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Legal Analysis of 'Pump and Dump' Schemes in Indonesia's Capital Market: Perspectives and Prevention

Philip Anggra[1], Gunardi Lie[2]

[1,2]Faculty of Law, Tarumanagara University. Jakarta, Indonesia

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Abstract

The economic development and capital market growth have led to the emergence of many market manipulation issues in Indonesia and worldwide. Legal frameworks and challenges associated with addressing 'pump and dump' schemes in the Indonesian capital market underscore the need for strong legal strategies and regulatory oversight to protect investors and maintain market integrity. The 'pump and dump' scheme, characterized by artificially inflating stock prices followed by rapid selling, is a significant form of market manipulation that undermines investor confidence and market stability. While Indonesia has laws related to market manipulation, primarily found in the Capital Market Law (Law No. 8/1995) and various regulations issued by the Financial Services Authority (OJK), they do not immediately solve all capital market issues in Indonesia. Operational challenges and limitations faced by regulatory bodies in detecting and prosecuting perpetrators, including technology deficiencies, resource constraints, and the need for more effective inter-agency cooperation, are highlighted. It is emphasized that while current laws provide a framework for action, there are still loopholes that allow manipulators to exploit the system. A multifaceted approach to prevention is proposed, suggesting enhancements in legal provisions, greater regulatory cooperation, and broader use of technology in supervision and enforcement. This legal analysis aims to contribute to ongoing discussions and assist policymakers and stakeholders in refining the regulatory mechanisms governing the Indonesian capital market.

Keywords: *Pump and Dump, Capital Market, Market Manipulation*

(*) Corresponding Author: Philip.205210024@stu.untar.ac.id

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INTRODUCTION

Indonesia is the world's largest archipelago state. Their strategic geographic position is at one of the main crossroads of the world's trading routes and it is surrounded by oceans. This study is expected to deliver and ensure the integrity of Indonesia capital markets free from pump-and-dumpfraud risk so that investor confidence is maintained to cultivate a healthy economy. Its economy is so full of potential in regard to natural resource, tourism, and maritime trade related sectors. However, it should be realized, and in the process of realization, some form of regulation should accompany it in order to ensure the safe and attractive environment for investment. Regulation in the capital market is of importance since it sets the bar for investment, but at the same time, it has an important role in maintaining economic stability. As such, very clear and well-enforced laws will highly prevent the unethical practices, such as market manipulation and fraud that may impact the reputation of the capital market and hence interest to invest.

The development of the Indonesian capital market is relatively high and has now become an integral part of the ASEAN economic framework. As the largest

economy in the Southeast Asian region, Indonesia really plays a vital role in determining the regional financial landscape, and, by correlation, comprising diverse investment opportunities that attract both domestic and foreign (Sarma, M., et al., 2022). The Indonesia Stock Exchange (IDX), one of the major securities trading floors, is responsible for the most varied range of instruments in the country, varying from stocks to bonds and derivatives. Over the last decade, a significant increase in market capitalization and trading volumes at IDX was observed, driven by robust economic growth in Indonesia, political stability, and progressive financial reforms that put more emphasis on strengthening market infrastructure and the protection for investors (Tresnaningsih, E., et al., 2022).

Market capitalization in the IDX has grown significantly, a growth supported by the rising middle class and increased financial literacy, which have contributed to a surge in domestic retail investment. At the same time, the rapid development of the Indonesian capital market poses its own challenge, and it relates to the market integrity and surveillance (Purmiyati, A., 2019). Incidents related to market manipulation, for example, pump and dump schemes, have brought cause for concern among the investors. Realizing these challenges, the Indonesian regulators, more particularly the Financial Services Authority (OJK), are in the process of putting in place cutting-edge market surveillance technologies for the early red flagging of fraudulences. President Joko Widodo, who joined the launch through a teleconference, added that such efforts are of vital importance to secure the capability of Indonesia capital markets for continuous operation in an efficient and effective manner toward economic development and the sustainability of a good place in the ASEAN region (Cahya, D., et al., 2023).

"Pump and dump" is actually a form of market manipulation where stock prices are falsely inflated, usually by fraudsters issuing false or misleading positive statements through social media, newsletters, or even the press, to sell the stocks at an inflated price (Loa, S., et al., 2020). When the manipulators have sold off at highly inflated prices their holdings, they stop promoting the stock, which has a sharp decline in price. Unsuspecting investors are left high and dry since the stock value might have collapsed, and they suffer huge losses as a result. The schemes of pump and dump occur very often, and they create a big risk and problem in the Indonesia capital market. These events of manipulation not only hurt the individual investors who lose their savings, but also present terrible damage to the integrity of the market. This could badly shake the confidence of both domestic and foreign investors if they get an impression that the market is open for manipulation with little protection available to safeguard it from fraudulence.

In addition, these schemes undermine the most basic tenet of fair and transparent trading practices on which the capital markets are based. The fact that pump and dump schemes create an artificial price volatility makes it difficult for investors to make sensible decisions based on the actual performance of the company and market conditions; inefficiencies in the allocation of capital may thus occur, which could also reduce economic growth (Sahu, R., 2022). Nevertheless, the rapid evolution of digital communication technologies and trading practices adds new complexities to the landscape, thus needing permanent updates and adaptations of the regulatory measures. This problem statement forms the foundation of an in-depth legal analysis that appraises current regulatory

effectiveness in the fight against pump-and-dump schemes, identification of gaps within the regulatory regime, and, in turn, puts forth and prescribes enhanced measures for prevention and enforcement (Shimshack, J. & Ward, M., 2007). That is, ensuring the capital market in Indonesia remains intact with integrity and protected from the risks associated with such fraudulent activities, hence the investors' confidence and healthy economic growth are the targets of this analysis.

RESEARCH QUESTIONS

Based on the background outlined above, the issues that arise are:

1. To what extent is the effectiveness of the existing legal framework in Indonesia in detecting and prosecuting perpetrators of pump and dump schemes in the capital market?
2. What are the roles and challenges in developing a stronger system to prevent pump and dump schemes, while also maintaining investor trust and market integrity?

METHODS

Type of Research

The type of research used in this article in descriptive research, which is utilized to systematically, factually, and accurately describe the facts and characteristics of the pump and dump schemes in Indonesia's capital market. This includes describing the regulations and legal framework designed to address and prevent market manipulation. Documenting identified pump and dump cases within the capital market provides insights into how these schemes are implemented and addressed.

Data Collection Methods and Techniques

1. Documentation Study:

- Legal Document Analysis: Collecting and analyzing regulations, laws, and relevant court decisions in Indonesia related to the capital market and market fraud.
- Policy Documents: Reviewing policy documents from the Financial Services Authority (OJK) and other relevant institutions that outline standards and procedures in combating pump and dump schemes.

2. Case Studies:

- Analysis of Spesific Cases: Analyzing specific cases of pump and dump that have occurred in Indonesia to identify patterns, gaps in law enforcement, and outcomes of regulatory interventions.

Research Approach

This study will use a qualitative approach to deeply explore the legal settings and their implementation in addressing pump and dump schemes in Indonesia's capital market. This approach is chosen because it allows for a comprehensive analysis of existing legal texts, policies, and law enforcement practices, as well as obtaining perceptions and experiences from stakeholders.

RESULTS & DISCUSSION

The effectiveness of the Indonesian legal framework in detecting and prosecuting perpetrators of pump and dump schemes in the capital market is significant.

The effectiveness of the Indonesian legal framework in detecting and prosecuting perpetrators of pump and dump schemes in the capital market is significant. Pump and dump is a form of market manipulation that is prohibited in Indonesia and is governed by various laws and regulations aimed at protecting investors and ensuring the integrity of the capital market (Fahlevie, R., et al., 2022). In Indonesia, regulations regarding the capital market and actions such as pump and dump schemes are governed by several laws and regulations designed to ensure fairness and transparency in capital market transactions, including:

1. Capital Market Law No. 8 of 1995 (UU PM)
2. Regulations from the Financial Services Authority (OJK)
3. Regulations from the Indonesia Stock Exchange (IDX)
4. The Criminal Code (KUHP)
5. Law No. 19 of 2016 concerning Information and Electronic Transactions (UU ITE)

The application of these laws in practice often depends on the complexity of the case and the specific situation encountered. Effective implementation of these regulations requires coordination between various institutions and a deep understanding of the law and the capital market by all parties involved.

Regarding the ability of the legal framework that Indonesia has in dealing with such schemes as pump and dump, Indonesia possesses a strong legal framework. Regulatory and legal framework: Indonesia has laid down its legal framework under the Capital Market Law No. 8 of 1995, along with various regulations issued by OJK and IDX (Nghiem, H., et al., 2021). This law explicitly prohibits the act of market manipulation, such as the pump and dump. The regulation law for market manipulation schemes in Indonesia is the Capital Market Law, stipulating these under Chapter XI: Fraud, Market Manipulation, and Insider Trading. Article 90 states the prohibitions for every party in conducting securities trading activities such as deceiving or misleading others, participating in deceiving others, and making false statements about material facts or failing to disclose material facts so that statements made do not mislead regarding the conditions that occur at the time the statement is made with the intention to benefit oneself. Additionally, Article 91 outlines the prohibition against disseminating information that can affect the price of securities in the market or that can mislead others in conducting capital market transactions. Furthermore, Article 103 provides provisions regarding sanctions for anyone who violates the provisions in this Law, including actions of market manipulation like pump and dump. Sanctions can range from fines to imprisonment, depending on the severity of the violation.

As the only regulator in the capital market of Indonesia, Financial Services Authority (OJK) becomes an important tool to rein and deter the market practice of manipulation, including pumping and dumping practices. Although not specifically mentioning "pump and dump," it seems that OJK regulations indirectly prevent and regulate some actions that can be considered as market manipulation, including pump and dump (Rohmatun, R., et al., 2023). OJK Regulation No. 31/POJK.04/2015 on the Obligation of Material Information or Fact Submission by the Issuer or Public Company focuses on the obligation of issuers to submit any information to stakeholders, including investors, that enables the stakeholders to make an appropriate investment decision based on sufficient information (Sardiana,

A., et al., 2018). Though it does not exactly apply to the regulation of pump and dump, this regulation holds high relevance in the prevention of such practices, given that transparent and proper disclosure of information is the key to curtail market manipulation. Under this regulation, issuers and/or public companies shall disclose information or material facts that will or may have a bearing on the prices of stocks or investment decisions. Material information or facts shall be the changes taking place in the business, its finances, or ownership that can be considered important to the investors.

Through strict regulation related to information disclosure, IDX and OJK try to close the gaps that can be used for market manipulation. Based on the rules, OJK Regulation No. 31/POJK.04/2015 does not make any specific references regarding the practice of "pump and dump." However, this regulation will, in an indirect way, help to avoid these things because the level of transparency and the integrity of the issuer's disclosure must be higher and always pursued. IDX and OJK closed the gap that might be used for market manipulation through the strict regulation related to information disclosure. In the absence of the provisions, the company may be penalized by OJK in case of nondisclosure of material information with fines, trading suspension, or other measures of prevention designed to protect the market and investors.

IDX plays a crucial role in ensuring the integrity and fairness of the Indonesian capital market. IDX has functions and roles in preventing and following up on market manipulation practices such as pump and dump schemes, such as (Kung, J., et al., 2010):

1. Market Surveillance

IDX has an advanced market surveillance system to monitor all stock transactions and other market activities in real time. IDX continues to work to enhance market transparency through initiatives such as implementing new technology in reporting and market surveillance, ensuring that all relevant information is publicly available in a timely manner to identify and respond to potential manipulation cases.

2. Investor Education

One effective way to prevent market manipulation is by raising awareness and knowledge among investors. IDX actively organizes programs and workshops to educate investors, providing them with knowledge on how to identify potential risks and signs of market manipulation. This education is crucial to helping investors make more informed decisions and protect themselves from becoming victims of practices such as pump and dump.

3. Implementation of Rules and Regulations

IDX is tasked with regulating and enforcing regulations that require all issuers and related parties to operate in a transparent and fair manner. IDX requires public companies to regularly disclose financial and other material information that may affect investment decisions, which helps reduce the likelihood of misleading information being used in pump and dump schemes.

4. Coorperation with Other Regulators

IDX works closely with the Financial Services Authority (OJK) and other law enforcement agencies to ensure that unfair or illegal market practices can be followed up with appropriate legal action. This cooperation includes the exchange of information and coordination in investigations and the law enforcement process.

5. Investigation and Enforcement

If IDX detects suspicious activity or violations of market regulations, they can conduct further investigations. The results of these investigations can lead to several actions, including but not limited to public warnings, stock trading suspensions, and in serious cases, reporting the case to OJK or law enforcement authorities for further action.

6. Enhancing Market Transparency

IDX continues to work to enhance market transparency through initiatives such as implementing new technology in reporting and market surveillance, ensuring that all relevant information is publicly available in a timely manner.

The role and challenges in developing a stronger system to prevent pump and dump schemes, while simultaneously maintaining investor trust and market integrity, are significant in Indonesia.

Despite having a relatively strong legal framework to combat pump and dump schemes, Indonesia, as a country adhering to the civil law system, often struggles to create regulations that can anticipate and govern all possible future occurrences. Even with the current systems and regulations, there is considerable room for improvement by the Indonesian state in preventing pump and dump schemes to maintain investor confidence and market integrity (Theresia, M., et al., 2023).

Uncertainties and shortcomings in regulation often hinder the enforcement of laws against pump and dump schemes. Even with well-written rules, there are always loopholes or regulatory ambiguities that allow perpetrators to find legal loopholes or continue their pump and dump practices undetected (Fauzi, A., et al., 2023). The highly dynamic and ever-changing market dynamics demand that regulations move adaptively and responsively. Delays in regulatory updates may allow pump and dump perpetrators to exploit these delays. The capacity of surveillance technology, although improved, is still not fully equipped with the latest technology that can detect more advanced and strategic market manipulations. Detecting pump and dump schemes requires sophisticated and complex technology. Effective market surveillance through adequate and trained human resources is also needed in the process of identifying and analyzing early signs of pump and dump schemes.

In practice, the OJK (Financial Services Authority) and IDX (Indonesia Stock Exchange) often face limitations and obstacles in terms of cooperation and coordination in addressing pump and dump practices. This is influenced by the different scopes and responsibilities of each, where OJK is responsible for regulating the supervision of the entire financial services sector, while IDX focuses more on the operational and regulatory aspects of the stock market. Additionally, both entities differ in available resources, starting from differences in surveillance technology and analytical expertise. Issues in information exchange can hinder the process of identifying and handling pump and dump cases.

Challenges in IDX and OJK coordination can lead to delays in detection and action, losses for investors which could result in capital withdrawal from the market negatively impacting overall market liquidity and stability, erosion of public trust affecting both domestic and international investor perception of the Indonesian capital market, failure in managing and preventing market manipulation creating an

unfavorable investment climate, and reducing Indonesia's appeal as an investment destination (Yang, A., Pangastuti, A., 2016).

Efforts to address challenges in developing a stronger legal and system framework to prevent pump and dump schemes could include (Agustin, A., et al., 2023):

1. Enhancing regular communication and coordination between OJK and IDX, ensuring that communication channels remain open and active, including regular formal and informal meetings on pump and dump schemes.
2. Strengthening regulations and legislation by reviewing and updating capital market regulations regularly to close loopholes that could be exploited for market manipulation.
3. Strengthening surveillance and law enforcement by ensuring serious and effective legal consequences for perpetrators of pump and dump schemes.
4. Providing education and raising investor awareness to understand the risks of pump and dump schemes and how to identify them.
5. Promoting transparency and accountability of issuers, including encouraging and mandatin*g* public companies to be more transparent in reporting their financial and operational conditions.

Case study of the pump and dump scheme of PT Hanson International Tbk (MYRX).

The pump and dump scheme involving PT Hanson International Tbk (MYRX), whose shares are traded under the ticker MYRX on the Indonesia Stock Exchange (IDX), is a notable example of market manipulation in Indonesia. The MYRX pump and dump case has become an important case study in Indonesian capital market literature, highlighting the importance of regulatory vigilance and investor education to protect the public interest and maintain market integrity. The unusual stock price increase, which drew the attention of regulators and investors, occurred without any clear fundamental changes or significant news from the company that could explain the price movement.

During the pump phase, MYRX's stock price rose dramatically. This increase was strongly suspected to be triggered by misleading information and promotion, spread through various media, including social media and investment forums. The misleading information often involved overly optimistic revenue projections or news about new projects that might not materialize. Once the stock price peaked, a dump action took place, where the main perpetrators sold their shares at high prices. This resulted in a drastic fall in the stock price, leaving other investors with significant losses.

The Financial Services Authority (OJK) and the Indonesia Stock Exchange (IDX) conducted an investigation into the trading activities of MYRX shares. This investigation focused on finding evidence of market manipulation and other regulatory violations such as the dissemination of false or misleading information. OJK and IDX worked together to identify the parties involved in this pump and dump scheme, including individuals or groups who made large suspicious transactions. The regulators also checked whether the company had complied with all the information disclosure obligations according to capital market regulations.

This case had a negative impact on investor confidence in the Indonesian capital market, especially towards speculative stocks. Investors caught in the pump

and dump scheme suffered significant financial losses, and this incident prompted regulators to enhance surveillance and policies to prevent similar occurrences in the future. In response to this case and others like it, OJK has tightened regulations and surveillance on the information disclosed by public companies and stock trading activities to ensure compliance with the laws and regulations of the capital market. This includes increasing transparency and implementing stricter penalties for violations. The MYRX pump and dump case has become an important case study in Indonesian capital market literature and demonstrates the importance of regulatory vigilance and investor education to protect the public interest and maintain the integrity of the capital market.

CONCLUSION

This research has provided deep insights into the pump and dump scheme as a serious form of market manipulation and its impact on the integrity of the Indonesian capital market. The study evaluates the effectiveness of the existing legal framework in Indonesia, which includes the Capital Market Law No. 8 of 1995, various regulations of the Financial Services Authority (OJK), and regulations of the Indonesia Stock Exchange (IDX), in addressing and preventing pump and dump actions. The research findings indicate that, although the existing legal framework provides a strong basis for capital market regulation, there are still significant weaknesses that perpetrators can exploit to engage in manipulation. Limitations in market surveillance technology and adequate human resources for effective supervision are some of the major challenges identified. Additionally, inconsistent law enforcement and relatively light penalties sometimes fail to sufficiently deter perpetrators from committing similar crimes in the future.

Interagency cooperation, particularly between OJK and IDX, was found to be suboptimal. Better coordination and faster, more accurate information exchange are needed to enhance responses to early indications of market manipulation. This research also highlights the importance of enhancing surveillance technology capacity to detect increasingly sophisticated manipulation schemes and adapt to rapid market changes. Furthermore, the importance of investor education as an effective way to mitigate the adverse effects of pump and dump schemes cannot be overstated. Increasing investor awareness of market manipulation risks and signs can help them make wiser investment decisions and reduce their vulnerability to manipulative practices. In conclusion, while Indonesia has a relatively strong legal framework, improvements are still needed in several areas, including stricter regulations, more advanced surveillance technology, consistent law enforcement, and intensive investor education. Proposed legal and regulatory reforms aimed at driving these changes include periodic rule updates to adapt to the latest market developments, as well as regional and international cooperation to address cross-border challenges often encountered in market manipulation cases. The implementation of these recommendations is expected to enhance investor confidence and strengthen the integrity and stability of the Indonesian capital market.

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