



## Analysis of the Use of Securities As an Investment Tool In the Commercial Law Code (KUHD)

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<p><b>Article History</b> Received: 2025-09-03 Revised: 2025-09-16 Published: 2025-09-30</p> <p><b>Keywords:</b> <i>Securities; Corporate Housing Rights; Investment; Commercial Law, and Capital Markets.</i></p>	<p>The Commercial Code (KUHD) regulates securities as an important tool in the world of trade and investment. The purpose of this article is to examine the use of securities as an investment tool based on the provisions applicable in the KUHD, which covers types of securities such as bills of exchange, checks, and bonds, and how securities are used in contemporary trade practices. This study uses normative juridical research to investigate the relationship of securities in the KUHD to current investment needs and identify legal issues encountered when using them. The results show that, although the KUHD provides a strong legal basis, regulatory changes are needed to provide legal certainty and protection for investors. To increase the competitiveness of the Indonesian capital market, this article recommends modernizing the securities system.</p>

### I. INTRODUCTION

As social beings, humans constantly interact to meet their various needs, including economic ones. One of the most fundamental forms of interaction in economic activity is buying and selling, where parties seeking goods or services exchange them for a specific means of payment. Cash, such as the Rupiah, is generally used as a means of payment. However, over time, means of payment are no longer limited to money. Securities have become an important alternative, functioning as a means of payment, particularly in trade and business activities. Securities, which include bills of exchange, checks, promissory notes, stocks, and bonds, are financial instruments that play a central role in supporting economic activity. In Indonesia, the use of securities is regulated in detail in the Commercial Law Code (KUHD), which serves as the primary legal basis for managing securities. These regulations cover the types, functions, usage mechanisms, and procedures for transferring securities. However, technological advances and globalization have brought about significant changes, so that securities are now used not only as a means of transaction but also as an

investment instrument supporting various activities in modern financial markets. As an investment tool, securities offer various benefits, such as ease of access to capital, improved risk management, and potential financial gains. However, the regulations in the Commercial Code are still considered too traditional and inadequate to meet investment needs in the digital age. One glaring challenge is the limited regulations regarding the digitization of securities and the integration of global financial markets.

Regulatory gaps in the Commercial Code (KUHD), particularly those related to the needs of modern financial markets, are a major obstacle to maximizing the use of securities. For example, in today's digital era, electronic transfer of securities has become an urgent need, but the Commercial Code does not yet have adequate regulations to regulate this. Furthermore, legal protection for securities holders is considered suboptimal, particularly in facing risks such as data manipulation or fraud in electronic-based transactions. Through this research, it is hoped that legal gaps in the regulation of securities in Indonesia can be identified, particularly in

relation to their use as investment instruments. This research also aims to evaluate the provisions of the Commercial Code and provide recommendations for regulatory updates to make them more relevant to technological developments and the needs of globalization. The results of this study are expected not only to enrich the literature on commercial law in Indonesia but also to serve as a reference for policymakers in formulating legal regulations that are more inclusive and responsive to the dynamics of modern financial markets.

## II. RESEARCH METHODS

This study uses a normative juridical approach that aims to analyze the regulations regarding securities in the Commercial Code (KUHD) and assess the extent to which these regulations support the use of securities as investment instruments in the context of the modern world. This approach is carried out to explore applicable legal provisions and provide solutions to the shortcomings in these regulations. Type of Research This research is included in the analytical descriptive category, which aims to clearly describe the regulations on securities in the KUHD and analyze whether these regulations sufficiently support securities as a transaction and investment tool in the digital era using a normative juridical approach, which focuses on the study of applicable regulations and comparing Indonesian positive law with legal practices in other countries regarding securities as investment instruments. The data sources used consist of two types: a. Primary Data: The main data sources are in the form of relevant laws and regulations, such as the Commercial Code (KUHD), the Capital Market Law, and other related regulations.

## III. RESULTS AND DISCUSSION

### A. Definition and Scope of Securities according to the Commercial Code

A security is a written, transferable document that serves as a means of payment, proof of rights, or collateral for a specific

claim. The Commercial Code (KUHD) defines various types of security, including:

1. Promissory notes, which are regulated in Articles 100-173 of the Commercial Code.
2. Checks, which are regulated in Articles 174-229 of the Commercial Code.
3. Letter of Promissory Note (Promissory Note), which is explained in Article 174 of the Commercial Code.

Securities are considered legal documents that reflect economic rights and obligations that can be transferred through a specific process. The definition of securities according to experts:

1. Subekti defines securities as documents that give the holder the right to obtain certain achievements from the issuer, such as payment of a sum of money or delivery of goods (Subekti, 2002).
2. According to Munir Fuady, a security is a formal document that contains an order or unconditional promise to pay a certain amount of money to a certain party or to anyone who holds it (Munir Fuady, 2003).
3. Salim HS explains that securities are legal instruments that can be used as a means of payment or debt security, with characteristics that allow the document to be transferred to another party (Salim, 2015).
4. According to Abdulkadir Muhammad, a security is a document issued to settle an obligation in the form of money using another payment method. The characteristics of a security include its use as a means of payment, ease of transfer, and legitimacy or proof of a claim. A security is the result of a basic agreement between a seller (creditor) and a buyer (debtor). Bills of exchange, checks, shares, and others are examples of securities. The Commercial Code (KUHD) regulates bills of exchange and checks (Chumaida, 2023).

### Scope of Securities

1. Types of Securities Named Securities: Documents whose rights can only be transferred to a specific party listed in the document. Bearer Securities: Documents whose rights can be transferred to anyone who holds the document.
2. Functions of Securities: Acting as a means of payment, such as checks and money orders. Used as a credit instrument, such as a promissory note. Serving as proof of ownership, such as shares and bonds.
3. Legal Basis for Securities: Regulated in KUHD Articles 100-229 and supported by other regulations, such as regulations on capital markets or Government Securities.

To enhance the competitiveness of Indonesia's capital markets, many countries around the world have adopted more flexible regulations to adapt to contemporary investment needs, such as the digitization of securities and enhanced legal protection for investors (OECD, 2021). In comparison, regulations in several developed countries already allow for the use of electronic securities, which facilitates cross-border transactions and increases efficiency (Bainbridge, 2015). The Commercial Code (KUHD), as the primary legal framework, requires updates to accommodate these developments. For example, regulations regarding checks and drafts could be expanded to include digitalization mechanisms, such as the implementation of legally recognized electronic signatures (Saputra, 2021). Furthermore, investor protection in bonds needs to be strengthened through stricter regulations regarding the transparency of issuers' financial reports and efficient dispute resolution mechanisms (Wijaya, 2019). Regulatory updates should also consider the harmonization of the Commercial Code (KUHD) with other relevant regulations, such as the Capital Markets Law and the Financial Services Authority (OJK) regulations. This harmonization is crucial for creating an integrated legal system, thereby providing legal

certainty and encouraging investor participation, both domestic and international (Siahaan, 2019). In the context of the Indonesian capital market, modernizing securities regulations can increase competitiveness by creating a more transparent, secure, and investor-friendly ecosystem. The government and other stakeholders need to collaborate to ensure that these regulatory updates reflect real market needs and technological developments (Nugraha, 2021). This way, Indonesia can harness the full potential of securities as an investment tool to support economic growth.

Securities require robust regulation to instill investor confidence and ensure market efficiency. This article will evaluate whether the current securities regulations are sufficiently supportive as investment instruments in the modern era, considering regulatory aspects, technology, market stability, and global challenges. Securities regulation in Indonesia is based on several key regulations:

1. Capital Market Law (Law No. 8 of 1995): Provides a legal basis for securities transactions, including information disclosure and investor protection.
2. Financial Services Authority (OJK) Regulations: Regulate capital market mechanisms, such as the issuance of securities, supervision of issuers, and risk management.
3. Indonesia Stock Exchange (IDX): Provides trading infrastructure and ensures compliance with regulations.

The advantages of this regulation include creating a transparent and adequate framework to maintain market integrity. Strict oversight by the Financial Services Authority (OJK) helps prevent practices that harm investors. However, this regulation also has drawbacks. In some cases, the implementation of the law still faces obstacles, particularly in the enforcement process for capital market violations. Public literacy regarding modern

investment instruments remains low, resulting in the market's potential being underutilized. Current securities regulations are quite supportive as an investment instrument today. Robust regulations, technological advances, and market stability are key pillars that strengthen securities' position in the market. However, there are several areas that need improvement:

1. **Improving Financial Literacy:** The government and related institutions must actively educate the public about the benefits and risks of investing in securities.
2. **Strengthening Fintech Regulation:** Clearer regulations are needed to protect investors from cyber risks.
3. **Product Innovation:** Developing new, more inclusive investment products can attract greater participation from the public.

Investment is the effort to invest funds in the capital market with the hope of gaining profits in the future. According to the Financial Services Authority (OJK), investment is a long-term, regular investment to acquire complete assets or purchase shares and other securities to gain profits. Stock investment is currently trending, but investing in the stock market requires specific provisions to maximize profits. According to Elizabeth B. Hurlock, "interest is a source of motivation that drives people to do what they want to do when they are free to choose. When they see that something will benefit them, they become interested in it." Interest is a source of motivation that drives people to do what they want when they are free to choose. When they see that something will be profitable, they become interested. The presence of stimulation from a person's social environment that matches their tastes in the investment business is one factor that influences investment interest.

Another positive factor influencing public interest in stock investing is technological advances related to the returns or profits investors obtain from their investment policies.

The better the returns, the greater the investment interest. As an investor, the investment time horizon plays a significant role in determining the expected investment value because it can help investors determine the amount of risk they can bear. Furthermore, economic conditions significantly influence people's interest in investing in stocks. High inflation and fluctuating interest rates can dampen interest due to increased risk, but stable economic growth and low interest rates typically encourage investment due to the prospect of better returns. Experience and knowledge of the stock market also influence confidence in making investment decisions. Many younger people tend to be more willing to take risks than older people. Income and education levels also influence this, as people with higher incomes and education tend to be more interested in investing. Furthermore, with today's technological advancements, many social media platforms and online platforms adequately provide necessary information related to investments.

In investment assessment, the Markowitz model explains that stock investment risk consists of unsystematic and systematic risks (Ridwanudin, 2023). Unsystematic risk relates to fluctuations and business cycles in a particular industry. Each industry has its own risk characteristics influenced by certain economic variables. Therefore, companies operating in the same type of business will experience similar unsystematic risks. This risk is also known as business risk and can be minimized through diversification. Conversely, systematic risk is external risks that affect the business, such as inflation, global economic conditions, and other similar factors. Investment, also called capital investment, encompasses all investment activities undertaken by domestic and foreign investors to conduct business in the Republic of Indonesia. The basic investment policy is in line with improving general welfare as one of the goals of the national government (Sri Wulan, 2022).

1. Types of Securities in the Commercial Code
  - a. Money Order: This document will contain the word "bisel" in it, meaning it provides a payment order as stipulated in the Commercial Code. It can also be said that a money order is a payment order issued to someone by the issuer to a recipient or substitute at a specific location.
  - b. Check: A check is an unconditional order from a customer to a bank to pay or disburse a certain amount of money to a party, usually the bearer, whose name appears on the check, by a specific date. A check is a facility provided by a bank to its customers to withdraw funds from their checking account. Some examples of checks include checks in the name of the customer, checks to the bearer, crossed checks, bad checks, and post-dated checks.
  - c. Letter of Promissory Note: This letter is a contractual document containing a detailed promise from the payer to pay a certain amount of debt to the recipient. This letter is typically used to settle debts with a maturity of less than one year, making it a suitable short-term investment.
  - d. Receipt and Promissory Note to Bearer: This document is a dated and signed document that explains the payment of a certain amount of money to the bearer or bearer upon presentation. This document can then be used by the holder as a means of obtaining payment when presented to a specific party.
2. Types of Securities Outside the KUHD
  - a. Giro Bill: A written order from a customer to the bank holding the funds to transfer a certain amount of funds to the recipient's account.
  - b. Commercial Paper: A short-term debt instrument without collateral issued by a non-bank company, then traded through banks or securities companies with a short term through a discount system.
  - c. Stock Certificate: This certificate is proof of ownership of a company's capital with a number of shares owned.
  - d. Bonds: A document in the form of a certificate of proof of debt from a company or government agency as the issuer and the party in debt and will be paid within a certain period of time with additional funds added to the bond holder.
  - e. Delivery Order: A document used as a delivery letter for goods addressed to the buyer or recipient.
  - f. Government Securities or SUN: Government securities that can be owned by investors by purchasing and returning interest payments and principal debt by the government.

This certificate can be used as an investment instrument for those interested in managing funds and planning for the future. If you ever need funds, the certificate can be traded or exchanged for a difference in value from the initial purchase price. Mutual fund investments can also be used as an investment instrument for those looking to secure future funds with the potential for growth, or profit.

## **B. Legal Issues in the Implementation of Securities**

1. Lack of Legal Certainty: The Commercial Code (KUHD), which serves as the legal basis for securities in Indonesia, was formulated in the 19th century and has not been comprehensively updated. As a result, it is inadequate to address technological developments and modern needs, such as electronic securities. In comparison, many countries have adopted technology-based legal models to support electronic transactions (Rahardjo, 2018).

Solution: The Commercial Code should be revised to include provisions for electronic securities. This change could draw inspiration from the UNCITRAL Model Law on Electronic Commerce, which has been implemented in several countries to support digital-based transactions.
2. Lack of Technical Regulations on Transfer of Rights: The absence of detailed guidelines in the Commercial Code regarding the transfer of

rights to electronic securities often leads to ownership uncertainty. This also makes it difficult to resolve disputes related to ownership rights to securities (Nasution, 2020).

Solution: Drafting technical regulations that support digital transfer mechanisms for securities, for example by integrating a blockchain system for recording and tracking.

3. **The Problem of Proving in Legal Disputes:** The use of electronic securities often faces evidentiary challenges in court, as the Indonesian legal system has not yet fully accommodated digital documents as evidence. This is further exacerbated by the limitations of the existing legal infrastructure (Widiyono, 2021).

Solution: Harmonize the Commercial Code with the ITE Law to recognize electronic documents and digital signatures as valid evidence in court.

4. **Lack of Harmonization with International Standards:** The Commercial Code is poorly aligned with international conventions, such as the Geneva Convention on Bills of Exchange and Promissory Notes or the UNCITRAL Model Law. This reduces the competitiveness of Indonesian law in international trade (Adams, 2019).

Solution: The government needs to adopt relevant international legal principles and adapt them to the domestic context.

5. **Lack of Understanding Among Business Actors:** Many business actors do not fully understand the legal procedures for securities, both traditional and electronic. This leads to mismanagement or even misuse of securities (Rahman, 2022).

Solution: Regular training programs to improve the legal literacy of business actors, lawyers, and law enforcement officers.

### **C. Strategies to Increase the Relevance of the Commercial Code**

1. **Regulatory Reform:** The Commercial Code needs to be modernized by adding provisions on electronic securities. Furthermore,

coordination with other laws, such as the Electronic Information and Transactions Law, is essential to ensure proper integration.

2. **Strengthening Implementing Regulations:** The government needs to issue specific technical regulations to regulate modern aspects of securities, such as PP or Ministerial Regulations that explain the use of digital technology.
3. **Harmonization with Other Laws:** The Commercial Code must be harmonized with the ITE Law to ensure recognition of electronic documents and digital signatures in securities transactions (Widiyono, 2021).
4. **Adoption of International Practices:** The government can refer to best practices from other countries that have implemented the UNCITRAL Model Law, so that the Commercial Code can be more compatible with international standards.
5. **Technological Infrastructure Development:** Investment in technological infrastructure such as digital verification systems, blockchain, and electronic securities transaction platforms is needed to support legal modernization (Adams, 2019).
6. **Education and Socialization:** Intensive training programs and legal awareness campaigns for business actors can increase their understanding of the importance of securities regulations in trade.

## **IV. CONCLUSION AND SUGGESTIONS**

### **A. Conclusion**

Securities are legal documents that serve as a means of payment, proof of rights, or guarantee for certain claims, and are comprehensively regulated in the Commercial Code (KUHD). Types include bills of exchange, checks, and promissory notes, with their scope encompassing functions as a means of payment, a credit instrument, and proof of ownership. Experts define securities as documents reflecting transferable economic rights and obligations through a specific process. However, existing regulations in Indonesia still face challenges, particularly in

adapting to technological developments and international standards. The KUHD, as the primary legal basis, requires updates to encompass the digitization of securities, strengthening investor protection, and harmonization with related regulations, such as the Capital Markets Law and the ITE Law. Robust regulations, technological advances, and market stability currently support securities as an investment instrument, but obstacles remain, such as a lack of legal certainty, limited understanding among business actors, and low financial literacy among the public.

To enhance the relevance of the Commercial Code (KUHD) and the competitiveness of the Indonesian capital market, regulatory reforms are needed, including the recognition of electronic documents, the implementation of technologies such as blockchain, and the adoption of best practices from international standards. Intensive education for the public and businesses is also crucial to improve their understanding of the benefits and risks of securities. With this holistic approach, securities can play a greater role in supporting economic growth and creating a more transparent, secure, and inclusive capital market ecosystem.

## **B. Suggestions**

To enhance the relevance and competitiveness of Indonesia's capital market, it is imperative to reform the Commercial Code (KUHD) to accommodate the digitalization of securities. This includes recognizing electronic documents, implementing technologies like blockchain, and adopting international best practices. Such reforms would provide legal certainty and align with global standards, fostering investor confidence.

Additionally, there is a need for comprehensive education programs targeting both the public and business actors to improve their understanding of securities, their benefits, and associated risks. This will

promote informed participation in the securities market.

Collaboration among regulators, financial institutions, and technology providers is essential to create a robust and inclusive securities ecosystem. By doing so, securities can play a more significant role in supporting economic growth and establishing a transparent and secure capital market environment.

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