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Do Your Own Research (DYOR) And Not Financial Advice (NFA) As A Liability-Limiting Doctrine In Indonesian Capital Market Law

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Abstrak

Transformasi digital dalam pasar modal telah mengubah cara informasi investasi diproduksi, disebarluaskan, dan dikonsumsi oleh masyarakat. Perkembangan media sosial mendorong munculnya investor individu yang secara aktif membagikan analisis, opini, dan komentar pasar kepada publik, sering kali disertai dengan disclaimer *Do Your Own Research* (DYOR) dan *Not Financial Advice* (NFA). Namun, kedudukan hukum kedua disclaimer tersebut belum memperoleh pengaturan maupun kajian yang memadai dalam kerangka hukum pasar modal Indonesia. Di sisi lain, investor individu yang membagikan analisis investasi kerap dianggap bertanggung jawab ketika pihak lain mengalami kerugian akibat keputusan investasinya. Penelitian ini bertujuan menganalisis kedudukan hukum DYOR dan NFA sebagai instrumen pembatas tanggung jawab hukum dalam hukum pasar modal Indonesia. Penelitian menggunakan metode penelitian hukum normatif dengan pendekatan perundang-undangan, konseptual, dan komparatif. Hasil penelitian menunjukkan bahwa DYOR dan NFA tidak dapat dipandang sekadar sebagai ungkapan informal, melainkan dapat berfungsi sebagai *normative disclaimer* yang menegaskan tidak adanya hubungan penasihat investasi, mengurangi dasar ketergantungan (*reliance*) yang wajar, serta membatasi ruang lingkup tanggung jawab hukum. Meskipun demikian, efektivitas hukum disclaimer tersebut bergantung pada konsistensi isi komunikasi, tidak adanya unsur manipulasi, serta tidak adanya karakteristik nasihat investasi yang dipersonalisasi. Penelitian ini menawarkan parameter doktrinal untuk membedakan opini investasi yang dilindungi hukum dari nasihat investasi yang dapat menimbulkan tanggung jawab hukum, sehingga mampu menyeimbangkan perlindungan investor dengan kebebasan berekspresi dalam ekosistem pasar modal digital.

Kata Kunci: Do Your Own Research (DYOR); Not Financial Advice (NFA), Pasar Modal, Tanggung Jawab Hukum, Rekomendasi Investasi

Abstract

The rapid digitalization of capital markets has transformed the production and dissemination of investment information, enabling individual investors to share analyses and opinions

through social media and online platforms. This development has increased the use of disclaimers such as *Do Your Own Research* (DYOR) and *Not Financial Advice* (NFA), which are frequently employed to indicate that published content does not constitute professional investment advice. Despite their widespread adoption, the legal status and liability-limiting function of these disclaimers remain largely unexplored within Indonesian capital market law. This study examines whether DYOR and NFA may operate as normative instruments that limit legal responsibility arising from publicly disseminated investment analyses. Employing a normative juridical method with statutory, conceptual, and comparative approaches, the research analyzes Indonesian capital market regulations alongside relevant doctrines of liability, reliance, and financial communication. The study finds that DYOR and NFA should not be understood merely as informal expressions but as contextual disclaimers that may clarify the absence of advisory relationships and reduce reasonable reliance by audiences. However, their effectiveness depends on the substance of the communication rather than the disclaimer itself. Where content contains personalized recommendations, inducement of reliance, misleading statements, or undisclosed conflicts of interest, disclaimers cannot negate regulatory obligations or legal liability. The study proposes doctrinal criteria for distinguishing protected investment opinions from actionable investment advice and argues that Indonesian regulators should adopt a substance-based approach that balances investor protection with freedom of expression in digital investment discourse.

Keywords : Do Your Own Research (Dyor); Not Financial Advice (Nfa); Capital Market Law; Investment Advice; Legal Liability

INTRODUCTION

The digital transformation of capital markets has fundamentally altered the way investment information is produced, disseminated, and consumed. On the spectrum of research on cybercrime, at one extreme we can place the discourse of ‘novel threat’. Social media platforms have become a significant factor influencing stock market dynamics, particularly through the growing role of financial influencers (Jang & Jun, 2025). From this perspective, crime on the internet is a new frontier and demands a fundamentally different analysis from traditional offline crimes. In Indonesia, the rapid growth of retail investor participation has coincided with the increasing role of social media and online platforms as primary sources of market analysis and discussion. Individual investors now routinely publish investment opinions, data-based analyses, and market commentary to a broad audience, often accompanied by the disclaimers *Do Your Own Research* (DYOR) and *Not Financial Advice* (NFA).

Notwithstanding their widespread use, DYOR and NFA have not been systematically examined within the framework of Indonesian capital market law. In practice, individual investors who publicly share investment analyses—without offering licensed advisory services or explicit buy-sell recommendations—are frequently blamed or accused of responsibility when other investors suffer financial losses. A significant number of retail

investors operate under the mistaken assumption that all financial actors owe fiduciary duties, even where such duties do not legally exist (Edwards, 2017). This phenomenon reveals a fundamental legal uncertainty regarding whether public investment analysis by non-professional investors may give rise to legal liability, and under what conditions such liability can be justified. From a doctrinal perspective, it is important to note that legal systems traditionally do not impose a general duty of disclosure in pre-contractual interactions. This principle reflects a baseline assumption that silence, in itself, does not generate legal responsibility (Halbhuber, 2023).

Existing capital market regulations in Indonesia predominantly focus on professional market actors, such as investment advisors, fund managers, securities companies, and issuers. The legal responsibilities of these actors are grounded in licensing requirements, fiduciary duties, and clearly defined contractual or statutory relationships with investors. By contrast, the regulatory framework remains largely silent on the legal position of individual investors who express investment opinions in public digital spaces without entering into any formal legal relationship with their audience. Crime control is almost entirely absent from the emerging crypto economy, which creates fertile conditions for various forms of financial scams (Mackenzie, 2022). This regulatory silence creates a doctrinal gap in determining the boundary between protected investment opinion and actionable investment advice.

The absence of clear legal parameters risks generating a chilling effect on investment discourse in the digital public sphere. Contemporary financial regulation has been criticised for tolerating structural incentives that may encourage financial advisors to manipulate or mislead retail investors, particularly through commission-based arrangements (Edwards, 2017). Despite the dominance of rational expectation frameworks in financial regulation, there has been relatively limited recognition of the role of emotions in shaping investor decision-making (Bird et al., 2023). If individual investors may be held responsible solely on the basis of the economic outcomes experienced by others, regardless of intent, relationship, or reliance, the freedom to share analytical viewpoints may be unduly constrained. Such a development would be detrimental to financial literacy, market transparency, and participatory investment culture, all of which are essential components of an efficient capital market. At the same time, investor protection and market integrity remain core objectives of capital market regulation and cannot be subordinated to unrestricted expression.

Against this background, this research examines the legal position of DYOR and NFA within Indonesian capital market law as potential instruments for limiting legal liability. This study argues that DYOR and NFA should not be understood merely as informal or rhetorical expressions, but as normative disclaimers that clarify the absence of investment advice, negate reasonable reliance, and delineate the scope of legal responsibility ex ante. By distinguishing between opinion-based investment analysis and regulated investment advice, this research seeks to formulate doctrinal parameters for assessing legal liability in the context of digital capital markets.

This study aims to contribute to the development of capital market law by offering a conceptual framework that balances the protection of investors with the preservation of freedom of expression for individual market participants. It further seeks to provide policy-

relevant insights for regulators in addressing the legal challenges posed by investment communication in the digital era.

METHOD

This research employed normative legal research using statutory, conceptual, and comparative approaches. The study relied on secondary data consisting of primary legal materials in the form of legislation and regulatory instruments concerning capital markets, secondary legal materials derived from books and scientific journal articles, and tertiary legal materials supporting the analysis. The collected legal materials were examined qualitatively through descriptive-analytical methods to analyze the legal position of *Do Your Own Research* (DYOR) and *Not Financial Advice* (NFA) disclaimers and to formulate doctrinal criteria for determining legal liability arising from digital investment communications.

RESULT AND ANALYSIS

The regulatory architecture of Indonesian capital market law is primarily designed to govern professional market actors whose activities are conducted within a framework of licensing, fiduciary obligations, and formal accountability. Law No. 8 of 1995 on Capital Markets establishes the institutional foundations of market supervision and delineates categories of regulated actors, including securities companies, investment managers, and investment advisers. Within this framework, legal responsibility is closely tied to the existence of formal authorization and the assumption of professional duties toward investors. Regulatory oversight by the Financial Services Authority (Otoritas Jasa Keuangan/OJK) further reinforces this structure through conduct rules, disclosure obligations, and prudential standards applicable to licensed entities.

Against this regulatory backdrop, the legal characterization of investment analysis disseminated by individual investors through digital platforms raises a distinct normative problem. Individual investors who publish market commentary, analytical opinions, or data-driven assessments typically operate outside the formal licensing regime and do not enter into contractual or fiduciary relationships with their audience (Dai et al., 2025). As such, the automatic attribution of legal responsibility based on regulatory standards developed for professional advisers risks conflating fundamentally different legal categories. From a regulatory standpoint, the threshold question is whether such activities may be assimilated into the category of “investment advice” within the meaning of capital market regulation, or whether they should be treated as forms of protected opinion and market discourse. Nevertheless, the absence of a general duty of disclosure is not absolute. In certain circumstances, a failure to disclose material information may be treated as functionally equivalent to an active misstatement and may therefore attract legal consequences (Halbhuber, 2023).

OJK regulations and supervisory practice reflect a conduct-based approach to liability that emphasizes the substance and effects of financial communications rather than their formal labeling. In principle, capital market supervision is triggered when an actor performs regulated activities, such as providing personalized investment advice, engaging in

solicitation, or offering services that are functionally equivalent to licensed advisory services. In the absence of these elements, the dissemination of general market opinions by individual investors does not readily fall within the scope of activities requiring authorization. This regulatory distinction is significant because it situates the responsibility of individual content creators within the general framework of unlawful conduct (e.g., misleading information, manipulation, fraud) rather than within the specialized regime of professional market conduct.

Scholarship in financial regulation emphasizes that the extension of professional duties to non-professional actors must be justified by clear indicia of functional equivalence, such as the presence of remuneration, systematic provision of recommendations, or targeted inducement of specific investment behavior (Farrell et al., 2022). Absent such indicia, the imposition of advisory-level duties risks undermining legal certainty and chilling legitimate market discourse. Empirical studies published in leading international journals further demonstrate that while social media–based financial commentary can influence retail investor behavior, influence alone does not suffice to establish a legal duty of care in the absence of a defined advisory relationship.

A useful analytical distinction may be drawn between three regulatory categories of investment-related communication by individual investors (Leung et al., 2022). First, non-commercial, opinion-based market commentary that relies on publicly available information and refrains from prescriptive language should be regarded as part of the informational environment of the capital market. Such communications contribute to price discovery and financial literacy, and their regulation should be limited to general prohibitions against misinformation and deceptive practices. Second, quasi-advisory content that exhibits features of professional advice—such as repeated, targeted recommendations or structured guidance presented as authoritative—occupies a regulatory grey zone. In these cases, supervisory authorities may reasonably assess whether the activity approximates regulated advisory services in substance, thereby justifying enhanced scrutiny or remedial intervention. Third, communications that are demonstrably manipulative or commercially motivated, including undisclosed paid endorsements, coordinated “pump-and-dump” schemes, or dissemination of false information, fall squarely within the ambit of regulatory enforcement and sanctions under capital market law.

In modern financial markets, retail investors increasingly rely on third-party actors to navigate complex investment environments, thereby creating informational asymmetries and dependence relationships (Edwards, 2017). Emotional states can directly influence how individuals assess risk and probability, often leading to decisions that diverge from purely cognitive evaluations (Bird et al., 2023). The prevalence of disclaimers such as *Do Your Own Research* and *Not Financial Advice* must be understood within this regulatory taxonomy. From a legal standpoint, disclaimers cannot transform substantively regulated conduct into unregulated expression.

At the same time, the absence of any normative recognition of disclaimers would disregard their potential function in clarifying the communicative intent of individual investors and in negating reasonable reliance by readers (Pedersen, 2022). A balanced regulatory approach therefore requires distinguishing between disclaimers that operate consistently with the substantive content of the communication and those that are contradicted by prescriptive

or manipulative messaging. Where disclaimers are coherently integrated into non-commercial, opinion-based analysis, they may support the conclusion that no advisory relationship is intended or reasonably inferred. Where disclaimers are merely formalistic add-ons to content that actively induces investment behavior, their legal relevance should be discounted.

The regulatory implications of this characterization are twofold. First, OJK may consider articulating interpretive guidance or soft-law instruments that clarify the boundary between protected investment opinion and regulated advisory conduct in digital contexts. Such guidance would enhance legal certainty for market participants and reduce the risk of over-deterrence in public investment discourse. Second, supervisory strategies should integrate monitoring mechanisms for digital platforms that prioritize the identification of substantive harms—misinformation, undisclosed conflicts of interest, and coordinated manipulation—over the categorical policing of individual investor expression. This approach aligns investor protection with the preservation of an open informational environment essential to market efficiency.

In sum, the legal characterization of investment analysis by individual investors under Indonesian capital market law must be grounded in a regulatory logic that differentiates status, substance, and effect. Individual investors who engage in non-commercial, opinion-based analysis without inducing reliance or simulating professional advisory services should not be assimilated into the regulatory category of licensed advisers. Conversely, where individual communications cross functional thresholds into misleading, manipulative, or quasi-advisory conduct, the protective mechanisms of capital market regulation should be activated. This nuanced characterization provides the necessary doctrinal foundation for assessing the legal relevance of DYOR and NFA disclaimers, which will be examined in the subsequent subsection.

DYOR AND NFA AS NORMATIVE DISCLAIMER

The widespread use of the expressions *Do Your Own Research* (DYOR) and *Not Financial Advice* (NFA) in digital investment discourse reflects an emerging normative practice among retail investors to signal the non-advisory character of their communications. Retail investors often face significant informational opacity, particularly in understanding the true costs and implications of financial recommendations (Edwards, 2017). Although these expressions originated as informal conventions within online investment communities, their persistent and systematic deployment raises important legal questions regarding their potential function as liability-limiting disclaimers in capital market law (Nguyen et al., 2023). This subsection conceptualizes DYOR and NFA as normative disclaimers and evaluates their legal significance within the Indonesian regulatory context, informed by doctrinal theory and comparative insights from European Union and United States financial regulation.

From a regulatory perspective, disclaimers operate at the intersection of private law principles of liability limitation and public law concerns of investor protection and market integrity. The core legal issue is whether and under what conditions DYOR and NFA may meaningfully shape the attribution of legal responsibility for investment-related communications. Addressing this issue requires a doctrinal account of disclaimers, a

comparative analysis of regulatory approaches in mature financial jurisdictions, and the formulation of objective tests for assessing legal effectiveness.

In legal doctrine, disclaimers are commonly understood as statements intended to delimit the scope of responsibility, duty, or reliance associated with a particular communication or activity. In private law, disclaimers may function to allocate risk between parties, negate the formation of a duty of care, or limit the extent of liability arising from representations. However, their legal effectiveness is contingent upon doctrinal constraints grounded in principles of good faith, reasonableness, and public policy. Disclaimers cannot, as a matter of general legal principle, exclude liability for intentional wrongdoing, fraud, or gross negligence, nor can they undermine mandatory statutory protections.

Within the broader theory of tort and misrepresentation, disclaimers serve to preclude "*reasonable reliance*" by clarifying that a representation is not intended to induce specific action. Investors may make financial decisions under the influence of emotional impulses that operate beyond their conscious control or awareness (Bird et al., 2023). The doctrine of reliance plays a central role in attributing responsibility for economic loss: liability is typically premised on the notion that a claimant reasonably relied on a representation that was negligently or fraudulently made (Xiong & Yang, 2020). By explicitly stating that information is not investment advice and that readers must conduct their own research, DYOR and NFA seek to negate the normative basis for reliance. In doctrinal terms, they aim to disrupt the causal chain between communication and loss by denying the existence of a duty of care owed by the communicator to the audience.

From a public law perspective, the deployment of disclaimers in financial communication implicates regulatory objectives that extend beyond bilateral risk allocation. Regulators caution against representations that may create misleading impressions regarding the scope or reliability of investment advice (Lazaro, 2018). Capital market regulation is animated by systemic concerns, including market integrity, investor confidence, and the prevention of manipulation. Disclaimers that purport to limit liability cannot override mandatory regulatory norms designed to safeguard these public interests. Consequently, while DYOR and NFA may function as contextual indicators of intent and scope, they cannot operate as absolute shields against regulatory enforcement for misleading or manipulative conduct.

In the Indonesian context, this doctrinal framework suggests that DYOR and NFA should be conceptualized as normative disclaimers: they articulate a claim about the non-advisory nature of the communication and the autonomy of the reader's decision-making. Their legal relevance lies in shaping the interpretation of intent, duty, and reliance rather than in mechanically excluding responsibility. This conceptualization aligns with the broader structure of capital market law, which predicates liability on regulated conduct, misrepresentation, or market abuse rather than on the mere dissemination of opinions.

DISTINGUISHING PROTECTED OPINION FROM ACTIONABLE ADVICE

The distinction between protected investment opinion and actionable investment advice constitutes a foundational problem in the regulation of digital capital markets (Shapiro et al., 2022). In traditional regulatory settings, the boundary between market commentary and

regulated advisory conduct was relatively clear, as investment advice was typically delivered through licensed intermediaries operating within formal institutional arrangements (Cookson et al., 2023). The emergence of social media and decentralized digital platforms has blurred this boundary by enabling individual investors to disseminate analyses, forecasts, and recommendations to mass audiences without the intermediation of regulated entities.

Within Indonesian capital market law, this development presents a normative tension between two regulatory imperatives. On the one hand, capital market regulation is premised on the protection of investors from misleading information, manipulation, and abusive practices, as reflected in Law No. 8 of 1995 on Capital Markets and the supervisory mandate of OJK. On the other hand, market efficiency and financial literacy depend on the free circulation of information, opinions, and analytical perspectives among market participants. Over-inclusive regulation that treats all digital investment commentary as actionable advice risks suppressing legitimate discourse and generating a chilling effect on market participation.

From a doctrinal perspective, the legal regulation of investment communication is anchored in the differentiation between expression and conduct (Cookson et al., 2024). Expression, including opinions, forecasts, and commentary, is generally protected as part of the informational infrastructure of markets. Conduct, by contrast, becomes subject to regulatory control when it assumes normative significance in shaping the rights, duties, and expectations of others. Influencers frequently employ disclaimers such as “this is not an investment recommendation” to mitigate reputational and legal risks (Karampatsas et al., 2023). This distinction is reflected in Indonesian capital market law, which predicates regulatory obligations on the performance of regulated activities, such as the provision of investment advice by licensed professionals, as well as on the commission of prohibited acts, including the dissemination of misleading information and market manipulation.

Law No. 8 of 1995 articulates prohibitions against fraudulent and misleading practices in securities transactions and establishes the supervisory authority of OJK to enforce market integrity. Although the statute does not explicitly address the phenomenon of user-generated financial content, its normative structure implies that liability arises from conduct that undermines market fairness or investor protection, rather than from the mere expression of views. This doctrinal orientation is consistent with OJK’s conduct-based supervisory approach, which focuses on the substance and effects of market behavior rather than on formal labels or self-characterizations.

International journal literature on financial regulation and market communication supports this functional approach. Studies in leading journals highlight the importance of preserving a sphere of protected financial speech to sustain market information flows, while simultaneously enforcing robust safeguards against deceptive practices. Empirical research further demonstrates that while retail investors may be influenced by online opinions, influence alone does not establish a legal duty of care absent elements of inducement, personalization, or misrepresentation. Emotional states not only affect valuation directly, but also condition how investors respond asymmetrically to information, amplifying reactions to favourable or unfavourable signals (Bird et al., 2023). These findings underscore the need for

a calibrated regulatory framework that differentiates between communicative acts that contribute to market information and those that function as de facto advisory services.

Within the Indonesian context, adopting such a functional distinction would align domestic regulatory practice with international standards and mitigate the risk of regulatory overreach. It would also provide a doctrinal foundation for interpreting DYOR and NFA disclaimers as contextually relevant indicators of communicative intent rather than as dispositive determinants of legal status.

REGULATORY IMPLICATIONS FOR DIGITAL INVESTMENT COMMUNICATION

The operational criteria discussed above provide a practical framework for regulators and courts to assess the legal character of digital investment communication. By evaluating communications according to prescriptiveness, personalization, inducement of reliance, and conflicts of interest, regulatory authorities can determine whether particular content falls within the protected sphere of market opinion or within the domain of regulated investment advice.

This approach supports a graduated regulatory model. At one end of the spectrum lies protected market discourse consisting of analytical opinions, educational content, and discussions of publicly available information. Such communications should generally remain outside the scope of advisory regulation, provided they do not contain misleading statements.

In the intermediate zone lies quasi-advisory content that combines analytical commentary with elements of prescriptive guidance. While such content may not fully constitute regulated investment advice, it may warrant supervisory attention, particularly where the communicator enjoys significant influence over retail investors.

At the opposite end of the spectrum lies communication that clearly constitutes actionable investment advice or manipulative conduct. This includes personalized recommendations, undisclosed paid endorsements, coordinated promotional campaigns, and dissemination of false or misleading information designed to influence market prices.

For OJK, adopting this functional framework would enhance regulatory clarity while preserving the informational value of digital investment discourse. Rather than imposing broad restrictions on user-generated financial content, regulators can focus enforcement efforts on conduct that demonstrably threatens investor protection and market integrity.

To operationalize the distinction between protected investment opinion and actionable investment advice, this study proposes an analytical framework that integrates doctrinal principles, regulatory practice, and empirical insights from international scholarship on digital financial communication. The framework identifies a set of functional indicators—prescriptiveness, personalization, inducement of reliance, and conflicts of interest—that collectively determine the regulatory characterization of investment-related communication.

CONCLUSION

DYOR and NFA should be understood as normative disclaimers that may clarify the absence of investment advisory relationships and reduce reasonable reliance in digital

investment communications. However, their legal effectiveness depends on the substance of the communication and cannot shield misleading, manipulative, or advisory conduct. Liability should therefore be determined based on prescriptiveness, personalization, inducement of reliance, and conflicts of interest. It is recommended that the Financial Services Authority (OJK) issue interpretative guidelines to distinguish protected investment opinions from regulated investment advice, thereby enhancing legal certainty while preserving investor protection and freedom of expression.

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