

## The Law Enforcement of Stock Pump and Dump Practices by Influencers through Act No. 4 of 2023 concerning Development and Strengthening of the Financial Sector

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**Abstract.** *The practice of stock pump and dump involving influencers such as Belvin Tannadi has become a significant concern in Indonesia following the introduction of the P2SK Law, which expands the legal scope of this practice. This article aims to examine the legal implications of pump and dump practices by influencers in Indonesia, particularly after the revision of Act No. 8 of 1995 as amended by Act No. 4 of 2023 on the Development and Strengthening of the Financial Sector (P2SK Law). This research uses a normative legal approach by applying a statute approach and a case approach to analyze the legal ramifications of pump and dump practices by influencers and their law enforcement in Indonesia. The results show that the perpetrators of the practice of pump and dump shares, especially influencers who violate this provision, may be subject to severe sanctions as stipulated in Article 22 paragraph (43) of the P2SK Law in conjunction with Article 104 of the PM Law with a minimum imprisonment of 5 years to a maximum of 15 years and a minimum fine of five billion rupiah and a maximum of one hundred and fifty billion rupiah. Although Indonesia has taken a step forward in capital market regulation by removing the word "material" from the P2SK Law, law enforcement against this practice still needs to improve speed and firmness. The Belvin Tannadi case demonstrates that the OJK needs to take tangible action, whereas, in the United States, law enforcement appears to be more efficient. Furthermore, safeguarding the integrity of Indonesia's capital market and investors from harmful practices hinges on collaboration among law enforcement agencies, prioritizing investor education, and enhancing transparency and accountability in handling cases.*

**Keywords:** Enforcement; Investment; Manipulation; P2SK; Stock

## 1. Introduction

In this modern era, the stock influencers phenomenon has attracted much attention in the Indonesian capital market.<sup>1</sup> Often, these influencers are public figures with a vast network and many followers on social media, so their words can influence the purchasing power of their followers due to their fame, knowledge, or position.<sup>2</sup> The phenomenon of stock influencers has significantly impacted the growth of the number of investors, especially among millennials who are still new to the world of stock investing.<sup>3</sup> As of July 2023, the number reached 11.4 million people, or 11,420,074 to be exact, as reflected in the Single Investor Identification (SID) of the Indonesian Central Securities Depository, of which 80.44% or 9,186,307 million were millennial investors under the age of 40.<sup>4</sup> This number has increased by 205.34% or more than three times in the last three years, which amounted to 3,004,091 million people in 2020.

It is important to note that while increasing the number of investors can have a positive impact, there is also a potential downside. Some influencers make stock recommendations without conducting proper fundamental and technical analysis. As a result, their opinions may influence the decisions of their followers and other investors to buy stocks that they already own. This could lead to blind investing without proper research or analysis, which could have negative consequences.<sup>5</sup> Such practices raise serious concerns as they lead to pump and dump schemes where influencers significantly impact the investment behavior of the public, especially retail investors who tend to rely on information from social media platforms. When individuals with few followers carry out manipulative actions on stock prices, the impact may be limited to a small number of affected individuals. However, if the manipulator is highly influential, especially with experience in the capital markets, the potential impact could affect many people who are likely to trust and follow the recommendations.<sup>6</sup> Pump and dump is an

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<sup>1</sup> Dunia Dosen (Dekan FEB Universitas Pancasakti (UPS) Mencermati Pengaruh Fenomena Influencer Saham pada Investor Millennial). Dien Noviany Rahmantika. 9 February 2021. <https://www.duniadosen.com/fenomena-influencer-saham>, Accessed on 16 July 2023.

<sup>2</sup> Livia Bjurling dan Victor Ekstam. 2018. *Influencer Marketing's Effect on Brand Perceptions - A Consumer Involvement Perspective* (thesis). Swedia: Lund University School of Economics and Management. p. 23.

<sup>3</sup> Farida Sekti Pahlevi, 2021, Legal Standing Influencer Saham di Indonesia, Invest Journal of Sharia and Economic Law, Vol. 1 No. 2, <http://dx.doi.org/10.21154/invest.v1i2.2908>.

<sup>4</sup> The Indonesia Central Securities Depository. 2023. Statistik Pasar Modal Indonesia. Jakarta: Data Statistik KSEI. p. 58.

<sup>5</sup> Emeraldita Putri Anjani *et al.* 2022. *Kedudukan Influencer yang Merekomendasikan Saham Tertentu Berdasarkan Hukum Pasar Modal di Indonesia*. Reformasi Hukum: Vol. 26 No. 2, <https://doi.org/10.46257/jrh.v26i2.467>.

<sup>6</sup> Poems (MENGENAL ISTILAH POM-POM SAHAM, BAGAIMANA MENYIKAPINYA?). Ester Lidya Norisa. March 2021.

illegal practice in the stock market that manipulates the price of a stock (pumping) by spreading false information or misleading recommendations to influence or attract investors to buy the stock.<sup>7</sup> Pump and dump usually involve small and micro-cap stocks, or in U.S. parlance, 'penny stocks' as they are the easiest to manipulate.<sup>8</sup> This influencer traps investors in a FoMO (Fear of Missing Out) state, where there is a sense of wanting to be included in what others are doing.<sup>9</sup> Naive investors will then start buying the stock.<sup>10</sup> After the stock price rises, the perpetrators quickly sell their positions at the inflated price, which is eventually followed by panic selling by other victimized investors, causing the stock price to fall sharply (dumping).<sup>11</sup> As a result, the profit-taking activities contribute to a decrease in the price until it reaches its actual value.<sup>12</sup> The goal is for the perpetrators to make a significant capital gain. Pump and dump is a form of market manipulation prohibited in the capital market, in addition to fraud and insider trading, as described in Chapter XI of Act No. 8 of 1995 concerning Capital Market. Market manipulation itself is a form of crime found in the capital market.<sup>13</sup> This practice falls under the category of information-based manipulation, where the perpetrator either intentionally or unintentionally spreads false or misleading information/rumors (false or misleading signals).<sup>14</sup>

The presence of influencers in the stock market space has created a legal gap that was previously unregulated, especially prior to the enactment of Act No. 4

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[https://www.poems.co.id/htm/Freeducation/LPNewsletter/v95/Vol95\\_menyikapipompomsaha\\_m.html](https://www.poems.co.id/htm/Freeducation/LPNewsletter/v95/Vol95_menyikapipompomsaha_m.html), Accessed on 27 August 2023.

<sup>7</sup> Massimo La Morgia et al. 2023. *The Doge of Wall Street: Analysis and Detection of Pump and Dump Cryptocurrency Manipulations*. ACM Transactions on Internet Technology: Vol. 23 No. 1, <https://doi.org/10.1145/3561300>.

<sup>8</sup> Ritankar Sahu. 2022. *A Look into 'Market Manipulation' With a Focus on Pump and Dump Schemes and Initial Considerations for Responding to a Regulatory Query*. Business Law Review: Vol. 43 No. 3, <https://doi.org/10.54648/bula2022016>.

<sup>9</sup> Przybylsky dalam Rizki Setiawan Akbar et al. 2018 *Ketakutan Akan Kehilangan Momen (FOMO) Pada Remaja Kota Samarinda*. Psikostudia: Jurnal Psikologi: Vol. 7 No. 2, <http://dx.doi.org/10.30872/psikostudia.v7i2.2404>.

<sup>10</sup> Buddi Wibowo. 2010. *Price Manipulation in Indonesian Capital Market: Empirical Analysis on Stockbroker's Behavior and Interaction Pattern between Domestic Investors and Foreign Investors*. The Indonesian Capital Market Review: Vol. 2 No. 1, <https://doi.org/10.21002/icmr.v2i1.3659>.

<sup>11</sup> David B. Kramer. 2005. *The Way It Is and the Way It Should Be: Liability Under §10(b) of the Exchange Act and Rule 10b-5 Thereunder for Making False and Misleading Statements as Part of a Scheme to pump and dump a Stock*. University of Miami Business Law Review: Vol. 13 No. 2, <https://repository.law.miami.edu/cgi/viewcontent.cgi?article=1109&context=umblr>.

<sup>12</sup> Franklin Allen and Douglas Gale. 1992. *Stock-Price Manipulation*. The Review of Financial Studies: Vol. 5 No. 3, <http://dx.doi.org/10.1093/rfs/5.3.503>.

<sup>13</sup> Ida Ayu Cintiya Kencana Dewi et al. 2021. *Perlindungan Hukum Terhadap Investor Akibat Praktik Manipulasi Dalam Pasar Modal*. Jurnal Analogi Hukum: Vol. 3 No. 3, <https://doi.org/10.22225/ah.3.3.2021.288-293>.

<sup>14</sup> Shinta Loa et al. 2020. *Capital market Paper "Stock Prices Manipulation: Pump and Dump Method"*. SRRN Electronic Journal: <http://dx.doi.org/10.2139/ssrn.3516458>.

of 2023 concerning Development and Strengthening of the Financial Sector (P2SK Law).<sup>15</sup> Stock influencers, as public figures with significant influence, have the ability to influence the investment decisions of a number of individuals. In line with the development of the capital market and the role of influencers in shaping market dynamics, the Indonesia Financial Services Authority (OJK) has a fundamental responsibility to supervise and protect the interests of investors.

In Act No. 8 of 1995 concerning Capital Market (PM Law), the provisions on pump and dump practices are still relatively weak and narrow to be used by law enforcement to eradicate or criminalize the perpetrators of this practice, especially influencers.<sup>16</sup> Therefore, the government has a crucial role in determining the direction of national policy needed for a specific purpose, namely to address this issue.<sup>17</sup> In response to this situation, the P2SK Law was enacted, which contains stricter and broader provisions regarding the prohibition of stock pump and dump practices in the capital market. This is regulated through Article 22 paragraph (36) of the P2SK Law in conjunction with Article 93 of the PM Law, which prohibits any individual or entity from making statements or providing untrue or misleading information that may affect securities prices using any method.

Although previous research has discussed the impact of stock influencer practices on the capital market, it has not explicitly addressed the legal consequences for individuals engaged in pump and dump stock activities, especially influencers, following the revision of the PM Law as amended by the P2SK Law. Furthermore, the implementation of law enforcement against pump and dump practices after the enactment of the P2SK Law, where the Indonesia Financial Services Authority (OJK) is granted the authority as the sole investigator of criminal acts in the financial services sector, has not been covered in previous writings.

Based on the background provided, several problem formulations are derived as follows first, What are the legal consequences of stock pump and dump practices by influencers in Indonesia and second, How does the government enforce the law against influencer stock perpetrators of pump and dump practices in Indonesia post the P2SK Law.

The objective of this paper is to examine the legal impact of pump and dump practices carried out by stock influencers in Indonesia, especially after the

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<sup>15</sup> Samba Arya Ranu Firmansah. 2022. *Perlindungan Hukum Bagi Investor Terhadap Ajakan Membeli Saham Emiten Oleh Influencer*. Malang: Skripsi Universitas Islam Malang. p. 5.

<sup>16</sup> Farida Sekti Pahlevi. *Op.cit.*

<sup>17</sup> Rianda Dirkareshza et al. 2021. *Kebijakan Pemerintah di Masa Pandemi Covid-19: Antara Negara Sejahtera dan Negara Sehat*. Jurnal Mercatoria: Vol. 14 No. 1, <https://doi.org/10.31289/mercatoria.v13i1.5020>.

revision of Act No. 8 of 1995 as amended by Act No. 4 of 2023 concerning the Development and Strengthening of the Financial Sector (P2SK Law). Furthermore, this research also aims to explain the government's role in enforcing the law against these practitioners and to compare the approaches used with similar practices in other countries. In this context, the research emphasizes the urgency for influencers to exercise greater caution in their activities, particularly those that could potentially promote pump and dump practices. Additionally, this research calls on the government to rigorously fulfill its role in penalizing pump and dump practitioners under the provisions of the P2SK Law. The public is also expected to understand better investment risks and the importance of critically assessing the investment information they receive, especially if the information can be misleading.

Farida Sekti Pahlevi's journal (2021), titled "Legal Standing of Stock Influencers in Indonesia," states that the phenomenon of stock influencers has both positive and negative potential impacts on stock investments in Indonesia. The influence of stock influencers can trigger investment decisions by others without adequate analysis, relying solely on their opinions. This results in impulsive investment behavior that lacks fundamental and technical analysis consideration. The journal concludes that the emergence of stock influencers in Indonesia has prompted the Indonesia Stock Exchange (IDX) to monitor and oversee influencers' activities. The lack of regulation and standardization in becoming influencers has allowed many less credible figures to engage in stock market business and share stock-related information. Regulations regarding the appropriate content of stock information to be conveyed to the public are also unclear. The endorsement strategies used by stock influencers are not effectively managed and supervised by the IDX. Therefore, it is crucial for the IDX to monitor and oversee influencers' activities to ensure the capital market's sustainability and integrity.

Furthermore, Emeraldita Putri Anjani, Nyulistiowati Suryanti, and Deviana Yuanitasari (2022) in their article titled "The Position of Influencers Recommending Specific Stocks Based on Capital Market Law in Indonesia" were motivated by the stock influencer trend that gained public attention in early 2021. Examples include Raffi Ahmad and Ari Lasso. They shared their stock investment experiences on social media, influencing millions of followers with stories of quick profits and capital gains. However, this is risky, especially for new investors without sufficient understanding. Concerns have arisen about influencers and pump-and-dump stock practices that can harm their followers. The journal states that there is no specific regulation governing stock influencers in Capital Market Law. This underscores the need for clear regulations to protect investors, ensure transparency, and maintain integrity in the capital market.



In the journal by Rinaldi Agusta Fahlevie, Erita Oktasari, Bernadete Nurmawati, Puguh Aji Hari Setiawan, and Johand Aldo Dimalouw (2022), titled "Criminal Review of Pump and Dump According to Act No. 8 of 1995 on Capital Markets," they were motivated by the prevalence of pump-and-dump practices in the capital market. In this journal, the authors attempt to examine this phenomenon from a criminal law perspective to understand the criminal aspects related to pump and dump practices and examine the relevance of the PM Law in addressing this issue. The journal concludes that the criminal act of pump and dump in stock market transactions on the Indonesia Stock Exchange involves the manipulation of stock prices through misleading information about small issuers or suspicious trading activities. This action is prohibited under Articles 90-93 of the PM Law, with a maximum penalty of 10 years in prison and fines of up to IDR 15,000,000,000. The prosecution of this criminal act relies on evidence following the Indonesian Criminal Procedure Code (KUHAP), including electronic evidence, expert opinions, and broker summaries.

In contrast to earlier journals, this journal is directed towards formulating two main issues. First, it aims to describe the legal consequences arising from the stock pump and dump practices conducted by influencers in Indonesia after the enactment of the P2SK Law. Second, it discusses the enforcement of the law against influencers engaged in these illegal practices in Indonesia. Based on the author's search efforts, there is no specific journal that addresses the legal consequences of stock pump and dump practices post the revision of the PM Law as amended by the P2SK Law and how the law enforcement of these practices is carried out, as this research aims to do. Therefore, this research is expected to fill a gap in the current discussion on this topic.

## 2. Research Methods

This research is of the normative juridical type. Normative juridical research is an investigation that inventories and examines document studies using various secondary data sources such as legislation, court decisions, legal theories, and may include the opinions of scholars related to the subject under study.<sup>18</sup> This research employs a legislative approach (statute approach), which is conducted by examining legislation while considering the normative structure in the form of the order or hierarchy of legislation, as well as the existence of norms in specific or general legislative provisions.<sup>19</sup> Meanwhile, the case approach provides concrete examples of how regulations in Indonesia can be applied to address those engaged in pump and dump practices.

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<sup>18</sup> Soerjono Soekanto. 2003. *Penelitian Hukum Normatif*. Jakarta: PT Raja Grafindo Persada. p. 13.

<sup>19</sup> I Made Pasek Diantha. 2016. *Metodologi Penelitian Hukum Normatif dalam Justifikasi Teori Hukum*. Jakarta: Kencana. p. 156.

The data sources used consist of secondary data, combining primary and secondary legal materials to provide an in-depth analysis of the subject matter. The primary legal materials include legislation such as Act No. 8 of 1995 on Capital Markets, which has been amended by Act No. 4 of 2023 on the Development and Strengthening of the Financial Sector. Additionally, all official documents containing legal provisions related to the topic have been considered. The secondary legal materials consist of a wide range of sources including literature, journals, papers, and articles that are relevant to the research. These materials have been carefully selected to provide comprehensive and up-to-date information. The data collection technique employed in this research is library research. This involves thoroughly examining books, literature, notes, and reports that are directly related to the problem being addressed.<sup>20</sup> The extensive data collected through this technique forms the basis for the analysis and discussion presented in the article. The data analysis technique used in this article is descriptive analysis. This approach aims to provide a clear and comprehensive explanation of the collected data, allowing readers to better understand the subject matter. Through this analysis, the article aims to provide valuable insights and contribute to the existing body of knowledge on the topic.

### **3. Result and Discussion**

#### **3.1. Legal Consequences of Stock Pump and Dump Practices by Influencers in Indonesia**

Pump and dump is a market manipulation practice that has existed for a long time in the stock market. In the past, this practice was carried out through radio, tabloids, television, and word of mouth.<sup>21</sup> The pump and dump practice has transformed with the advancement of communication technology. In the era of the internet and social media, influencers, both individuals and groups, can gather a large following on platforms such as Telegram, Twitter, Reddit, Instagram, or online stock forums. They leverage their popularity and influence to post information that encourages other investors, especially novice retail investors, to buy specific stocks. In their efforts to promote stocks, many influencers often use terms like "the next big thing" or claim that the stock will experience a significant increase in value soon. Although they often include disclaimers such as "Not Financial Advice" to avoid legal responsibility, legal experts and financial regulators argue that the use of such terms does not fully protect them from legal consequences.

Matthew Nielsen, a securities attorney based in the United States, from the law firm Bracewell LLP, explains that even though such disclaimers are considered

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<sup>20</sup> Moch Nazir. 2008. *Metode Penelitian*. Jakarta: Ghalia Indonesia. p. 111.

<sup>21</sup> Massimo La Morgia *et al.* *Op.cit.*

"best practices," they do not automatically shield influencers from legal liability. Liam Hennessy, a financial regulation attorney in Australia from the law firm Gadens, also shares a similar sentiment who explains that such warnings or disclaimers are generally of little use. Australian digital attorney Michael Bacina from Piper Alderman adds that they are not "magic words that, when spoken, release liability." Therefore, despite influencers often including the disclaimer "Not Financial Advice" in pump and dump practices, it does not fully protect them from potential legal consequences if the information they provide violates applicable financial regulations.<sup>22</sup>

Individuals engaged in stock pump and dump practices in Indonesia particularly influencers, can be charged under Article 22 paragraph (36) of the P2SK Law in conjunction with Article 93 of the PM Law, which states:

*"All Persons are prohibited from making, by any means, a statement and giving information that is false or misleading and that affects the price of Securities on a Securities Exchange, if at the time of making such statement or giving such information:*

- a. the Person knows or should have known that such information was false or misleading; or*
- b. the Person has failed to exercise due care in determining the truth of such statement or information."<sup>23</sup>*

Article 93 of the PM Law states:

*"All Persons are prohibited from making, by any means, a statement and giving Material Information that is false or misleading and that affects the price of Securities on a Securities Exchange, if at the time of making such statement or giving such information:*

- a. the Person knows or should have known that such Material Information was false or misleading; or*
- b. the Person has failed to exercise due care in determining the truth of such statement or information."<sup>24</sup>*

Article 22 paragraph (36) of the P2SK Law revises Article 93 of the PM Law by removing the word "material." According to Article 1 of the Indonesia Financial Services Authority Regulation No. 31/POJK.04/2015 concerning the Disclosure of Material Information by Issuers or Public Companies, the definition of Material Information is significant and relevant information or facts related to events, occurrences, or facts that can influence the price of Securities on the Stock Exchange and/or the decisions of investors, prospective investors, or other

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<sup>22</sup> Cointelegraph (Saying 'not financial advice' won't keep you out of jail — Crypto lawyers). Ciaran Lyons. 2 November 2022. <https://cointelegraph.com/news/saying-not-financial-advice-won-t-keep-you-out-of-jail-crypto-lawyers>, Accessed on 27 August 2023.

<sup>23</sup> Act No. 4 of 2023 concerning Development and Strengthening of the Financial Sector.

<sup>24</sup> Act No. 8 of 1995 concerning Capital Market.



interested parties regarding that information or facts.<sup>25</sup> As per Article 6 of POJK 31/2015, Material Information includes mergers, business separations, business mergers, or the establishment of joint ventures; the submission of offers to purchase the securities of another company; the purchase or sale of company shares that have material value; stock splits or mergers; interim dividend distributions; the delisting and relisting of shares on the Stock Exchange; extraordinary dividend income; significant contract acquisitions or losses; new discoveries or new products that add value to the company; additional securities offered to the public or in limited quantities that have a material amount; changes in control, both direct and indirect, of the Issuer or Public Company; changes in the members of the Board of Directors and/or the Board of Commissioners; buybacks or payments for Debt Securities and/or Sukuk; significant asset purchases or sales; labor disputes that can disrupt company operations; legal cases against the Issuer or Public Company and/or the members of the Board of Directors and Board of Commissioners of the Issuer or Public Company that have a material impact; changes in the auditors currently auditing the Issuer or Public Company; changes in the Custodian; changes in the Securities Administration Bureau; changes in the financial reporting year of the Issuer or Public Company; changes in the reporting currency used in financial statements; the Issuer or Public Company being under special supervision by the relevant regulator that can affect the continuity of the Issuer or Public Company's operations; business restrictions on the Issuer or Public Company by the relevant regulator; changes or the failure to achieve materially published financial projections; events that would result in an increase in financial obligations or a material decrease in the earnings of the Issuer or Public Company; debt restructuring; the cessation or closure of part or all business segments; material impacts on the Issuer or Public Company due to forced events; and/or other Material Information.

With the removal of the word "material" by the P2SK Law, it is evident that the regulator is making an effort to broaden the scope of anticipation regarding potentially illegal actions that individuals and entities may undertake in the capital market. This simplification of provisions reflects a response to the evolving and increasingly sophisticated and manipulative nature of pump and dump practices. As a result, the P2SK Law now has a broader scope in addressing market manipulation, especially pump and dump practices that involve the dissemination of false or misleading information that affects the prices of securities.

This prohibition is no longer limited to "material" information but extends its coverage to various information with the potential to influence the market as a

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<sup>25</sup> Indonesia Financial Services Authority Regulation No. 31/POJK.04/2015 concerning the Disclosure of Material Information by Issuers or Public Companies.

whole. By eliminating the requirement that information must be "material," this new legal framework creates room to enforce the prohibition on all false or misleading information that can affect the prices of securities, as pump and dump practices often involve the dissemination of information that is generally not "material" but still has a negative impact on investors' interests.

Removing the word "material" also emphasizes the importance of caution in disseminating information. Wrongdoers can no longer hide behind the argument that the information they spread is not "material" because the prohibition now covers all types of misleading information with the potential to affect stock prices. Removing the word "material" can assist regulators and supervisory bodies in identifying and addressing manipulative practices more effectively. Essentially, the P2SK Law aids regulators and supervisory authorities, including the OJK, in more effectively identifying and addressing manipulative actions. The requirement is no longer based on confirming that the information spread is "material" but instead on proving that the information is false or misleading and affects the prices of securities. Therefore, this change reflects a more proactive step in safeguarding the integrity of the capital market and preventing practices that harm market participants and investors.

All Persons especially influencers, who violate the provisions of Article 22 paragraph (36) of the P2SK Law in conjunction with Article 93 of the PM Law, may be subject to sanctions as stipulated in Article 22 paragraph (43) of the P2SK Law in conjunction with Article 104 of the PM Law, which states:

*"Any Person who violates the provisions of Articles 90, 91, 92, 93, 95, 96, 97, and 98, shall be subject to imprisonment for a minimum of five years and a maximum of fifteen years and a minimum fine of five billion rupiah and maximum fine of one hundred and fifty billion Rupiah."*

Influencers or anyone involved in stock pump and dump practices should understand that such practices carry serious consequences, including imprisonment ranging from a minimum of 5 years to a maximum of 15 years and a minimum fine of five billion rupiah and a maximum of fifty billion rupiah.<sup>26</sup> Therefore, there is now a solid legal basis and severe sanctions that the OJK can use to firmly address pump and dump practitioners.

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<sup>26</sup> Stinky Muhaling et al. 2020. *Penegakan Hukum Dan Penerapan Sanksi Tindak Pidana Di Bidang Pasar Modal Yang Berlaku Di Indonesia Berdasarkan Undang-Undang Nomor 8 Tahun 1995*. Lex Privatum: Vol. 9 No. 8, <https://ejournal.unsrat.ac.id/index.php/lexprivatum/article/view/35183>.

### 3.2. Enforcement of the Law by the Government against Influencers Engaged in Stock Pump and Dump Practices in Indonesia Post P2SK Law

Law enforcement in the capital market plays a crucial role in creating an efficient, transparent, and trustworthy environment for all participants in investment activities. Law enforcement serves as a means to provide guarantees and legal protection to investors, funders, and other parties involved in the capital market.<sup>27</sup> Without solid law enforcement, the law will not be perceived as existing by the public. As a result, the law cannot fulfill its intended functions.<sup>28</sup>

Advancements in capital market law have a significant impact on the quality of law enforcement itself, as the more modern the existing regulations, the better they can regulate the complexity of the capital market industry. However, it is essential to remember that a stack of regulations in Indonesia can lead to confusion for investors and the public.<sup>29</sup> Therefore, it is crucial to maintain the independence of market authorities to ensure the proper application of legal regulations. Independence is an absolute requirement for making fair decisions to protect investors and provide legal certainty throughout the law enforcement process in the capital market. This is necessary to realize the principle of fair treatment for all parties.

In the capital market, professional staff with a deep understanding of capital market law and expertise in capital market examination and investigation is essential. The law enforcement process must be based on a legal framework that adheres to three main principles: protecting investors, ensuring that the market operates fairly, efficiently, and transparently, and reducing systemic risk.<sup>30</sup>

OJK, as the sole investigator of criminal acts in the financial services sector as stipulated in Article 8 Number 21 of the P2SK Law Article 49 paragraph (5), is responsible for implementing these three principles because the institution plays a front-line role in overseeing and enforcing regulations in the capital market. OJK's role is crucial in ensuring that the capital market becomes better, safer, fairer, and more orderly. Conversely, suppose OJK does not perform its duties

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<sup>27</sup> Adrian Sutedi. 2002. *Segi-Segi Hukum Pasar Modal*. Bogor: Ghalia Indah. p. 45.

<sup>28</sup> Hikmahanto Juwana. 2006. *Penegakan Hukum dalam Kajian Law and Development: Problem dan Fundamen bagi Solusi di Indonesia*. Indonesian Journal of International Law: Vol. 3 No. 2, <http://dx.doi.org/10.33561/holrev.v5i2.18929>.

<sup>29</sup> Rianda Dirkareshza *et al.* 2021. *Omnibus Law Sebagai Percepatan Perekonomian Bangsa di Sektor Pasar Modal*. *Halu Oleo Law Review*: Vol. 5 No. 2, <http://dx.doi.org/10.17304/ijil.vol3.2.398>.

<sup>30</sup> OICV-IOSCO (IOSCO Objectives and Principles of Securities Regulation and the IOSCO Assessment Methodology). Annual Report. 2021. [https://www.iosco.org/about/?subsection=display\\_committee&cmtid=19&subSection1=principles](https://www.iosco.org/about/?subsection=display_committee&cmtid=19&subSection1=principles), Accessed on 8 September 2023.

effectively. In that case, the capital market can become more chaotic, filled with manipulative tactics, and characterized by dishonest actions from capital market participants and greedy speculators who are not disciplined. Therefore, the outcome greatly depends on how OJK carries out its role and responsibilities.

Law enforcement here refers to the decisive actions taken against individuals or entities that violate legal regulations in the capital market, especially against influencers involved in pump and dump practices that can harm many novice and retail investors. These actions can take the form of administrative, civil, or criminal sanctions if the violations or crimes meet the qualifying criteria set forth.

Belvin Tannadi is an influencer who is often involved in stock pump and dump practices in Indonesia. In tweets from the @BTannadi account, Belvin consistently states that certain stocks will go "To The Moon" or experience an increase of 10-30% the next day. Some of the stocks mentioned include PT Lotte Chemical Titan Tbk., PT Agro Yasa Lestari Tbk., P.T. Perdana Karya Perkasa Tbk., PT Mitra Investindo Tbk., PT Jaya Agra Wattie Tbk., etc.



**Picture 1.** Screenshots of Twitter @BTannadi.

Not only that, but Belvin also created a Telegram channel named "ILMUSAHAM" with a paid membership system.<sup>31</sup> However, the members, who are mostly

<sup>31</sup> CNBC Indonesia (Pompom Saham Merajalela, 5.000 Investor Ritel Teken Petisi!). Syarizal Sidik. 3 February 2021. <https://www.cnbcindonesia.com/market/20210203123302-17->

beginners, experienced losses. For instance, Belvin encouraged the purchase of M.D. Entertainment stocks with the stock code FILM, promising that these stocks would become "the next unicorn" like Tokopedia or Gojek. However, according to paying members, Belvin urged them to buy FILM stocks using Full Margin. The issue arose when the FILM stock price sharply declined, reaching the maximum daily decline limit (ARB) of around IDR 300, not IDR 1,000 as promised.

Based on his brokerage code in the stock trading app, strong suspicions suggest that Belvin himself sold the FILM stocks he had bought before recommending them to members of his Telegram channel, triggering a decline in the stock price. The brokerage code can be crucial in proving the pump and dump stock crime, as knowing the perpetrator's brokerage code allows the identification of the relevant broker summary. This is one way to detect whether market manipulation has occurred with the pump and dump system, recorded electronically and presented to the public on stock trading days.<sup>32</sup> Moreover, members attempting to issue warnings are expelled from the group, leaving no opportunity for them to inform new members. This led many retail investors to create a petition urging regulatory authorities in the capital market to take decisive action against influencers involved in pump and dump practices, especially Belvin Tannadi. The petition, signed by 6,706 individuals, emphasizes that many retail investors have fallen victim to Belvin's actions.<sup>33</sup>



**Picture 2.** Screenshots of Petisi Ban Pom-Pomers Stock/share in Indonesia

[220705/pompom-saham-merajalela-5000-investor-ritel-teken-petisi](https://www.change.org/p/bappepti-ban-pom-pom-stocks-influencer-in-indonesia), Accessed on 29 August 2023.

<sup>32</sup> Rinaldi Agusta Fahlevie *et al.* 2022. *Tinjauan Pidana Pump and Dump Menurut Undang-Undang Pasar Modal No. 8 Tahun 1995*. Awang Long Law Review: Vol. 5 No. 1, <https://ejournal.stih-awanglong.ac.id/index.php/awl/article/view/547>.

<sup>33</sup> Change.org (Ban Pom-Pomers Saham di Indonesia!). RUKUMOLAGI. 2 February 2021. <https://www.change.org/p/bappepti-ban-pom-pom-stocks-influencer-in-indonesia>, Accessed on 29 August 2023.

However, it is unfortunate that the actions taken by OJK against this practice are still limited to mild warnings without concrete and tangible measures. OJK has not taken decisive actions against influencers involved in this practice, despite explicit laws prohibiting pump and dump practices from spreading misleading information, as stipulated in Article 22 paragraph (36) of the P2SK Law related to Article 93 of the PM Law. As a result, stock pump and dump practices continue in the Indonesian capital market.

In a comparative context, on 14 December 2022, the U.S. Securities and Exchange Commission (SEC) announced charges against eight individuals involved in a \$100 million securities fraud scheme.<sup>34</sup> Seven of the defendants, namely Perry Matlock (@PJ\_Matlock), Edward Constantin (@MrZackMorris), Thomas Cooperman @ohheytommy, Gary Deel @notoriousalerts, Mitchell Hennessey @Hugh\_Henne, Stefan Hrvatin @LadeBackk, John Rybarczyk (@Ultra\_Calls), and Daniel Knight (@DipDeity), a podcast host who colluded to promote many others as expert traders and provided a forum for them to make manipulative statements.<sup>35</sup>

They used social media platforms like Twitter and Discord to conduct stock pump and dump schemes. Seven defendants promoted themselves as successful traders on social media, amassing hundreds of thousands of followers on Twitter and in stock trading chat rooms on Discord. They are suspected of buying specific stocks and encouraging their followers to buy these stocks by posting target prices or indicating that they hold stock positions. However, when the stock prices increased, they regularly sold the stocks without disclosing this plan to their followers. The SEC alleges that these actions resulted in approximately \$100 million of ill-gotten gains. Therefore, criminal charges were filed by the SEC in the U.S. District Court for the Southern District of Texas, where the investigation into this case was assisted by the Criminal Fraud Section of the U.S. Department of Justice, the United States Attorney's Office for the Southern District of Texas, the Federal Bureau of Investigation, and the Financial Industry Regulatory Authority.

The SEC's charges against the eight influencers are based on their alleged violation of Section 17(a) of the Securities Act of 1933, which states:

*“(a) It shall be unlawful for any person in the offer or sale of any securities (including security-based swaps) or any security-based swap agreement (as*

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<sup>34</sup> U.S. Securities and Exchange Commission. 2022. SEC Charges Eight Social Media Influencers in \$100 Million Stock Manipulation Scheme Promoted on Discord and Twitter [Press release]. <https://www.sec.gov/news/press-release/2022-221#>, Accessed on 29 August 2023.

<sup>35</sup> U.S. Department of Justice. (2022). Eight Men Indicted for \$114 Million Securities Fraud Scheme Orchestrated Through Social Media [Press Release]. <https://www.justice.gov/opa/pr/eight-men-indicted-114-million-securities-fraud-scheme-orchestrated-through-social-media>, Accessed on 29 August 2023.

defined in section 3(a)(78) of the Securities Exchange Act 27) by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly—

(1) to employ any device, scheme, or artifice to defraud, or

(2) to obtain money or property through any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or

(3) to engage in any transaction, practice, or course of business that operates or would operate as a fraud or deceit upon the purchaser.<sup>36</sup>

That provision aligns with Rule 10b-5 of the Securities Exchange Act of 1934, which states:

*"It shall be unlawful for any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce, or of the mails or of any facility of any national securities exchange,*

*(a) To employ any device, scheme, or artifice to defraud,*

*(b) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or*

*(c) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person, in connection with the purchase or sale of any security."<sup>37</sup>*

Article 17(A) of the Securities Act of 1933 and Rule 10b-5 of the Securities Exchange Act of 1934 are regulations that prohibit the dissemination of false or misleading information in the context of buying or selling securities in the stock market. Article 17(A) of the Securities Act of 1933 prohibits fraudulent actions or attempts to obtain money or property through deceptive means in offering or selling securities. This includes making false statements about material facts or omitting material facts to make the statements not misleading. Rule 10b-5 of the Securities Exchange Act of 1934 follows the same principle. It prohibits the use of any means or instrument to engage in fraud or deception in the context of buying or selling securities.<sup>38</sup>

The comparison between regulations in the United States and Indonesia regarding the prohibition of misleading information indicates that Indonesia has taken more advanced and comprehensive steps in protecting its capital market. In the United States, the definition of "material" remains in the regulations, while Indonesia has removed this term. However, law enforcement in Indonesia may

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<sup>36</sup> *Securities Act of 1933*

<sup>37</sup> *Rule 10b-5 Securities Exchange Act of 1934*

<sup>38</sup> Cornell Law School (Securities Act of 1933). Legal Information Institute. 26 July 2023. [https://www.law.cornell.edu/wex/securities\\_act\\_of\\_1933](https://www.law.cornell.edu/wex/securities_act_of_1933), Accessed on 29 August 2023.

need to be swifter and more decisive in addressing influencers involved in pump and dump practices.

Based on the analysis in the discussion, it can be concluded that, despite Indonesia having broader regulations on market manipulation, it has not been able to enforce the law effectively compared to the United States, which still includes the term "material" in its Securities Exchange Act. Therefore, it is hoped that the Indonesia Financial Services Authority (OJK) acts more promptly and decisively in dealing with influencers engaged in pump and dump practices in Indonesia. Measures such as increased monitoring of market activities, investor education, and collaboration among law enforcement agencies can contribute to achieving this goal. Regardless of regulatory differences, vigorous law enforcement and swift actions are crucial in protecting investors and preserving the integrity of the capital market.

#### **4. Conclusion**

The introduction of the P2SK Law, which removes the term "material" from Article 93 of the PM Law through Article 22 paragraph (36) of the P2SK Law, is a positive step in expanding legal coverage and addressing pump and dump practices in the Indonesian capital market. This regulation provides a more robust legal foundation for combating such practices. Despite Indonesia taking progressive steps in regulations to protect the capital market from pump and dump practices, law enforcement against these practices, particularly involving influencers in Indonesia, still requires improvement. The case of Belvin Tannadi indicates that the Financial Services Authority (OJK) has not taken concrete and practical actions. OJK's measures are limited to warnings and advisories, urging influencers not to engage in pump and dump practices. In comparison, the United States, which retains the term "material" in its regulations, seems to have more effective law enforcement. Steps such as enhanced market activity monitoring, investor education, and collaboration among law enforcement agencies can enhance the effectiveness of law enforcement. Additionally, there needs to be greater transparency and accountability in handling such cases. All parties, including regulators, should work together to maintain the integrity of the Indonesian capital market and protect investors from detrimental practices.

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