2020 and POJK No. 16/POJK.04/2021

POJK No. 57/POJK.04/2020	POJK No. 16/POJK.04/2021
Article 6	Deleted
The Administrator as referred to in Article 5 must be registered as the Operator of Electronic Systems in ministries that carry out government affairs in the field of communication and informatics.	
Article 13 paragraph 1 consists of letters a, b, c, d, e, f, g, h, i, j, k, l, m, n, o, p, q.	The provisions of Article 13 paragraph 1 letter e are deleted
There are no provisions in Article 15A	Adding to the Provisions of Article 15A
There are no sanctions for violations of Article 15A	Article provisions that can be subject to sanctions if violated as contained in Article 85 paragraph 1 increase by 1 article namely if it violates Article 15A paragraphs (1) and (2).
There is no Article II	Adding Article II numbers (1) and (2)

Source: Data Processed, 2022

Based on Table 1, Articles 6 and 13 (1) letter e of POJK No.57/POJK.04/2020 are deleted by POJK No. 16/POJK.04/2021. Both Articles relate to the requirement for SCF service providers to be registered as electronic system providers with the Ministry responsible for communications and informatics and to attach the registration mark when applying for a license with the Financial Services Authority. The removal of Articles 6 and 13 (1) certainly weakens the position of service users because it opens up opportunities for illegal SCF service providers. However, the rule that stipulates the requirement for SCF service providers to register as electronic system providers is then added in Article 15 A of POJK No. 16/POJK.04/2021 and at the same time includes sanctions for providers who do not violate it.

Based on Table 1, it appears that there are several provisions in the articles of POJK No. 57/2020. The two Financial Services Authority Regulations are the legal basis for SCF in Indonesia. Besides regulating the existence of conventional SCF, the regulation in the form of the Financial Services Authority Regulation also arranges the implementation of SCF, which is subject to the Islamic law principles, or Sharia SCF. The unification of "conventional" and Sharia SCF in one regulation results in less detailed Sharia SCF regulations, such as not containing the provisions of the article governing what contracts are used as the basis for the legal relationship of the parties involved in Sharia SCF services (securities issuers, investors, and sharia SCF service providers).

In terms of establishing a business entity that provides Sharia SCF services, the requirements are no different from those for conventional SCF. Regarding the requirements for establishing a business entity that provides Sharia SCF services, the operator must meet several requirements as stated in Articles 5–14 of POJK No. 57/2020. Meanwhile, the requirements for issuers and investors must meet the provisions stipulated in Articles 46–55 and Articles 56–58. Apart from having to meet the requirements stipulated in Article 5-14, institutionally, Sharia SCF service providers must have articles of association that do not conflict with Sharia principles and have a Sharia supervisory board that has obtained a license as a capital market Sharia expert, provided by the Financial Services Authority. Another requirement that must be met by the implementation of Sharia SCF services is the obligation for the organizer to only use an escrow account from a Sharia bank as a holding account for funds originating from investors to be forwarded to the issuer of Sharia securities.

3. Regulatory of Sharia Compliance in Sharia Securities Crowdfunding

In Sharia business, every financial institution that declares itself a Sharia financial institution must provide guarantees to service users that the financing process carried out is under Sharia principles or Sharia compliance (Noor and Heradhyaksa, 2020). Sharia compliance is a primary element that differentiates conventional crowdfunding securities from Sharia. Sharia compliance is a series of actions by managers to ensure that policies, regulations, systems, procedures, and business activities carried out by SCF are under Sharia principles. Law No. 21 of 2008 concerning Sharia Banking states that Sharia principles are principles based on Islamic law based on the fatwa of the institution authorized to issue fatwas, namely the National Sharia Council of the Indonesian Ulema Council. Among the Sharia principles in financial institutions, including Sharia SCF services, is the rule that in Sharia business there can be no elements of usury, *gharar*, or gambling, and *halal* entity (Widyastuti, Febrian, Sutisna, and Fitrijanti, 2020). In addition to these principles, Sharia economic activities must uphold the principle of justice with no persecution or fraud in economic activities and be oriented towards the universal benefit by paying attention to the interests of the community and not just looking for profit.

Sharia compliance refers to compliance with Islamic law or Sharia, which is practical through a combination of two criteria, namely qualitative and quantitative criteria (Cheong, 2021). Qualitative criteria emphasize business involvement that is restricted in Islam or haram, such as businesses related to alcohol, pork, financial services that contain usury, or other

prohibited things. Meanwhile, quantitative criteria generally observe the interest income, debt, and company receivables, following the Islamic prohibition against usury (interest) and *gharar* (risk). If a company has met the qualitative and quantitative criteria, it is considered to be following Sharia. These Sharia principles must be guidelines in designing products, instruments, businesses, operations, and transactions in Sharia SCF and other activities.

It is critical to pay attention to Sharia compliance by service providers when implementing the Sharia SCF so that the existence of the Sharia SCF gains the trust of the Muslim community as the majority population that is attempting to comply with Sharia principles as the implementation of Islamic teachings in the economic field. In addition to the trust of the public, another benefit of Sharia compliance is the increase in Sharia SCF market share as a fundraising tool that is urgent by micro, small, and medium enterprises. The increase in market share obtains because the organizers of the Sharia SCF gained the trust of an institution that complies with Sharia principles. Sharia compliance is also part of the risk management framework for its existence as a financial institution that adheres to Sharia principles (Kusumaningrum, Yusrifal, Mumtazah, and Fuad, 2021). The importance of Sharia compliance in the Sharia SCF makes it a part of the corporate governance structured and determined by the Islamic Financial Service Board (IFSB) as stated in principle 3.1 that Islamic financial institutions must create an appropriate mechanism to ensure compliance with Sharia principles (IFSB, 2006).

To ensure Sharia compliance, a Sharia financial institution must establish a Sharia supervisory board, whose primary role is to advise Sharia financial institution directors on Sharia aspects and to provide direction, supervision, and business activities based on Sharia principles. (Prabowo, 2020). Normatively, the establishment of a Sharia supervisory board for Islamic financial institutions, including the Sharia SCF, is an order from Article 109 of Law No. 40 of 2007 concerning limited liability companies. Article 109 is the legal basis for the obligation of Sharia SCF service providers to guarantee Sharia compliance for all activities related to the implementation of Sharia SCF. In the POJK No. 57/2020, as amended by POJK No. 37/POJK.04/2021, it does not explicitly require Sharia SCF service providers or issuers to provide guarantees of Sharia compliance. However, Article 13 (1) letter o POJK No. 57/2020 states that in the process of applying for a license to provide Sharia SCF services, a statement designating the party responsible for carrying out supervision related to the fulfillment of Sharia principles must be made.

Securities issuers are also required to demonstrate that they are an entity that upholds the application of Sharia SCF principles. In Article 16 (2), POJK No. 57/2020 states that the issuer of Sharia securities must show the articles of association of the issuer, which state that the activities and types of business and management of their business are brought based on Sharia principles. The issuer of securities is also obliged to show the resolution document of the general meeting of shareholders stating the appointment of the Sharia supervisory board for the company. The obligations of the issuer are listed in Article 16 (2), Article 18 (1), and also in Article 47 (6) POJK No. 57/2020. Based on these articles, Sharia compliance is normatively stipulated in the regulations of the financial services authority, although it is not clearly stated that the operator or the issuer must assure Sharia compliance.

4. Regulatory of Customer Protection in Sharia Securities Crowdfunding

The 1945 Constitution, especially Article 28D Paragraph (1), states that everyone has the right to be guaranteed protection, recognition, fair legal certainty, and equal treatment before the law. This statement is in line with the Maqashid Sharia in Islamic law to protect each individual and the obligation to uphold the law and justice as stipulated in QS al-Maidah; 8. Based on these provisions, the state is obliged to protect its citizens from anything that harms or threatens their physical, mental, or property, including in using Sharia SCF services where the legal relations of the parties (service providers, issuers, and investors) involved in using information technology

facilities are high risk (Wasiuzzaman, 2021). As with any investment, some risks must be borne, such as the risk of bankruptcy, fraud, or unfair practices (Petrov and Emelyanova, 2021). For this reason, SCF requires protection from fraud and losses that can befall the parties involved in these activities (Bell, 2019).

Maximum protection for users of Sharia SCF services requires guidelines and regulations institutionalized by the state that bind Sharia SCF service providers and related parties to comply with these regulations. Samarah and Alkhatib stated that to maintain stability and protect consumers, strong laws and regulations are needed to regulate crowdfunding (Samarah and Alkhatib, 2020). This arrangement is urgent so that consumers can enjoy their rights fairly and effectively. Based on the systematic ordering of laws and regulations in Indonesia contained in Law No. 12 of 2011, which was last amended by Law No. 13 of 2022 concerning the Establishment of Legislation, regulations that are formally in the form of laws are regulations that have a strong position under the 1945 Constitution.

One of the laws that can use as a basis for protecting consumers who use Sharia SCF services is Law No. 8 of 1999 concerning Consumer Protection. Consumer protection in financial technology includes but is not limited to, product liability, privacy rights, unfair business practices, fraud, misrepresentation, and other consumer-related business issues. (Widiyastuti, 2019). In the Consumer Protection Act, articles are related to protecting users of Sharia SCF services (issuers and investors) as consumers, including Article 4 letter c. This article states that consumers have the right to correct, fair, and honest information about the terms and conditions of goods and services. According to the provisions of this article, Sharia SCF service providers are required to provide correct, fair, and honest information about the conditions for the services, as well as an explanation of the procedures for using the platform, including the risks that users of the Sharia SCF services must bear in using the services they provide. The obligation of Sharia SCF service providers to correct, honest, and truthful information about the services they provide to their service users is a mandate of the provisions of Article 7 letter b of the Consumer Protection Act.

To protect Sharia SCF service users, Article 72 of POJK No. 57/2020, as amended by POJK No. 37/POJK.04/2021, states that service providers must apply basic user protection principles such as transparency, fair treatment, reliability, confidentiality, and data security, as well as simple, fast, and affordable resolution of user disputes. To provide maximum legal protection for Sharia SCF service users or consumers, in addition to issuing POJK No. 57/2020, the OJK has also issued several regulations related to the protection of consumers of financial services where Sharia SCF is a part of these financial service institutions. These regulations include POJK No. 31/POJK.07/2020 and POJK No. 18/POJK.07/2018. To provide inexpensive and effective dispute resolution, the Financial Services Authority has also issued POJK No. 1/POJK.07/2014 concerning Alternative Dispute Resolution Institutions in the Financial Services Sector. Alternative dispute resolution in capital markets, among other things, can be done through the Indonesian Capital Market Arbitration Board (BAPMI). These regulations are the legal basis for regulating legal protection to protect users of Sharia SCF services as consumers in Indonesia.

D. Conclusion and Recommendation

The legal regulatory framework of Sharia securities crowdfunding in Indonesia is in Article 33 of the 1945 Constitution as the basis for people's economic activities based on kinship and economic democracy. However, Article 33 of the 1945 Constitution has not followed up with a law governing the existence of the Sharia SCF. Fundraising activities carried out by the Sharia SCF are similar to fundraising through the capital markets, but under Law No. 8 of 1995 concerning the Capital Markets, there is no regulation of the fundraising model as implemented by the Sharia SCF. The legal framework for regulating Sharia SCF in a normative juridical manner is only on POJK No. 57/POJK.04/2020, amended by POJK No. 16/POJK.04/2021

concerning Securities Offerings Through Information Technology-Based Crowdfunding Services. Sharia SCF regulations are integrated with conventional SCF regulations and do not provide provisions regarding the type of Sharia agreement used as the basis for the legal relationship of the parties in the Sharia SCF service. However, in the regulation, the Financial Services Authority has included rules that require Sharia SCF service providers to provide guarantees of Sharia compliance and legal protection for service users or consumers and require issuers to certify that they are Sharia-compliant SCF, service providers. In the future, Sharia SCF regulations must be included in laws or at least regulated in laws and regulations that comprehensively regulate Sharia SCF and have a legal basis in an act so that they can guarantee legal certainty and protection against service users or consumers.

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