



## Issuer's Responsibility in Bond Default Disputes

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<p><b>Article History</b> Received: 2025-11-20 Revised: 2025-12-17 Published: 2025-12-30</p> <p><b>Keywords:</b> <i>Bonds; Disputes; Responsibility; Issuers</i></p>	<p>Bonds as one of the capital market instruments are a long-term funding option for issuers. However, in practice, it is not uncommon for defaults to arise in legal disputes between issuers and investors. This study aims to analyze the form of legal responsibility of issuers in the case of bond default and review the dispute resolution mechanisms available in Indonesia. The research method used is normative juridical with a legislative approach, court decisions, and case studies. The results of the study show that issuers have a civil legal responsibility to fulfill the obligation to pay interest and principal bonds as stated in the bond issuance agreement. The failure of the issuer to fulfill these obligations may lead to lawsuits from bondholders, either through the courts or dispute resolution institutions such as arbitration and mediation. In addition, the role of the Financial Services Authority (OJK) is very important in supervising and protecting investors. This study recommends strengthening regulations and information transparency from issuers to prevent future defaults.</p>

### I. INTRODUCTION

The capital market plays a strategic role in the modern economic system as a means of financial intermediation that brings together those who need funds with those who have excess funds (Sobandi et al., 2024). In this context, bonds are one of the financial instruments that have an important position because they function as a medium to long-term financing alternative for issuers, while offering relatively stable investment opportunities for investors (Okta & Kaluge, 2011). As a debt seem, bonds contain a contractual legal relationship between the issuer as a debtor and the bondholder as a creditor, which is bound by an agreement for periodic interest payments as well as the repayment of the principal debt at maturity.

Within the legal framework of the Indonesian capital market, the issuance of bonds is not only seen as a purely economic activity, but also as a legal act subject to the principles of openness, accountability, and investor protection (Melati & Nurcahya, 2022). The Financial Services Authority (OJK) acts as a supervisory institution that ensures that every issuance of securities,

including bonds, is carried out transparently and in accordance with the provisions of laws and regulations (Murdadi, 2012). Thus, public trust in the capital market is highly dependent on legal certainty and the issuer's compliance with the obligations that have been promised.

However, in practice, economic dynamics, business pressure, and weak corporate governance often create conditions where issuers are unable to fulfill their obligations to bondholders. This situation is known as default, both in the form of late interest payments and the inability to pay off the principal of the bond at maturity. Defaults not only cause financial losses for investors, but also have a systemic impact on the stability and credibility of the capital market. Therefore, the event of bond default cannot be viewed solely as a business risk, but as a legal issue that demands clarity of accountability.

The phenomenon of bond defaults in Indonesia in recent years shows that legal protection for investors still faces various challenges (Ramzy, 2025). A number of default cases involving large-scale issuers have raised fundamental questions

about the effectiveness of capital market legal regulation, the adequacy of supervision by the authorities, and the strength of the bondholders' legal position in demanding their rights. In this context, investors as bondholders have legal standing as creditors, but in dispute settlement practice, these positions are often faced with procedural and substantial complexity, especially when the issuer is in a state of serious financial difficulty.

Disputes due to bond defaults can be resolved through various legal mechanisms, ranging from civil lawsuits in court, alternative dispute resolution such as arbitration and mediation, to special mechanisms in the form of Suspension of Debt Payment Obligations (PKPU) and bankruptcy. Each mechanism has different legal implications for the rights and interests of bondholders. PKPU and bankruptcy processes, for example, often put bondholders in a position to compete with other creditors, thus raising issues regarding the certainty of the fulfillment of rights and the principle of justice in the distribution of debtors' assets.

From a civil law perspective, bond default is a form of default that causes legal consequences in the form of compensation obligations, achievement fulfillment, or cancellation of agreements. However, in the context of the capital market, the liability of issuers is not only limited to contractual aspects, but also includes obligations to comply with capital market regulations, the principle of information disclosure, and the principle of good faith in legal relations with investors. Therefore, the analysis of the issuer's liability must be carried out integratively by considering civil law and capital market law as a single legal system.

Based on this description, this study departs from the need to examine in depth the form and limits of issuers' legal responsibilities in bond default disputes, as well as the dispute resolution mechanisms available to bondholders within Indonesia's positive legal framework. This study not only examines the legal consequences of default, but also places the issue in the context of investor protection and capital market integrity. With a normative juridical approach supported by

an analysis of laws and regulations, legal doctrine, and judicial practice, it is hoped that this research can make a theoretical and practical contribution to the development of capital market law in Indonesia.

In the end, this research is expected to be able to be a reference for academics, legal practitioners, regulators, and capital market participants in understanding and formulating preventive and repressive measures to minimize the risk of bond default. Furthermore, this research is expected to encourage the creation of a more transparent, fair, and investor protection-oriented capital market system as the main foundation for the sustainability of the national capital market.

## **II. RESEARCH METHODS**

This research uses a normative juridical method, which is legal research conducted by examining legal materials that are relevant to the problems discussed (Jonaedi Efendi et al., 2018). This approach is used to examine laws and regulations, doctrines, legal principles, and court decisions related to the liability of issuers in the case of bond default.

The normative juridical approach is considered relevant because the main focus of this research is to understand and analyze the legal responsibilities of issuers based on applicable legal norms, especially in the Indonesian capital market legal system. In addition, this research also uses a conceptual approach, namely by examining basic concepts such as engagement, default, civil liability, and investor protection in the capital market.

The type of data used is secondary data consisting of:

1. Primary legal materials, namely relevant laws and regulations such as Law Number 8 of 1995 concerning the Capital Market, Financial Services Authority Regulation (POJK), Civil Code (KUHPdata), and other regulations related to bonds and dispute resolution.
2. Secondary legal materials, namely legal literature, scientific journals, articles, and the views of legal experts relevant to the research topic.

3. Tertiary legal materials, such as legal dictionaries and legal encyclopedias to support the understanding of important terms in this study.

The data collection technique is carried out through library research, which is by searching, identifying, and reviewing relevant legal documents. Meanwhile, the data analysis technique is carried out qualitatively, namely by interpreting and connecting one norm with another, as well as with legal facts that occur in the field, especially through case studies that have occurred related to bond defaults by issuers in Indonesia.

Through this approach, the research is expected to provide a comprehensive picture of the form of legal responsibility of issuers, as well as examine the effectiveness of existing legal instruments in resolving disputes between issuers and bondholders.

### **III. RESULTS AND DISCUSSION**

#### **A. Definition and Characteristics of Bonds**

Bonds are basically financial instruments in the form of medium to long-term debt securities that reflect the existence of a legal relationship between bond issuers (issuers) and bondholders (investors) (Adrian Sutedi, 2024). In this relationship, the issuer is positioned as the borrowing party, while the investor is positioned as a creditor who is entitled to receive periodic interest payments and repayment of the principal debt at a predetermined time. Brigham and Houston define a bond as a long-term contract in which the borrower promises to pay interest and principal on a certain date to the bondholder (Sihombing & Rachmawati, 2015). This definition emphasizes that bonds are not just investment instruments, but also legal agreements that give birth to rights and obligations for the parties.

In the context of Indonesian law and capital markets, the definition of bonds has gained normative legitimacy through the Presidential Decree of the Republic of Indonesia Number 775/KMK/001/1982, which states that bonds are a type of security in the form of a debt acknowledgment letter for a loan of money from the public in a certain form, for a period of at least

three years, with interest in return for an amount of interest and the payment time that has been determined in advance by the issuer (Amertha, 2018). This definition places bonds as an instrument of public fund-raising that is subject to the principles of prudence, openness, and state supervision, considering that the funds raised are sourced from the wider community.

As an investment instrument, bonds have the main characteristics of being fixed income securities (KUSUMAWARDANI, 2018). This is as stated by Sulistyastuti who stated that bonds are fixed-income securities issued in connection with the existence of debt agreements. The character of fixed income makes bonds relatively more stable than stocks, because investors have known the amount of returns in the form of coupons that will be received from the beginning, as long as the issuer is able to fulfill its obligations. Therefore, bonds are often seen as investment instruments with a more controlled level of risk, especially for investors who prioritize cash flow certainty.

From the issuer's point of view, bond issuance is an alternative to non-bank financing that is increasingly in demand in modern business practices. Through bonds, companies can obtain large amounts of funds without having to sacrifice ownership or control of the company, as is the case with stock issuances (Adrian & Muharam, 2011). In addition, a predetermined interest and principal payment structure allows issuers to plan cash flow more systematically. However, these benefits are also accompanied by strict legal obligations, because failure to meet coupon and bond principal payments will have implications for the issuer's legal liability.

For investors, bond investment provides potential profits sourced from two main aspects, namely interest income (coupons) that are paid periodically and potential capital gains obtained from the difference in the selling price of bonds in the secondary market if the bond price increases above its nominal value (Okta & Kaluge, 2011). These advantages make bonds an instrument that not only serves as a means of storing value, but also as a trading instrument in the capital market.

The main characteristics of bonds are reflected in several essential elements inherent in them.

The face value is the principal value of the bond that must be paid by the issuer to the bondholder at maturity (Cornelius Simanjuntak & Natalie Mulia, 2018). This value is the basis for calculating interest payments and at the same time reflects the amount of the issuer's main liabilities. Furthermore, a bond coupon is an interest rate that is promised to investors and is paid periodically, generally every three or six months, with a percentage expressed on an annual basis. The amount of this coupon is the main indicator of the level of return that investors will receive as long as the bond is still valid.

Another important characteristic is maturity, which is the expiration date of the bond validity period which marks the issuer's obligation to pay off the principal debt in full. The maturity period of bonds varies widely, ranging from one year to more than five years. In general, the longer the maturity period of a bond, the higher the interest rate offered, as compensation for the increased risk of future uncertainty. Bonds with shorter maturities tend to have lower risk because the issuer's financial condition is relatively more predictable.

In addition, the identity and credibility of the bond issuer are crucial factors in assessing the level of risk of bond investment. The issuer's ability to fulfill its obligations is greatly influenced by its financial condition, corporate governance, and business prospects. To measure default risk, investors generally refer to bond ratings issued by independent rating agencies such as PT PEFINDO or Kasnic Indonesia. The bond rating serves as an information instrument that assists investors in assessing the feasibility and risk level of a bond before making an investment.

Thus, bonds can be understood not only as a purely financial instrument, but also as a legal instrument fraught with juridical consequences. The characteristics of bonds, which include nominal value, coupons, maturity, and issuer profiles, form the basis of the legal relationship between issuers and bondholders. A comprehensive understanding of the meaning and characteristics of bonds is important, especially in the context of this study, because the failure of the issuer to meet these characteristics will have

direct implications for the emergence of legal disputes and civil liability due to bond defaults.

## **B. The Role of Issuers**

Issuers are legal subjects that have a central role in capital market activities, especially in the process of raising funds from the public through the Public Offering mechanism (Mas Rahmah & MH, 2019). In a juridical sense, an issuer is a party that makes securities offerings to the public subject to the provisions of laws and regulations in the capital market sector. The public offering includes various types of securities, such as stocks, bonds, and other derivative instruments, which are publicly traded on the stock exchange. Therefore, the existence of issuers cannot be separated from the principles of transparency, accountability, and investor protection as the main foundation for the implementation of the capital market.

It is necessary to distinguish between the concept of issuer and public company or public company. Issuers basically refer to parties, especially limited liability companies, that conduct or will conduct public offerings, both in the context of initial public offerings (IPOs) and the issuance of other securities, including bonds (Mughtar & SE, 2021). Meanwhile, a public company is a limited liability company that has completed the public offering process and its shares have been listed on the Indonesia Stock Exchange. Thus, the term issuer has a broader scope and is functional, namely related to securities issuance and offering activities, not solely the company's status as a public entity (Mughtar & SE, 2021).

In a normative perspective, the definition of issuer is not limited only to state-owned or government enterprises, as reflected in the definition of issuer according to the Great Dictionary of the Indonesian Language (Siregar et al., 2024). In modern capital market practices supervised by the Financial Services Authority, issuers can be in the form of private companies or state-owned enterprises, both public and private, as long as they offer securities to the public. However, not every company can be called an issuer, because this status is only attached to

companies whose securities, both stocks and bonds, are traded or offered on the capital market.

The role of issuers in the capital market is not only limited to being a party that raises funds, but also as a legal subject that bears broad legal responsibilities to investors (Mangindaan et al., 2022). In the case of bond issuance, the issuer is positioned as a debtor who is bound by a debt agreement with the bondholder as a creditor. This legal relationship gives birth to the main obligation for issuers to pay interest periodically and pay off the principal of the bond at maturity. Therefore, issuers have a legal obligation to ensure that the issuance of bonds is carried out legally, does not contain legal defects, and is supported by adequate financial capabilities.

In addition to these contractual obligations, issuers also have a strategic role as the main source of information for investors. The disclosure principle requires issuers to convey true, complete, and timely information regarding financial conditions, business performance, and risks inherent in the securities they issue (Kautsar & Rosdini, 2025). This information is the basis for investors to make rational investment decisions. Thus, the accuracy and honesty of the information submitted by the issuer is not only a matter of business ethics, but also a legal responsibility that can have consequences if violated.

In the context of public fund management, issuers are also required to manage the funds obtained from the proceeds of the public offering responsibly and in accordance with the objectives that have been conveyed in the offering documents, such as prospectuses. Irregularities in the use of funds or failure to manage business risks can have a direct impact on the issuer's ability to fulfill its obligations to investors, including the risk of bond default. Therefore, the role of the issuer does not only stop at the stage of raising funds, but continues at the stage of management and accountability of the funds.

Along with the development of the capital market in Indonesia, the types of securities that can be offered by issuers are also increasingly diverse, including stocks, bonds, debt acknowledgments, commercial securities, collective investment contract participation units,

and various forms of securities derivatives. The diversity of these instruments requires issuers to have a high understanding and compliance with capital market regulations, as each type of securities has different risk characteristics and legal consequences. In the case of bonds, the risk of default is one of the most crucial aspects that is directly related to the issuer's legal responsibility.

Thus, the role of issuers in the capital market cannot be understood narrowly as a mere issuer, but as a legal subject that bears multidimensional responsibilities, both from civil, administrative, and business ethical aspects. A comprehensive understanding of the role of issuers is very important in the context of bond default disputes, because from this role it can be determined the extent of the issuer's legal liability for losses suffered by bondholders. This subchapter serves as a conceptual basis for further analyzing the forms of issuer accountability and dispute resolution mechanisms available in the Indonesian capital market legal system.

### **C. Issuer Responsibilities**

In the issuance of bonds, the issuer bears fundamental and inherent legal responsibilities since the occurrence of the relationship with the bondholder. Bonds as debt instruments are essentially agreements that give rise to the main obligation for issuers to pay interest or coupons periodically and pay off the principal debt at maturity as agreed. This obligation is imperative, because it is the core of the legal relationship between the issuer as a debtor and the investor as a creditor (Adrian & Muharam, 2011). Thus, the inability or negligence of the issuer in fulfilling these obligations is basically a violation of the agreed agreement.

Bond default occurs when the issuer does not carry out interest payment obligations or repayment of principal debt according to the set schedule. In the perspective of civil law, this condition qualifies as a default or breach of promise. Default does not only include the non-fulfillment of achievements at all, but also the delay in fulfilling achievements or the fulfillment of achievements that are not in accordance with the agreement (Okta & Kaluge, 2011). Therefore,

issuers who are in legal default are still burdened with the principal obligation to meet these payments, either through direct payments, debt restructuring, or other legal mechanisms recognized by laws and regulations.

In addition to payment obligations, the issuer's responsibility also includes the obligation to convey true, clear, and complete information regarding financial conditions, business prospects, and risks inherent in the bonds it issues. The principle of information disclosure is one of the main pillars of capital market law that aims to protect investors from misleading information. If the issuer conceals material facts or conveys inaccurate information, then the failure to pay the bonds is no longer seen solely as a business risk, but can develop into a more serious violation of the law.

In a normative context, Article 1243 of the Civil Code stipulates that parties who fail to fulfill the agreement can be burdened with the obligation to reimburse costs, losses, and interest arising from the default. Under this provision, the issuer's civil liability in the event of default includes the obligation to compensate for losses suffered by the bondholder. Such losses are not only limited to actual losses due to non-receipt of payments, but can also include other losses that are directly related to the issuer's negligence.

Apart from civil liability, issuers can also be held administratively liable if proven to have violated the provisions of capital market regulations. The Financial Services Authority as a supervisory institution has the authority to impose administrative sanctions on issuers who do not fulfill disclosure obligations, violate securities issuance provisions, or are negligent in protecting the interests of investors. The sanctions can be in the form of written reprimands, the imposition of fines, restrictions on business activities, the freezing of permits, and the revocation of business licenses, depending on the level and impact of the violation committed.

Furthermore, the issuer's liability can also develop into the criminal realm if in the process of issuing or managing bonds there are elements of intentionality, fraud, manipulation of financial statements, or the submission of false information

that is detrimental to investors. In such conditions, the failure to pay bonds is no longer seen as a purely civil matter, but as a criminal act in the field of the capital market as regulated in the applicable law. This shows that the issuer's responsibilities are multi-layered and not limited to one legal regime alone.

Disputes between issuers and bondholders due to default can be resolved through various legal mechanisms. The litigation route in the district court can be taken by investors to demand the fulfillment of the issuer's obligations based on the postulates of default. In addition, if the issuer's financial condition shows an inability to pay its debts, bondholders can apply for a Postponement of Debt Payment Obligation or bankruptcy to the Commercial Court. This mechanism aims to provide room for restructuring or, in certain cases, a fair distribution of the debtor's assets to creditors.

In addition to litigation mechanisms, dispute resolution can also be carried out through alternative dispute resolution such as arbitration and mediation, especially through institutions that have competence in the field of capital markets. These non-litigation mechanisms are often seen as more flexible and efficient, although their effectiveness is highly dependent on the good faith of the parties. In practice, the selection of a dispute resolution mechanism is often influenced by the substance of the bond agreement and the pre-agreed dispute resolution clause.

Although various dispute resolution mechanisms are in place, the protection of bondholders in default cases still faces a number of challenges, including time-consuming legal processes, inequality of bargaining positions between issuers and retail investors, and difficulties in proving the issuer's negligence or intentionality. Therefore, the application of the principles of good faith and information disclosure by issuers is a key factor in preventing disputes and minimizing investor losses.

Within this framework, the Financial Services Authority has a strategic role not only as a supervisor, but also as a guardian of the integrity of the capital market. Through the authority of supervision, law enforcement, and facilitation of

dispute resolution, the OJK is expected to be able to ensure that issuers carry out their responsibilities consistently and responsibly. Thus, the responsibility of issuers in issuing bonds is not only interpreted as a formal legal obligation, but also as a moral and professional commitment to maintain investor confidence and the sustainability of the Indonesian capital market.

#### IV. CONCLUSION AND SUGGESTIONS

##### A. Conclusion

Bond default is a form of default that can cause legal disputes between issuers and bondholders. In the Indonesian legal system, issuers have contractual legal responsibilities based on bond issuance agreements. These responsibilities include the obligation to pay interest and bond principal on time, as well as to provide financial information in an honest, open, and periodic manner to the public and investors. In the event of a default, the issuer can be held legally liable through a default lawsuit, as well as through the PKPU or bankruptcy mechanism. Under certain conditions, the issuer's responsibility can also extend to the administrative and even criminal realms if there are elements of violation of the law such as information manipulation or fraud against investors. Dispute resolution over bond defaults can be done through several channels, including litigation in court, capital market arbitration, mediation, and through the debt restructuring process. However, in practice, the settlement process often faces challenges such as slow legal processes and limited access to protection for retail investors. Thus, it is necessary to strengthen regulations, supervision, and transparency from issuers as well as more optimal legal protection from authorized authorities such as the OJK to prevent and handle disputes due to bond defaults in a fair and efficient manner. This research also emphasizes the importance of the principle of prudence and good faith in the legal relationship between issuers and investors in order to maintain confidence in the Indonesian capital market.

##### B. Suggestion

Based on the results of this research analysis, there are several suggestions that can be submitted to strengthen legal protection for investors and minimize the risk of bond default disputes in the future. Issuers need to increase transparency and accountability in bond issuance by delivering financial and risk information in an honest, complete, and timely manner, as well as implementing adequate risk management and financial planning to ensure the ability to pay interest and principal bonds. The Financial Services Authority as a regulator is expected to tighten supervision of issuers, consistently enforce sanctions for violations that occur, and optimize efficient and effective dispute resolution mechanisms, including through strengthening the role of the Indonesian Capital Market Arbitration Board. Investors, especially retail investors, need to increase prudence by thoroughly understanding the prospectus, financial statements, and risk profile of bonds, and not solely oriented towards yield levels. Furthermore, policymakers need to consider improving bond market regulations, especially those related to the legal protection of bondholders, legal certainty in the PKPU and bankruptcy processes, and affirmation of the responsibility of issuer management. On the other hand, academics and legal practitioners are expected to continue to develop critical and comparative studies to support more adaptive and equitable capital market law reform.

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