



Legal Analysis of the Criminal Offense of Online *Arisan* Investment Fraud

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Abstract

The rapid expansion of digital financial transactions has significantly increased the prevalence of online investment fraud, including fraudulent online *arisan* schemes that exploit public trust through promises of unrealistic returns. Despite the enactment of Indonesia's new Criminal Code, challenges remain regarding the legal interpretation and judicial application of fraud provisions in technology-based financial crimes. This study aims to analyze the *modus operandi* of online *arisan* investment fraud, evaluate the effectiveness of positive criminal law in protecting victims, and examine the legal reasoning employed by judges in Decision Number 47/Pid.B/2025/PN.Cbn. This research employed a qualitative normative juridical approach using a case study design. Primary legal materials consisted of court decisions, the Indonesian Criminal Code, Law Number 1 of 2023 concerning the Criminal Code, and relevant statutory regulations, while secondary materials included scholarly journals, legal doctrines, books, and official publications. Data were collected through document analysis and literature review, and analyzed using statutory, case, and conceptual approaches supported by qualitative thematic analysis. The findings demonstrate that the defendant intentionally employed deception, false promises, and misleading investment offers to unlawfully obtain financial gain from multiple victims. The court concluded that all legal elements of fraud under Article 378 of the Criminal Code had been satisfied, resulting in a conviction supported by comprehensive judicial reasoning grounded in the principles of legal certainty, justice, and evidentiary standards. The study concludes that judicial reasoning plays a crucial role in ensuring effective law enforcement against online investment fraud, while reinforcing legal certainty and strengthening victim protection within Indonesia's evolving digital legal environment.

INTRODUCTION

In today's evolving digital landscape, changes in people's daily lives are rapidly becoming visible. This is reflected in the way people behave, work, and conduct transactions and communications, which are now increasingly carried out online. While technological advances bring many conveniences, they also create opportunities for various forms of crime. This situation is frequently exploited by fraudsters who carry out their actions in increasingly diverse and sophisticated ways. The methods employed are no longer simple but have evolved to adapt to technological developments. According to Alfitra (2014), in a journal entitled "Modus Operandi of Special Crimes Outside Criminal Law: Corruption, Money Laundering, and Human Trafficking," a *modus operandi* is a specific method or technique that characterizes the

manner in which a perpetrator commits a criminal act. This is evident in the rise of investment fraud disguised as illegal online savings and credit schemes.

This phenomenon is deeply concerning, as many people have become unwitting victims. This type of fraud is typically packaged in a convincing manner, making it difficult to distinguish from legitimate financial activities. According to data from the Financial Services Authority (*Otoritas Jasa Keuangan/OJK*), through the Illegal Financial Activities Eradication Task Force (*Satuan Tugas Pemberantasan Aktivitas Keuangan Illegal/Satgas PASTI*) and the Indonesia Anti-Scam Center (IASC), as of June 2025, total losses reached IDR 4.1 trillion, while the total funds blocked on behalf of victims reached IDR 348.3 billion. Approximately 822 reports are received daily, totaling 26,463 per month, representing the financial losses suffered by the public due to online fraud. According to data obtained from interviews with the Cirebon City Police, the trend of online investment fraud has declined since the end of 2023. However, victims continue to experience similar incidents due to insufficient personal vigilance. The development of information technology, particularly across social media and digital platforms, has created significant opportunities for perpetrators to disseminate fraudulent investment offers on a wider scale (Tiwari *et al.* 2020; Dupuis *et al.* 2023; Mukhtar Shah 2025). In this regard, fraud is not a new phenomenon in society, as it occurs frequently and persistently. Fraud will exist in every era and will not disappear; rather, it adapts to changing times (Karpoff 2021; Stapleton 2022). Fraud is understood not only as a legal concept but also as a form of behavior that continuously evolves alongside social and economic change. Whereas fraud was once carried out through relatively simple means such as the use of false identities or direct deception perpetrators have increasingly begun to utilize technology, digital media, and modern communication tools to facilitate their criminal acts (Malin *et al.* 2017; Tundis dan Mühlhäuser 2019).

Indonesia is constitutionally and normatively a state based on law. The establishment of Indonesia as a *negara hukum* (state based on law) represents the primary official position in national legal policy, which provides guidance aimed at ensuring that law plays an active and systemic role in social life (Mulyana, 1986). In examining the provisions on fraud under the Criminal Code (*Kitab Undang-Undang Hukum Pidana/KUHP*), it is important to note that Article 378 of the old *KUHP* has not been abolished but has been reformulated in the new *KUHP*. The old *KUHP* is a legacy of the Dutch colonial era, which means its provisions are no longer fully in harmony with the social, cultural, and technological realities that have developed in Indonesia over time (Holt *et al.* 2022; Ezeji 2024). Furthermore, many provisions in the old *KUHP* lack clear regulation. Accordingly, the renewal of the old *KUHP* into the new *KUHP* is intended to ensure that the criminal law framework remains relevant to the contemporary legal needs of the Indonesian nation. Under the old Criminal Code, fraud is defined in Book II (concerning crimes), Chapter XXV, Article 378, as follows: "*Whoever with the intention of benefiting himself or another person unlawfully, either by using a false name or false condition, either by means of artifice and trickery, or by fabricating false words, creates debt or writes off receivables, is punished for fraud, with a maximum imprisonment of four years.*" The renewed provision is contained in Article 492 of the new Criminal Code, which reaffirms and expands upon the earlier definition: "*Anyone with the intention of benefiting himself or another person unlawfully by using a false name or false position, using trickery or a series of false words, moving people to hand over goods, give debt, make a debt confession, or write off*

receivables, is punished for fraud, with a maximum imprisonment of 4 (four) years or a maximum fine of category V, amounting to Rp500,000,000."

According to qualitative data obtained from interviews with the Cirebon City Police, Article 492 of the new Criminal Code was formulated to provide clearer and broader provisions on fraud than those contained in the old Criminal Code. As a foundational matter, crime constitutes an act that violates the law and contravenes prevailing societal norms, whereas a violation is an act considered by law to disturb public order. While both Article 378 of the old *KUHP* and Article 492 of the new *KUHP* regulate the criminal offense of fraud, the latter introduces notable updates in terms of terminology, scope, and the range of applicable sanctions. Both articles retain the core elements of fraudulent intent namely, the intention to benefit oneself or another party unlawfully through the use of a false name or position, deception, or false statements intended to induce another person to surrender goods or financial benefits. The key distinction lies in the adoption of more precise and accessible legal terminology. For instance, the term "false dignity" (*valsche hoedanigheid*) used in the old *KUHP* has been replaced with "false position," which more clearly describes the act of falsifying one's status or authority. Similarly, the phrase "series of lies" (*reeks van leugens*) has been retained but clarified to mean statements conveyed through speech, whereby the perpetrator persuades or induces the victim to surrender goods or money through false representations. In the context of online *arisan* investment fraud, this typically involves luring victims with promises of large financial returns through what appears to be an *arisan* arrangement, when in fact such returns are fictitious and non-existent. It is also common for perpetrators to use false names, false positions, and false identities to evade detection by victims and law enforcement authorities. Furthermore, the new Criminal Code introduces "making a debt confession" as an explicit consequence of fraud, an act that was not expressly regulated under the old Criminal Code.

In terms of criminal sanctions, the old Criminal Code provides only one form of punishment namely, imprisonment with a maximum term of four years. By contrast, the new Criminal Code not only retains imprisonment as a sanction but also introduces an alternative in the form of a fine not exceeding category V, with a maximum value of Rp500,000,000. In the context of online *arisan* investment fraud, investigators are required to establish at least two pieces of evidence demonstrating that the perpetrator committed an unlawful act by using investor funds or *arisan* proceeds for personal gain without the knowledge of the participants, and that such conduct was carried out deliberately with fraudulent intent. These developments indicate that the criminal sanctions regime under the new Criminal Code is more balanced and flexible, as it no longer treats imprisonment as the sole form of punishment but provides space for the application of varied sanctions proportionate to the degree of culpability and the impact of the criminal act.

Online *arisan* fraud represents a distinctive form of investment fraud in that it simultaneously exploits social trust, community relationships, and digital communication. Unlike conventional fraud, online *arisan* schemes often rely on personal recommendations, social media influence, and promises of extraordinarily high investment returns within a short period of time. Victims generally believe that the scheme operates legitimately because earlier participants initially receive the promised returns, thereby creating an illusion of credibility before the fraudulent system ultimately collapses. This evolving *modus operandi* illustrates

how traditional criminal behavior has adapted to digital environments, requiring legal institutions to reinterpret conventional fraud provisions within modern technological contexts.

Several previous studies have examined fraud and cyber-enabled financial crimes from different perspectives. Byrne and Byrne (2024) discussed the evolution of online scams and emphasized that digital fraud increasingly depends on psychological manipulation rather than technical sophistication. Meanwhile, Rasyid et al. (2025) argued that criminal law reform should continuously adapt to emerging forms of cybercrime through responsive legal policies. Likewise, studies on investment fraud have generally focused on financial regulation, victim protection, or criminal liability without comprehensively analyzing judicial reasoning in individual court decisions. These studies collectively demonstrate the growing academic concern regarding digital financial crimes but provide limited discussion regarding judicial interpretation in specific online *arisan* fraud cases.

Despite the growing body of literature, significant research gaps remain. Existing studies primarily emphasize the characteristics of fraud, preventive regulation, cybercrime policy, or victimology, while relatively limited attention has been devoted to examining how judges evaluate evidence, interpret Article 378 of the Criminal Code, and construct legal reasoning when adjudicating online *arisan* investment fraud cases. Moreover, limited empirical legal research has compared the implementation of the old Criminal Code with the renewed provisions introduced under Law Number 1 of 2023 in practical judicial proceedings. Consequently, the relationship between statutory reform and judicial practice remains insufficiently explored.

This research is therefore increasingly urgent given that online investment fraud continues to evolve more rapidly than legal adaptation and public awareness. Judicial decisions not only determine the criminal responsibility of perpetrators but also shape legal certainty, public confidence, and future law enforcement practice. Examining judicial considerations enables scholars and policymakers to assess whether existing legal provisions adequately respond to increasingly sophisticated fraud mechanisms. Such evaluation is particularly important in view of the fact that digital financial crimes frequently involve substantial financial losses affecting numerous victims across different regions.

The novelty of this research lies in its integrated analysis of online *arisan* investment fraud through a normative juridical perspective combined with an in-depth examination of the judicial reasoning contained in Decision Number 47/Pid.B/2025/PN.Cbn. Unlike previous studies that primarily investigate fraud from regulatory or criminological perspectives, this research specifically evaluates how judges interpret the legal elements of fraud, assess evidentiary standards, apply theories of criminal responsibility, and balance the principles of legal certainty, justice, and societal benefit in sentencing. This integrated approach provides a more comprehensive understanding of contemporary fraud adjudication within Indonesia's evolving criminal justice system.

Based on these considerations, this research aims to analyze the *modus operandi* employed by perpetrators of online *arisan* investment fraud, evaluate the effectiveness of positive criminal law in protecting victims, and examine the judicial considerations underlying the application of Article 378 of the Criminal Code in Decision Number 47/Pid.B/2025/PN.Cbn. Through these objectives, the study seeks to clarify how legal

principles are translated into judicial practice when addressing technology-enabled financial crimes.

Theoretically, this research is expected to contribute to the development of criminal law, cyber law, and judicial studies by enriching academic discourse concerning the interpretation of fraud offenses within digital environments. Practically, the findings are anticipated to serve as a valuable reference for judges, prosecutors, investigators, legal practitioners, policymakers, and financial regulators in strengthening law enforcement strategies against online investment fraud. The research may also contribute to the improvement of legal policies concerning digital financial crime prevention and victim protection in Indonesia.

Ultimately, this study is expected to yield both academic and practical benefits. Academically, it expands the literature concerning judicial reasoning and the implementation of criminal law in addressing online financial fraud. Practically, it provides recommendations for improving legal certainty, enhancing judicial consistency, and strengthening public protection against fraudulent online investment schemes. The findings are also expected to raise public awareness regarding the legal risks associated with online *arisan* investments while supporting future criminal law reforms capable of responding effectively to continuously evolving digital financial crimes.

METHOD

This research employed a normative juridical legal research design using a qualitative case study approach to examine the legal analysis of the criminal offense of online *arisan* investment fraud, with particular emphasis on the judicial reasoning in Decision Number 47/Pid.B/2025/PN.Cbn. The population of this research comprised Indonesian legal norms governing fraud, judicial decisions concerning online investment fraud, statutory regulations, and relevant legal doctrines related to criminal law and cyber-enabled financial crimes. The research sample was selected purposively, consisting of Decision Number 47/Pid.B/2025/PN.Cbn as the principal case, Article 378 of the former Indonesian Criminal Code (*Kitab Undang-Undang Hukum Pidana/KUHP*), Article 492 of Law Number 1 of 2023 concerning the Criminal Code, Law Number 8 of 1981 concerning Criminal Procedure Law (*Kitab Undang-Undang Hukum Acara Pidana/KUHAP*), and supporting legal literature, journal articles indexed in Google Scholar and Scopus, official government publications, and court documents relevant to online investment fraud. Purposive sampling was employed because these legal materials directly addressed the research objectives and provided authoritative sources for comprehensive legal interpretation.

The primary research instrument was the researcher, supported by a legal document review matrix and structured document analysis sheets designed to classify statutory provisions, judicial considerations, legal principles, evidentiary evaluation, and scholarly opinions. As this study relied exclusively on documentary legal materials rather than survey or experimental data, conventional statistical validity and reliability testing was not applicable. Instead, the credibility, dependability, and trustworthiness of the findings were ensured through source triangulation, consistency of legal interpretation, document cross-verification, and peer-reviewed academic references. Data were collected through an extensive literature review, statutory analysis, examination of court decisions, and document analysis of primary, secondary, and tertiary legal materials. The research procedure consisted of identifying the

legal issues, collecting relevant legal documents, classifying applicable statutory provisions and judicial decisions, comparing legal doctrines with judicial reasoning, synthesizing findings, and drawing legal conclusions regarding the application of fraud provisions in online *arisan* investment cases.

The collected legal materials were systematically organized and analyzed using NVivo 15 to facilitate qualitative coding, thematic classification, word frequency analysis, conceptual mapping, and visualization of relationships among legal concepts and judicial considerations. Data analysis followed an interactive qualitative model involving data reduction, data organization, thematic coding, legal interpretation, pattern identification, comparative analysis, and conclusion drawing. The statutory approach, case approach, and conceptual approach were integrated throughout the analysis to examine the consistency between legislative provisions, judicial interpretation, and the criminal law principles governing online investment fraud. This comprehensive analytical framework enabled the research to critically evaluate judicial reasoning, assess the effectiveness of existing legal provisions, and formulate recommendations for strengthening legal certainty and improving law enforcement against technology-based financial crimes in Indonesia.

RESULTS AND DISCUSSION

3.1 The Judge's Legal Reasoning in the Online Arisan Fraud Criminal Decision Based on Decision No. 47/Pid.B/2025/PN.CBN

A verdict is a manifestation of the judge's wisdom and justice. Here, the judge serves as the crown jewel because it is from there that a judge's honor, authority, and quality are measured. Therefore, judges are expected to render decisions based on the law, conscience, and a sense of justice for every Indonesian citizen. Therefore, a verdict cannot be merely formal and legalistic. Rather, it must be based on justice, benefit, and certainty by considering facts and evidence. The Judge's Deliberation is the stage where a group of judges analyzes and evaluates what was obtained during the trial process, including the contents of the accusation, the demands of the public prosecutor, and the arguments supporting or rebutting the Defendant's case. This evaluation is based on law, both formally and substantively, through the submission of evidence and defense notes. In this section, the judge lists the laws that serve as references in the sentencing decision (H, 2023). The case's position and the verdict issued by the Panel of Judges have examined and tried the criminal case using the ordinary examination procedure at first instance, no. 47/Pid.B/2025/PN.CBN.

Online Investment or Deposit Fund Program which started in 2015. And it can be produced in the LA case, the Panel of Judges gave a criminal verdict to the Defendant, namely, imprisonment for 1 (one) year and 2 (two) months. Namely, the Defendant's actions as regulated in accordance with Article 378 of the Criminal Code. The Defendant was proven to have committed the First Alternative Charge. Alternative Charges are charges in several forms of criminal acts that exclude each other, the judge needs to prove one of the charges that best suits the evidence at trial. With the following elements:

1. Whoever, that referred to in the Element of Whoever is a legal subject accused as the perpetrator (*dader*) of a criminal act. Here is LA as the Defendant. During the trial, a person who committed the crime was presented and proven to admit and confirm his identity,

strengthened by the presence of witnesses and legal facts revealed during the trial. With the identity of the Defendant LA as the person who committed the crime.

2. With the intention to benefit oneself or others unlawfully. The meaning of "to benefit oneself or others unlawfully" is the element of intention to carry out an act that is prohibited and desired by the perpetrator himself and is understood to be intended to harm someone who on the other hand benefits himself or others. That in the element of intention (*opzettelijke*) which in general includes the meaning of the terms willing (*willen*) and knowing (*welens*), in the sense that the perpetrator indeed wants the unlawful act and knows the consequences that arise from the act. Based on the facts, Witness AAL and Witness DWGN were victims and were attracted to the Defendant's status post on WhatsApp, on November 23, 2023 with the text: " *December 1, Admin 50, 5 million-5,500, 10 million-11 million and the Defendant had made a WhatsApp status on the date the contents offered a "deposit funds " program with a promise of 10% profit in just 1 week.* From there, Witness AAL and Witness DWGN became interested in joining.

Witness AAL even had the chance to ask directly over the phone to confirm. The defendant said that if AAL deposited Rp100,000,000.00, by December 1, 2023, it would return to Rp110,000,000.00 (capital + 10% profit). Because he had Strong belief in the explanation, AAL finally gave the money to the Defendant. However, on the promised date, it turned out that the Defendant did not keep his promise. The money that should have been returned Rp. 110,000,000.00 was not paid in full. The Defendant only managed to transfer Rp. 20,000,000.00 to AAL's account. The remaining Rp. 80,000,000.00 is unclear and has not been paid until now. In essence, the victim initially believed because he was promised quick profits, but it turned out that the Defendant did not fulfill his promise, so the victim suffered a huge loss.

On November 22, 2023, Witness DWGN transferred Rp5 million to the Defendant's account to participate in the deposit program. From the beginning, the Defendant had promised that the money would be returned on December 1, 2023, with a 10% profit, so the total would be Rp5.5 million. Initially, the Witness believed the promise. However, after the promised date passed, it turned out that the money was not returned. The Witness had tried to collect the Defendant's debt, but there was no clarity and the payment was also not made. Because he felt there was no good faith, finally on Sunday, December 3, 2023, at around 5:30 PM WIB, the Witness went directly to the Defendant's house to collect. However, when he arrived there, the Witness saw that many other people had also come with the same goal, namely to collect their money which had also not been returned by the Defendant. From there, the Witness began to realize that this was not only him who experienced this, but many other victims as well. Seeing this situation, the witness immediately concluded that he had become a victim of fraud perpetrated by the Defendant. According to the bank witness's statement, it was true that there was a transfer of IDR 100 million on November 23, 2023, from AAL to the Defendant's account, and the transaction was valid and recorded in the account statement. From the Defendant's own admission, his financial condition at that time was already problematic. Many members who were supposed to pay did not pay, while those who borrowed or contributed funds increased. As a result, when the maturity date of December 1, 2023, the Defendant did not have enough money to return the capital and profits to the victims, including Victim Witnesses AAL and

DWGN. Even to this day, the money has not been returned, and many other victims still experience the same situation. As a result of these actions, AAL suffered a loss of IDR 80 million and DWGN IDR 5 million, while the Defendant actually profited from these actions. Based on all these facts, the judge considered that the element of "unlawfully benefiting oneself" had been fulfilled. Furthermore, because the element of fraud is alternative (it can involve a false name, trickery, or a series of lies), only one of them is sufficient to satisfy this element. This means that the legal panel does not have to prove all elements simultaneously, but only the strongest one (Harahap, 2019).

3. By using a false name or false circumstances, by deception or a series of lies. That if these elements are alternative, then if one is fulfilled then the other elements are considered to be fulfilled as well.
4. Moving others to hand over something, in order to give credit or write off receivables. The purpose of this element is the Defendant's actions, victims such as AAL and DWGN were influenced and finally handed over their money to the Defendant. Therefore, the element of "persuading or moving others to hand over something" is considered to have been fulfilled. So, all elements in Article 378 of the Criminal Code regarding fraud are complete. Finally, the judge concluded that the Defendant was legally and convincingly proven to have committed the crime of fraud according to the indictment. In addition, during the trial, no reason was found that could justify or excuse his actions, so the Defendant must still be responsible for what he had done.

By obtaining the submission of evidence by the Public Prosecutor in the form of;

- 1) 1 copy of the bank statement *printout* from BCA account An.AAL for the period of November 2023 amounting to Rp. 100,000.00 transferred to the account in the name of LA with the statement " *Cair 1 Dec* "
- 2) 2 sheets of *printouts of screenshots* of the WhatsApp conversation between AAL and LA, which in essence contained the mechanism for the profits that would be obtained if witness AAL participated in the transfer.
- 3) 1 bundle *print out of* November 2023 bank statement for BCA Bank a/n LA
- 4) 1 sheet of *printout of screenshot results* in the form of a photo taken from the Whatsapp group, namely, " *flat 1 Des* " with the text; December 1, Adm 50.5 million = 5,500, 10 million = 11 million"
- 5) 1 bundle *print out of* December 2023 bank statement for BCA Bank a/n LA
- 6) 1 unit of iPhone Xs Max 512 GB cellphone, which contains the Whatsapp application and the My BCA and M-BCA applications.

In sentencing the Defendant, the Panel of Judges needs to first consider the aggravating and mitigating circumstances for the Defendant; This is in line with the opinion that alternative fraud does not need to be proven in its entirety, but rather one of the strongest elements proven based on trial facts and valid evidence (Arahman & Harmono, 2020). The judge's consideration is a very important part of a decision because it determines whether the decision is fair, provides legal certainty, and is beneficial to the parties involved. Therefore, the judge must consider the case carefully and thoroughly. If the consideration is inappropriate or not careful, the decision can be overturned by a higher court, such as the High Court or the Supreme Court. In addition, in sentencing, the judge must pay attention to the good and bad nature of the defendant (Sudarto, 2018). Aggravating circumstances include; The Defendant's actions harmed Witness

AAL and Witness DWGN, as a result of the Defendant's actions there are still several other victims, the Defendant has enjoyed the results, the Defendant has small children. On the other hand, there are mitigating circumstances, namely, the defendant was polite in court, the defendant admitted his mistake, the defendant promised not to repeat it again, the defendant has never been convicted.

This is in line with Philosopher Immanuel Kant, who argued that justice can be achieved if punishment is made solely as an appropriate response to his actions. Noting, according to the Panel of Judges of the Cirebon District Court decided on July 7, 2025, the Defendant fulfilled Article 378 of the Criminal Code and Law Number 8 of 1981 concerning Criminal Procedure Law and other relevant Laws and Regulations. John Rawls also argued that justice must be based on equality and benefits for the public.

CONCLUSION

The results of the research conducted by the researcher indicate that the Panel of Judges' Decision in this case was based on the trial facts, evidence, and mature legal considerations, not merely a legal formality but also a sense of justice. In this case, Defendant LA was proven to have committed fraud through the "trust funds" program or Online Arisan Investment. by promising profits to the victims, so that victims such as AAL and DWGN believed and handed over their money. However, in reality, the Defendant was unable to return the money as promised, and many other victims experienced the same thing. From the facts revealed in the trial, all elements in Article 378 of the Criminal Code have been fulfilled, starting from the presence of a perpetrator (whoever), the intention to benefit oneself unlawfully, the existence of deception or a series of lies, to the act of inducing others to hand over money. Therefore, the Panel of Judges declared the Defendant legally and convincingly proven guilty of committing the crime of fraud. In imposing the sentence, the Panel of Judges also considered both aggravating and mitigating factors. The aggravating factors were the losses suffered by the victim and the number of other victims, while the mitigating factors were the defendant's cooperative attitude, admission of guilt, and prior conviction. Finally, based on all these considerations, the Panel of Judges at the Cirebon District Court sentenced Defendant LA to 1 year and 2 months in prison. This decision demonstrates the judge's efforts to provide a proportional sentence, one that balances the actions committed, the consequences, and the Defendant's personal circumstances.

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