



## Legal Aspects of Investment: Accommodation Business Sharing Economy Platform via E-IPO in Indonesia

I Gusti Agung Ayu Gita Pritayanti Dinar <sup>1\*</sup>, I Nyoman Bagiastra <sup>2</sup>

<sup>1-2</sup> Faculty of Law, Warmadewa University, Indonesia

\* Corresponding Author: I Gusti Agung Ayu Gita Pritayanti Dinar

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### Article Info

**ISSN (online):** 2583-6536

**Volume:** 04

**Issue:** 06

**November - December 2025**

**Received:** 05-09-2025

**Accepted:** 07-10-2025

**Published:** 03-11-2025

**Page No:** 07-11

### Abstract

Sharing economy platforms involved in the accommodation sector in Indonesia are struggling within the business world of the hospitality or lodging services, which promise high profits. Platforms, as information systems, can function as intermediaries between buyers and sellers in vertical markets, thereby creating an electronic marketplace. The concept of the sharing economy offers the benefit of allowing people to use their resources (the assets they own) more efficiently. Disruption refers to the process where large companies that have dominated for a long time are overtaken by smaller companies with fewer resources. In recent years, there has been a shift in the business landscape that impacts both Indonesia and the world. Technological advances in the capital market have introduced the term e-IPO (electronic Initial Public Offering) to the public, aligning with issuers' needs to make the going-public process more efficient. Investing in accommodation or short-term property rental sharing platform companies has gained popularity due to the features and convenience of purchasing shares through e-IPO, which are quite practical and efficient. The objectives of this study are: (i) to examine the investment arrangements of sharing economy platforms in Indonesia's accommodation sector, and (ii) to explore the concept of dispute resolution for e-IPO investments through arbitration. This research aims to clarify the investment structure of sharing economy platforms within the accommodation business and the preferred forums for resolving disputes related to e-IPO investments through arbitration.

**Keywords:** Platform Sharing Economy, Accommodation Business, e\_IPO

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### 1. Introduction

#### 1.1. Background

Sharing economy platforms involved in Indonesia's accommodation sector are transforming the business landscape in hospitality and lodging services, promising high profits. These platforms, functioning as information systems, can act as intermediaries between buyers and sellers within vertical markets, thereby creating electronic markets. The primary impact of these digital marketplaces is their ability to reduce search fees that buyers typically pay to obtain information about prices and available product offers. This decrease in search costs can influence market efficiency and competitive behavior. The savings lead to direct efficiency improvements through lower intermediation costs and potentially greater allocation efficiency, especially among more experienced buyers. Since electronic marketplace systems generally lower the cost of connecting buyers, they enhance transaction efficiency between organizations, affecting the market power dynamics of both buyers and sellers.

The concept of sharing economy in modern literacy first appeared around the 2000s. This concept was later popularized by Botsman <sup>[1]</sup>. The economic features of the sharing economy platform, along with its ability to lower the traditional costs of finding

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<sup>1</sup> Anfas, Sharing Economy Resilience in the Development of MSMEs Post-Covid-19, Journal of Management and Business, Vol. 4 No. 1, (2022): 472-483.

accommodation services, also open up many opportunities for practical and strategic use of this system. The growing public interest in using this platform influences the use of conventional travel agent services and accommodation companies, but this disruption also positively impacts the economy of middle-class property owners who do not hold a hotel business license but are willing to offer accommodation services to tourists. The concept of the sharing economy has the benefit of allowing people to use their resources (the assets they own) more efficiently. It is more efficient for them to obtain more financial intensification by doing this sharing economy. In addition, the sharing economy also makes human society higher <sup>[2]</sup>.

Disruption is the process where large companies that have dominated for a long time are overtaken by smaller companies with fewer resources. Recently, there has been a shift in the global business landscape, including in Indonesia. This disruption is also called a major revolution in business models worldwide. Several sharing economy platforms, such as Airbnb, HomeAway, FlipKey, Traveloka, and Southwest Airlines, are not direct owners of accommodations or flights but operate as service providers or information systems for hotels, flights, and entertainment vouchers in tourist areas around the world.

Technological advances in capital markets have introduced the term e-IPO (electronic Initial Public Offering) to the public, aligning with issuers' needs to make the process of going public more efficient. Investing in accommodation or short-term property rental sharing platform companies has become popular due to the features and conveniences of buying shares through e-IPO, which are quite practical and effective. E-IPO is a web-based electronic system provided by public offering system operators, such as the Indonesia Stock Exchange, to support the initial public offering process for the general public. It offers information related to the IPO and allows investors to order IPO shares from issuers conducting public offerings through the e-IPO system.

Rapid economic growth, technological, and industrial progress have led to a wide variety of goods and services, giving consumers more choices. Every country continually aims to enhance the development, welfare, and prosperity of its people. The growing public interest in making sharing economy investments through e-IPO aligns with the rising number of users on accommodation business platforms. Therefore, it is very important to deepen the study of regulations and dispute resolution related to platform investments through e-IPO. The state of the art of this research is a study titled "The Relevance of the Sharing Economy in the Development of MSMEs after Covid-19." This research was written by Anfas, who emphasizes that the sharing economy will still be relevant in the development of MSMEs after the Covid-19 pandemic. From the push aspect, the increasingly modern development of IT and the ability to reach market share are the reasons why companies can survive, grow, and develop. The research written by Anfas has a different basic idea from this study.

Research on investment in accommodation-sharing economy platforms through e-IPO in Indonesia has not been extensively explored, making it crucial to conduct thorough research.

## 1.2. Problem Formulation

Based on the background of this research, the problem formulation is: (i) what is the investment structure of the accommodation-sharing economy platform in Indonesia? (ii) what is the process for dispute resolution for e-IPO investments through arbitration? This topic has not been previously studied by other researchers.

## 1.3. Purpose of Writing

The objectives of this study are: (i) to examine the investment arrangement of the accommodation business sharing economy platform in Indonesia (ii) to examine the conception of dispute settlement for e-IPO investment through arbitration.

## 1.4. Problem Formulation

Based on the background of this research, the problem being addressed is: (i) how is the investment arrangement of the accommodation sharing economy platform in Indonesia? (ii) what is the concept of dispute settlement for e-IPO investments through arbitration? This topic has not been previously studied by other researchers.

## 1.5. Purpose of Writing

The objectives of this study are: (i) to examine the investment arrangement of the accommodation sharing economy platform in Indonesia; (ii) to analyze the concept of dispute settlement for e-IPO investments through arbitration.

## 2. Results and Discussion

### 2.1. Investment arrangements for accommodation sharing economy platforms in Indonesia

Capital market actors closely monitor stock trading activities, which have shown increases, decreases, or stability during the Initial Public Offering (e-IPO). Sharing economy platforms with relatively stable stock performance are becoming more popular with the public, especially in the accommodation sector.

One well-known platform in Indonesia's accommodation industry is Airbnb. Companies like Airbnb can help mitigate negative effects through self-regulation. Transparency regarding properties operated and visitor information is crucial. The accommodation, technology, and data sectors are considered vital drivers of change within the hospitality industry. Digital connectivity is also expected to foster seamless integration between virtual and offline experiences globally. The future of accommodation lies in combining advanced technology with personalized service, creating a high-tech, high-touch approach to meeting customer needs. Investment in the accommodation business of several sharing economy platforms is carried out by buying and selling shares through e-IPO.

An Initial Public Offering (IPO) or Public Offering, according to Law No. 8 of 1995 concerning the Capital Market, is: "Securities offering activities carried out by the issuer to sell securities to the public based on procedures regulated in this Law and its implementing regulations. The purpose of the IPO is to raise funds from the public to finance the company's activities, aiming to improve its performance. Based on the definition provided by Law No. 8 of 1995 and

<sup>2</sup> Audito Aji Anugrah and Seno Aji Wahyono, Cooperative-Based Communal Marketplace as One of the Innovation Breakthroughs for Indonesian MSME Actors during the Covid-19 Pandemic, Proceedings of the National Seminar on Business Economics, Ma Chung University, (2021):21-33.

Equity Crowdfunding in Financial Services Authority Regulation Number 37/POJK.04/2018, both Equity Crowdfunding and IPO are essentially activities to offer stock to the public to raise funds.

In Article 12 paragraph (4) of Financial Services Authority (OJK) regulation No. 41/POJK.04/2020 concerning the implementation of public offering activities of equity securities, debt securities, and/or sukuk electronically, it is regulated that the Financial Services Authority, System Provider, System Participant, and Admin Participant, in accordance with their authority in public offering activities, and other parties approved by the Financial Services Authority, may obtain reports generated by the Electronic Public Offering System. Therefore, issuers conducting public offerings through this electronic system are required to report to OJK, including details about the initial offering, securities offering, securities allocation, securities ordering and settlement, and the results of the initial offering, public offering, and securities distribution.

The initial announcement that must be distributed by the issuer includes at least the following information: the name of the issuer, address, logo if available, telephone number, facsimile number, email, and website address. Additionally, regarding the issuer's main business activities, information about the securities should include at least the type and forecast of the number of securities, a brief description of the offered securities, the initial offering price range, the initial offering period, the estimated effective date of the Registration Statement from the Financial Services Authority, the forecasted offering period, the estimated allotment date, the projected distribution date of the securities, and the anticipated listing date if the securities will be listed on the Stock Exchange. It should also include the underwriters of the securities and a statement indicating that more detailed information about the Public Offering can be obtained from the Electronic Public Offering System, with a link to the system's website.

In Article 26, paragraph (1) of OJK regulation No. 41/POJK.04/2020, it is stated that investors can only express interest in securities offered through the Electronic Public Offering System during the initial offering period. Then, in Article 27, paragraph (1), it is regulated that the financier can change and/or cancel the interest submitted during the initial offering period before it ends through the System Participant. This OJK regulation aims to expand the investor base, increase the number of public investors, and improve accountability and transparency in the pricing of the initial Public Offering and the allotment mechanism in the Public Offering.

The Public Offering process follows POJK guidelines using the Electronic Public Offering System, namely: a. the offering period for securities is at least 3 (three) working days and at most 5 (five) working days; b. the completion of a securities order must occur after the results of the securities allotment are issued and no later than before the securities are listed on the stock exchange; and c. the securities must be listed on the stock exchange on the second (2nd) trading day after the securities offering period ends. 5. The securities order must be supported by sufficient funds. If funds are insufficient, the order will only be approved up to the available amount. If the order amount does not match the approved amount, a discrepancy exists between the request and the approval.

There are three known theories about how agreements are

formed: will theory, statement theory, and belief theory. The will theory (*wilsleer*, *wilsthorie*) states that a new contractual agreement only exists if the statement is based on a genuine will that aligns with it. The Statement Theory (*verklaringsleer*; *verklaringstheorie*) asserts that a person is bound by their statement. The Belief Theory (*vetrouwensleer*; *vertrouwenstheorie*) is a newer doctrine that serves as a middle ground, addressing the weaknesses of previous theories. Regarding the sharing economy platform model in the accommodation business, researchers note that it is very vulnerable to trust issues due to the large number of stakeholders—up to millions of accommodation owners who are not affiliated with a particular company. This makes it more difficult to oversee business consistency and legal matters compared to investing in a single group of companies.

## 2.2. e-IPO Investment Dispute Resolution Through Arbitration

Every activity in the public offering system is always guided by the standard procedures established by the Financial Services Authority Regulation (POJK). However, this regulation does not specifically address dispute resolution. Regarding the e-IPO registration requirements for certain issuers, it is stated that any disputes related to or arising from these Terms and Conditions of Use will be resolved through an arbitration forum.

Dispute resolution preferences represent the agreement of the parties in resolving issues originating from investment agreements. It cannot be forced that an investment dispute must always go through arbitration. Business dispute resolution options are not limited to the Indonesian National Arbitration Board (BANI); there are several other forums for settling business and trade disputes, including the International Centre for Settlement of Investment Disputes (ICSID), the Singapore International Arbitration Centre (SIAC), general courts, and other foreign arbitration bodies. Having multiple options makes it easier for issuers and other parties to choose a dispute resolution forum in the future. Nevertheless, capital market business actors tend to prefer arbitration bodies as the forum for resolving business disputes because they are considered more efficient, straightforward, and quicker compared to settling disputes through the general courts.

If the terms of the e-IPO submission are specified, these terms and conditions of use are governed by and interpreted according to the laws of the Republic of Indonesia. Any disputes related to or arising from these Terms and Conditions of Use shall be settled through the Indonesian National Arbitration Board ("BANI"). Based on the standard provisions of the e-IPO organizing body, if a dispute occurs between the parties, it will be resolved by BANI, even if not all parties agree to this standard procedure. An arbitration clause originates from an agreement between the parties and is adapted to the agreement made by the capital market business actors with the issuer.

In agreements involving parties of different nationalities, following the principle of freedom of contract, the parties can choose the forum and legal domicile deemed most appropriate for all involved. For transnational agreements, the choice of law is particularly important. Not all foreign parties are comfortable if their agreements are forcibly interpreted under the law of one country. A foreign legal forum for an agreement concerning Indonesia is valid and

binding if the parties agree upon it and include it in their contract clauses.

The essentials of a contract are the agreement and the right and obligation to perform something (*contractual rights and obligations*)<sup>3</sup>. In essence, business people prefer to include arbitration clauses over the general court system, which is complicated and can be very lengthy until a case is decided by a panel of judges. Arbitration can be immediately enforced by the parties involved.

The alternative to dispute resolution through final and binding arbitration offers convenience compared to litigation, which is a complex process, by including arbitration clauses in the parties' agreement. If a party chooses an arbitration institution to handle their dispute, the applicable rules are those established by that institution. For ad hoc arbitration, parties typically agree on procedural details or adopt arbitration rules suited for ad hoc cases, such as the UNCITRAL Arbitration Rules. Arbitration is a method of resolving legal disputes by reaching a final and binding decision through a neutral third party, rather than a panel of judges or a jury, based on the agreement made by both parties. It is also seen as a faster and more cost-effective alternative to litigation. Parties usually select a neutral location with no connection to either side. They also have the option to choose arbitrators with expertise in the relevant field. In cases involving three arbitrators, two are typically chosen by the parties, while the third is appointed by the arbitrators themselves, ensuring the tribunal remains neutral. Neutrality is one of the main advantages of arbitration. Another key benefit is the international recognition and support arbitration has gained.

The 1958 New York Convention facilitates widespread acceptance of agreements that refer disputes to arbitration, regardless of where they are made. These factors contribute to arbitration becoming a popular legal choice for resolving disputes, especially among entrepreneurs engaged in international and domestic trade.

Another advantage of arbitration is that it is a private, closed process to the public, where the arbitrator is a qualified and experienced individual or panel selected by the parties. This helps avoid the publicity often associated with open court proceedings conducted by a panel of judges who may lack specialized expertise in the matters at hand. The non-public nature of arbitration is also considered a key factor in its success.

The most effective way to create an international legal system governing arbitration has been through international conventions. These conventions help connect national legal systems into a unified legal network that, despite linguistic differences, shares a common goal: the enforcement of international arbitration treaties and arbitral awards. Given the widespread use of arbitration practices worldwide, there is a strong call for uniformity or harmonization in international arbitration law.

Dispute resolution and the selection of the dispute resolution forum for e-IPO investment transactions must be based on the mutual agreement of all parties involved, including investors, securities firms, and issuers, so they can understand and accept a mutually agreed-upon dispute resolution process.

### 3. Conclusion

The plan for investing in accommodation sharing economy platforms through e-IPO in Indonesia is outlined in the Financial Services Authority Regulation No. 41/POJK.04/2020 regarding the electronic public offering of equity securities, debt securities, and/or sukuk. This regulation is mainly designed to broaden the investor base, increase the number of public investors, and improve accountability and transparency in pricing and allocation during the public offering.

If the terms of submitting Securities in an e-IPO are specified, these terms and conditions of use are governed by and interpreted according to the laws of the Republic of Indonesia. Any disputes related to or arising from these Terms and Conditions of Use shall be resolved through the Indonesian National Arbitration Board ("BANI"). However, every agreement is ultimately based on the binding nature of the contract, meaning that the parties' agreement is the law for each involved party. Therefore, the choice of dispute resolution forum is the right of each party to select and is obligated to comply with in case of a future dispute.

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<sup>3</sup> Bayu Seto Hardjowahono, 2013, The Basic Basis of International Civil Law, Citra Aditya Bakti, Bandung, p. 269.

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**How to Cite This Article**

Dinar IGAAGP, Bagiastra IN. Legal aspects of investment: Accommodation business sharing economy platform via E-IPO in Indonesia. *Int J Judicial Law*. 2025;4(6):7–11.

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