

Study of Money Laundering and Terrorist Financing Vulnerabilities of Indonesian Equity Crowdfunding Industry



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CHAPTER I INTRODUCTION

A. Backgrounds

Financial services industry as part of the national economy has significantly growth and development which can be seen not only from the number of customer funds stored and/or managed by financial service providers (FSP), but also from the increasing number of financial service industry products, as well as, the number and type of companies that become FSP in providing services in the financial services sector.

The financial services industry that grows and develops after financial technology (fintech) is used in the financial services industry. The use of fintech in the financial services industry in practice has helped to encourage the growth of new financing alternatives for the business world as well as alternative investment media for society. The financial services industry is growing through capital accumulation and technological innovation, which is expected to ultimately increase the investment and accelerate national economic growth. Fintech has become one of the means to mobilize the distribution of funds and provide funds for parties in need based on information technology, through various financial instruments, amid limited funding from the government/country and the banking sector. The existence of fintech makes financial transactions faster and more practical, including financial transactions intended for payments, lending, and borrowing money or building a business activity through a mechanism of collecting funds from the public by compensating for equity participation.

Information technology on fintech can be used to increase financial inclusion in Indonesia. According to a survey by Dailysocial.id (2018), in 2018 70.63 percent of respondents were familiar with fintech, where this data increased significantly compared to 2016 which was only 26.34 percent of respondents who knew fintech. Furthermore, data shows that in 2016 18.46 percent of respondents had used fintech, while in 2018 the data showed that 58.14 percent of respondents had used fintech. It can be concluded that the potential use of information technology in fintech is quite large in encouraging financial inclusion for society in Indonesia.

The development of information technology in the financial services industry has triggered technological innovations that have made it easier for people to access financial products (inclusive). As fintech more advances, the development of financial services is more complex. On the one hand fintech makes it easy for people to access financial products but on the other hand fintech with its various technological innovations in the financial sector, has made

financial products more complex and get a higher the level of risks including the risk of money laundering and terrorism funding.

In this regard, the existence of start-up companies to contribute to the national economy through providing the alternative sources of funding based on information technology needs to be appreciated and supported through a variety of regulatory and supervisory infrastructure tools, which are intended to enable start-up companies continue to grow and develop its business activities and so that start-up companies are not used for money laundering and terrorism fundin. This is important because the complex activities and technology of the financial services industry, which are accompanied by the use of information technology, is very vulnerable to be used as a means of conducting Money Laundering (ML) and Terrorism Funding Criminal Acts (TF) with a variety of modus operandi which more advanced and diverse.

In the financial services industry, one of the technological innovations that can be used by the public is the fund-raising service through an information technology-based share offering or better known as equity crowdfunding. Equity Crowdfunding (ECF) is a share offering service carried out by the issuer to sell shares directly to investors through an open electronic system network. The ECF not only provides the public with access to financial products (inclusive) and makes them media of investment, but also means for those who need funds (issuers) to support their business activities. ECF activities are expected to be utilized by start-up companies to gain the access of funding in the capital market.

Based on the descriptions above and to anticipate the possibility of ECF services being used as means of money laundering, it is necessary for countries and/or providers of ECF services to conduct ML and TF risk assessments. Through ML and TF risk assessments in the ECF industry, it is expected that further steps can be taken to manage and reduce/mitigate ML and TF risks. This is in line with The Financial Action Task Force Recommendation (FATF Recommendation) No. 15 on new technology, which confirms that *“Countries and financial institutions should identify and assess the money laundering or terrorism funding risks that may arise in relation to (a) the development of new products and new business practices, including new delivery mechanisms, and (b) the use of new or developing technologies for both new and pre-existing products. In the case of financial institutions, such a risk assessment should take place prior to the launch of the new products, business practices or the use of new or developing technologies. They should take appropriate measures to manage and mitigate those risks”*.

B. Objectives

The study was prepared with the intent and purpose of providing an understanding of the risks of ML and TF in the ECF industry which is limited to aspects of the level of threats of ML and TF in the ECF industry and the vulnerabilities of the ECF industry against ML and TF. This study is expected to strengthen the application of risk-based anti-money laundering and terrorism funding (ML/TF) programs in the fintech industry, especially the ECF, which can ultimately encourage healthy and strong economic activity.

C. Systematic

The descriptions in this study are grouped into the 5 (five) sections:

1. Chapter I Introduction,
include background issue, problem identification, aim, and systematic writing.
2. Chapter II Methodology,
includes a framework that includes stages of identification, analysis, and evaluation as well as data collection.
3. Chapter III theoretical,
includes understanding crowdfunding, equity-based crowdfunding (ECF), FATF recommendations related to fintech, understanding threats, understanding vulnerabilities, and international best practices.
4. Chapter IV Analysis and Discussion,
Includes the regulation of the ECF Industry in Indonesia, and the threats and vulnerabilities of ML and TF in the ECF Industry in Indonesia.
5. Chapter V Conclusions and Recommendations,
includes conclusions and recommendations of the results of the study
6. References.

CHAPTER II METODOLOGY

A. Framework

In the context of preventing and eradicating ML and TF, understanding the risks of ML and TF is one of the main things for effective prevention and eradication measures. The way to understand ML and TF risk is to conduct ML and TF risk assessment, which based on the FATF Guidelines National Money Laundering and Terrorist Financing Risk Assessment, the risk assessment process is a series of activities as follows:

1. Identification

The identification process is conducted to identify the risks to be analyzed which are based on 3 (three) risk-forming variables, those are threats, vulnerabilities, and consequences by taking the first step, which is to collect data by data types and information that included in category of threats, vulnerabilities, and consequences.

2. Analysis

Analysis is a continuation of the stages of risk identification using the threat, vulnerability and consequences variables. The purpose of the analysis is to analyze the risks identified to understand the characteristics, source, probabilities, and consequences in order to establish the relative value for each risk. The analysis stage contains the process of weighting each risk that has been identified in the previous identification stage.

3. Evaluation

Evaluation is a decision-making process on the results which found during the analysis process to determine priorities in overcoming risks and taking into account the objectives of risk assessment at the beginning of the assessment process. This stage also contributes to the development of strategies for risk mitigation. Evaluation consists of an assessment process for each weight that is produced which is intended to determine the level of risk (high, medium/intermediate, or low) and determine the further stage for each level of risk.

B. Scope

In the context of preventing and eradicating ML/TF, in accordance with FATF recommendations, the one of the important things that needs to be done in order to prevent and eradicate run effectively is understanding the risk of ML/TF itself.

Understanding risk can be done by risk assessed/related industries in the sector. Formulation risk assessment in accordance with guidelines from the *International Monetary Fund* about “*The Fund Staff’s Approach to Conducting National Money Laundering on Financing of Terrorism Risk Assessment*” part 7, that risk is:

$$R = f[(T)(V)] \times C$$

Where:

R = Risk

T = Threat

V = Vulnerability

C = Consequence

In conducting ML and TF risk assessments, there are several aspects that need to be identified, assessed, and analyzed i.e threats, vulnerabilities, and consequence. Mathematically, several parameters that can be used in identifying, assessing, and recognizing these three aspects are as follows:

1. ML and TF Threats

- a. Real Threats that can be further analyzed based on:
 - 1) Number of service users;
 - 2) Number of Suspicious Financial Transaction Reports (LTKM);
 - 3) Number of Analysis Reports (LHA) of the Indonesian Financial Transaction Reports and Analysis Center (INTRAC); and
 - 4) Number of court decisions related to ML and TF.
- b. Potential threats that can be further analyzed based on the perceptions and input of experts, INTRAC, supervisors, as well as, institution in the FSS.

2. Vulnerability of ML and TF

- a. The real vulnerability of FIs that can be further analyzed based on the level of compliance with the AML and CTF program implementation on:
 - 1) Availability of policies and procedures for the implementation of AML and CTF programs;
 - 2) Active oversight of directors and commissioners on the implementation of the AML and CTF programs;
 - 3) Availability of an internal control system;
 - 4) The reliability of the management information system; and
 - 5) Adequacy and capability of human resources in supporting the implementation of AML and CTF programs.

- b. Potential vulnerabilities are further analyzed based on:
 - 1) Self-assessment by institution in the FIs of their level of compliance with the implementation of the AML and CFT programs; and
 - 2) Perception of FIs supervisors.
 3. Consequences of ML and TF
 - a. Real consequence that can be further analyzed based on:
 - 1) The nominal amount of products/services used by service users;
 - 2) Nominal amount related to LTKM;
 - 3) Nominal amount related to transactions indicated by ML and TF in LHA PPATK; and
 - 4) Nominal amount related to ML and TF in the Court Decision file.
 - b. Potential consequence that can be further analyzed based on the perceptions and input of experts PPATK, the FIs supervisor, and industry practitioners in the Financial Sector.

However, in the process of drafting this study, not all parameters in the three aspects can be fulfilled because the data/related information needed is not yet available because of the following matters:

1. ECF is a relatively new industry in Indonesia. During writing this study, only 2 ECF Provider had obtained business licenses from OJK. Therefore, the data/information needed to meet the risk assessment parameters above could not be fulfilled. In addition, until now, there have been no cases of ML and TF that have occurred involving the ECF.
2. The ECF Providers are currently not included in the reporting party. Therefore, the ECF Provider has not been required to submit the LTKM which is the basis for the preparation of the PPATK Analysis Report (LHA).
3. The obligation in implementing the AML and CFT program for the ECF Provider has only begun in 2022. Hence, the authorities have not yet assessed the level of compliance with the AML and TF program implementation by the ECF Providers.

Noting the conditions as mentioned above, this study is limited to the following aspects:

1. Threats

In this study, first of all an analysis will be conducted to map the description of several aspects of the ML and TF threats to the ECF industry which include:

- a. User profile (customer);
- b. Geographical area;
- c. Delivery Channel; and

d. Product.

2. Vulnerability

This study will map the Figure of ECF industry vulnerability to ML and TF, which is based on the following aspects:

- a. Active supervision by the Directors and Board of Commissioners on the implementation of the AML CTF Program;
- b. Availability of Policies and Procedures for Implementing AML CFT Program for Equity Crowdfunding Provider;
- c. Reliability of the Information Management System;
- d. Availability of Internal Control Systems; and
- e. Adequacy and Capability of Human Resources in Supporting the Implementation of AML and CFT Programs;

Furthermore, the methodology of this study is descriptive analysis, which is a method for assessing a condition by giving a description of the object through quantitative and qualitative processing of the data/information that has been collected.

C. Data

This study used both qualitative and quantitative data. The data period used in this study is all the data in 2019. The determination of this period is based on actual and current data and also considers that the data and information this study are sourced from the literature review of OJK regulations relating to the application of the ML/TF program and the ECF industry itself, as well as, international best practice literature from several countries which have developed ECF industry, such as the United States (USA), United Kingdom (UK), Australia, France and Estonia. The selection of these countries as international best practices is not only based on literature studies, but also based on input from ECF providers based on current practices.

Then the questionnaire was distributed to 11 ECF provider companies as respondents who had joined the member of the Indonesian Fintech Association (AFTECH). However, from 11 questionnaires submitted, only 8 ECF provider companies submitted the response to the questionnaire, while the rest (3 companies) did not send back the questionnaire submitted on the grounds that 3 (three) companies did not fill out and did not submit the questionnaire until the time limit specified. Thus, the object of study was 8 (eight) companies.

In addition, in-depth interviews were also conducted with the ECF Task Force whose members cross working unit within the OJK, especially the Capital Market Sector, to obtain information and data related to licensing and supervision practices of ECF industry in Indonesia, and to respondents to conduct deepening questions of their answers on the questionnaires submitted previously.

The study was also complemented and enriched by a Focus Group Discussion (FGD) involving stakeholders related to both the ECF providers and the OJK internal work unit that regulates and oversees ECF implementation activities, and competent resource persons.

CHAPTER III LITERATURE REVIEW

A. The Definition of Crowdfunding

Crowdfunding is basically an alternative method for raising funds through the internet from individuals or organizations that aims to finance the projects, personal or business loans, or other needs. As an informal financing method which the proponent can propose projects or creative ideas to the general public to obtain funding through the internet.

The definition crowdfunding can be seen from several definitions submitted by several experts. Ordanini (2019) defines crowdfunding as a collection of small to medium-term funds from many people for an interest that generally attracts many people.¹ Barette defines crowdfunding as a collective financial approach that allows individuals to pool their resources to fund a project of interest. Lambert and Schwenbacher (2010) stated that crowdfunding as a call, through the internet, in providing funding sources both in the form of donations or with reward mechanisms and/or voting rights, to support an activity that has a specific purpose². The definition of crowdfunding can be seen in Oxford dictionary that crowdfunding is the practice of funding a project or venture by raising money from a large number of people who each of them contribute a relatively small amount, typically via the internet.

Based on the results of IOSCO (2014) research, in practice there are 4 (four) categories of crowdfunding³: there are *social donation crowdfunding*, *crowdfunding reward crowdfunding*, *peer-to-peer lending*, and *equity crowdfunding*. *Social donation crowdfunding* and *reward crowdfunding* generally comes from a certain community crowdfunding. While *peer-to-peer lending*, and *equity crowdfunding* is crowdfunding where the community financier expects the profit, either the form of interest on loans (*peer-to-peer lending*) or the advantage gained of ownership of share Issuer (*equity crowdfunding*).

In general, the working process of crowdfunding platforms consists of 3 (three) stages which include:

1. Choose a platform, which includes:
 - a. Set measurable goals.
 - b. Determine a reasonable time span.

¹ Ordanini, A. (2009), "Crowd funding: customers as investors", *The Wall Street Journal*, 23 March, p. r3.

² Lambert, Thomas & Armin Schwenbacher (2010), "An Empirical Analysis of Crowdfunding", Université catholique de Louvain.

³ IOSCO (2014), *Crowd-funding: An Infant Industry Growing Fast*

- c. Determine the target audience, starting with having a small group of passionate family/friends who want to contribute or invest, promote, and urge others to do the same.
2. Create a fundraising profile by including:
 - a. Short and concise videos about the project;
 - b. Presentation or summary of the project;
 - c. List of benefits for each level of donation/investment; and/or
 - d. Relevant photos or videos.
3. Carry out the promotions/campaigns, including make an interesting-messages as a complement and make the target interested in contributing

Old et.al (2019) in the report with the title *Taking Ownership Community Empowerment through Crowdfunded Investment* explained that the process investment through corwdfunding includes:

1. Pitch

- a. This organization create a project team for crowdfunding and develop the idea on it.
- b. A project needs to show that support to an idea would be the better if there were community supporters that are strong have been built before offer aired). There also needs to be demonstrated how investment will be used and how it will produce income sufficient to provide progress sustainably promised by community groups. If this project increases the investment, so it has to decide the type of instrument investment (e.g public share or bonds), suitable funding, and other supporting institutions and business plan that shows how much surplus (yield) has to distribute to investors.
- c. This group plans a campaign, figure out where of the projects will be chosen, map the potential advocates and how to reach them, and begin to 'warm up' the supporting brand.

2. Screening

Platforms generally have several screening processes to ensure they meet platform criteria (such as simple screening that only allows legal activities, a level of due diligence is carried out by platforms and institutions that relevant to each of the investor communities). If not using a platform, there is no specific examination about product offered for investment, regardless it is on the platform or not, Financial Conduct Authority (FCA) regulations is applied to certain types of investment funding.

3. Pitch goes live

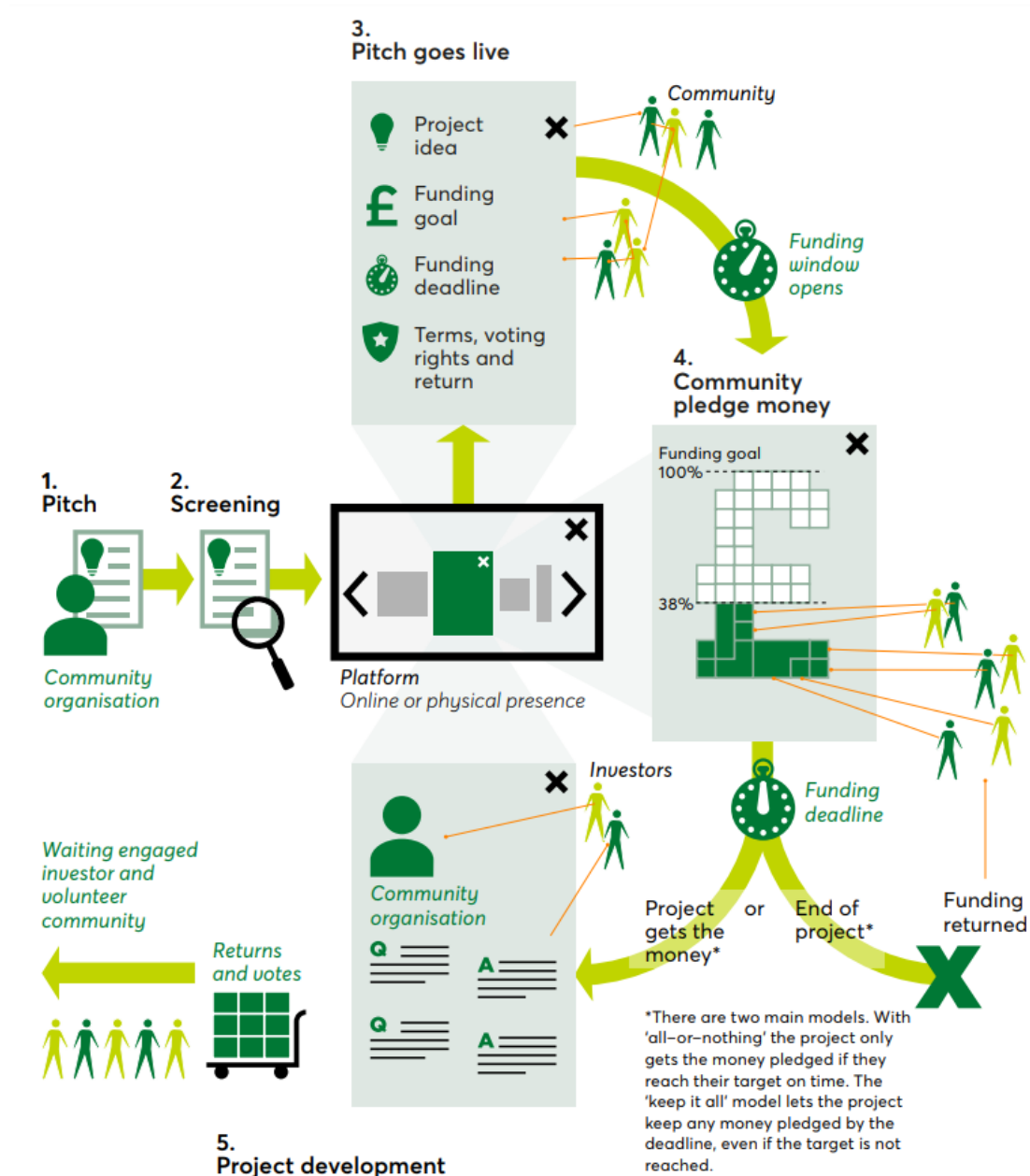
- a. When a project is available on the platform, the community usually has a description of the project (usually accompanied by a video or Figure), funding targets, the time period to reach this target, the number of funds the project has collected, and what investors can expect in return (requirements, votes, interest, etc.).
- b. For projects that do not use a platform, they might still use some digital tools - generally web pages, videos, and content on social media. Physical campaign tools from the offer can be found in the form of meetings, posters, announcements for existing community groups and do home visit in the local area.
- c. The project team needs to develop momentum quickly, not only to convince people that the project is interesting, but also that the project will succeed. Having people who ready to make a commitment as soon as the project starts (or before, ideally) helps give people confidence that the project likely to take place.

4. Community Pledge Money

In the platform model, the offer remains open for a specified time. At the end of this time, there are two possibilities. First, if it is 'Keep It All', then the project only takes the appointed investment if it already has reached the target. Second, if the project model is 'all or nothing', the project will only receive investments that have been appointed to have reached the target (including funding). The platform might be given an extra time if the platform and project have a good potential to do it. Offline campaigns usually have end dates on campaign target, but it will not be too strict compared to the platform. Combination campaigns use online and offline promotion methods during this period, where people can suggest investors toward investment methods depending on their situation.

5. Project Development

Fundraisers use the money that has collected for advance the project (according to the business plan) and any interest or compensation will be given at the point specified in the timeline. However, in community investment, in many cases, democratic opinions emerge in the organization, so that the relationship between the project and investors is maintained beyond the initial fundraising period. How much this involvement will depend on the governance and method of involvement carried out by the organization?



Source: Old et.al (2019)

Figure 1. Crowdfunding Process Mechanism

B. Equity Crowdfunding

In principle, equity crowdfunding (ECF) is financing technology based where investor services can obtain an ownership as reciprocal funding for the commitment from business capital. ECF fintech mediates the funds or capital from retail investors to small and medium business through equity-based mechanism. Information technology that adopts in ECF technology is used for collecting, preparing keeping, processing, announcing, analyzing, and/or spreading information in the field of these financial services. Then, the meant of electronic system is a series of electronic devices and procedures that used for preparing, collecting, processing, analyzing, keeping, showing, announcing, sending, and/or spreading information in the field of these financial services.

ECF resembles the activity of equity investment in general, which individual had an ownership (equity) in an entity as the return of investment. ECF has 2 (two) forms of investment, those are Securities Investment Model and Profit or Revenue Sharing Model. In Securities Investment Model, the investor (both individual and community) buys the company's share by its own mechanism. While in the form of Profit or Revenue-sharing Investment Model, the investor obtains the "shares" (receives profit sharing) from project income or profits and buys "shares" in the company. ECF in the form of Profit or Revenue-sharing Investment Model is often referred to as *Collective Investment Scheme*.

In equity crowdfunding practices, there are 2 (two) parties who has a role, they are:

1. The ECF provider, which provides, manages ,and operates equity crowdfunding.
2. Users of ECF services including issuers and financiers/investors. The issuer is a limited company who offers the share through the ECF provider. While investors are parties who buy the share through the ECF provider.

In carrying out their role, the ECF provider acts as a neutral facilitator for Issuers and financiers/investors. In general, ECF providers only provide electronic platforms to bring issuers and investor together. However, the ECF provider can also provide a value added facilities/services, such as conducting due diligence and financial consulting. The ECF provider collaborates with banks and/or micropayment providers to save the funds that has collected and complete the transactions with both the issuer and the financier investor. The benefit that has obtained by the ECF provider could come from the cost of the total funding received by the issuer, the cost of the total investment per investor; fees for every transaction made by investors, and/or other costs related to other facilities/services provided by the ECF provider.

The ECF has a great potential to contribute in reducing the financing gap in Indonesia by issuing financing (share) budgets for medium and small businesses (SMEs) that have not been able to access other options such as public offerings through the capital market.

Other things that need to be considered in the ECF are risks which risk factors in the ECF can involve share risk, risk of not getting dividends, risk of operational failure of the ECF provider, and asymmetric risk of information and information quality. In terms of money laundering, the ECF has potential risks that are used as money laundering facilities.

C. **FATF Recommendations No 15 about Assessment Risks and Risk Mitigation Money Laundering and/or Terrorist Financing on New Technology**

FATF Recommendation No.15 about New technology affirm that *“Countries and financial institutions should identify and assess the money laundering or terrorism funding risks that may arise in relation to (a) the development of new products and new business practices, including new delivery mechanisms, and (b) the use of new or developing technologies for both new and pre-existing products. In the case of financial institutions, such a risk assessment should take place prior to the launch of the new products, business practices or the use of new or developing technologies. They should take appropriate measures to manage and mitigate those risks”*.

In this case, the ECF is one of the new financial service products that has a distribution mechanism using information technology as the main means of doing business. In this regard, according to FATF Recommendation No. 15, joint countries and industry need to identify, assess and understand ML risks in the ECF industry so that appropriate steps can be taken to manage and mitigate these risks.

FATF fully supports financial innovation that is responsible and in line with FATF standards, and supports the exploration of financial and regulatory technologies opportunities that can improve the effectiveness of the application of Anti-Money Laundering and Preventing Terrorism Financing (ML/TF). This statement was built based on the San Jose Principle discussed by the participants of the 1st FinTech & RegTech FATF Forum held in San Jose on 25 and 26 May 2017 namely:

- ***Fight terrorism financing and money laundering as a common goal.*** Combatting ML deals a significant blow to the many profit-driven criminal activities, while countering terrorism financing limits the capabilities of terrorist groups to prepare or carry out attacks. As stakeholders, we have a shared interest to prevent the misuse of the financial system from the threats of ML and TF, thereby strengthening financial sector integrity and contributing to safety

and security. Only by working together may governments and the private sector effectively achieve these goals.

- **Encourage public and private sector engagement.** Close engagement between governments, the private sector and academia on financial innovations helps to foster a shared understanding of these developments, identify pertinent issues, and facilitates collaboration to address any concerns as they arise.
- **Pursue positive and responsible innovation.** Be on the lookout for innovations that present opportunities to mitigate risks, increase the effectiveness of anti-money laundering and countering the financing of terrorism (AML/CFT) measures, and benefit society in general.
- **Set clear regulatory expectations and smart regulation which address risks as well as allow for innovation.** Better understanding of how existing AML/CFT obligations apply to new technologies, products, services, and new paradigms for the provision of financial services is best achieved by governments and the private sector working together to increase awareness and establish clear guidelines as needed.
- **Fair and consistent regulation.** Aim for a regulatory environment that is commercially neutral, respects the level playing-field and minimizes regulatory inconsistency both domestically and internationally.

FATF has launched a new platform that aims to share various initiatives and developments regarding Financial Technologies (FinTech) which are expected to benefit the financial services sector in various countries, both for the government and Financial Service Providers in each of these countries. By sharing experiences on initiatives owned by various countries, FATF hopes that these experiences can benefit other countries and be an inspiration in responding to the development of innovations in the financial services industry.

D. Threat

The threat is one of the calculations in assessing risk (*International Monetary Fund* regarding “*The Fund Staff’s Approach to Conducting National Money Laundering and Financing of Terrorism Risk Assessment*”). The Financial Action Task Force (FATF) define that *threat is a person or group of people, object or activity with the potential to cause harm to, for example, the state, society, the economy, etc. In the ML/TF context this includes criminals, terrorist groups and their facilitators, their funds, as well as past, present and future ML or TF activities.*

In the *National Risk Assessment (NRA)* dan *Sectoral Risk Assessment (SRA)* Financial services sector, a threat translated as a person or group of people, the object or activity that has the potential causes loss. In the context of laundering on the NRA threat include a felony, and funding the terrorist group. While in the context of the preparation of the SRA this,

financial services sector a threat, include the number of customers the number of reports of suspicious financial transactions (LKTM), the number of the analysis (HA), and the number of judicial decisions relating to a felony money laundering.

E. Vulnerabilities

Vulnerabilities is one of factor to assess the risk (International Monetary Fund regarding “The Fund Staff’s Approach to Conducting National Money Laundering and Financing of Terrorism Risk Assessment”). Vulnerabilities are defined as a population the condition and or a due to circumstances (physical factors , social , economic and environmental) that influential bad for efforts prevention and disaster management (Cambridge Dictionary)

The Financial Action Task Force (FATF) define vulnerabilities as comprises those things that can be exploited by the threat or that may support or facilitate its activities. In the ML/TF risk assessment context, looking at vulnerabilities as distinct from threat means focusing on, for example, the factors that represent weaknesses in AML/CFT systems or controls or certain features of a country. They may also include the features of a particular sector, a financial product or type of service that make them attractive for ML or TF purposes.

Then, in the National Risk Assesment, vulnerabilities are the things that can be used or support threats or can also be called factors that describe the weaknesses of the anti money laundering system in the form of financial products or attractive services for money laundering. Under the NRA ML, vulnerabilities include the vulnerability of the Reporting Party and the vulnerability of law enforcement agency.

Vulnerabilities of the reporter covering the availability of anti-money laundering program management, policies and procedures of anti-money laundering programs, internal supervision of anti-money laundering programs, reliability of information systems of anti-money laundering programs, adequacy and capability of human resources anti-money laundering programs, perception on the issue of anti money laundering program, ability to identify the origin of criminal acts in suspicious financial transactions, and the ratio of the number of suspicious financial transaction reports (LTKM) to the number of customers / users of high risk ML services.

The vulnerability of law enforcement agency includes strategic policies in handling ML cases, the highest management support related to the anti money laundering regime, policies and procedures in handling ML cases, information system reliability in handling ML cases, adequacy and capability of human resources in handling ML cases, supervision internal anti money laundering regime, perceptions of issues related to the handling of ML

cases, percentage of follow-up on the submission of the analysis report and / or examination report to the ML investigator.

Based on risk assessment or more commonly known as the SRA, especially the SRA, financial services sector vulnerabilities refers to things that can be used or supporting a threat or can also called with faktor-faktor who described the weakness of the system anti money laundering and terrorism funding shaped or good financial products or service is interesting and they provide for the purpose of money laundering and terrorism funding. Vulnerability aspects depend on controlling the implementation of AML and CTF programs in the financial services sector, including the availability of policies and procedures for the implementation of AML and CTF programs, active supervision of directors and commissioners on the implementation of the AML and CTF programs, the availability of internal control systems, the reliability of the information system management, and the adequacy and capability of human resources in supporting the implementation of the AML and CTF programs.

F. International Best Practice

1. United States of America (USA)

In the United States, the Jumpstart Our Business Startups Act ("JOBS Act") signed by the US President on April 5, 2012 governs Crowdfunding. The implementing regulations are regulated in the SEC Regulation Crowdfunding, which is a technical arrangement and derivative of the 2012 JOBS Act.

In general, ECF regulations in the United States require due diligence processes for issuers and investors that include background assessments and regulatory checks on issuers, directors who work full-time, promoters, shareholders (especially those holding 20% of equity); business due diligence of startups that do fundraising; ensure that the fundraising undertaken has carried out sufficient socialization to investors that the investment has a risk of loss; ensure that investors who put in capital make investments within the allowed period (max. 1 year for each issuer).

In addition, as one of the prerequisites that must be met, ECF issuers are required to submit direct statement documents to the SEC which include: name, legal status and address of the business, names of directors, providers and key stakeholders, target fundraising, financial statements & other information, business description, ownership structure, capital structure, and the purpose of using fundraising funds.

In addition to issuers, the SEC also set limits on the amount of funds that can be given by investors per 12-month period. This amount adjusts to the total annual income of

investors. If the monthly income or total investor wealth is not more than \$ 107,000, investors can channel up to \$ 2,200. If annual wealth and income equal to or more than \$ 107,000, investors can channel a maximum of 10% of total wealth or annual income (the lowest value and with a limit of \$ 107,000).⁴

The JOBS Act 2012 regulates matters relating to the financing portal / platform and broker-dealers that issuers must use as an intermediary for offering and buying and selling shares. The JOBS Act requires disclosure to offer investors who enter into Crowdfunding exceptions, which require registration of the Crowdfunding portal and state law enforcement. The maximum amount that can be collected by companies under the exception of Crowdfunding is \$ 1 million every 12 (twelve) months. Risks for investors must be disclosed, as regulated by the US Securities and Exchange Commission ("SEC").

The audited financial statements are also required for bids above \$ 500,000 or other limits regulated by the SEC. Promotions that are allowed are promotions that lead investors who are interested in a registered financing portal or broker that will handle the transaction. Crowdfunding companies must prepare annual reports and provide operating and financial reports to investors.

Regulation for crowdfunding in America is as follows:

1. The restriction of the effects of published, which is no more than US\$ 100.000.
2. The restriction of investors who will make an investment:
 - a. to investors with annual revenues under US\$ 100.000, then the limitation of maximum investment is US\$ 2,000 or as much as 5 %.
 - B. to investors with annual revenues of \$US 100,000 or more then the limitation of maximum investment is US\$ 10,000 or as much as 10 %.
3. Every transaction must go through a broker or funding the portal listed.
4. Issuer must meet various terms related to the filing of, disclosure, advertising, compensation, reporting, and other requirements as stipulated in the securities act.
5. Limitations on funding the portal, those are:
 - a. It is not allowed to give investment advise
 - b. It is not allowed to receive or save investor funds or share.

⁴ <https://www.entrepreneur.com/article/228440> (Summary)

- c. It is not allowed to provide compensation to employees, agent, or other parties towards the share which offered on the website.
 - d. It is not allowed to advertise any of the share in the website portal.
- 6. Does not require a prospectus, but the offered document generally must include important information that contains the potential risk and rewards of an investment as follows:
 - a. Openness to financial information depends on the amount of the offer, namely:
 - 1) For offering up to US\$ 100,000, issuers must submit income tax return information and financial statements signed by the Principal Executive Officer
 - 2) For offering more than US\$ 100,000 but less than US\$ 500,000, the Financial Statements must be reviewed by the Registered Public Accountant
 - 3) For offering US\$ 500,000 or more, the financial statements must be audited by a Registered Public Accountant
 - b. The information that must be available about issuer is name, legal status, domicile, director's name and employees who have more than 20% ownership of the issuer.
 - c. Information related to alternative business plans from the issuer, target number of offers, deadline for settlement, and the price of the Securities.
 - d. Information on ownership and capital structure of the issuer, including terms of securities to be offered.
 - e. Information about how the share are valued and examples of methods that will be used to assess a share in the future, including during subsequent corporate actions;
 - f. Information about risks for investors related to minority ownership in the issuer. The risks include corporate actions, including the addition of share issuance, sale of issuer assets, or other transactions.
- 7. Funding portals are not allowed to receive or save investor funds.

Regarding the total funds collected from the ECF industry in 2017, the total funds distributed by the ECF industry in the US reached \$ 1.4 billion and is projected to reach \$ 5 billion in 2022. Meanwhile, the total ECF platform registered in the SEC list: 45 company.⁵

2. United Kingdom (UK)

All loan based and equity based crowdfunding activities are regulated and require an operating permit from the UK Financial Conduct Authority (FCA). In general, all crowdfunding activities (loan and equity-based), are regulated through the Financial Services and Markets Act 2000.

In 2015, FCA released revisions to FCA regulations related to crowdfunding, the majority of changes were in the aspect of loan-crowdfunding and not investment-based (equity) crowdfunding.

Unlike the United States, specific arrangements for ECF activities in the UK are not detailed in a specific regulation. However, it is subject to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (SI 2001/544) (RAO) regulations, which also simultaneously regulate other financial market investment activities.

However, issuers wishing to fundraise via the ECF, must ensure that their business is not included in the Financial Conduct Authority (mortgage, investment management, etc.) "Regulated Activities and Financial Promotions Regime" list.

When studied from the design of the arrangement, the ECF in the UK is more governed in principle-based (rather than rule-based which is generally more prescriptive) by promoting aspects of investor protection. Prevention of money laundering and terrorism financing has not yet been seen as a priority for the Financial Conduct Authority in the ECF regulation

United Kingdom, especially London, has a long history as the center of world finance. London has become one of the most important financial centers in the world along with other cities such as New York, Hong Kong and Singapore. In 2015 the Z / Yen Group even reported it as the best financial center in the world (Telegraph Media Group Limited 2015).

In 2016, London then proclaimed Financial Technology (FinTech) in a report prepared by the Royal Ministry of Finance in collaboration with Ernst & Young (Alois 2016d). This shows that when talking about financial services and innovation, Britain is one of the most

⁵ <https://www.finra.org/about/funding-portals-we-regulate>

developed countries in the world. The same is true when talking about Crowdfunding which has developed faster in the UK than in all other countries on the European continent.

Not all Crowdfunding types are regulated in the UK.

Unregulated Crowdfunding:

- Donation-based crowdfunding: This type of crowdfunding is based on donations with the main goal of seeking donations.
- Prize-based crowdfunding: issuers give rewards, prizes, services or products (such as concert tickets, innovative products, or computer games)

Regulated Crowdfunding:

- Loan - based Crowdfunding : also known as 'peer-to-peer lending', this is where consumers lend money in return for interest payments and capital repayments over time
- Equity-based crowdfunding: Equity-based crowdfunding activities resemble equity investment activities, where an individual acquires share ownership in an entity in return.

Financial Conduct Authority (FCA) The United Kingdom introduced regulations for the ECF in 2014, making it one of the pioneers in managing the Equity Crowdfunding in the European Union (Financial Conduct Authority 2015a: 1). This regulation is generally seen as a positive thing by the ECF platform in the UK and in accordance with a study conducted by Zhang et al. (2016: 33). But in this regard there are also some criticisms, namely online promotion and through social media seen by 21% of the surveyed platforms as 'too much or too strict'.

Pada tahun 2013 ECF yang telah berhasil digalang di Inggris sebesar € 37,000,000.00 while in 2014 the number increased to € 111,000,000.00 and contributed to an economic growth rate of 200% (Wardrop et al. 2015: 37).

Based on the same research on the ECF, the total in all other European countries increased from € 47,500,000.00 in 2013 to € 82,600,000.00 in 2014 and contributed to an economic growth rate of 73.8%. In 2015 ECF growth only increased in the UK and the market grew to £ 332 million. The largest sector in the ECF in the UK is Crowdfunding real-estate which amounted to £ 87 million in 2015. (Zhang et al 2016: 11).

To encourage industrial growth, the UK also provides tax incentives to investors through the Enterprise Investment Scheme (EIS) and Seed Enterprise Investment Scheme (SEIS) (British Business Bank, 2015, p.6). Investments in companies that qualify as either EIS or SEIS

companies provide important investor tax benefits which include income tax, capital gains tax and inheritance tax (Kuber Ventures Limited 2016). The importance of tax incentives is quite large as the British Business Bank report (2015: 6-7) states "Many Crowdfunding platforms have made joint efforts to promote tax incentives to investors - indeed several SEIS / EIS company specific host platforms.

The Financial Conduct Authority of the United Kingdom (FCA-UK) has issued Crowdfunding activities arrangements including equity Crowdfunding regulated by the Financial Conduct Authority of the United Kingdom (FCA-UK), donations / Rewards Model not included in the subject of financial services regulation, prospectus is required for the transferable securities offering such as shares, limit offer of EUR 5,000,000 per issuer within 12 months, transfer of funds through an provider is a money remittance service regulated by FCA.

In addition, related to regulations that have been issued by the FCA include, among others, the following provisions:

- In the retail market, companies can only offer their investments to SOPshisticated investors, high net worth investors, retail clients who receive official investment advice or investment management services from licensed parties; or retail customers who have stated that they will not invest more than 10% of their portfolio in unregistered shares or unregistered debt securities. This is due to the fact that most of the investments in start-up businesses suffer losses.
- For non-advised clients, companies must assess their eligibility before allowing them to invest through the platform.
- In addition, while the platform provides qualified explanations regarding supporting information related to investment, the platform must be careful because if it is related to giving advice it must have special permission from the FCA.

The way the platform stood to gain the majority by granting a fee to issuer in form of a percentage of funding that was compiled, to provide funds to investors in form of a percentage of investment value, charge a fee to investors against activities performed. Example: sale of ECF shares.

Most platforms in the UK use the method in number 1, others use the method in number 3. Platforms are very rare a platform use the method in number 2.

FCA recognizes the importance of social media as a communication channel for a new generation of financial platforms such as the ECF. The FCA has also issued regulations in the form of financial promotion through social media (Financial Conduct Authority

2015c). Regulations related to various kinds of social media, such as blogs, microblogs (Twitter), social and professional networks (Facebook, LinkedIn), forums and images and video sharing platforms (YouTube, Instagram). In the statement, the FCA provides an example of how to buy financial products on social media, with financial approvals in accordance with social media regarding character restrictions issued, for example Twitter which gives strict limits on how long it can be done.

Total ECF platforms registered in the FCA list: 35 companies (as of 2015 - FCA official data updated).

3. Australia

The ECF in Australia is regulated in the 2017 Corporations Amendment (Crowd-sourced Funding) Act with the issuance of these regulations, the ECF provider must have an AFS (Australian Financial Service) license. In Australia, the maximum investment limit for retail investors is \$ 10,000 per year, while to be able to make an offer (the maximum fundraising limit of \$ 5 million), the company must meet the requirements of having at least two directors, preparing financial and management reports in accordance with the accounting standards used, conducting and including financial audit reports, specifically for companies that have collected more than \$ 3 Million.

The total funds raised through the ECF based on 2019 data are \$ 35.7 million. While the total Equity Crowdfunding that has been registered is 17.

4. France

Autorité des Marchés Financiers (French Financial Market Regulator - AMF) published *Ordonnance 2014-559* of 30 May 2014 about Crowdfunding which regulates licensing *Conseil en Investissement Participatif* (CIP, equity investment advisor) dan *IFP – intermédiaire en*.⁶

A company that allowed to do the implementation of activities ECF , should be a *Prestataires en Services d'Investissement* (Investment Service Providers, "PSI") which serves as service providers consulting or legal entity listed in *ORIAS* as *Crowdfunding Investment Advisors*.

As part of the due diligence process for businesses that intend to raise funds, businesses must involve document investors forming investment prospectuses winning fundraising beyond the EUR 1 Million limit in one year, descriptions of projects and projects,

⁶ https://www.amf-france.org/en_US/Acteurs-et-produits/Prestataires-financiers/Financement-participatif---crowdfunding/Cadre-reglementaire dan <https://www.soulier-avocats.com/en/crowdfunding-francaise-2/>

including financial statements, business plans and organizational assistance, information related to the ownership structure of the project/investment portfolio offered to the public on the ECF platform, shareholder rights offered by each company that raises public funds, information related to the liquidity structure of the offer, information related to reports on the company's management.

Allowing the fundraising through the ECF to be an institutionalized by the Sociétés par act simplifiée (joint share company).

The ECF in France is the second largest crowdfunding equity industry in the European Union. With a total pool fund of € 75 million in 2015.

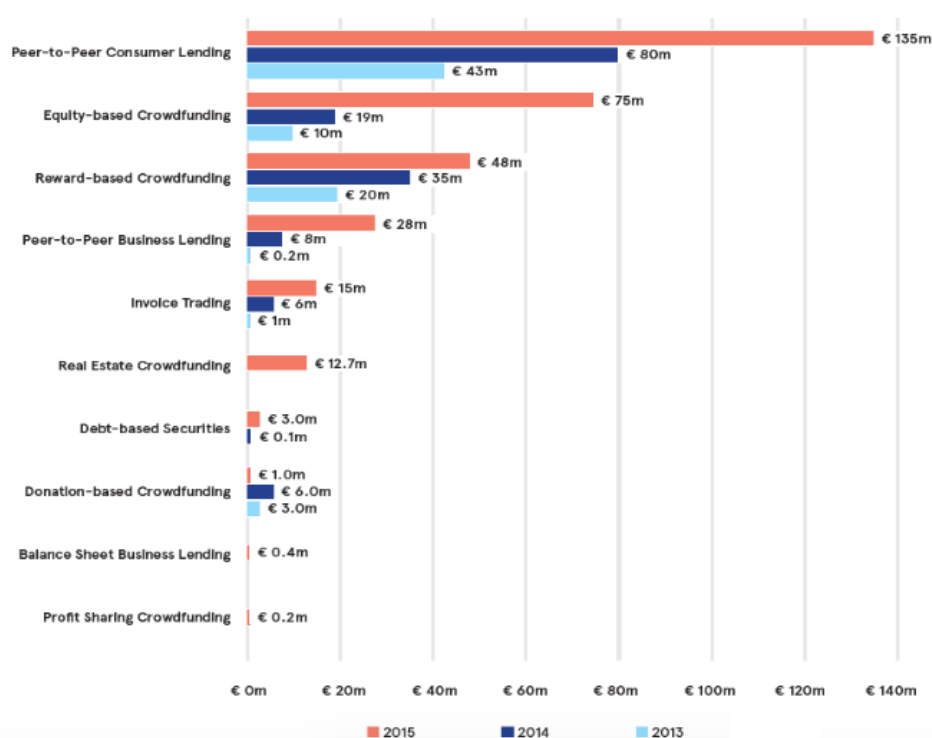


Figure 2. The ECF market share is relative to other alternative funding markets in France

The total ECF platforms registered in France are: 58 CIP and 31 IFP. While the number/percentage of citizens who use ECF services based on data as of 2016 is 2,600,000

5. Estonia

Regulated in *Creditors and Credit Intermediaries Act (krediidiandjate ja vahendajate seadus)* 2015 who simultaneously applies to institutions capital channeling. Estonia not specifically having regulation which control the activity of ECF⁷.

⁷ <https://www.riigiteataja.ee/en/eli/507052015001/consolide>

However, *Finance Estonia* An organization a collection of public and private sector the financial industry in Estonia published code-of-conduct – “Best Practice for Crowdfunding” – Which is a non-binding and enforced by “comply or explain” principle, Intended as an instrument complementary in the management of the market.⁸ “Comply or explain” Principle is require all of the ECF providers to obey the Code of Conduct rules that have been mutually agreed upon and if not, must prepare a public statement that explains the company's decision to disobey (explain).

As an effort to mitigate the risk of ML/TF Estonia's Code of Conduct Finance requires all ECF providers to ensure:

- a. Implementation of due diligence on all new business relationships that are built with the users of the platform (both investors and issuers), to a minimum, collect information related to: user's personal data; legal documents (personal identification numbers and business legal documents) owned by users; and the user's bank account (this is because, the Bank is an institution that is subject to the regulation of ML/TF in Estonia).
- b. That the user has submitted data accurately. If it is found that there are inaccuracies or incomplete data, the ECF provider has the right to terminate any agreements made on the platform.
- c. Report all indications of ML and TF practices to the Estonian Financial Intelligence Unit.

The Data of the European Crowdfunding Network have stated that the Estonian ECF industry has amassed € 2.3 million (it is necessary to consider that Estonia's total population is only 1.3 million). Outside the ECF, the total funds collected by all ECF providers are valued at € 29 Million.⁹ While total customers based on data as of 2015 were 17,000.

Until this time, the practice of organizing the ECF in Europe (including France and Estonia) has not been included in the list of activities that are subject to the EU Fourth AML Directive. However, in 2018, the EU drafted a Proposal for a Regulation on European Crowdfunding Service Providers (the "Proposal"), one of which is to extend equity crowdfunding activities as part of the EU Fourth AML Directive.¹⁰

⁸ <http://www.financeestonia.eu/wp-content/uploads/2016/02/Crowdfunding-Best-Practice.pdf>

⁹ <https://e-estonia.com/looking-to-invest-estonian-crowdfunding-solutions-might-be-just-right-for-you/>

¹⁰ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32015L0849>

CHAPTER IV ANALYSIS AND DISCUSSION

A. Regulation Equity Crowdfunding in Indonesia.

The ECF is regulated in OJK Regulation (POJK) No. 37/POJK.04/2018 regarding Funding Services through Equity Crowdfunding, then it has known as POJK Equity Crowdfunding, which was enacted and entered into force on 31 December 2018.

Based on Article 1 number 1 POJK Equity crowdfunding, the fund collection service through an information technology-based share offering (ECF) is a share offering service which carried out by the issuer to sell shares directly to investors through an open electronic system network. What is meant by an electronic system is a series of electronic devices and procedures that function to prepare, collect, process, analyze, store, display, announce, send and/or disseminate electronic information in the field of financial services.

Institutional and licensing, the ECF provider must have a business license from the OJK and is a provider registered as an electronic system provider at the ministry that carries out government and communications affairs in the field of communication and informatics. Whereas, if the ECF provider does not yet have a business license from the OJK, the company has not/cannot conduct its business activities as an ECF provider.

POJK Equity Crowdfunding also emphasized that ECF providers must be registered as associate members who have been recognized by the Financial Services Authority (OJK). The Indonesian Fintech Association (AFTECH) is an association who has recognized by the OJK which houses fintech companies in Indonesia including the ECF.

In related to the offering of shares in the ECF, it is carried out for a maximum period of 12 months (once or several times); offer period (each offer) is 60 days; total funds raised through a share offering of no more than Rp10 billion; and the offer is null and void if the minimum funds are not met, the bid is null and void.

The parties to the ECF include ECF providers and ECF customers. The provider of the ECF is an Indonesian legal entity that provides, manages, and operates the ECF. ECF customer include Issuers and financiers. Issuer is an Indonesian legal entity in the form of a limited liability company offering shares through the provider of the ECF. Investors are the parties who purchase shares of issuer through the ECF provider.

A legal entity of the ECF can be a limited liability company or cooperative. A limited company that is an ECF provider can be a Securities Company that has obtained approval from the Financial Services Authority to carry out other activities as an ECF provider.

Meanwhile, cooperatives are only limited to the types of service cooperatives. The ECF Provider is required to have paid-in capital for a limited liability company and own capital for cooperatives at least Rp2,500,000,000.00 (two billion five hundred million rupiah) when applying for a permit.

The obligations of the ECF provider include the obligation to submit semi-annual reports, annual reports, and incidental reports to OJK; report changes in control to OJK; reviewing the legal aspects of the Issuer and the business activities of the Issuer, downloading documents and/or information online through the ECF Provider's website; contains information on the provider's website in the event that there are material changes that may affect investors' investment decisions; and ensuring the implementation of share offerings through the ECF until all users' rights and obligations are fulfilled.

On top of that, the provider of the ECF has the obligation to report violations by the issuer to the OJK; implementing educational programs for users; save documents and/or information submitted by the Issuer; ensure that the limit for raising funds by each issuer is not exceeded; provide online communication facilities between investors and Issuers; have a system to ensure that only investors have confirmed the fulfillment of investor requirements; post on the ECF providers website regarding risks, costs and other expenses; use Indonesian domain names; have a refund mechanism in the event that a share offering through the ECF is null and void; and provide dispute complaint services through the internal dispute resolution function.

Other things, the provider of the ECF has the obligation to use a building or office space either owned or based on a lease agreement for a building or room; and have human resources who have expertise and / or background in information technology and expertise to review Issuers.

As for the ECF includes ban on conducting business activities other than business activities service providers as regulated poj, ECF except as an underwriter, effect an intermediary traders effects and/or investment managers (if is a securities company); affiliation with Issuer who use the service of ECF; give financial help to investors to invest; advised investment and/or recommendations to financier and/or would-be financier; reward or compensation to the provides information about potential investors; and receive and/or deposit funds financier;

Besides, the ECF providers barred from doing the bidding ECF to users and/or the community through means of communication private without users consent; give different treatment to each user; publish information that is properly related ECF service held; wearing any cost to a user for filing complaints; providing data and/or information about

users and/or would be the user to third parties; and set the approval of users and/or would be as a requirement the use of ECF service users.

Pertaining to the issuer, issuer is not a public company as referred to in the law on capital market; the number of shareholders issuer 300; no more than the amount of paid-up capital Issuer no more than rp billion; Issuer can only offer share with 1 ECF service providers in the same time; and Issuers can cancel a supply of share before the end of a supply of share with the pay a fine.

Pertaining to the requirements, financier each party can be financier ECF, with the provisions having the ability of risk analysis towards the shares; income, rp.500 million per year maximum investment 5 % of income and income; & gt; rp 500 million per year, maximum investment 10 % from; income as well as legal entity and the party that has experience investing in the capital markets as evidenced by account ownership of the effects of at least 2 (two) years before a share offering, is not limited the maximum value their investment.

The agreement of the ECF provider with the issuer is contained in the deed whether in the form of a notarial deed or in the form of an electronic document, which at least contains the number, date and identity of the parties; the period or termination of the agreement; amount of funds to be collected and shares to be offered; and the minimum amount of funds (if any).

The ECF provider's agreement with the financier is set forth in standard form and contains provisions including granting power of attorney to the ECF provider to represent the financier as the issuing shareholder (including in the issuing RUPS and signing of the deed/other related documents)

Concerning risk mitigation, the ECF provider and the user must carry out risk mitigation. Collaboration and exchange of data between ECF providers and information technology-based support service providers must be carried out by due regard to data confidentiality.

With regard to risk mitigation, the ECF provider and user must carry out risk mitigation. Collaboration and exchange of data between the ECF provider and the information technology-based support service provider must be carried out with due regard to data confidentiality.

The ECF provider must use an escrow account at the bank; use data centers and disaster recovery centers and must be placed in Indonesia; provide a track record of audits of all activities within the electronic system of ECF services; maintain the confidentiality, integrity

and availability of personal data, transaction data and financial data managed by the ECF service providers; and provides a secure and reliable information technology system.

The implementation of the ECF ML/TF program is regulated in a separate chapter, Chapter X Know Your Customer Principles Article 15 which confirms that ECF providers must implement anti-money laundering and prevention of terrorism funding programs in the financial services sector to users in accordance with statutory provisions regarding the application of anti-laundering programs. Money and prevention of terrorism funding and Article 72 which confirms that the provisions on the application of anti-money laundering and prevention of terrorism funding programs in the financial services sector as referred to in Article 65 shall come into force after 4 (four) years from Regulation No. 37/POJK.04 / 2018 concerning the ECF, or entered into force 31 December 2022.

B. ML and TF Threats and Vulnerabilities of Equity Crowdfunding Industry in Indonesia

ECF in Indonesia is a newly developing industry. The ECF embryo appeared 5 (five) years ago when the Akseleran platform was established, but due to ECF regulation at that time, it did not yet exist, the Akseleran platform took the peer to peer lending industry.

At present, there are 11 ECF providers that have registered as members of the Indonesian Fintech Association (AFTECH). From all of the 11 providers, 10 of them are in the process of licensing as the providers of the ECF in the OJK and to date only 2 providers have obtained licenses as the providers of the ECF from the OJK.

That of 11 ECF providers, there are the providers of the ECF company who has started conducting business activities before the publication of the POJK equity crowdfunding. Related on it, based on return on equity POJK crowdfunding, the providers of the ECF who has started to conduct the business activities before the publication of the POJK equity crowdfunding can conduct business activities on projects of existing funding, however, the company cannot emit a new fund project before having the business licenses of OJK.

The risk of TPPU and TPPT through the ECF in this study can be illustrated by the relatively few of ECF operating companies that conducting ECF business activities in Indonesia, as many as 11 providers. This risk can also be illustrated by the value of transactions carried out through the ECF provider that value is relatively small, in which the total value transaction is around 35.2 billion Rupiah.

Based on data from the results of the questionnaire, it can be said that of the 8 providers that were respondents and the object of study, there were 5 (five) providers that had conducted business activities as ECF providers.

1. ML and TF Threats to the Equity Crowdfunding Industry in Indonesia

One of the parameters of ML and TF Threats as described previously can be seen from the number of service users. ECF service users are divided into 2 (two) groups, those are the issuer as the party of share offering through the ECF provider and the financier or investor as the party who carrying out investment activities by buying the issuer shares through the ECF provider.

From Figure 3. and Figure 4. can be obtained information about the description of the number of issuers and investors who are service users in the ECF industry.

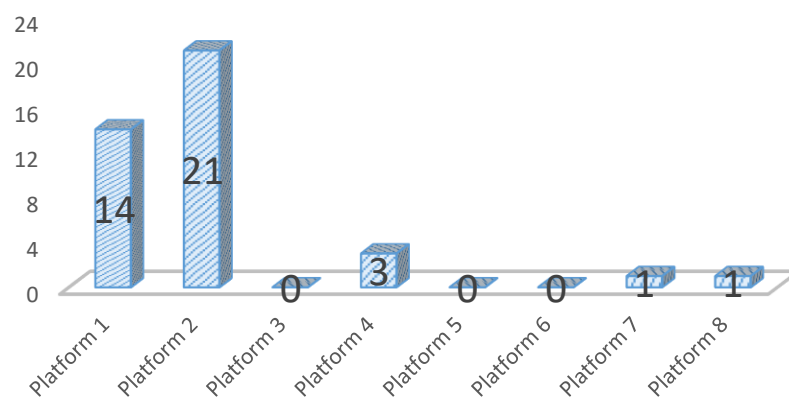


Figure 3. Number of Issuers Bidding Through the Platform to Respondents

Platform with the highest number of issuers are 21 issuers and the least number of issuers share offering are 1 issuer on each platform. The total number of offering by issuers are 40 issuers.

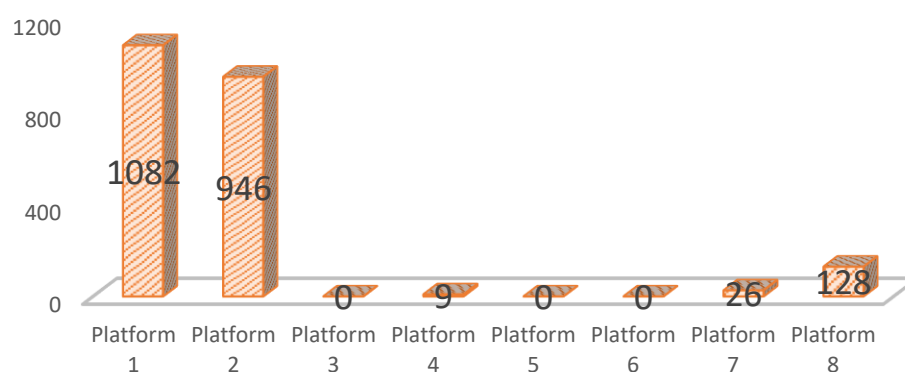


Figure 4. Number of Investors that Conducting the Investment Activities Through the Platform

In terms of the number of investors in investing by platforms through respondents, based on the information that the number of investors is quite diverse where there are respondents with a high number of investors, it is 1041 investors, and platforms with the least number of investors are 9 investors. The total number of investors who have carried out by investment activities through the ECF is 2105 investors and the total value of funds invested by investors through the ECF operating company who become respondent is around IDR 35.2 Billion.

Equity Crowdfunding Customer Profile

The AML and CFT threats are profiles of ECF service users. From all the issuers that make an offer through the ECF hosting platform, all are issuer that owned by Indonesian citizens and/or legal entities in Indonesia, which are subject to the laws and regulations in force in Indonesia.

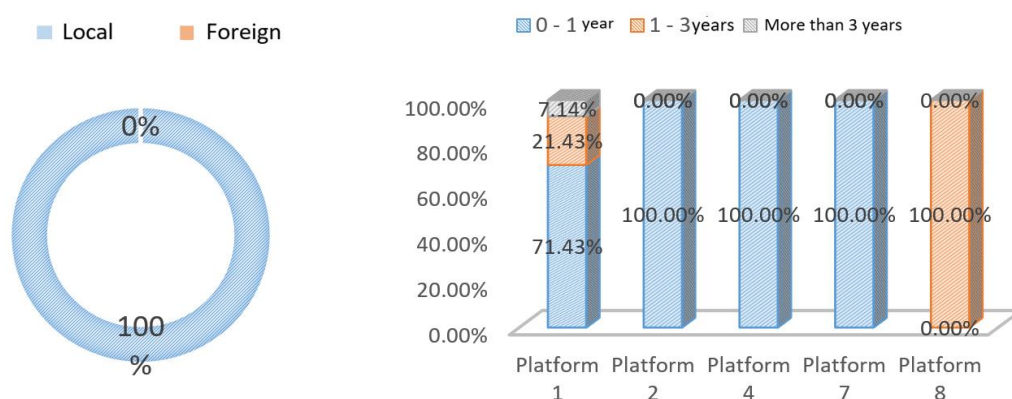


Figure 4. Characteristics of Initial Ownership and Age of Issuer

However, seen from the age of the issuer, it appears that most of the issuers are newly established companies/corporations/business units. In this regard, ECF providers need to have at the same time implementing policies and procedures that can manage and mitigate the risk of the possibility of issuers making offers through ECF provider. Thus, they are not established for money laundering and terrorist financing activities.

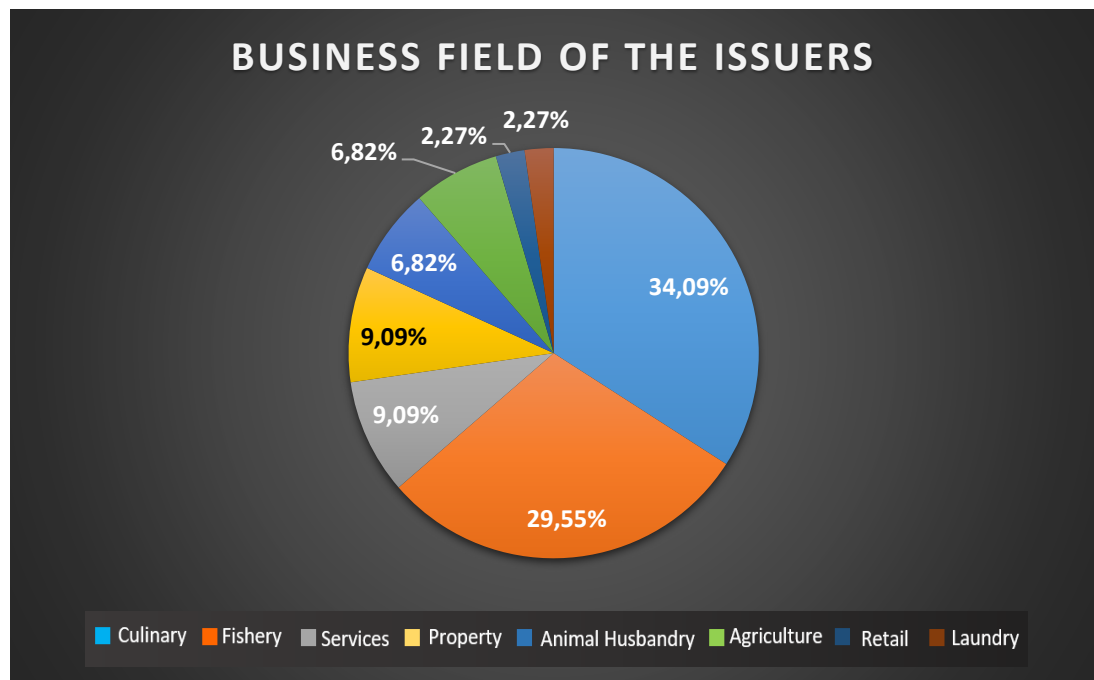


Figure 5. Issuer Business Field

The business sector of the issuer that conducts share offering activities through respondents so far is in the culinary sector as much as 34.09%, the fishery sector as much as 29.55% which is dominated by *vaname* shrimp ponds, the service sector, and the property sector as much as 9.09%, the agriculture sector, and the animal husbandry sector 6.82%, and retail and laundry as much as 2.27%. This shows that the purpose of raising issuer funds is for productive activities both to build new businesses and expand the business scale. However, the ECF provider still needs to conduct monitoring to ensure that the funds obtained from the share offer are used in line with the intended purpose when making an offer on these shares and are not used to carry out ML and TF.

Furthermore, based on the results of the tabulated data it is seen that the target of fund collection by the issuer is at least IDR150 million and the highest is IDR 6 billion. It can be said that the target of fund collection by issuers in the ECF Industry is relatively small, where based on the figure 7. The Target of Funds Gathering Publishers, it shows that the largest target of fundraising issuers is in the range of less than Rp300,000,000 (three hundred million rupiahs) reaching 40.9% issuers and only 9.1% of issuers that have a target of raising more than 1.5 billion funds. This indicates that issuers offering the shares through the ECF provider are new industries with relatively small funding requirements. However, the thing to watch out for concerning the target of collecting issuer funds is the possibility of money launderers using structuring mode, e.g. fragmenting transactions, so that the funds are transacted smaller to avoid detection and reporting.

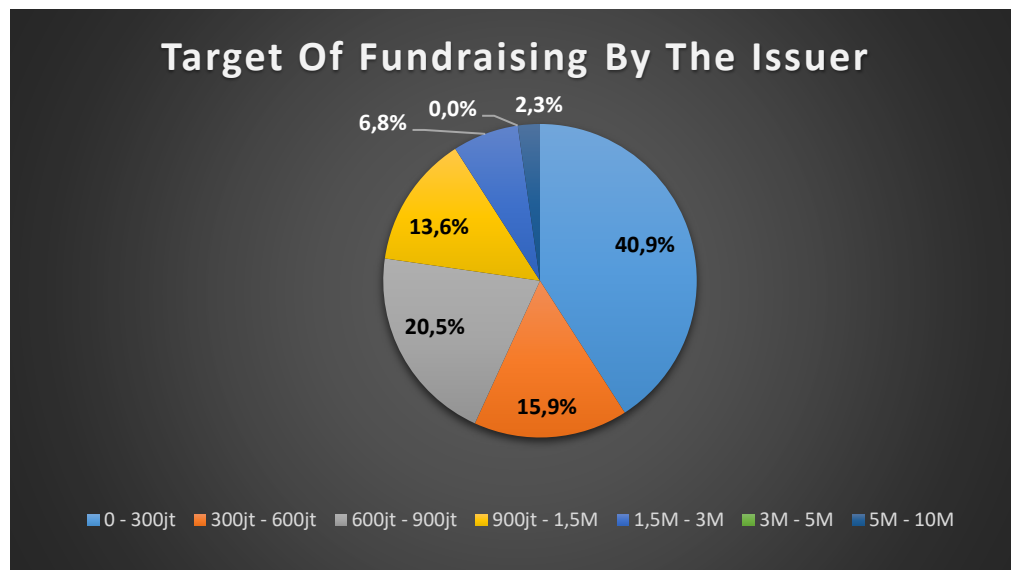


Figure 6. The Target of Fundraising by the Issuer

Furthermore, from the investor's side, according to the tabulated data, information is obtained that all investors who carry out investment activities through the ECF providers are individual investors, so it can be concluded that from the investor side, the threat of TPPU and TPPT in the ECF industry comes from individual investors.

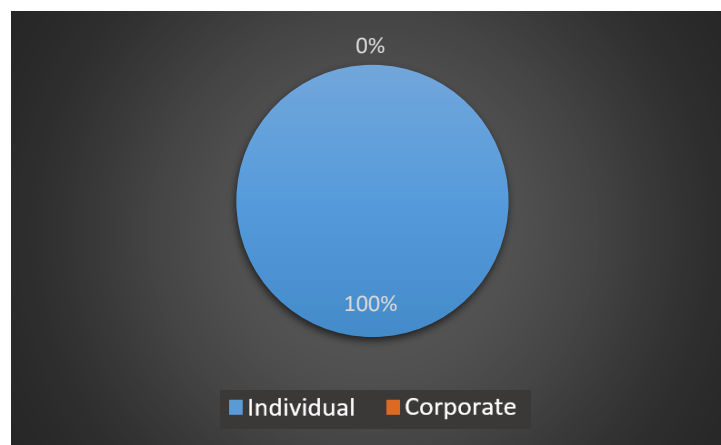


Figure 8. The Difference of Individual Investors and Corporate Investors

Furthermore, it can be seen that the work profile of most investors is private employees as much as 38.28% followed by entrepreneurs/entrepreneurs as much as 27.27%. However, there were no investors who were officials of government institutions (executive, legislative, judiciary), and political party officials, which in the Indonesian Risk Assessment of Money Laundering in the 2017 Financial Services Sector were high-risk customers in conducting AML in the financial services sector.

Tabel 1. Distribution of Investor Equity Crowdfunding Job Profiles and Risk Levels Based on the NRA 2015

Job Profile	Percentage Number of the Investor	Threat according to NRA 2015
Entrepreneur	27.27%	High
Employee in Private Sector	38.28%	High
Government Agency Officials	0.00%	Medium
PolITICAL Administration	0.00%	Medium
Civil Servant (including retirees)	9.92%	Medium
Professional	0.96%	Medium
Housewife	1.25%	Medium
Bank Employee	0.04%	Medium
BUMN/BUMD employee	5.46%	Medium
Foreign Exchange Trader	0.00%	Medium
Management/Employee of legal Entity/Institution	0.00%	Medium
Student	3.46%	Medium
Other	13.34%	-

However, in terms of investor profiles, the ECF industry still has a high threat that one of the most investors is investors with profiles as entrepreneurs/entrepreneurs. In the 2017, based in NRA and SR, financial services sector especially in the banking sector, securities companies, insurance companies, and finance companies are customers who are at high risk in conducting in money laundering.

Next, the grouping is based on the value of transaction invested by investors through the ECF provider. The basis of this grouping is the regulation

of POJK Equity Crowdfunding which there are restrictions on the purchase of shares through the ECF by investors, those are individual investors who have an income of up to IDR 500 million per year can invest their funds in a maximum of 5% of their annual income and investors who have income more than IDR 500 million per year can invest 10% of the annual income. However, this restriction does not apply to investors who are legal entities and investors who have experience investing in the capital market as evidenced by ownership of share account at least 2 (two) years before the offering of shares. It can be said that according to this regulation, there are 2 groups of investors, those are investors who invest a maximum of IDR 25 Million (income up to IDR 500 million per year) and investors who invest more than IDR 25 Million (Income more than IDR 500 Million per year).

The existence of this restriction regulation is a good thing for the implementation of the AML/CFT program in which the investment of the ECF provider has mitigated TPPU and TPPT risks in the form of maximum investment restrictions that can be made by investors.

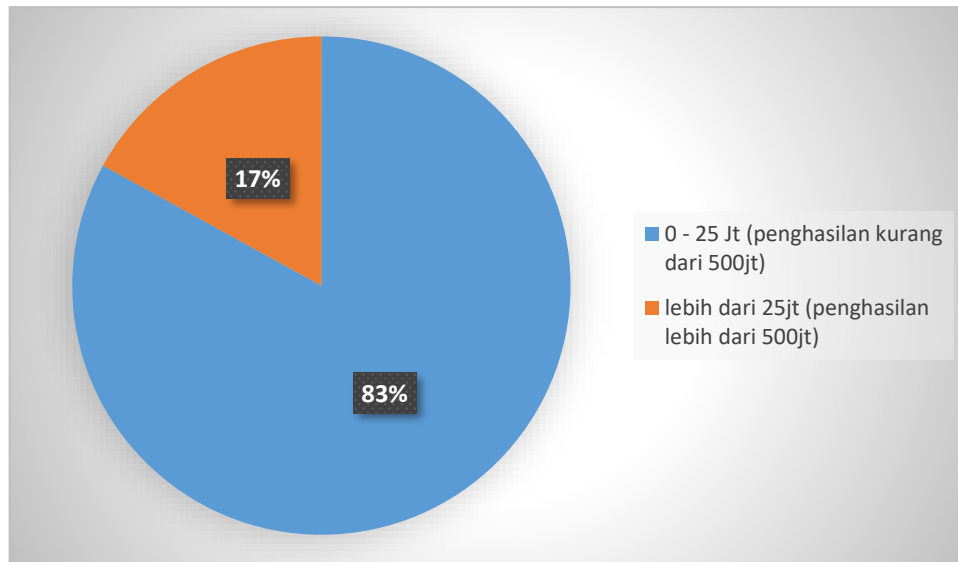


Figure 9. Investor Group Based on the Value of Transaction

From the Figure 9, it can be seen that investors invest their funds in a relatively smaller amount. There are 83% of investors invest their funds in the investment category up to IDR 25 Million and 17% of investors invest their funds above IDR 25 Million. It shows that investment activities through the ECF providers are dominated by small investors. However, there is still a need for OJK to act as an LPP and the ECF providers itself related to the potential for money laundering in a structuring mode in which transactions will be broken up so that the amount becomes smaller or transaction is carried out by many actors.

Geographic Areas

In terms of geographical area, the domicile of ECF provider is still concentrated in big cities and entirely located on the island of Java, those the city are: (1) Jakarta; (2) Depok; (3) Tangerang; (4) Surabaya; and (5) Sleman, shown by Figure 10.



Figure 7. City Domicile Equity Crowdfunding Provider Company.

Based on the domicile city of the ECF provider, it can be seen that the ECF provider is all domiciled in high intensity business, which according to the NRA, DKI Jakarta province is a province that has a high risk of money laundering, while East Java, West Java, and DI Yogyakarta are provinces with medium-risk level of money laundering.

However, ECF is an information technology-based fund management service that the geographical area is not a major factor in conducting business activities. With information systems and technology, ECF product/service providers can be used and utilized by service users everywhere, even though the ECF providers do not have branch offices in many regions. It will raise the potential for fundraising activities to cover high-risk areas.

From the distribution table of the ECF investor's region and the level of risk based on the 2015 NRA, it can be seen that the geographical distribution of investors that carrying out investment activities through the ECF provider platform can reach provinces outside of Java Island, such as North Sumatra, South Sumatra, East Kalimantan, South Kalimantan, South Sulawesi, Bali, and Riau.

Table 2. Distribution of Equity Crowdfunding Investor's Origin Areas and Risk Levels based on NRA 2015.

Province	Percentage of Number of Investors	Risk Level according to the 2015 NRA
DKI Jakarta	20.50%	High
West Java	20.46%	Medium
East Java	13.99%	Medium
Central Java	9.85%	Medium
Banten	8.81%	Medium
Yogyakarta	6.26%	Medium
North Sumatera	3.88%	Medium
East Kalimantan	1.75%	Medium
South Sulawesi	1.59%	Medium
South Sumatra	1.50%	Medium
Bali	1.34%	Medium
Riau	1.25%	Medium
South Kalimantan	1.00%	Medium
Other Province	7.81%	-

Table 2. shows that the investor's origin area is still concentrated in the provinces on Java Island. The provinces with the highest number is DKI Jakarta, i.e 20.5% of all investors in the ECF industry, followed by West Java at 20.46%, East Java at 13.99%, Central Java at 9.85%, and Banten at 8.81%. It can increase the potential threat of ML and TF based on the consideration that investors can come from high risk areas.

Product

The service products provided by ECF providers are homogeneous, they only provide fund-raising services through information technology-based stock offers. This service is a stock offering service that carried out by the issuer to sell shares directly to investors through an open electronic system network. The fund collection service activities in the Financial Services Authority Regulation are financial service activities in the capital market sector.

Shares offered by the issuer made through the provider shall be conducted for a maximum period of 12 (twelve) months with a total of funds raised through this share offering of no more than IDR 10 billion. Share offerings by the issuer will be submitted to prospective investors who have accounts on the provider's platform through websites or other internet-based applications. Given that service products from the ECF industry are homogeneous, money laundering risk mitigation can be more focused.

Delivery Channel

Distribution channels that are used by the ECF industry are homogeneous, i.e. using platforms owned by website, android, and IOS-based providers. An ECF provider can have one or more platform bases. For example, there are hosting companies that only provide services through a website-based platform, while other hosting companies provide services through a website-based, Android, and IOS platform simultaneously.

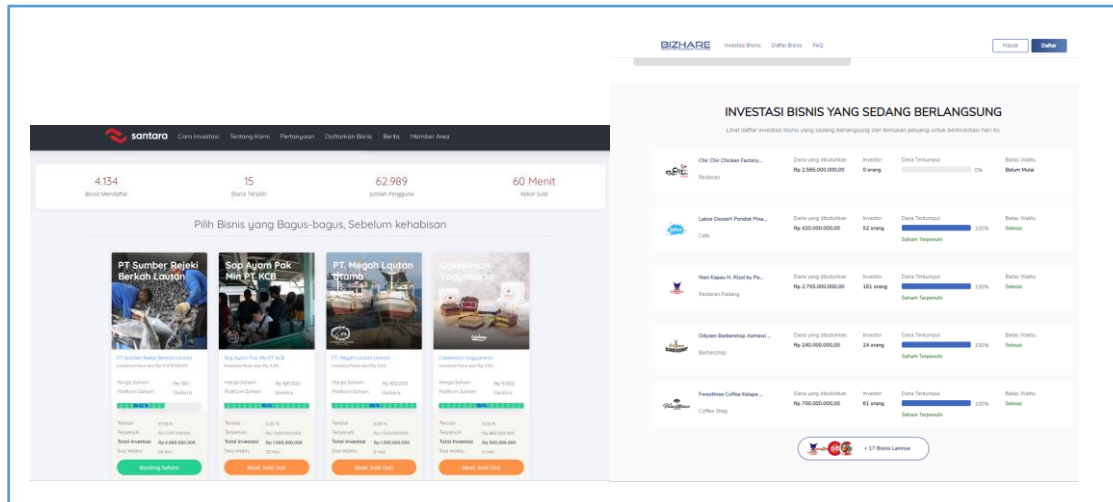


Figure 8. The Example of User Interface Platform Website Based of The ECF who Have Licenses from OJK

This platform is a media to bring together issuers and investors. Through this platform, publishers can register their businesses to get investment from investors who already have accounts on the platform of the hosting company. After registering, the company will follow up with the issuer registration including the identification and verification process until the issuing business enters the business list that can be seen by potential investors on the platform.

On the side of potential investors, the platform is a medium for investment activities by selecting a list of businesses that are available for funding. Previously, prospective investors were required to have an account on the platform owned by the hosting company by registering, including filling out the KYC form. In the next process, the host company will carry out identification and verification. After completion, the account is ready to be used to buy shares offered by the issuer through the platform

Considering that the distribution channel in the ECF industry is homogeneous where transactions are carried out only through escrow accounts, ML risk mitigation can be more focused. However, there is a need to watch to be aware of cooperation between investors

and issuers to money launder through the issuing business and mix it with funds from other investors that are not from criminal offenses. Meanwhile, the potential for funding of terrorism can occur through fictitious efforts established by Issuers. This is because on the ECF platform investors can choose which issuers will be funded.

2. ML and TF Vulnerabilities of Equity Crowdfunding Industry in Indonesia

Vulnerability is one of factor in ML/TF in risk calculation. In this section, described the aspects of vulnerability which is self-assessment for control of the implementation of the AML CFT program of each ECF provider company who were respondents to this study are active supervision by the Directors and Board of Commissioners on the implementation of the AML CTF Program, Availability of Policies and Procedures for Implementing AML CFT Program for Equity Crowdfunding Provider, Reliability of the Information Management System, Availability of Internal Control Systems, and Adequacy and Capability of Human Resources in Supporting the Implementation of AML and CFT Programs.

Institutional of ECF Provider Companies

All the ECF platforms who already have registered in the association have the legal entities of limited company. This is consistent with POJK equity crowdfunding who stated that the legal entity provider is legal entity in Indonesian for limited company or cooperative.

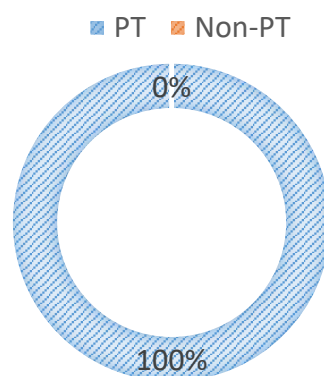


Figure12. The Legal Form of the Equity Crowdfunding

Based on Figure 12. , information is obtained that all ECF provider is in the form of limited legal entities whose licenses, activities, and supervision are regulated reffering to the applicable laws and regulations in Indonesia.

On the ownership aspect, there is no foreign ownership in all ECF provider companies. It's means that all of the shares of the ECF provider companies are locally owned.

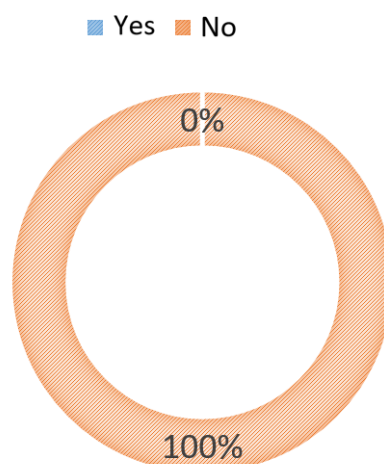


Figure 9. The Comparison of Equity Planning Company Crowdfunding Foreign Ownership that are Found on a Share

Based on Figure 13, in terms of ownership, all ECF holding shares are owned by Indonesian Citizens and/or legal entities in Indonesia which are subject to Indonesian laws and regulations.

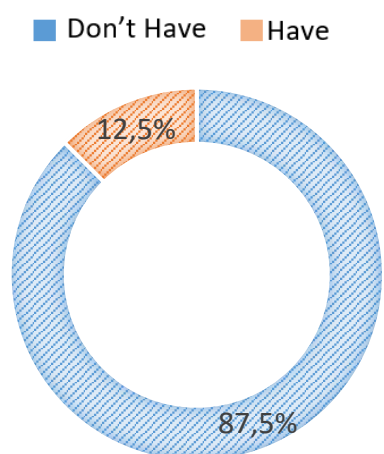


Figure 14. The Comparison of the Number of Equity Crowdfunding Operating Companies with Foreign Citizens' Directors/Commissioners.

In terms of management (Director/Commissioner), there are 12.5% of respondents who have directors with foreign nationality in their companies. More precisely is the President Director who is a French citizen. In terms of ML TF risk, on the one hand, the presence of foreign citizens who become directors can increase vulnerability to ML especially if the director is from a country which, according to FATF, is a high-risk country. However, on the

other hand, if the origin country of the Director or Commissioner is a country that has a stronger ML/TF regime than Indonesia, it can be utilized by the company to be able to study and adopt the technical implementation of the ML/TF program from that country while still adjusting to the provisions in the laws and regulations in force in Indonesia.

Active Supervision of the Board of Directors and the Board of Commissioners on the ML/TL Program

The vulnerability aspect depends on controlling the implementation of AML and CTF programs in the financial services sector. The first aspect of vulnerability is the active supervision of directors and the board of commissioners on the implementation of AML and CTF program.

One of the active directors' supervision is to ensure that the company has policies and procedures for the implementation of the AML and CTF program, and ensures that the AML and CTF program is implemented by following established policies and procedures.

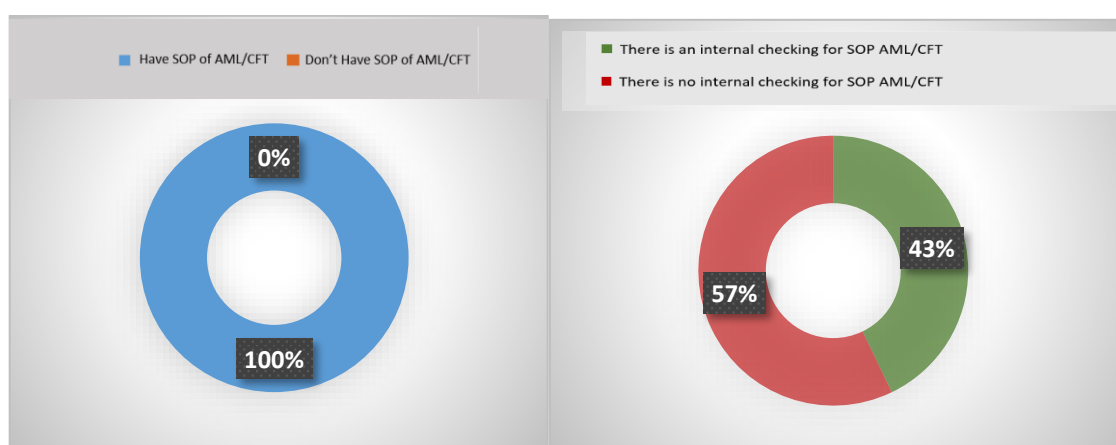


Figure 10. The Comparison of the Number of Equity Crowdfunding Operating Companies that have AML CFT SOPs and have checked the AML CFT SOPs

100% of the respondents stated that the company had standard operational procedures for implementing the AML and CTF program (SOPS ML/TF). However, only 43% of respondents stated that the AML and CTF SOPs had been carried out by an internal check to ensure the effective implementation of the AML and CTF program. In terms of internal control, the ECF industry has a level of vulnerability to ML and TF because the company has not fully conducted an independent inspection of the APT PPT SOPs that has been applied even though all companies already have the SOPs.

The next form of active supervision of directors is to form a special work unit and/or appointed officials responsible for implementing the AML and CTF programs.

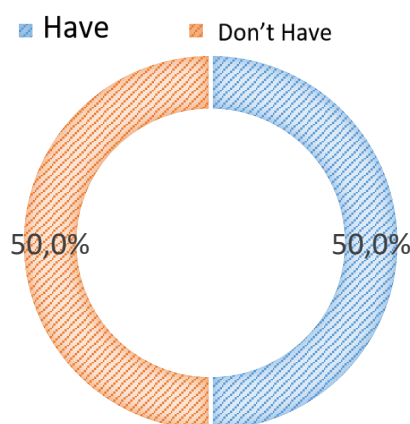


Figure 11. The Comparison of the Number of Companies Placing Human Resources (HR) to Handle and be Responsible for Implementing the AML Program

Figure 16. shows that 50 percent of respondents have placed their HR to handle or be responsible for implementing the AML CFT program. Three companies who have placed HR to handle or be responsible for the function of implementing the ML/TF program are the executive officers and another is the work unit.

Availability of Policies and Procedures for Implementing AML and CFT Program for Equity Crowdfunding Providers

As explained in the previous section, all ECF companies already have policies and procedures for implementing AML/CFT programs in their companies. This is in line with the provisions regarding the licensing requirements of the ECF providers in the POJK Equity Crowdfunding which confirms that each ECF provider is required to have and attach a guideline document/standard operating procedure related to the application of Anti-Money Laundering and Combating Financing of Terrorism Program when applying for a business license to the OJK.

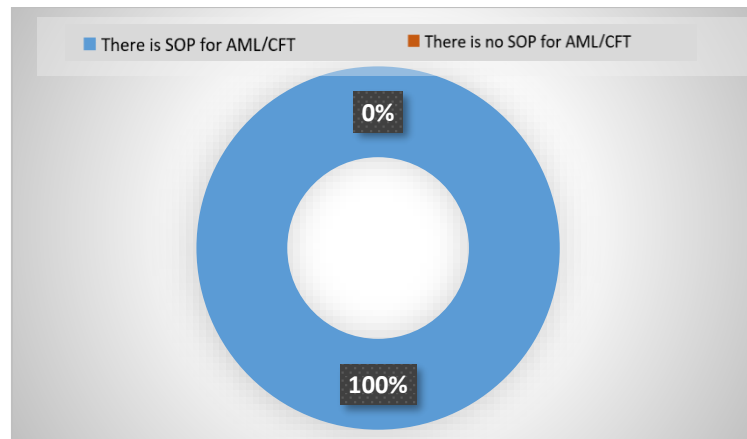


Figure 12. The Comparison of the Number of Equity Crowdfunding Operating Companies that have SOPs related to ML/TF

One of regulation in the SOPS is procedures and policies related to customer due diligence (CDD), which includes identification, verification and monitoring activities carried out by the PJK to ensure business relationships or transactions in accordance with the profile, characteristics, and/or transaction patterns of the prospective customer, customer or WIC and those are in accordance with ML and/or TF risk assessment.

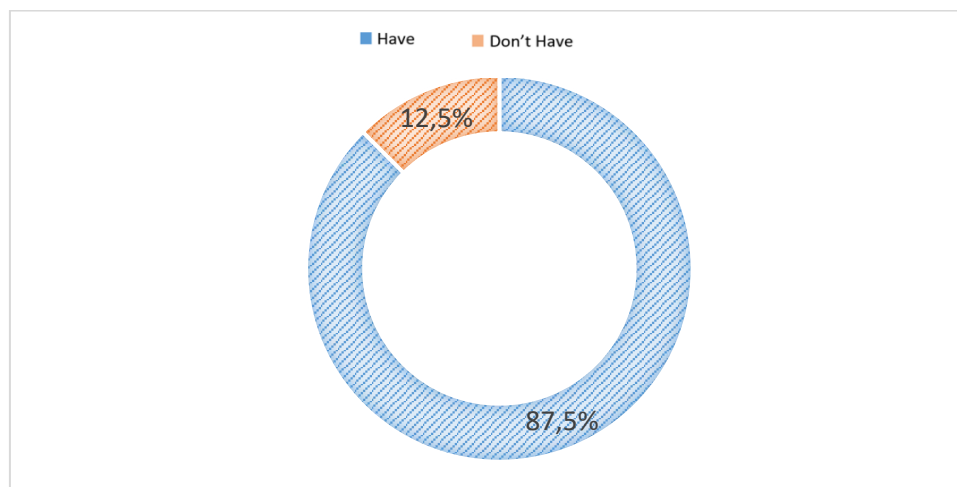


Figure 13. The Comparison of The Company Equity Crowdfunding which Have Regulation and Procedures of CDD

Based on the respondents, 87.5% stated that they had CDD regulation and procedures and the rest stated that CDD was handed over to a third party which is regulated by a contract where data and information resulting from the CDD process is carried out by the third party could be obtained by the relevant ECF company.

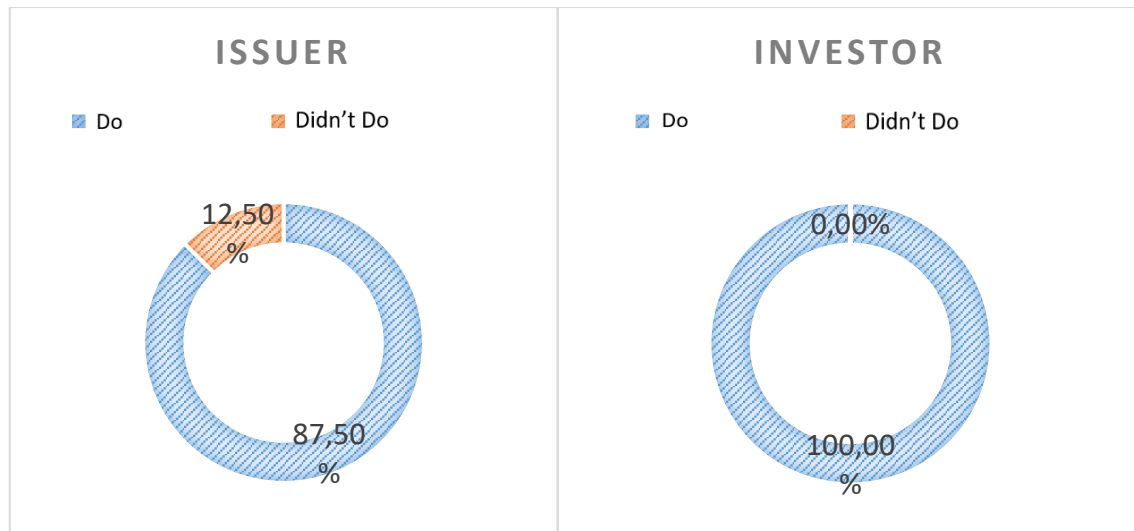


Figure 14. The Comparison of the Company Equity Crowdfunding on Identification to Both Issuers and Investors

Identification and verification are carried out by the ECF provider to the issuer and investors. The issuer is identified and verified to ensure that the issuer has a business or activity which is consistent with the information that they had informed to the ECF provider. Besides related to investment risks for investor, this is also done in relation to the potential risks of ML and TF. It is necessary to identify and verify the issuer to ensure that the issuer is not owned by a criminal or a person who associated with it and ensure that the issuer will not be used as a means of money laundering and terrorism financing. Based on the respondent's statement, the issuance of the Business Identification Number document is carried out by the Issuer; Tax ID number; Financial statements; Documents are related to assets owned; Identity of all company owners and management; Company profile; Deed of establishment and the latest amendment; The business plan of the issuer, follows about the plan to use funds from the results of the ECF; and/or business projections and revenue from the Issuer. After identification of the document, the verification is carried out by checking the validity of the documents that have been attached by the issuer at the time of registration to start the share offering.

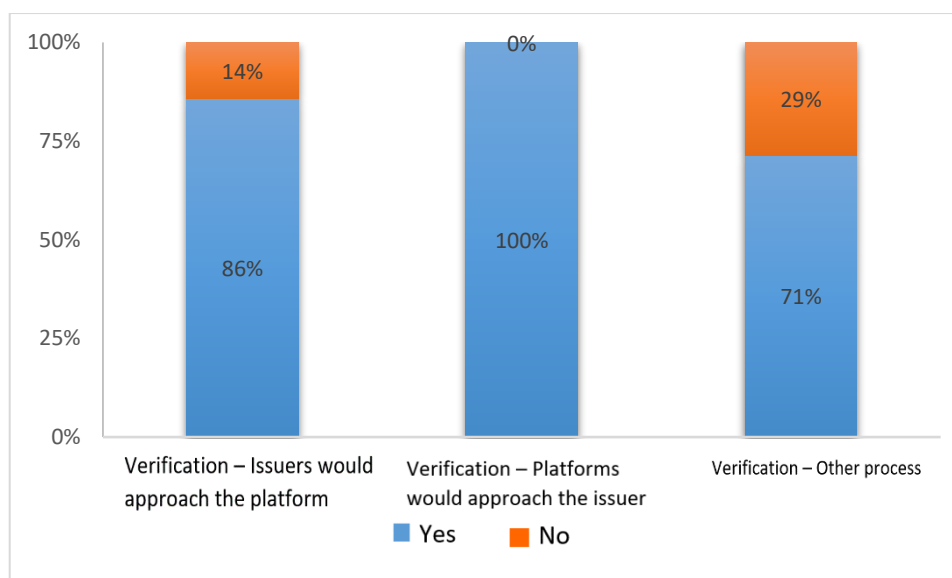


Figure 15. How Equity Crowdfunding Provider Verify the Issuers

Based on the Figure 20. How the ECF Provider verifies the Issuer, it is known that each ECF provider verifies the prospective issuer when registering on the platform before starting the bidding activity face to face meeting both the issuers who visit the platform, and the platform that would approach the issuer. This is in accordance with POJK ML/TF which regulates that PJK is required to verify the truth of the identity of prospective customers through face-to-face meetings with prospective customers at the beginning of conducting business relations in order to ensure the truth of the identity of prospective customers.

However, the respondents also stated that the verification process to prospective issuers was also carried out by their ways as follows: re-checking between communities; re-checking public opinion through search, social media; interview the customer, employee, or business partner of the Issuer; collaboration with Amvesindo, and several known Venture Capital and lead investors; venture capitals and lead investors; presentation on the project committee related to the Issuer's proposal or effectiveness; application of risk acceptance criteria (RCA); verification via email; and/or verification via whatsapp.

Furthermore, identification and verification are also carried out by the prospective investors when creating an account before starting investment activities through the ECF platform. The purpose of it is to ensure that only investors who have confirmed the fulfillment of investor requirements can invest through the ECF.

In terms of AML/CFT, the process of identifying and verifying on potential investors is useful to ensure that those who will carry out investment activities are not criminals or related persons, therefore, the ECF providers are not used as a means of money laundering and

terrorism funding. Based on the statement of the respondent, identification of KTP documents was made to the issuer; TIN; selfie with KTP; close up photo; personal profile data; RDN account (customer fund account) for investment in the capital market; and/or a statement that the Investor has had an RDN active for more than 2 years. The certificate was issued by the securities managing RDN Investor.

It is an interesting finding that in the registration process, ECF companies have not requested documents related to the source of funds to be used by investors to invest. In implementing the AML/CFT program, the documents which related to sources of funds are important where they can be used to ensure that the funds used to invest are not the proceeds of crime. However, as many as 75% of respondents said that they could find out the source of investor funds. The ECF provider stated that it can find out the source of funds to be invested by investors through ways in which all investors when registering the platform must fill in the investor form, where one of the question contained in the form is "Where does your investment fund come from?" while the lead of investors will be interviewed directly. Another way to find out the sources of investor funds is by checking the personal data that is filled in and the statement that has been made by the investor.

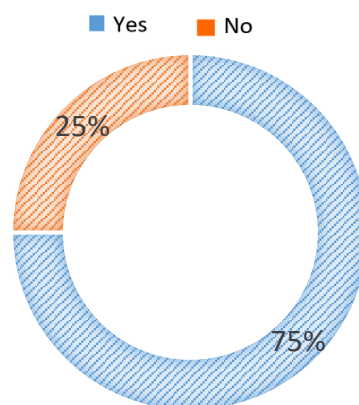


Figure 16. The Ability of Equity Crowdfunding Providers to Know the Sources of Investor Funds

After doing the identification, prospective ECF providers also verify to ensure the accuracy of documents, data, and information that is submitted previously by potential investors. In contrast to the verification which carried out by prospective issuers, respondents stated that the prospective investor who provides ECF had started not to carry out verification by face to face meeting, but had used other alternative methods.

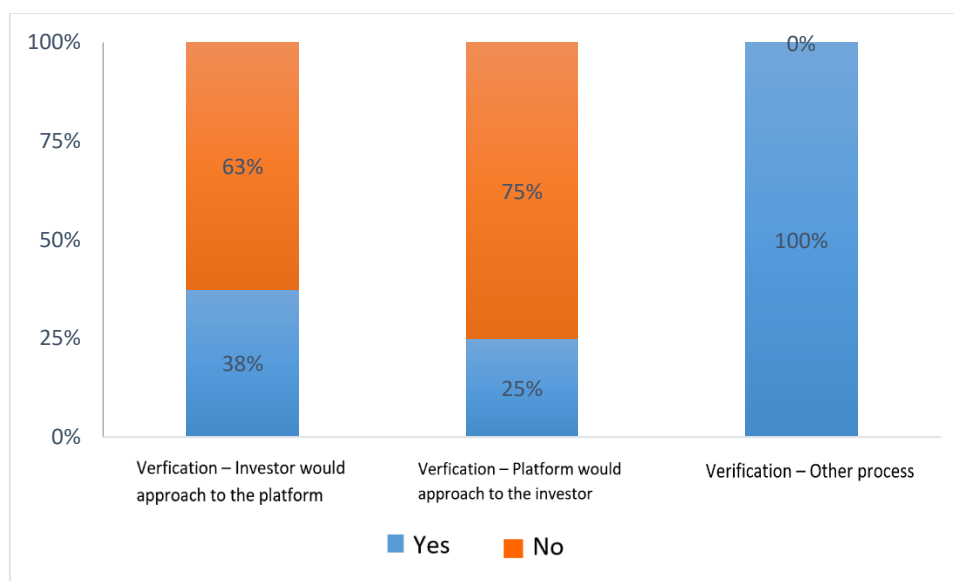


Figure 17. How Equity Crowdfunding Providers Verify Prospective Investors

Other methods that can be used by ECF providers to verify issuers are as follows: upload documents and verify by the online admin; fill in the personal profile and must be done at the time of registration with the confirmation procedure and check the platform and email; E-KYC; video call; e-mail, whatsapp; in collaboration with Privy ID for the KYC and DD process for individual investors; and/or references and recommendations from related parties.

Identification and verification that must be carried out by the ECF providers for service users have begun to be carried out by both in the interests of mitigating investment risks and the interests of mitigating ML and/TF risks. However, in carrying out the ECF, providers need to pay attention to the provisions that related to the documents identified and the verification methods carried out, including the data and information sources used in the CDD process are in accordance with the provisions of the AML/CFT program. Based on the risk-based approach, ECF providers can be able to request additional documents and/or use other verification methods to assure that the business relationship between service users and ECF providers is in line with the risk profile of ML and/or TF from service users and also consistent with the ML and TF risk assessment for the service user.

The following policies and procedures are the grouping of issuers based on the level of risk of ML and TF. As many as 25% of respondents have classified by the prospective issuers based on the level of risk and 75% of respondents have not classified prospective issuers based on the level of risk yet.

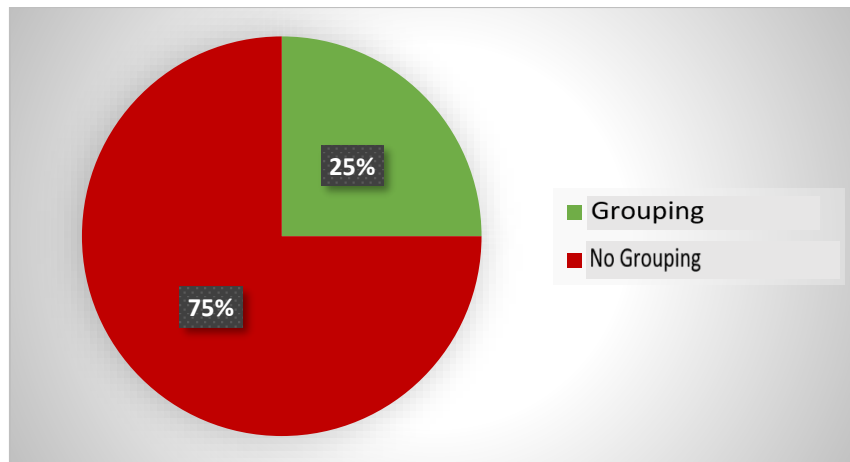


Figure 18. The Comparison of ECF providers Conducting Classification of Prospective Issuers based on Risk Level.

One company ECF explain providers have done grouping candidates on the Issuer risk ML as follows:

- 1) Low (in location of economic activities adjacent to the bank, ownership structure firm owned by the government, documents legality complete);
- 2) Medium (in location of economic activities are in industry centres and, ownership structure the majority owned by foreigners, documents legality has been expired); and
- 3) High (in location of economic activities are in the crime area, ownership structure company complex, incomplete legality documents).

A grouping of risk and based on the ML/TF also done to potential investors. As many as 37.5 % respondents have done a grouping of investors based on ML/TF risk level, and 62.5 % respondents have not done a grouping of investors based on ML/TF risk level.

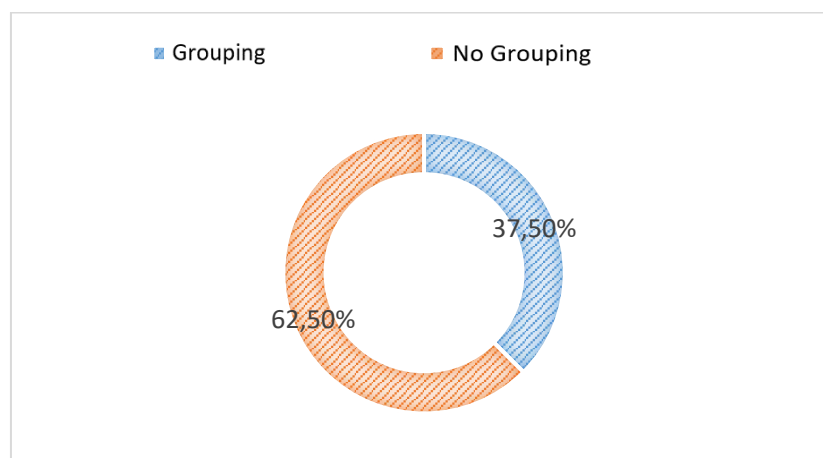


Figure 19. The Comparison of ECF providers Conducting Group of Prospective Investors based on Risk Level.

One ECF providers company further explained that the grouping was carried out in line with the risk profile of the source of investor funds, i.e whether the funds were obtained from operating results, salaries, or grants. If the amount of funds does not reflect the profile of a potential investor, the company does not accommodate the investment in question. One other ECF providers company classifies ML and TF risk levels as follows:

- 1) Low (providing more than 1 identity document, transaction value less than 100 million, investor profile is a financial service provider);
- 2) Medium (the time period of the documents has expired, transaction value between 200 million to 500 million, investor profile is company); and
- 3) High (do not have identity documents, transaction value above 500 million, customer profile is PEP)

In the ML/TF POJK regulation, it is emphasized that the PJK is required to conduct a risk assessment based on a minimum of 4 (four) points of concern, those are the profile of service users, geographical areas, products and services, and distribution channels which all refer to the NRA and SRA. From the description above it can be seen that the ECF providers have begun to carry out ML and TF risk assessments for service users which are then grouped based on the level of risk. However, the method of grouping service users based on the level of risk has not been based on the existence of 4 (four) points of concern referred to the NRA and SRA in accordance with the risk assessment as referred to in the TF ML/TF.

Availability of Internal Control Systems

The next aspect of vulnerability is the availability of an Internal Control System. PJK, in this case the ECF operating company, must have an effective internal control system.

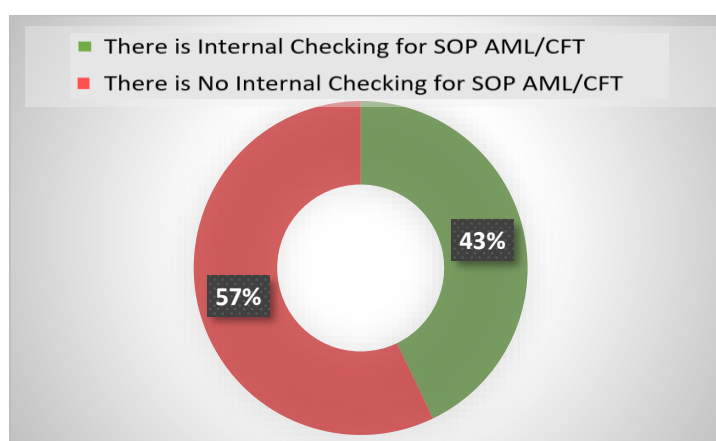


Figure 20. The Comparison of the Respondents Who Have a Check for AML/CTF SOPs

As explained in the previous section, all respondents stated that the company had standard operational procedures for implementing the AML and CTF program (SOPS ML/TF). However, the respondents have not yet fully conducted an internal inspection of the APT PPU SOPS that has been applied even though all companies already have the SOPS, only 43% of respondents stated that an internal checking on the AML and CTF SOPS has been carried out to check.

Adequacy and Capability of Human Resources in Supporting the Implementation of AML and CTF programs.

In an organization including companies, human resources (HR) is one of the most important factors. In essence HR is a mobilizer, thinker, planner, and implementer to achieve the goals of an organization. In relation to the application of the ML/TF program, HR is one of the 5 (five) pillars that must be complied with by companies that carry out activities in the financial services sector. The successful implementation of the AML and CFT programs, one of which is based on the adequacy and capability of the human resources owned by the company. According to data from the distribution of questionnaires, the number of HR is at most 32 people and at least 3 people. When averaged, it appears that for 1 company there are 12 HR people.

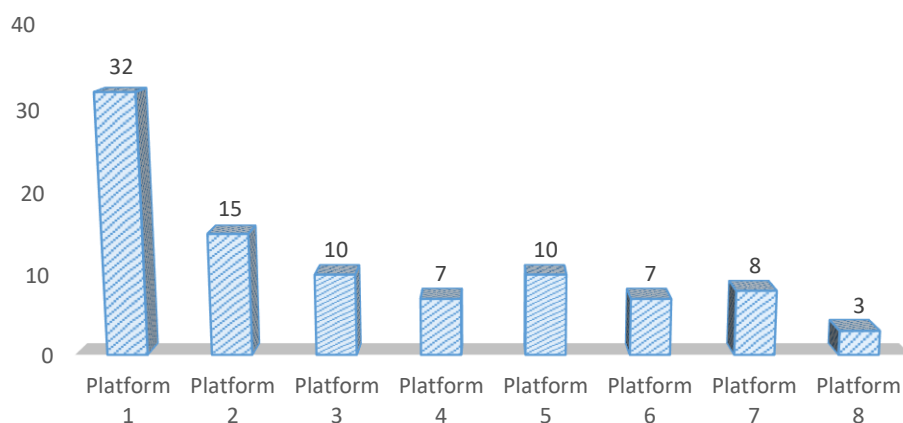


Figure 26. The Number of HR in Equity Crowdfunding Providers

One of the ECF providers' awareness of the importance of implementing AML and CTF is reflected in the training of AML and CTF to employees. Of all respondents, 75% of them had conducted training on the application of the ML/TF program to their employees. The training activities on implementing ML/TF programs held at each company are all carried out by face to face meeting or held in the classroom face to face. However, there is 1 (one)

respondent who conducts training on the application of the ML/TF program by utilizing information technology facilities.

Of all respondents who have conducted training activities on the application of the ML/TF program to their employees, there is only 1 ECF providers company that has held it for all employees at the company and is held routinely, once a quarter.

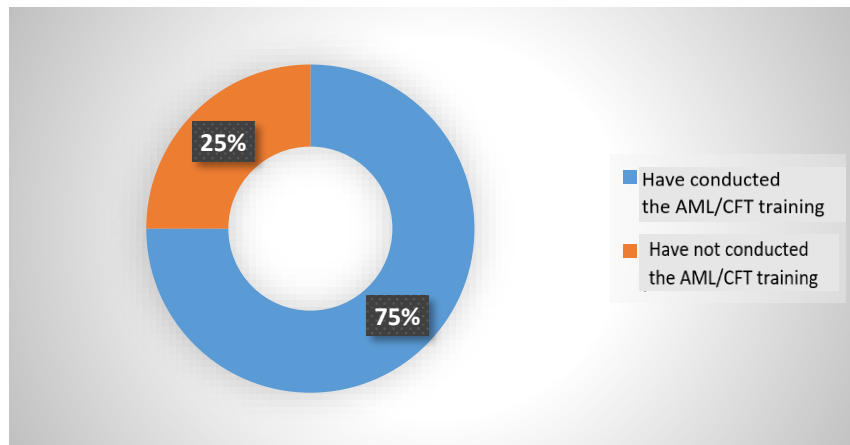


Figure 21. The Comparison of the Number of Companies that Have Conducted ML/TF Program Training Activities

Now, it has not been fully all the employees or human resources in each of the enterprises the ECF have followed training activities the application of ML/TF program. If it is averaged, only 35% of human resources in each company has participated in training activities on the application of the ML/TF program. the fact that only 35% of the HR at each company has participated in training activities for the implementation of the ML/TF program, raises the potential for ML and TF based on the ignorance of most of the HR at the ECF providers about the AML and CFT programs including mode and typology of ML and TF.

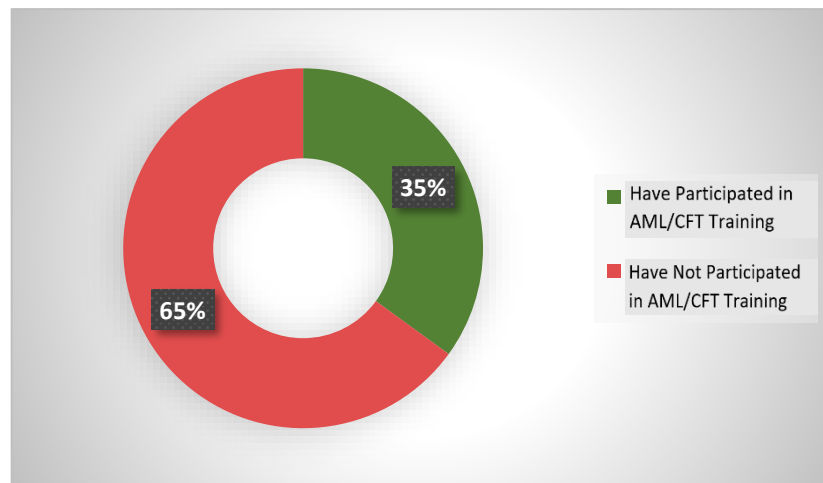


Figure 22. The Comparison of the Number of Companies that Have Conducted ML/TF Program Training Activities

Furthermore, referring to Article 8 POJK ML/TF, financial service providers are required to form a special work unit and/or appoint officials to be responsible for the implementation of the AML and CTF program, at the head office and branch offices.

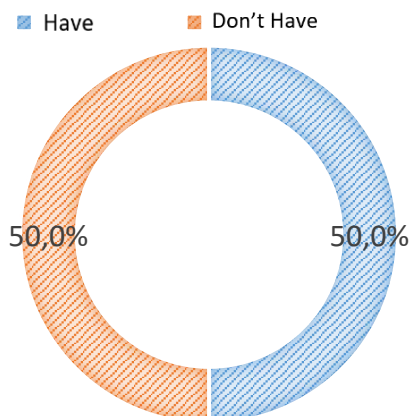


Figure 23. The Comparison of the Number of Companies Placing HR to Handle and Be Responsible for Implementing the AML Program

The figure above shows that 50 percent of respondents have placed their human resources to handle or be responsible for implementing the ML/TF program with the following details:

- 1) In 3 companies that have placed HR to handle or be responsible for the ML/TF program implementation function, there are 2 people and 1 other company.
- 2) In 3 companies that have placed HR to handle or be responsible for the function of implementing the ML/TF program, they are responsible officers and 1 other company is a work unit.

3) All companies place HR to be responsible for implementing the AML and CFT program in a concurrent position where the HR also serves as a Legal officer; Investor relations; operational/business director; or Commissioners and legal consultants. This condition is certainly not in accordance with the provisions as stipulated in the ML/TF POJK which confirms that if the PJK forms a special work unit as the person responsible for implementing AML and CTF, then the special work unit is independent of other functions, and if the PJK assigns or appoints a person as an official the person in charge, then the official can only double up to carry out the risk management and/or compliance function.

However, ECF providers' awareness of ML and TF was good enough, according to respondents' statements, almost all respondents understood ML and TF, the possibility of ML and TF through the ECF, and the ML/TF program. Specifically related to the anti money laundering program, respondents felt the need to increase socialization regarding the AML and CFT programs both from OJK as the LPP and other authorities such as PPATK.

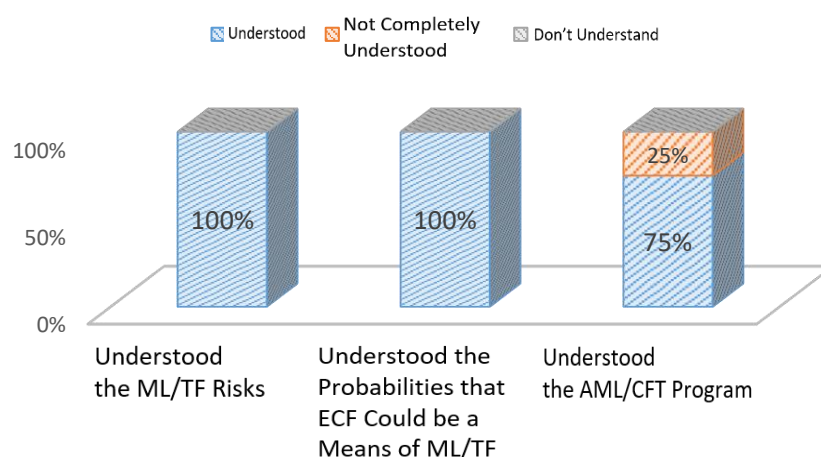


Figure 24. The ML/TF Perception Comprehension of Equity Crowdfunding Industry

Furthermore, the providers of the ECF have realized the potential of creating an ECF industry as a means to launder money and fund terrorism activities with the following areas and factors:

- 1) Actual controller (Beneficial Owner) of the issuer and investors
- 2) Possible affiliation between the issuer and investor on the platform
- 3) Possible existence of affiliate relations between investors
- 4) The intended use of the funds from the Issuer
- 5) Actual business activities to be carried out by the issuer based on funds from investors
- 6) The actual source of funds from investors

- 7) The time period between starting an investment and ending an investment
- 8) How to make a fund investment transaction from an investor (cash vs. fund transfer)
- 9) The possibility of depositing a fund investment transaction from an investor is carried out by a non-investor (third party)
- 10) The possibility of investors investing more than 1 issuer to avoid the value of a suspicious investment
- 11) The technology used by equity crowdfunding providers enables investors and / or Issuers to do money laundering
- 12) Possible relationship between platform owner / manager and Issuer and / or investor
- 13) Use of fake identity
- 14) Mingling (mixing funds resulting from criminal acts with legal funds) and structuring (breaking down transactions by way of buying / investing funds repeatedly)

Information Management System

In implementing the AML and CFT program, an information management system is needed to monitor the profile and transaction of the customer which can further identify, analyze, monitor and provide reports effectively on the profile, characteristics and/or habits of the pattern of transactions carried out by the customer. Currently in the ECF industry, the information management system is limited and the focus on the process of identifying the profile of users in this case the issuers and investors.

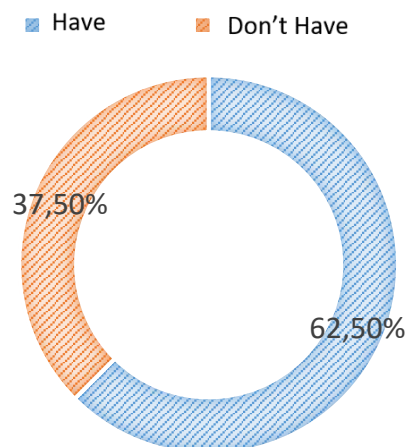


Figure 25. The Availability of Detection System for Possible ML and TF Occurs

As many as 62.5% of respondents stated that they already have a system that can detect the possibility of ML and TF, the respondents further explained related to the system as follows:

- 1) IP reading of users and recording user activities;
- 2) In the platform system both prospective issuers and prospective investors are required to fill in the data / files in the KYC process, and other necessary identity data;
- 3) Conduct 2 validations by sending email and SM (OTP);
- 4) The existence of filling in the user's personal data related to income and sources of acquisition of funds;
- 5) Limitation of investment amount per user for each asset collected; and / or
- 6) The user fills out a statement of sources of funds and income, then uploads it to the web as an archive.

From the aspect of information systems, it appears that the ECF providers have not been able to maximize the use of information systems for the benefit of AML/CFT. At present, intensive information systems are only used in bringing together Issuers and investors and conducting financial transactions through escrow accounts as stipulated in POJK Equity Crowdfunding. The use of information systems in the implementation of the AML/CFT program, including the process of identification and verification of prospective Issuers and prospective investors, still requires human power to be able to operate it. Considering that the ECF is a technology-based financial industry, the ECF providers should have implemented a reliable information system for the benefit of implementing the AML/CFT program in order to streamline the resources owned by the ECF providers company.

ECF vulnerability to ML and TF based on PESTEL / Macro Aspects

The vulnerability of the ECF to ML and TF in besides can be seen from the 5 (five) pillars of the APT TF program implementation, can also be seen more broadly which includes Politics, Economy, Social, Technology, Legal, and Environment (PESTEL). Based on data and information obtained from the FGD results, the following vulnerabilities can be described based on PESTEL aspects:

1. The political climate of the new government in Indonesia is available to invest, including fintech businesses that generate sources of funds. The free foreign exchange system could open up opportunities for the entry of foreign investors, in line with the potential for easy entry of funds from proceeds of crime originating from abroad.

2. Economically, ECF activities have a positive impact on economic growth that can encourage economic activities, those are a new investment vehicle for the community and a new source of financing for the business world.
3. Socially, the community accepts the presence of fintech, including the ECF, which makes it easy for the community to carry out investment activities and obtain funding for business activities.
4. Society has increasingly literate in technology, it makes the development of fintech in Indonesia is rapidly growing.
5. Fintech creates a new business environment that opens up employment opportunities and gives rise to ease/efficiency in channeling and obtaining funding.
6. Legally, there is a vulnerability because of the lack of laws governing ECF activities. Therefore, the legal basis for regulating, supervising, and implementing sanctions is relatively weak. Besides, the ECF is also not included in the reporting party.

CHAPTER V CONCLUSION AND RECOMMENDATION

A. Conclusion

Based on the explanation above, including the results of respondent self-assessment, it can be concluded by the description of the threat of ML and TF in the ECF industry that can be seen by the aspects of service user profiles, geographical areas, product services, and distribution channels. Furthermore, the vulnerability of ML and TF in the ECF industry can be seen by the implementation of the AML and CTF program where almost all ECF providers have started and implemented 5 (five) pillars of AML and CTF implementation. However, the implementation of the AML and CTF program implementation for ECF providers needs to be improved even better than before the implementation of the ML and TF program that becomes an obligation, that is in 2022 as referred to OJK Regulation No. 37/POJK.04/2018.

B. Recommendation

Based on the above conclusions can be submitted recommendations as follows:

1. The need for socialization to fintech industry institutions, especially the equity crowdfunding industry is related to threats and vulnerability of the equity crowdfunding industry to AML and CTF. This socialization is needed by the crowdfunding industry to get a better understanding of threats and vulnerabilities of the ML as part of the money laundering risk assessment and mitigate the risks that needed to anticipate the aforementioned threats and vulnerabilities.
2. The need for training to fintech industry institutions, especially the equity crowdfunding industry in implementing the ML/TF program for the fintech/equity crowdfunding industry. This is important so that the fintech/equity crowdfunding industry is not used as a means of money laundering and terrorism funding.
3. Based on the self-assessment results, of all respondents related to the implementation of the ML and TF program, the equity crowdfunding provider has started and implemented the ML and TF program implementation. Given the special characteristics of the equity crowdfunding industry, further provisions are needed in the form of a Service Authority Circular Finance (SEOJK) which regulates matters more technical implementation of ML and TF programs for equity crowdfunding providers.

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