
INFORMATION TRANSPARENCY IN PUBLIC STOCK OFFERING TRANSACTIONS IN THE CAPITAL MARKET (CASE STUDY OF THE PROSPECTUS FOR THE INITIAL PUBLIC OFFERING OF PT MEDIA NUSANTARA CIPTA (PT MNC) SHARES IN 2007)

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Abstrak. This article aims to analyze the role and responsibility of the state through the Financial Services Authority and the Indonesia Stock Exchange in monitoring misleading company prospectuses and legal remedies that can be taken by investors if they suffer losses due to misleading prospectuses. The method used in the research is juridical normative to analyze the application related to the legal position of the prospectus as a way to fulfill information disclosure, and to obtain a complete picture of information disclosure through a prospectus that must be supervised by the Financial Services Authority and the Indonesia Stock Exchange, where if misleading is found in the prospectus which at any time can cause losses, investment actors can take criminal, civil, and administrative sanctions, in addition to investment actors can also pursue dispute resolution through alternative institutions outside the court that have been accommodated by Indonesian positive law.

Keywords: prospectus, disclosure of information, legal remedies.

INTRODUCTION

The capital market is an important instrument in the Indonesian economy. The capital market is essentially the same as other markets, but the difference is the object or traded, namely stocks, bonds and mutual funds (Yoyo Arifardhani & MM, 2020). The capital market has a significant function as a source of financing for business actors because of its nature that can bring together or facilitate parties who have capital with excess capacity with those who need the capital (Mulia, 2023). In addition, the Capital Market also has a role as a support for the implementation of national development. which includes small and medium enterprises, and from the other side the capital market is also a vehicle for investment for people on a small and medium capital scale. Capital Market according to Law Number 8 of 1995 concerning Capital Market is a form of activity related to Public Offering and trading of Securities, Public Companies related to the Securities they issue, as well as institutions and professions related to Securities (Permata & Ghoni, 2019).

In order to carry out its function as a supporter of economic activities and development, the capital market must comply with the Principle of Openness. Definitely based on Article 1 paragraph 24 of Law No. 1 of 1995 concerning Capital Market, the Principle of Openness is a general guideline that requires Issuers, Public Companies, to inform the public in a timely manner all information about their business and effects that may affect investor decisions on securities and / or prices of these securities, in line with the Explanation of the Financial Services

Authority Regulation No. 31 / POJK.04 / 2015 concerning Openness of Securities Material information or facts by issuers or public companies, where the rules are made in order to ensure the fulfillment of the principle of information disclosure as consideration for investment decision making (Abubakar & Handayani, n.d.). There is an obligation from the company or issuer to submit company reports whose content relates to material facts including prospectuses, periodic financial statements or other event reports. The principle of openness referred to in the capital market has the following objectives:

1. Maintain public confidence in the market in order to guarantee and provide infrastructure for decision-making to make investments that can optimally determine the choice of the company's portfolio.
2. Creating an efficient market with the provision of clear company information will increase the desire to invest. Conversely, if the company lacks information, it will cause uncertainty for investors and investor confidence will decrease.
3. Provide protection to investors by providing true data.

Protection to investors which is one of the objectives of the principle of openness of the capital market can be applied when companies or issuers make public offerings of securities. According to Article 1 number 15 of Law No. 8 of 1995 concerning Capital Market as amended by Law No. 4 of 2003 concerning Development and Strengthening of the Financial Sector, a public offering is a

specific securities offering activity this paper refers to shares carried out by issuers to sell shares to the general public in procedures regulated by laws and other related implementing regulations, So that every implementation of activities in the capital market domain is normatively bound by related rules (SARI, 2022). Formally-juridically, the process of registering issuers to the general public, it is stated that the Registration Statement for public offerings at least contains the following:

1. Cover letter of registration statement;
2. Prospectus;
3. A concise prospectus to be used in a public offering;
4. Preliminary prospectus to be used in the framework of the initial offering;
5. Other documents required as part of the registration statement (Alifadina, 2018).

A prospectus is an important document for issuers in introducing their companies to the public which includes various material details and facts related to public offerings from issuers that certainly influence investor decisions, which are known or worthy of knowing by issuers and Underwriters (Sari, 2018). The provisions regarding the prospectus are contained in Article 1 point 1 of the Financial Services Authority Regulation No. 8 / POJK.04 / 2017 concerning the Form and Content of Prospectus and Brief Prospectus in the Public Offering of Equity Securities which is written information related to the Public Offering, with the aim that other parties buy securities. However, the prospectus must still pay attention to the truth in its

content, as required in Article 78 paragraph (1) of the Capital Market Law to ensure the availability of facts and prospectus data that are not misleading. In fact, in Article 71 of the Capital Market Law, there is a prohibition on the sale and purchase of securities in a public offering when the buyer of securities does not get the opportunity to read the prospectus, the phrase of the article seems to explain that the prospectus is the main document in the line of public offering activities that is important to be used as a basis for consideration of purchasing securities. The prospectus whose content must be of truth value is also supported by the prohibition contained in Article 90 and Article 91 of the Capital Market Law where each party is prohibited from deceiving or deceiving other parties by using any means and means, making false statements about material facts or not disclosing material facts so that the statements made are not misleading, and directly or indirectly create a false or misleading picture of trading activities, market conditions or prices on the Stock Exchange. This action is often referred to as an act of misrepresentation carried out by spreading false information about the state of an issuer to influence investors and disseminating misleading or deliberately incomplete prospectus information (Goufe et al., 2016).

Regarding the issue of prospectuses containing misleading content, one of them can be seen in the Central Jakarta District Court Decision No. 29 / PDT. G/2011/PN. JKT. PST, where Abdul Malik Jan who is a Shareholder of PT. Media Nusantara Citra Tbk (PT. MNC) sued PT.

Media Nusantara Citra Tbk with a lawsuit against the law. The object of the lawsuit is Abdul Malik Jan who feels aggrieved by the fall in the share price of PT. Media Nusantara Citra Tbk (PT. MNC) after the Initial Public Offering of shares is listed on the Indonesia Stock Exchange. According to Abdul Malik Jan, the loss occurred due to misleading information in the prospectus that did not provide material facts regarding the dispute over share ownership of PT. Cipta Televisi Pendidikan Indonesia (TPI) which is still part of the business structure of PT. Media Nusantara Citra Tbk which has been going on since March 2005 until the time of the initial Public Offering in 2007 and in the prospectus explained PT. Cipta Televisi Pendidikan Indonesia (TPI) contributed 21.9% of MNC's total revenue in 2006. According to the plaintiff, the dispute over share ownership of PT. Cipta Televisi Pendidikan Indonesia which is the cause of the fall in the share price of PT. Media Nusantara Citra.

The decision of the Central Jakarta District Court which refused to examine the case further because of the proposition of premature lawsuit (the lawsuit should not have been filed) and absolute competence became interesting to discuss. In its ruling, to determine any violations of capital market regulations is the authority of Bapepam-LK, which is currently given to the Financial Services Authority. This certainly weakens the function of the judiciary to examine cases in the domain of violations of capital market laws, so that other alternatives to dispute resolution that are more up-to-date and can guarantee the creation of legal certainty to the public as

prospective buyers of shares The issuance of a prospectus containing misleading content is also not in line with the establishment of Law No. 8 of 1995 concerning Capital Market, Where the purpose of the establishment of the law is for the development of the capital market as a place for the public to invest while guaranteeing and prioritizing legal certainty, so it is important to investigate related to the protection and legal remedies that investors have against capital market developments, especially in the Public Offering section for the investor community.

Based on the background mentioned above, the formulation of the problem is How is the responsibility of the Financial Services Authority and the Indonesia Stock Exchange to provide legal protection so that issuers enter complete and not misleading data in the prospectus for the benefit of shareholders. And what about legal remedies for shareholders who have been harmed because they did not get information disclosure in the prospectus?

The purpose of this study is to provide an understanding of how the responsibility of the Financial Services Authority and the Indonesia Stock Exchange to provide legal protection so that issuers enter complete and not misleading data in the prospectus for the benefit of shareholders. And To provide understanding related to legal remedies for shareholders who have been harmed because they did not receive information disclosure in the prospectus.

METHODS

The research method in this writing is

normative (juridical) legal research, where the approach used in this writing refers to existing written laws such as laws, legal theories, legal principles (Fajar & Achmad, 2017). The data used in this normative juridical writing are Secondary Data. Secondary data is data obtained based on literature studies or research on a problem to be studied (Hariyadi & Anindito, 2021).

The data or secondary materials used in this writing are obtained through literature studies as follows:

1. Primary Legal Materials
Refer to the laws and all regulations used as the basis for writing
2. Secondary Legal Material
Secondary data materials related to this writing are taken from examples of existing cases and their resolutions, expert opinions, books, legal journals, articles, and papers relevant to the subject matter of this writing
3. Tertiary Law Materials
Tertiary legal materials are in the form of explanations on primary legal materials such as large dictionaries, information media, so that they can help in analyzing primary and secondary legal materials.

RESULTS AND DISCUSSION

A. The responsibility of the Financial Services Authority and the Indonesia Stock Exchange to provide legal protection so that issuers include complete and not misleading data in the prospectus for the benefit of shareholders.

Information Disclosure is one of the main principles in the Law on Capital Market. According to Article 1 number 25, the principle of openness is a guideline for Issuers, Public Companies, and other Parties to provide information to the public in a timely manner all material information about their business or its effects that can affect investors' decisions on the securities traded. As for what is meant by material information in the provisions of the article are important and relevant facts regarding events, events, or facts that can affect the price of securities on the stock exchange, and / or the decisions of investors, prospective investors or interested parties on the information. The General Explanation of Law No. 8 of 1995 concerning Capital Market of the fourth paragraph explains the amendment of Law No. 15 of 1953 concerning the Establishment of Emergency Law on the Exchange is not in accordance with the times because it does not regulate matters that are very important in capital market activities, namely fulfilling the Principle of Openness as a means to protect the general public in activities and decision-making in the capital market. The principle of information disclosure in the capital market legal regime is referred to as full disclosure where every company that offers its securities through the capital market must disclose all information about the state of its business, which is not limited to the financial condition, legal aspects, management, and assets of the company to the public because capital market activities without clear and definite information are the same as playing

gambling. The principle of openness as a capital market legal doctrine has characteristics that need to be known, namely the principle of the height of the degree of accuracy of information, the principle of the height of the degree of completeness of information, and the principle of equilibrium between negative effects on issuers on the one hand, and on the other hand positive effects on the public if the disclosure of the information (WATI, 2014). In line with the Principle of Information Openness, companies or issuers are prohibited from providing misleading information for investors to buy or not buy securities. Misleading in this case is information that contains complete errors, half-truths, incomplete, and acts of silence on facts, and material information, so that the company or issuer must act actively in ensuring the availability of information, or material facts that are in accordance with the original truth.

As explained earlier, companies that conduct public offerings must openly convey information about their business. One of the public access to company or issuer information disclosure is obtained from the company's prospectus. In Article 1 lift 26 of the Law on Capital Market, the prospectus contains any written information related to a public offering deliberately published with the aim of getting other parties to buy securities. A prospectus is an official document issued by a company or issuer in order to sell securities to the public, investors can find out the quality of the securities traded by relying on the sources of information contained in the prospectus. Based on its function, the prospectus can be used to

provide an overview to the public about the company's condition in various aspects in the context of selling shares, besides that the prospectus also provides information for investors about both real and potential risks faced by the company to provide protection if there are misleading material things (Kurniawan & Haryanto, 2014). The Company in order to offer investors to participate in investments or purchases of securities may use two ways:

1. Offers are limited only to certain parties and limited to no more than 20 people or entities and are not carried out through mass media.
2. Offer through the Capital Market by way of a public offering or Go Public

Offering through the Capital Market by way of a public offering or Go Public As explained in the previous section, it must go through various processes including registration with the Financial Services Authority. Previously, related to the supervision of the capital market sector, the authority was with Bapepam-LK, but in order to realize good and independent supervision, there was a transfer of supervision from Bapepeman-LK to OJK since December 31, 2011 (Hutasuhut et al., 2017). The dimension of the authority of the Financial Services Authority to supervise capital market activities applies since before the company becomes a public company, it can be proven by the authority of the Financial Services Authority to decide whether or not a company can become a public company by issuing an effective registration statement if the company has fulfilled the terms and conditions as a public company. At this

stage, public companies are bound by the obligation to issue an initial prospectus as a form of guarantee against the principle of information disclosure (Arifin et al., 2022).

The prospectus must be made very carefully regarding the submission of facts that are subject to the content of the prospectus. The information used in the prospectus is material information from the issuer. In Article 6 of the Financial Services Authority Regulation Number 8/POJK.04/2017 concerning the Form and Content of Prospectus and Brief Prospectus in Public Offering of Equity Securities (POJK 8/2017), it is explained that in making a Prospectus, at least it must contain several important things to be underlined, especially those related to the issues raised, namely related to opinions in terms of law and risk factors.

Binsar Nasution in his book entitled "Openness in the Capital Market" explains that the prospectus contains material facts if:

- Shareholders believe that all information is important to shareholders and not just what they want to know
- Shareholders need to understand that the information provided by the issuer meets firm-specific elements or specific information about the company concerned such as information related to shareholders of the company, financial statements, domicile, assets and capital of the company, and others.

In addition, all information that can

determine the rise and fall of stock prices largely determines whether material facts have been contained in the prospectus (Putri, 2018). Investors certainly expect the risks disclosed in the prospectus to determine whether the issuer can run well or not.

Seeing the many facts that must be contained in the Prospectus, the principle of openness is needed. The form of false statements contained in the prospectus may create a false representation of the quality of the issuer, its management, its economic potential, the shares offered or other material facts offered. One form of violation of this principle is a false statement or a statement that is deliberately omitted. Financial Services Authority Regulation Number 8/POJK.04/2017 concerning the Form and Content of Prospectus and Brief Prospectus in Public Offering of Debt Securities (POJK 8/2017) Article 2 paragraph (2) explains as follows:

"The Prospectus and the Abridged Prospectus shall not contain any untrue description of material facts or do not contain true descriptions of material facts necessary so that the Prospectus does not paint a misleading picture"

In relation to the legal problems faced by Abdul Malik Jan, PT. Media Nusantara Citra Tbk (PT. MNC) did not disclose the legal component of the opinion related to the relevant case, in the form of civil claims involving subsidiaries of PT. Media Nusantra Citra Tbk namely PT. Cipta Televisi Pendidikan Indonesia. At that time there was a dispute over the Share Ownership of PT. Cipta Televisi Pendidikan

Indonesia The subject matter of the share ownership dispute is 75% (seventy-five percent) of MNC's shares in TPI, as stated in Article 6 letter t POJK 8/2017 jo. Article 34 letter f which can be proven by filing a lawsuit in the Central Jakarta District Court case register 10/Pdt.G/2010/PN.Jkt.Pst by Siti Hardianti Rukama. In addition to opinions from a legal point of view, the dispute over share ownership is also related to general risk factors due to lawsuits or lawsuits which must also be disclosed in the contents of the prospectus.

Investors may not necessarily be able to understand whether the prospectus presented is a prospectus that is not misleading, let alone many investors come from various circles. However, its completeness can be seen from whether the prospectus has contained elements written in the law, especially in POJK 8/2017. Therefore, it is very important for an investor to be able to read the prospectus, because if the prospectus cannot at least read the prospectus, then the investor cannot know the quality of the securities he buys or sells. The principle of openness in the Capital Market must be carried out by all capital market participants, not only issuers but also investors, so that the role of reading and adjusting to existing laws and regulations can help investors to minimize losses due to improper prospectuses. To ensure the availability of information in the prospectus in accordance with the messages and orders contained in the Capital Market Law and related capital market regulations, the role of the state through the Financial Services Authority appointed by it is needed to be able to ensure the fulfillment

of information disclosure in making prospectuses by the company.

However, there are problems in enforcing information disclosure, especially in the prospectus issuance section. Information on the Face Skin of the Prospectus as discussed in Article 7 letter I POJK 8/2017 where the prospectus must contain information or statements stating the truth or adequacy of the contents of the prospectus and any statement that contradicts the truth of the prospectus is unlawful. The redaction of the article shows that the Financial Services Authority does not seem to want to take more responsibility in an effort to prevent the circulation of prospectuses containing material facts that are not true. Although in general, the Financial Services Authority in accordance with the provisions of Article 9 of Law No. 21 of 2011 has preventive and repressive authority in the capital market. Preventive authority can be seen from the capacity of the Financial Services Authority to establish operational policies for supervision of every activity, guidance on parties who obtain approval and registration from the Financial Services Authority, but the existence of the provisions of Article 7 letter I POJK 8/2017 positions the Financial Services Authority indecisively. Meanwhile, the repressive authority of the Financial Services Authority is much more dominant, where there is the capacity to provide administrative sanctions against parties who commit a violation of POJK 8/2017 regulations and capital market legislation related to prospectuses. As explained in Article 54 paragraph (1) POJK 8/2017, the Financial Services Authority can provide

administrative sanctions that can be given by the Financial Services Authority for violations of information disclosure in the prospectus in the form of written warnings, fines, restrictions on business activities, revocation of business activities, cancellation of approval, and cancellation of registration. Furthermore, Article 55 POJK 8/2017 does not restrict the Financial Services Authority from being able to take certain actions, for example violations of the principle of information disclosure such as prospectus manipulation, manipulation of material facts carried out by parties engaged in the capital market sector can be criminalized by implementing an investigation mechanism carried out by the Financial Services Sector Investigation Department (DPJK) of the Financial Services Authority based on POJK No. 22 / POJK. 01/2015 concerning Investigation of Criminal Acts in the Financial Services Sector based on reports or information regarding non-criminal allegations in the Financial Services Sector. The Capital Market Law has specifically given attributive authority to the Financial Services Authority to conduct, as a consequence of which Capital Market problems become specific and special (*lex specialis*) under the Capital Market Law regime. So that to determine the occurrence of violations of capital market regulations is the authority of the Financial Services Authority in line with the provisions of Article 5 letter e of the Capital Market Law, violations that have been determined by the Financial Services Authority are the basis for submitting compensation to the court and to the

Financial Services Authority. This is in line with the reason for the Panel of Judges in the Case to reject the lawsuit from the plaintiff because to determine the occurrence of violations of capital market provisions is not the authority of the Panel of Judges but the authority of the Financial Services Authority, so that the lawsuit should not be premature for the plaintiff to take steps by reporting the alleged misleading prospectus to the Financial Services Authority first to immediately determine whether it is. There was a violation of regulations relating to the issuance of a prospectus for the purpose of a public offering of shares. Related to Absolute Competence, the Central Jakarta District Court has the authority to adjudicate cases considering that the duties of the District Court are regulated in Article 50 of Law No. 2 of 1986 concerning Judicial Power where the District Court is authorized to examine, decide, resolve criminal, and civil cases in the first instance. Considering that the suit filed by the plaintiff in the case is an Unlawful Action lawsuit for the issuance of a Prospectus which does not contain material facts in full. Unlawful Acts as we know them are contained in Article 1365 of the Civil Code.

In addition to the Financial Services Authority, there is another independent institution in the form of a Self-Regulatory Organization (SRO), namely the IDX (Indonesia Stock Exchange). As a Self-Regulatory Organization, IDX is given the authority to supervise and make regulations that bind its members, namely Public Companies listed on the ID (Wauran-Wicaksono, 2014). Supervision of the

prospectus carried out by IDX on Public Companies begins when the prospectus is issued by the Public Company which will later be assessed for the correctness, quality and feasibility of the prospectus by the IDX through the Director of Company Valuation before being announced to the wider public. In addition, IDX also requires public companies to submit material company facts where these material facts will also be conveyed by IDX to the public through the IDX website which can be accessed freely.

B. Legal remedies for shareholders who have been aggrieved due to not receiving information disclosure in the prospectus.

Prospectuses that are misleading or contain material facts that are incorrect usually arise due to an agreement between prospective issuers and public accountants and/or legal consultants who arbitrarily manipulate the contents of the prospectus to make it look feasible and promising to go public and be purchased by investors. Article 1 number 33 of the Capital Market Law states that OJK is given extraordinary authority to foster, regulate, and supervise every party in the Capital Market that is detrimental to investors. Thus, OJK also has the authority to oversee legal handling by the General Court in Indonesia including legal protection categories including fines, imprisonment, and additional penalties.

Article 81 of the Capital Market Law Number 8 of 1995 also states the following: *"Any Party offering or selling Securities by means of a Prospectus or by any other means, whether written or oral, which contains incorrect information about a*

Material Fact or does not contain information about a Material Fact and that Party knew or should have known about it shall be liable for any loss arising from such conduct."

Therefore, legal remedies that can be taken for investors who feel losses due to misleading prospectuses are:

1. Civil Remedies

With this civil sanction, it allows investors to make a lawsuit as follows:

- a) A lawsuit based on Unlawful Actions, in accordance with Article 1365 of the Civil Code is an act that is done intentionally or done because of lack of caution or negligence. Legal actions in the Capital Market, possible lawsuits can arise on juridical grounds as follows:
 - Fulfillment of elements stating violations in the Capital Market Law
 - Fulfillment of the elements contained in Article 1365 of the Civil Code concerning Unlawful Medicine
 - Fulfillment of the element of default action on an agreement (does not apply to this case)

A misleading prospectus can also be associated with an Unlawful Act or when referring to Article 78 paragraph (1) of the UUPM which states the prohibition to contain incorrect information about the facts at the time the statement is made or the information is given. Meanwhile, Article 93 of the UUPM of misleading material facts restricts

any person from giving information if:

- 1) the Party concerned knew or should have known that such statement or information was materially false or misleading; or
- 2) The party concerned has not taken sufficient care in determining the material truth of the statement or statement.

So this is also in line with the Unlawful Acts referred to in the civil code, so violations and crimes in the capital market can be categorized as unlawful acts. To be said to be an Unlawful Act, it must meet the following elements:

- 1) There must be a deed, the act in question is all forms of action done;
- 2) The act must be against the law, the issuer that disseminates the Prospectus containing misleading information is a form of violation of Capital Market law, and the act is contrary and detrimental to investors or the public;
- 3) There is a loss, the investor incurs a loss due to but the prospectus is not correct;
- 4) There is a causal relationship between the Unlawful Act and the Loss of Fact that has occurred causing the loss;
- 5) There is an error, the error referred to here is a deliberate act committed in this case making an

incorrect or incomplete prospectus that causes harm to another person regardless of it provided for in the law.

2. Criminal Remedies

In Inflammation effect expressly in the Capital Market Law affirms that, any party is prohibited to:

- 1) In any way deceive the other party;
- 2) Participate in deceiving or deceiving others;
- 3) Making false statements to benefit oneself and result in harm to others;

Violation of the provisions governing responsibility for misleading information in the prospectus is regulated in article 81 of the Capital Market Law Number 8 of 1995:

"Any Party offering or selling Securities by means of a Prospectus or by any other means, whether written or oral, which contains incorrect information about a Material Fact or does not contain information about a Material Fact and that Party knew or should have known about it shall be liable for any loss arising from such conduct."

The responsibility in question is not only up to the UUPM itself but if at the time of the statement (in this case making a prospectus):

- a) The authoring party knew or should have known that the information provided was false or misleading;
- b) The party concerned was not careful in determining the truth in the statement;

may be subject to Criminal Sanctions in accordance with Article 107 of the UUPM,

namely imprisonment for a maximum of 3 (three) years and a maximum fine of 5 (five) billion:

"Any party who intentionally aims to deceive or harm other parties or mislead Bapepam, eliminate, destroy, erase, alter, obscure, hide, or falsify records from parties who obtain permits, approvals, or registrations including issuers and public companies shall be threatened with a maximum imprisonment of 3 (three) years and a maximum fine of Rp.5,000,000,000.00 (five billion rupiah)."

In the event that criminal violations are found, OJK can conduct examinations and investigations on parties who are suspected of having, or committing or being involved in violations of the UUPM and/or its implementing regulations, through the following stages:

1. Examination

The Financial Services Authority in the event of an examination will collect data, information, and/or other information needed as evidence of alleged violations of the UUPM and/or its Implementing Regulations. The examination is based on:

- a) There are reports, notifications, or complaints about violations of capital market laws and regulations, parties who obtain licenses, approvals do not fulfill obligations to the Financial Services Authority or other parties appointed to provide reports to the OJK;
- b) Clues were found as alleged violations in the Capital Market; With these allegations, OJK has several authorities to:
 - a. If deemed necessary, OJK

may request information and/or confirmation from parties suspected of committing or involved in violations of this Law;

- b. OJK may Require to carry out or not carry out certain activities against parties suspected of committing or involved in violations of this Law;
- c. If deemed necessary for records or documents belonging to parties suspected of committing or involved in violations, OJK can record these documents or records;
- d. In order to settle losses incurred, OJK can set conditions and/or allow the alleged party to do something.

1. Investigation

Losses that may arise from the capital market are very diverse looking at the type of violation. Therefore, the Financial Services Authority can consider the consequences of violations that occur and the authority to proceed to the investigation stage based on these considerations.

In practice, not all Capital Market violations must be continued until the investigation stage if they are deemed to hinder the overall offering/securities activities. The loss must be identified if the loss is harmful to the capital market system or the

interests of investors and / or the public, the Financial Services Authority can initiate an investigation in the context of determining criminal acts.

Article 101 Paragraph (3) of the UUPM states that more detailed authority is given by investigators, namely:

- a. receive notifications, reports, or complaints from other parties about criminal acts in the Capital Market;
- b. The report received must be examined for the truth relating to capital market crimes; Parties suspected of committing or involved may also be investigated by the Investigator;
- c. Parties suspected of committing or as witnesses may be examined, summoned, and asked for information and evidence by investigators;
- d. inspect books, records, and other documents related to criminal acts in the Capital Market;
- e. any evidence of bookkeeping, recording, or other documents can be examined in certain places and confiscated goods used as evidence in criminal cases in the Capital Market;
- f. investigators are authorized to block accounts at banks or other financial institutions of Parties suspected of committing or involved in criminal acts in the Capital Market;

g. Investigators can request expert assistance in the context of carrying out criminal investigation tasks in the Capital Market; and

h. The investigator may state when the investigation begins and stops

So the efforts that can be taken also through criminal sanctions and Bappepam have changed to OJK. Proving capital market crime is not an easy thing, but the losses caused can be fatal and widespread, the Financial Services Authority provides criminal sanctions as a firm step to provide a deterrent effect and as a warning to issuers who do not provide true information.

2. Administrative Efforts

Administrative efforts that can be taken by OJK if there is no openness in the capital market can be taken in the following ways:

- 1) Written warnings;
- 2) A fine is an obligation to pay a certain amount of money;
- 3) Restrictions on business activities;
- 4) Suspension of business activities;
- 5) Revocation of business license;
- 6) Withdrawal of consent; and
- 7) Cancellation of registration.

Administrative sanctions only apply to parties who have been listed in the capital market. The parties that can be imposed administrative sanctions are:

- 1) Parties who obtain permission from OJK;
- 2) Parties who obtain approval from OJK;
- 3) Parties who register with OJK;

Issuers must still periodically submit information related to financial conditions and important events that will have an impact on investors or shareholders even after the registration statement is declared effective. The information will later become a public document that will be submitted to the Financial Services Authority and provided to anyone who needs it. The information submitted to the investor must be true and adequate information for the investor, the information must have been further analyzed. All forms of negligence, error, or insufficiency will be subject to criminal, civil, or administrative sanctions in the form of fines and written warnings to the Company's management.

3. Upaya Hukum Mediasi di Luar Pengadilan

Article 111 of the Capital Market Law Explains the legal position that suffers losses due to violations of the Capital Market Law and/or its implementing regulations may claim compensation, either individually or jointly with other Parties who have similar claims, against the Party or Parties responsible for such violations. The article does not provide restrictions

related to the place of settlement of claims for compensation, meaning that there is freedom from parties who feel aggrieved to have their own dispute resolution mechanism. In the case of buying shares due to a misleading prospectus, of course, the buying party can be harmed if there is a decline in stock price as in the case of Jan Abdul Malik. However, in its decision, the panel of judges rejected it on the grounds that the lawsuit was premature and the authority of competence was not vested in the District Court. Today, efforts to resolve legal issues are very commonly used through mediation hosted by the Alternative Financial Services Sector Settlement Institution.

CONCLUSIONS

1. The State of the Republic of Indonesia has given its authority to the Financial Services Authority and the Indonesia Stock Exchange as the Self-Regulatory Organization to regulate and create a good capital market climate and in accordance with the orders of the Law. In an effort to provide legal protection to the public from misleading prospectuses, the Financial Services Authority and the Indonesia Stock Exchange have preventive and repressive authority. Preventively, the Financial Services Authority and the Indonesia Stock Exchange can check the quality and conformity of the Prospectus issued by prospective Issuers with existing regulations. Meanwhile, the repressive authority of

the Financial Services Authority and the Indonesia Stock Exchange can be seen from the capacity of these two institutions to provide sanctions, both administrative and criminal, to issuers that violate the provisions of the prospectus.

2. For Investors who are harmed due to actions or activities in the Capital Market to invest in a public company based on a misleading prospectus, three legal remedies can be taken, namely civil legal remedies, criminal legal remedies, and administrative legal remedies.

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Yang Tidak Lepas Dari Kebutuhan Manusia Yang Semakin Terbuka Akan Teknologi Modernitas. Maka Dari Itu Pada Kenyataannya Sesuai Perkembangannya Kehadiran Teknologi Banyak Pihak-Pihak Yang Berniat Jahat Untuk Menyalahgunakannya. Dari Fenomena Itula Adanya Tindak Pidana Melalui Internet. Penelitian Ini Bertujuan Untuk Mengetahui Bagaimana Proses Penyidikan Tindak Pidana Terhadap Pencurian Data Di Kota Makassar Dan Faktor Apa Saja Yang Menjadi Penghambat Kepolisian Terhadap Pelaku Tindak Pidana Pencurian Data Melalui Media Sosial Di Kota Makassar. Penelitian Ini Dilakukan Di Kepolisian Resor Kota Besar (Polrestabes) Makassar Dengan Menelaah Hukum Dalam Kenyataan Atau Berdasarkan Fakta Yang Didapat Secara Objektif Di Lapangan Baik Berupa Data, Informasi Dan Pendapat Yang Didasarkan Pada Identifikasi Hukum Dan Dampak Hukum Yang Terjadi Di Masyarakat, Didapat Pula Melalui Wawancara Dengan Pihak Yang Berkompeten Dengan Masalah Dalam Penelitian Ini. Hasil Penelitian Menunjukkan Bahwa Proses Penyidikan Pencurian Data Milik

Negara Yaitu Dengan Menindaklanjuti Laporan Dengan Segera, Membuat Surat Perinta Penyelidikan Dan Surat Perintah Penyidikan, Melakukan Perampasan Kebebasan Dengan Dilakukan Pemanggilan Kepada Saksisaksi, Dan Dilakukan Pencarian Bukti-Bukti Digital Dengan Perangkat It Agar Kepolisian Menjamin Keaslian Data Dan Informasi Untuk Menghindari Kerusakan Barang Bukti. Universitas Bosowa.

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