

Risk Mitigation in Employment Sector Investment: TAPERA Fund Fertilization KIK Study

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Abstract

Global economic developments have a significant impact on domestic economic activity, increasing the mobility of countries and businesses. In this context, investment-both in the capital market and in the labor sector-is very important. Law No. 4/2016 concerning Public Housing Savings (TAPERA Law) is designed to fulfill the need for decent housing for workers through a housing savings mechanism. This study evaluates the mechanisms for collecting and managing TAPERA funds, as well as the government's role in mitigating investment risks. The main focus is on the management of funds through Collective Investment Contracts (KIK) and the associated risks. This research also discusses the case of unrealized loss experienced by BPJS Ketenagakerjaan due to the impact of the Covid-19 pandemic and the risk mitigation measures applied in the management of TAPERA. Hopefully, this analysis can provide solutions to improve transparency, accountability, and effectiveness of housing fund management, as well as ensure the welfare of workers in Indonesia. This research adopts a normative legal research method that focuses on analyzing laws and regulations as the main approach.

Keywords: TAPERA, Collective Investment Contract (KIK), Mitigating Investment Risk;

A. Introduction

Global economic development affects the pace of economic activity in the country. The high rate of this economy results in a very high rate of mobility of countries and business people. It takes synergy between politics, government policy, technology, investor leeway in investing, and is also supported by qualified human resources to create stable economic activity. The activity of investing several types of capital market instruments is a business activity that has many variables that support each other. Ease of access, as well as significant technological developments seem to eliminate barriers and barriers for all groups in this case investing with a variety of expected *benefits*, ranging from expecting *passive income*, to multiplying income by one way by buying shares in the Capital Market.

Nowadays, investments are not only made in the Capital Market, but extend to other fields, one of which is the field of employment. In line with the government's program to

prepare permanent housing for workers, which is a manifestation of the fifth point of the Pancasila Precept, namely creating social justice for all Indonesian people. Pancasila and the Preamble of the 1945 Constitution as the basic state norms form the basis for every aspect of state life, providing guidelines regarding state structure, legal values and principles of governance. Thus, the state functions as an instrument that has clear goals and can guide steps to achieve a common vision. To achieve general *welfare*, the role of the state is very important within the framework of a material law state or *welfare* state¹

President Jokowi passed Law Number 4 of 2016 on Public Housing Savings (TAPERA Law) on May 20, 2020 which regulates the technical implementation through Government Regulation Number 25 of 2020 on the Implementation of Public Housing Savings (PP Tapera) which includes procedures and management of Tapera contributions which will be the responsibility of the Public Housing Savings Management Agency (BP Tapera). This regulation requires civil servants, TNI and Polri soldiers, BUMN and BUMD workers, and private workers to manage funds in the context of implementing housing savings. Participant deposits are set at 3% of salary or wages, of which 0.5% is borne by the employer and 2.5% is deducted from the worker's salary. Independent participants voluntarily pay Tapera contributions of 3% of their income.²

Tapera uses a method in its implementation, one of which is by developing a *Housing Provident Fund* (HPF) system to answer the problem of population density plus the concentration of workers in industrial cities. In the academic text of the TAPERA Law, this system was adopted from densely populated countries such as China and India which have high inflation rates and do not yet have adequate capital markets.³ Through the *House Provident Fund*, which is a specialized financial institution mandated to collect mandatory contributions from workers in the private and public sectors. The contributions collected are a certain percentage of the worker's salary or salary, and the employer is also required to contribute to the contributions paid by the worker. Once the contributions are collected, the HPF is responsible for managing the funds by investing in various financial instruments in accordance with applicable laws and regulations. The purpose of this management is to nurture and grow the fund for the benefit of the workers who are contributors to the program.⁴

Reflecting on China, there are still many low- and middle-income workers who find housing prices too high to afford. To solve this problem, the Chinese government introduced the *Housing Provident Fund* (HPF) system in 1991. By 1998, the HPF system had been implemented in almost all cities. Furthermore, through State Council decisions in 1999 and 2002, it was determined that HPF funds would be used exclusively to promote home ownership

¹ Neysa Tania, Jason Novienco and Dixon Sanjaya, 'A Study of Progressive Legal Theory towards the Implementation of Public Housing Savings Products' (2021) 26 Perspectives 73, 74.

² Tazkiya Amalia Nasution, 'Juridical Analysis of the Public Housing Savings Law Viewed from the Perspective of Good Governance' (2021) 6 Journal of Lex Renaissance 2 <<https://journal.uui.ac.id/Lex-Renaissance/article/view/22467/pdf>> Accessed July 17th 2024.

³ Academic Paper of Law Number 4 Year 2016 on Public Housing Savings (TAPERA Law) pp. 11.

⁴ *Ibid.*

for individual households.⁵ Indonesia itself in the Academic Paper for the Establishment of Law No. 4 of 2016 is committed to developing a residential housing financing system that has been included in 2005-2025, in CHAPTER IV E point 2, People get housing equipped with supporting infrastructure and facilities, supported by a long-term housing financing system that is sustainable, efficient, and accountable, so that cities free from slums can be realized.⁶

Tapera aims to provide long-term housing for workers in Indonesia raising funds through monthly contributions. This research will dissect the mechanism for collecting and managing funds through investment instruments and the role of the government in overcoming the potential risk of loss and how regulations collect regulations regarding risk mitigation and management. One of the references in this research is the *unrealized loss* case experienced by BPJS Ketenagakerjaan due to the impact of Covid-19. The government in this case is in line with the objectives of the state, namely creating the welfare of the people, especially workers who until now are still experiencing welfare problems, including regarding adequate housing amid the increasing population density in Indonesia.

B. Research Methods

The research method the author uses is normative legal research that adopts a statutory approach. This research method is descriptive in nature that relies on primary and secondary legal materials. Data is collected through a literature study of various relevant legal documents.

C. Result and Discussion

1. Investment in Employment: Pros and Cons

Investment is an activity of investing capital in an investment instrument, which is generally the capital market. According to Rokhmatussa'dyah and Suratman, the *capital* market can generate profits (*capital gains*) or losses (*capital losses*) from securities trading. The simple cause of an increase in securities prices is high *demand*, while a decrease in securities prices is caused by high *supply*. The volatile nature of securities prices is influenced by various factors, both internal and external. Internal factors come from within the issuing company itself, such as company performance, future projects, and others. While external factors include government policies, macroeconomic conditions such as inflation, *panic buying*, and especially market manipulation. Securities price fluctuations occur naturally and unintentionally with specific intentions.⁷

The Social Security Organizing Agency (BPJS), which is a public legal entity with capital that is not divided into shares and accountable to the President, is involved in investing in capital market instruments. BPJS was established based on Law Number 24

⁵ Mattias Burell, 'China's Housing Provident Fund: Its Success and Limitations' 11.

⁶ Academic Paper of Law Number 4 Year 2016 on Public Housing Savings (TAPERA Law) page. 3.

⁷ Ana Rokhmatussa'dyah Suratman, *Investment Law and Capital Markets* (5th edn, Sinar Grafika 2018).

of 2014 concerning BPJS, which divides it into 2 (two) entities: BPJS Health and BPJS Employment. BPJS has the main function of organizing social security to meet the needs of a decent life for the community. According to Article 9 of the BPJS Law, BPJS Employment is tasked with organizing work accident insurance (JKK), Old Age Insurance (JHT), Pension Insurance (JP), and death insurance (JKM) programs. The largest social security programs managed by BPJS Employment are the Old Age Insurance (JHT) and Pension Insurance programs.⁸

Public participation in BPJS Employment is still relatively low compared to the total population, around 19.2 million (14.2%) in 2015. Although there was a significant increase to 48 million participants in 2016 and 44.9 million participants in 2017 (37.1%), this shows that enthusiasm for this social security program still needs to be improved. The growing number of participants, reaching 50.5 million in 2018 and 55.2 million in 2019, indicates a growing awareness of the need for employment social security. In this context, the Tapera Program, in line with Jamsostek, needs comprehensive counseling and socialization in all regions. The importance of providing confidence to the working community regarding transparency, accountability, and disclosure of information related to fund raising and investment for participants cannot be ignored.⁹

The welfare of workers cannot be assessed from one perspective. Welfare is something that is complex as the times evolve. Workers' welfare is an *essential* focus because one of the influential factors in economic growth is human resources. Todaro (2003) states that an increase in population and labor force is traditionally considered a positive factor that drives economic growth. Lewis added that homogeneous and unskilled labor can move smoothly from the traditional sector to the modern sector, albeit in limited numbers, indicating a high elasticity of labor supply. The demand for labor from the traditional sector increases along with the expansion of the modern sector. Thus, labor plays a significant role in economic growth.¹⁰

The Tapera Law seems to be present in answering the problem of worker welfare in terms of sustainable welfare about housing, which has been one of the crucial things since long ago. Ideally, Law Number 4 of 2016 concerning Public Housing Savings was made with the aim of meeting the needs of citizens for decent and affordable housing, as mandated by the 1945 Constitution of the Republic of Indonesia. This law is designed to address the lack of long-term low-cost funds required for public housing financing. By collecting and providing long-term low-cost funds through the housing savings system, the state seeks to ensure the fulfillment of these needs. As the laws and

⁸ Law No. 24 Year 2014 on Social Security Organizing Agency

⁹ Dedy Dewanto Soeprapto, 'SWOT Analysis of BP. Tapera: A Public Housing Savings Implementing Agency in Indonesia' (2020) 9 International Journal of Research in Business and Social Science (2147- 4478) 230, 5.

¹⁰ Rendy Alvaro, 'The Effect of Investment, Labor, and Exports on Economic Growth' (2021) 06 Journal of Budget 4.

regulations in the field of housing and the social security system do not fully regulate the implementation of housing savings in a comprehensive manner, a more complete and comprehensive regulation is needed.¹¹

Tapera, which is collected and utilized to improve the welfare of workers, is managed with mechanisms and operational policies by the Tapera Management Agency (BP Tapera) which adheres to the rules set by the Tapera Committee and pays attention to policies in the field of housing and residential areas.¹²As for the fund processing mechanism, it consists of 3 stages:¹³

1. Tapera Fund Raising is a mechanism to collect funds from its members;
2. Tapera Fund Fertilization, which is carried out with the assistance of an Investment Manager in the form of a KIK (Collective Investment Contract) by placing an investment portfolio in the country.
3. Utilization of the Tapera Fund, is carried out for housing financing for Participants. Housing financing for Participants includes payments:
 - a. Home ownership;
 - b. House construction;
 - c. Home improvement.

2. Tapera Fund Fertilization Through KIK: A Risk Mitigation

Based on the Big Indonesian Dictionary, Investment means investing money or capital into a company or project with the aim of making a profit. Investors need to estimate the profit (*capital gain*) that will be obtained during the investment period, because the results may not match expectations. These gains are affected by various factors that can be predicted in advance, known as risk.¹⁴ Every investment decision should at least consider the expected return as well as the risks that go along with it. In general, investment risks are divided into systematic and non-systematic risks. Systematic risks affect all types of investments and cannot be reduced or eliminated, such as market, interest rate, purchasing power and political risks. On the other hand, non-systematic risks are only associated with certain investments due to the conditions of a particular company or industry, such as financial risks and internal management of the company.

Given that every investment carries risk because it depends on many variables and conditions, there is a need for Risk Mitigation. Risk Mitigation is an important element in risk management, acting as a solution to deal with the risks faced. It involves

¹¹ Law Number 4 Year 2016 on Public Housing Savings (TAPERA Law)

¹² Article 3, Government Regulation of the Republic of Indonesia Number 25 of 2020 concerning the Implementation of Public Housing Savings

¹³ Article 4, Government Regulation of the Republic of Indonesia Number 25 of 2020 concerning the Implementation of Public Housing Savings.

¹⁴ Sri Isnawaty Pakaya, 'Investment Risk in the Capital Market: An Introduction' Faculty of Economics and Business, Gorontalo State University 1.

systematic measures to reduce exposure to risk and/or the likelihood of risk occurring. Risk Mitigation is accepting risk at a certain level by taking mitigating actions through improved controls, quality processes and clear rules in the implementation of activities and risk management.¹⁵ To perform a risk mitigation, risk management is required which is defined as a logical and systematic method to identify, qualify, determine attitudes, establish solutions, and monitor and report risks in any activity or process.¹⁶

Risk Management in the Tapera Law is mentioned in Article 38 and Article 39 which contain that the Tapera Management Agency (BP) is the body that acts in preparing risk management to maintain the established risk profile. The stages are *first* through the process of identifying the type of risk, *second* is the risk measurement process, *third* is the handling and *fourth* is the risk monitoring stage. The types of risks referred to are liquidity risk, credit risk, market risk, strategic risk, operational risk, legal risk, compliance risk, reputation risk, return risk and investment risk.¹⁷ The application of risk management to Investment Risk through KIK is carried out by taking into account aspects of relevance and significance.

Related to this, Government Regulation Number 25 of 2020 regulates the investment mechanism in Tapera, where the KIK Fund investment portfolio is placed in domestic investment instruments.¹⁸ Fertilization of the funds themselves, can be done through 2 (two) principles, namely conventional and sharia. Tapera Fund Fertilization with conventional principles can be carried out in several ways and forms, namely:¹⁹

- a. Bank deposits;
- b. Central government bonds;
- c. Local government bonds;
- d. Securities in the field of housing and residential areas; and/or
- e. Other forms of investment that are safe and profitable in accordance with laws and regulations.

Meanwhile, the management of the Tapera Fund based on sharia principles as referred to in paragraph (1) shall be carried out through investment instruments which include:

- a. Shari'ah banking deposits;
- b. Central government bonds or sukuk;
- c. Local government bonds or sukuk;
- d. Shari'ah securities in the field of housing and residential areas; and or

¹⁵ Zidni Ardhian Firdaus, Financing Risk Mitigation in Islamic Microfinance Institutions, (Thesis-University of Airlangga, 2014), 12

¹⁶ Ferry N Indroes, *Banking Risk Management* (Raja Grafindo Persada 2011) 4.

¹⁷ Articles 38 and 39 of Law Number 4 Year 2016 on Public Housing Savings (TAPERA Law)

¹⁸ Article 26, Government Regulation of the Republic of Indonesia Number 25 of 2020 concerning the Implementation of Public Housing Savings.

¹⁹ Article 27, Government Regulation of the Republic of Indonesia Number 25 of 2020 concerning the Implementation of Public Housing Savings.

- e. Other forms of investment that are safe and profitable in accordance with laws and regulations.

As for the management of the Tapera Fund, the Investment Manager and the Custodian Bank shall implement the KIK in accordance with laws and regulations. The management of the Tapera Fund as referred to in paragraph (1) shall be administered by a Custodian Bank which is a state-owned or affiliated enterprise. The Investment Manager and Custodian Bank as referred to in paragraph (1) shall be appointed and bound by a cooperation agreement with BP Tapera. The Investment Manager and Custodian Bank are prohibited from having affiliated relationships except those arising from state ownership or equity participation. The management of the Tapera Fund shall be carried out in accordance with the investment policy established by the KIK investment committee and set forth in the KIK. The KIK investment committee is in accordance with the provisions of laws and regulations. Investments in instruments in the form of bank deposits and sharia banking deposits must pay attention to the Bank's financial condition. Investment in instruments in the form of securities in the field of housing and residential areas or sharia securities in the field of housing and residential areas, as well as other forms of safe and profitable investment, must have an investment grade rating or its equivalent in accordance with statutory provisions. This investment grade rating or equivalent is issued by a securities rating company that has obtained a license from the supervisory institution in the capital market sector. Further provisions regarding the criteria for the Bank's financial condition and investment grade rating or equivalent as referred to in paragraphs (1) through (3) shall be regulated through BP Tapera Regulations.²⁰

Regarding potential losses in investment in the field of labor. Indonesia must reflect on the investment of employment social security funds carried out by BPJS Ketenagakerjaan which must consider the level of risk, fund security, and employment social security benefits. Errors in the management of these funds can result in losses for workers. During 2020 and 2021, many countries, including Indonesia, experienced economic difficulties due to the spread of the Covid-19 virus. BPJS Ketenagakerjaan was also affected, facing difficulties in managing the investment of the employment social security fund which was later examined by the Attorney General's Office of the Republic of Indonesia. BPJS Ketenagakerjaan experienced a significant *unrealized loss* in August-September 2020 which reached Rp. 43 Trillion. However, at the end of December 2020, the figure dropped to IDR 22.31 trillion, and in January 2021, the *unrealized loss* decreased to IDR 14.42 trillion. This shows that potential losses can fluctuate depending on the price of stocks in the capital market that are part of BPJS Ketenagakerjaan's portfolio. Indra Safitri, a Capital Market Law Observer, notes that the problem faced by BPJS Ketenagakerjaan is not a state loss crime such as corruption, but a decrease in

²⁰ Articles 28, 29, 30, Government Regulation of the Republic of Indonesia Number 25 of 2020 concerning the Implementation of Public Housing Savings.

investment value (*unrealized loss*) affected by market turmoil due to the Covid-19 Virus Pandemic throughout 2020 and 2021. ²¹

Regarding the *unrealized loss* that can undeniably occur in the management of Tapera funds, the Confederation of Indonesian Trade Unions (KSPSI) Kubu Jumbuh Hidayat said in an interview that every year, BP Tapera collects around IDR 50 trillion from contribution funds, which come from 2.5 percent of workers' salaries and 0.5 percent from employers, with the average wage of formal workers in Indonesia reaching IDR 2.5 million and the number of workers reaching 58 million people. ²²Meanwhile, in Tapera itself, participant deposits are divided into 3 (three) reserve funds worth IDR 740 billion, fertilization funds worth IDR 4.2 trillion, and utilization funds worth IDR 2.8 trillion on December 18, 2023. In managing the fertilization fund, he said that BP Tapera collaborated with seven leading investment managers in Indonesia to form a collective investment contract (KIK). BP Tapera in managing investment funds collaborates with 7 (seven) investment managers, namely PT Bahana TCW Investment Management, PT Batavia Prosperindo Aset Manajemen, PT BNI Aset Management, PT BRI Investment Management, PT Mandiri Investment management, PT Manulife Aset Management Indonesia, and PT Schroder Investment Management Indonesia, controlling around 70% of the domestic mutual fund market share. The role of BP Tapera itself is claimed to be a body that ensures that the fund gets good returns with measurable risks. ²³

D. Conclusion and Recommendation

The urgency of the Public Housing Savings (Tapera) program as an investment in the employment sector, with the main focus on providing long-term housing for workers in Indonesia. Through the collection of Collective Investment Contract (KIK) funds whose management uses a Risk Mitigation which has been regulated in Government Regulation of the Republic of Indonesia Number 25 of 2020 concerning the Implementation of Public Housing Savings. The role of risk mitigation aims to achieve maximum investment returns with predictable risks. However, like any other investment, this program also faces the risk of market fluctuations that may result in unrealized losses. To address these potential risks, it is important to implement effective risk mitigation in the management of Tapera funds. The Tapera Board (BP Tapera) plays a key role in formulating risk management policies that are in accordance with applicable rules and regulations, including the selection of safe and profitable investments.

²¹ Reza Rizky Farza, Lastuti Abubakar and Agus Mulya Karsona, 'Protection of Employment Social Security Fund Investment Through Sovereign Wealth Fund (Swf).' 4.

²² Amelia Rahima Sari, 'KSPSI Calls Tapera Contributions a Legalized Bancakan Mode: The Government is Cruel' *Tempo.co* (May 2024) <<https://nasional.tempo.co/read/1873240/kspsi-sebut-iuran-tapera-jadi-modus-bancakan-yang-dilegalkan-pemerintah-kejam>> Accessed July 21st 2024.

²³ Communications Division, 'BP Tapera's Return on Fund Management Impressive' *BP Tapera* (December 2023) <<https://www.tapera.go.id/2023/12/imbal-hasil-pengelolaan-dana-bp-tapera-impresif/>> Accessed July 21 2024.

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