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Bailout Investors Against *Windows Dressing Emit i*n the Capital Markets Law from the Perception of Legal Protection

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ABSTRACT: The capital market has an important role in the financial sector because it offers new alternatives for the business world to obtain sources of business financing in addition to adding new alternatives for investors to invest outside of banking and other forms of investment. However, investing in the capital market also has higher risks compared to investing in other fields. The Capital Markets Law regulates the issue of obligations to comply with the principle of openness and regulates the issue of consequences and responsibility for losses as well as criminal threats for capital market players who do not carry out the obligations of the principle of openness. The problem studied in this writing is legal protection*bailout* investors against*Windows Dressing emit*according to the Capital Markets Law. This writing was carried out using normative juridical methods. The writing approach uses a statutory approach. The data source used in this writing is a secondary data source which was then analyzed qualitatively. The results obtained in this research are that legal protection for investor bailouts is regulated in the Capital Markets Law Article 114 paragraph (1), Article 111 paragraph (2) letter b which requires issuers to provide compensation to investors who are harmed due to the issuer's errors or negligence.

KEYWORDS: Legal Protection of Investors, Issuers,*Bailout* Investor.

I. BACKGROUND

The capital market has an important role in the financial sector because the capital market offers new alternatives for the business world to obtain sources of business financing in addition to adding new alternatives for investors to invest outside the banking sector and other forms of investment.

Investing in the capital market has a higher risk compared to investing in other fields, like buying a cat in a sack. Therefore, the decision to choose investment in the capital market must go through careful consideration. The Capital Markets Law regulates the issue of obligations to comply with the principle of transparency because this information is material for consideration in investing

as well as regulating the issue of consequences and responsibility for losses as well as criminal threats for capital market players who do not carry out the obligations of the principle of transparency in accordance with the provisions of the law.[1]

The principle of openness (disclosure principles) is something that must exist, both for the interests of stock exchange managers and investors. The information that must be published is all information regarding the state of the business which includes financial, legal aspects, as well as the company's management and assets to the public. This is intended so that potential investors can understand and decide on their investment.[2]

Information is an important element for the business world because information essentially provides information, notes or descriptions of past, present and future conditions of the life of a company and its securities markets. Information is a factor that provides meaning for the recipient, especially in terms of making decisions. This is because complete, relevant, accurate and precise information is really needed by investors. In the capital market, people also need information that can be used as a basis for decisions.

The issuer's action of hiding information that should be disclosed to the public by making untrue statements regarding material facts or not disclosing material facts regarding the conditions that occurred at the time the statement was made, thereby providing a misleading picture, is an act that is very detrimental to investors in the capital market. The issuer's act of deliberately manipulating internal data

[1] Asril Sitompul, Public Offering Capital Market and Its Problems, (Bandung: Aditya Bakti 2000), p. 3.

[2] Pandji Anoraga and Piji Pakarti, Introduction to Capital Markets, (Semarang: Rineka Cipta 2001), p. 34.

The prospectus contains the intention to benefit oneself with the aim of influencing investors to buy shares, known as Windows Dressing.[3] Windows Dressing is a crime in the capital market in the form of a fictitious document model anatomy, where what is stated in the document in the form of reports and bookkeeping is all non-existent or incorrect because it has been modified as if it were true and exists, so that Windows Dressing can be categorized as false. one act of accounting fraud.[4]

The principle of openness is the soul of the capital market so it has a very important role and is required to be carried out. If there is a violation of the principle of transparency by the issuer, the issuer will be subject to administrative sanctions in accordance with Article 102 of Law Number 8 of 1995 concerning Capital Markets, in the form of a written warning, a fine, namely the obligation to pay a certain amount of money, restrictions on business activities, freezing of business activities. , revocation of business permits, cancellation of approvals and cancellation of registration are actions that enhance the financial statements of a company.

Article 78 Paragraph 1 of Law Number 8 of 1995 concerning Capital Markets (hereinafter in this writing referred to as the Capital Markets Law) regulates the obligations of issuers in terms of the principle of openness which reads:

"Every Prospectus is prohibited from containing incorrect information about Material Facts or does not contain correct information about Material Facts which is necessary so that the Prospectus does not provide a misleading picture."[5]

The practice of Windows Dressing in the capital market can still be said to be a reasonable action as long as the activity only aims to beautify the company and does not harm other parties. However, the practice of Windows Dressing can be categorized as a capital market crime if the activity creates misleading information or issues that affect market mechanisms.

The occurrence of Windows Dressing practices which give rise to misleading information is clearly detrimental to investors so there is a need for protection for investors who are exposed to Windows Dressing practices. An example of a very widespread case regarding the practice of Windows Dressing is the case of PT Garuda Indonesia (Persero), Tbk in Indonesia. This case began when Tuesday 30 April 2019 the Indonesian Stock Exchange (BEI) summoned the board of directors of Garuda Indonesia. The summons is related to the rejection of several commissioners regarding the 2018 financial report of this state-owned company.[6]

Garuda's share price became cheap in response to the incident at the Pullman Hotel on April 24 2019. The triggers were Chairul Tanjung and Dony Oskaria. The two Garuda commissioners refused to sign the 2018 Garuda annual book report at the Annual General Meeting of Shareholders (AGMS). Chairul and Dony refused to sign the financial report because there were indications of manipulation of financial report data. Garuda is known to include income for the next 15 years as income for 2018. The value is very large, namely around US$239,900,000 (two hundred thirty-nine million nine hundred thousand dollars) or Rp. 3,470,000,000,000 (three trillion four hundred and seventy billion Rupiah) (exchange rate in financial statements Rp. 14,481 per US dollar). This income comes from additional service collaboration between PT Mahata Aero Teknologi and Garuda's subsidiary, PT Citilink Indonesia, which was suppressed in October 2018 and is valid for 15 years. Garuda, which until the third quarter had a deficit of around IDR 1,640,000,000,000 (one trillion six hundred and forty billion rupiah), suddenly made a profit of almost IDR. 72,600,000,000 (seventy-two billion six hundred million rupiah) at the end of 2018.[7]

Garuda's performance actually improved in the first quarter of 2019, Garuda's revenue was reported to have increased by 36% compared to the same period last year. However, this still does not match the company's financial data, as a result, Garuda's share price on the Indonesian Stock Exchange has fallen. Because of this, it would be appropriate to support the Financial Audit Agency and BEI to examine the public accounting firm that audits Garuda's financial reports. The Financial Services Authority should also investigate this case, including finding the motive, because this institution is responsible for passing the financial report of a public company. This is of course detrimental to shareholders because after this financial report was released, the share price of Garuda Indonesia (GIAA) rose 10.2% from the figure from 450 per share became 498 per share, but after there were indications of falsification of financial reports, Garuda Indonesia (GIAA) shares continued to fall to 392 per share as of May 1 2019.[8] Garuda's action to polish its financial reports can be called a window dressing practice.

Meanwhile, in 2019, there was a stir when PT Tiga Pilar Sejahtera Food Tbk (AISA), or commonly known as the taro producer, was suspected of inflating funds worth IDR 4 trillion in the 2017 financial report. The alleged inflation was marked in the accounts receivables, inventory and fixed assets of the AISA Group. . This was revealed by PT Ernst & Young Indonesia (EY) Fact-Based Investment Results report on March 12 2019. Apart from the inflated IDR 4 trillion, there were also findings of alleged inflated income worth IDR 662 billion and another inflation of IDR 329 billion in the TDA (profit before interest, tax, depreciation and amortization) post made by the AISA Group. This certainly violates the Decree of the Financial Institutions Capital Market Supervisory Agency (Bapepam-LK) No. KEP-412/BL/2009 concerning Affiliate Transactions and Conflicts of Interest in Certain

[3] Ibid., hlm. 37
[4] Eduardus Tandelilin, Investment Analysis and Portfolio Management, (Yogyakarta: Bineka Cipta 2001), p. 31.
[5] Indonesia, Law of the Republic of Indonesia Concerning Capital Markets, Law Number 8 of 1995
[6] Budi Kurdi, "Polishing Financial Reports, GIAA Management Accused of "Window Dressing", accessed from https://www.indopremier.com/ipotnews/newsDetail.php?jdl=, August 8 2023 at 21.21.
[7] Ibid
[8] Ibid

Transactions.[9]

Based on the case phenomenon that the author describes above, this is clearly very detrimental to the Indonesian Stock Exchange (BEI) where these companies also sell their shares to the general public, which can be categorized as public fraud.

II. PROBLEM FORMULATION

Based on this explanation, the author is interested in writing a journal with a problem formulation. How is the legal protection for investor bailouts against Windows Dressing issuers in the Capital Markets Law?

III. DISCUSSION

A. Principles of Legal Protection for Investor Bailout According to the Capital Market Law

Law Number 8 of 1995 concerning Capital Markets regulates various matters related to the implementation of capital markets in Indonesia. One of them is related to protecting investors from various illegal and detrimental practices in the capital market. Windows Dressing Practice by issuers who deliberately manipulate financial reports ahead of the publication of periodic financial reports are clearly detrimental to investors.[10]

The legal basis for the principles of legal protection for investors in the bailout scheme comes from Law Number 8 of 1995 concerning Capital Markets and its derivative regulations. Article 3 of the Capital Markets Law emphasizes that the implementation of capital markets must aim at protecting investors and the public, which is the basis for the principles of legal protection for investors. Article 1 point 13 of the Capital Markets Law emphasizes that one of the objectives of the capital market is to protect the interests of investors and the public, strengthening the principle of protection that underlies capital market regulations. Apart from that, OJK Regulation Number 1/POJK.07/2013 and POJK Number 51/POJK.03/2017 also further regulate consumer and public protection in the financial services sector, including the capital market.[11]

Thus, the bailout scheme for investors who are victims of violations by issuers is in line with the values of consumer and investor protection adhered to by the Capital Markets Law and its derivative regulations. The legal principles used in this bailout scheme are the implementation of the principle of legal protection for investors in the Indonesian capital market.

A bailout scheme or compensation for investor losses as a form of legal protection for investors in the capital market must be prepared based on a number of legal principles that underlie its implementation. These principles have a central role in ensuring that investor bailout schemes are carried out with high principles of justice, responsiveness and effectiveness to protect investor rights.[12]

The first principle underlying the investor bailout scheme is the principle of legal certainty. The investor loss compensation scheme must have a clear legal basis, which can be found in the Financial Services Authority (OJK) regulations, so that the process of claiming and disbursing compensation has procedural certainty and a reliable time period. The existence of legal certainty is very important, because without it, bailout schemes tend to run slowly, lack transparency, and harm investors.[13]

The principle of legal certainty requires that investor bailout schemes have a clear and firm legal basis in OJK regulations. This legal basis is important to provide certainty for investors and issuers regarding claim submission procedures, compensation requirements, claim settlement time periods, and sources of issuer compensation funds.

Without adequate legal certainty, implementation of the bailout scheme is prone to being slow, non-transparent, and even prone to irregularities by certain individuals who want to take advantage. Legal certainty is needed so that the investor bailout claims process can run in an orderly, measurable manner and promote justice for investors who are harmed by the issuer's practices.[14]

Second is the principle of justice, which requires that the amount of compensation given to investors be in accordance with the proportion of losses actually experienced by investors as a result of the issuer's actions. Fairness is also reflected in the source of compensation funds which come from the issuer as the responsible party.[15]

Third is the principle of benefit, which requires that the bailout scheme be designed in such a way that it provides maximum benefits in protecting the rights of investors who experience losses. This benefit can be seen in the simple claims process for investors and the relatively short period for disbursement of compensation.[16]

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[9] Irvin Avriano Arief, "Oh my gosh! Three Pillars Called the IDR 4 T Financial Bubble" Retrieved fromhttps://www.cnbcindonesia.com/market/20190327082221-17-63104/astaga-tiga-pilar-cepat-gelembungkan jasa-rp-4-t, September 10, 2023 at 22.53.

[10] Adrian Sutedi, Sharia Capital Market as a Financial Investment Facility Based on Sharia Principles, (Jakarta: Sinar Graphics, 2011), p. 56

[11] Ibid hlm. 59

[12] Sentosa Sembiring, Commercial Law, (Jakarta: Citra Aditya Bakti, 2006), p. 89.

[13] Ibid hlm. 94

[14] Ibid hlm. 87.

[15] Ibid hlm. 88

[16] M. Irsan Nasarudin, Legal Aspects of the Indonesian Capital Market, (Jakarta: Kencana, 2004), p. 95

Fourth is the principle of balance, which requires balancing the responsibilities of issuers who commit violations with the protection of the rights of investors who are harmed. Issuers must still be subject to strict sanctions, while investors have the right to receive compensation for the financial losses they experience.[17]

Fifth is the principle of prudence, especially related to the verification and validation of loss claims submitted by investors to ensure that the loss was truly caused by the issuer's actions, and not by other factors such as market fluctuations. Careful verification is important to ensure that the bailout scheme is right on target in protecting investors who are actually harmed by the issuer's actions.

Sixth is the principle of openness, which emphasizes that the process of submitting and settling investor bailout claims must proceed transparently. This openness has a key role in preventing irregularities in the claims process that could harm investors and issuers.

The principle of openness requires that the process of submitting and settling investor bailout claims take place in a transparent manner. This principle of openness is important to prevent irregularities that are detrimental to investors and issuers. Openness can be realized by regularly publishing data on the number of claims received, rejected and approved. Reports on the use of compensation funds by issuers and financial service institutions are also require published. In addition, investors have the right to obtain access to information regarding the status of their claims.

This openness of information will increase accountability and prevent moral hazard between the parties in the bailout scheme. Investors can also monitor whether their claims are handled correctly and fairly. Thus, the principle of openness is an important key to the integrity of the bailout process and the implementation of legal protection for investors.

Seventh is the principle of efficiency, which requires that the process of claiming losses and disbursement of investor compensation must run quickly and efficiently so that investors can immediately obtain their rights.[18] The principle of efficiency demands that the process of submitting and settling investor bailout claims take place quickly and efficiently. The claim procedure is not complicated so that injured investors can easily apply for compensation. Likewise, verification of data and proof of claims by OJK and the Self Regulatory Organization (SRO) is carried out efficiently to speed up the time for disbursement of compensation to eligible investors. This efficient process is important so that investors immediately receive their rights so that they do not experience greater material losses due to delays in disbursement of compensation. If the bailout claim process is slow and complicated, it will actually be even more detrimental to investors. Therefore, efficiency must be one of the main principles in the design and implementation of this investor legal protection scheme.

Efficiency can be achieved, for example, by digitizing the bailout claims process, such as submitting documents online. OJK and SRO smust have adequate systems and human resources to be able to reduce the time for claims and disbursement of funds replacement. By prioritizing efficiency, the bailout scheme can effectively protect the rights of Indonesian capital market investors.

Eighth is the principle of accountability, which demands a "check and balance" mechanism that ensures that issuers and financial service institutions are responsible for implementing this investor bailout scheme. In addition, reports regarding the use of compensation funds must also be published to ensure public transparency.

Nine is the principle of independence, which emphasizes that the investor bailout scheme must be run independently by the OJK and SRO, without intervention from other parties that could influence the investor claims process. The principle of independence requires that the investor bailout scheme be run independently by the OJK and SRO without interference from outside parties. The aim is to prevent the investor bailout claims process from being influenced by certain interests which are detrimental to the objectivity of handling investor complaints.[19]

OJK and SROs must be free to make decisions regarding data validation, evidence verification, and the amount of investor compensation without pressure or direction from issuers, investors, ministries, or other interested parties. The process must be decided internally based on applicable standard procedures.

Thus, the independence of the OJK and SRO in the investor bailout scheme is an important key to ensuring a fair, objective process and a focus on protecting investors as consumers of financial services. The independence of the OJK and SRO is one of the pillars of upholding the legal protection scheme for capital market investors in Indonesia.

Tenth is the principle of professionalism, which requires that personnel handling the investor bailout scheme process have high expertise and integrity work professionally, objectively, and put investors' interests first. The principle of professionalism requires that personnel handling the investor bailout scheme process have adequate competence in the fields of capital markets and consumer protection of financial services. This competency includes technical knowledge regarding capital market products and services, related regulations, as well as the administrative processes involved in handling complaints and compensating investors for losses.[20]

[17] Ibid hlm. 96
[18] Ibid hlm. 98
[19] Adrian Sutedi, Legal Aspects of the Financial Services Authority, (Jakarta: Reach the Hope of Success, 2014), p. 89
[20] Ibid hlm. 92

Personnel handling the bailout scheme must also have high integrity and professional ethics. They are required to work objectively in verifying, assessing and deciding on compensation claims submitted by investors. Not influenced by pressure or persuasion from issuers or investors. Fully prioritize the applicable code of ethics and complaint resolution procedures.

Apart from that, professionalism is also demonstrated through the confidentiality of investor information, punctuality in work and decision making, and empathy in serving investors who have suffered losses. Professional personnel will be the key to the success of the bailout scheme in protecting investors' rights optimally.

Therefore, recruitment and training of OJK consumer complaints personnel and SROs who handle the bailout scheme must be carried out selectively. Adequate technical training and capacity development are important to ensure personnel have the required hard and soft skills. Continuous capacity building is also needed so that personnel always have up-to-date competence in protecting Indonesian capital market investors.

A bailout scheme or compensation for investor losses can be an effective policy option to provide legal protection for capital market investors in Indonesia who are victims of detrimental practices from issuers. This scheme is based on various legal principles which aim to uphold the principles of justice, legal certainty, responsiveness and protection for investors.[21]

B. Forms of Legal Protection for Investor Bailouts According to the Capital Markets Law.

In the context of legal protection for investors, the Capital Markets Law has a central role in mandating and regulating various aspects that ensure investors' rights are protected. One of the efforts currently being fought for is the implementation of a bailout scheme or compensation for investor losses as a response to detrimental actions from issuers. This scheme aims to protect retail investors, who often become victims of unethical actions, such as manipulation of financial reports or disclosure of false information from issuers. The investor bailout scheme requires issuers to provide compensation for investment losses experienced by investors due to the issuer's detrimental actions, such as disclosing false financial information. Compensation is provided in various forms according to the investor's real losses. Compensation can be in the form of a return of the initial funds invested by investors in the issuer's shares. If investors experience an opportunity loss because they cannot carry out stock transactions in a timely manner due to false information from the issuer, the investor has the right to receive compensation as compensation for the opportunity loss. Investors can also receive compensation if the value of their share portfolio with the issuer decreases significantly due to the issuer's disclosure of false financial information.[22]

The legal basis for providing compensation for investment losses resulting from the issuer's actions is Article 114 paragraph (1) of the Capital Markets Law which regulates that any party who violates the provisions of the Capital Markets Law and causes losses to other parties is obliged to provide compensation. In addition, Article 111 paragraph (2) letter b of the Capital Markets Law requires issuers to compensate investors who suffer losses due to the issuer's errors or negligence.

Providing compensation for investment losses as a result of the issuer's actions is an essential element in protecting investor rights. Compensation must be paid commensurate and proportional to the real losses experienced by investors, on the basis of careful and accurate calculations. This principle is in accordance with the provisions contained in Article 114 paragraph (1) of the Capital Markets Law, which requires issuers to provide adequate compensation as a consequence of their violation.

Apart from that, the source of compensation funds for investors is also an important factor in the bailout scheme. According to the Capital Markets Law, the source of these funds must come from the issuer as the party responsible for the losses caused by their actions. Thus, issuers are expected to use their reserve funds or assets to finance compensation to injured investors.[23]

The importance of the right source of funds is to ensure that the issuer is not only subject to legal sanctions, but also has to pay appropriate compensation to investors affected by its violations. This creates a fair balance between protecting investor rights and issuer responsibilities, as well as ensuring that issuers experience significant financial impacts as a consequence of their violations

The source of compensation funds to provide compensation to investors must come from the issuer, which is the party responsible for violations that harm investors. This principle aims to uphold the principle of issuer responsibility, as regulated in Article 111 paragraph (2) of the Law
Capital Market Law.

Article 111 paragraph (2) of the Capital Markets Law emphasizes the importance of issuers in fulfilling their obligations to provide compensation to investors who suffer losses as a result of their violations. Therefore, the source of compensation funds must be obtained from assets or reserve funds owned by the issuer. This not only creates a fair balance in issuer responsibilities, but also provides incentives for issuers to maintain compliance with capital market regulations.

By mandating that the source of compensation funds come from the issuer, capital market law emphasizes the importance of issuers' responsibilities towards investors and encourages issuers to be responsible for their actions. This is in line with the aim of

[21] Ibid hlm. 102

[22] Ira Instantia Effendi, "Legal Protection for Investors in the Indonesian Capital Market", Journal of Law and evelopment 48, no.3 (2018): 468-488.

[23] Hilda Hilmiah Dimyati, op.cit., p. 80.

investor protection and public trust in the capital market, because investors will feel safer and protected by strict regulations.

Transparency of information in the bailout scheme process is essential to ensure the protection of investors' rights after experiencing losses due to investment in a financial instrument. As regulated in Article 29 paragraph (1) of Law no. 8 of 1995 concerning Capital Markets, parties offering securities to the public are responsible for the correctness of the information contained in the prospectus and are obliged to compensate for losses suffered by investors due to errors or omissions in providing that information.[24] Therefore, in the bailout scheme process which involves submitting investor compensation claims, information regarding the procedures for submitting and settling such claims must be conveyed transparently so that investors can access and understand them well.

In addition, the obligation for information transparency in the bailout scheme is in line with POJK No. 1/POJK.07/2013 concerning Consumer Protection in the Financial Services Sector which regulates the principle of information disclosure from business actors to consumers. According to Article 18 of the POJK, business actors are obliged to disclose product and service information in writing and/or orally in Indonesian that is clear, easy to understand, honest, correct, not misleading, and does not give rise to misinterpretations for consumers.[25] Thus, providing transparent information in the bailout process is a manifestation of the responsibility of business actors in providing protection for the rights of consumers in the financial services sector.[26]

Bailout regulations need to set a definite time limit for settling claims and disbursing compensation to injured investors. Setting a clear deadline is important to provide legal certainty to investors regarding the process of submitting and settling their compensation claims. Without a firm time limit, the bailout process has the potential to drag on and it is difficult for investors to predict when they will receive compensation for their investment losses. This of course harms investors' rights.[27]

The determination of the time limit for settling claims and compensation in the bailout regulations is in line with POJK Number 1/POJK.07/2013 concerning Consumer Protection in the Financial Services Sector. Article 29 POJK regulates that business actors are required to have consumer complaint procedures and are required to resolve consumer complaints within the specified time. Thus, setting a deadline for settling claims in the bailout regulations is an implementation of the obligation of business actors to resolve consumer complaints in a timely manner in accordance with POJK Consumer Protection in the Financial Services Sector. This is important to ensure the protection of investor rights and legal certainty for investors.[28]

In a bailout scheme involving public funds, a strict system of supervision and control (check and balance) is required in the process of verifying and disbursing investor compensation claims. This is important to prevent irregularities or corruption that could harm state finances. As regulated in Article 2 and Article 3 of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption Crimes, every person is prohibited from carrying out acts of enriching themselves, other people or corporations which can harm state finances. This includes the act of abusing authority to disburse funds for the bailout scheme which did not comply with procedures.[29]

Therefore, bailout regulations need to emphasize the need for a check and balance system in verifying and disbursing claims by involving an independent supervisory function. For example, by forming a special task force for verification and audit of claims consisting of regulators, academics and professionals. This will prevent the disbursement of fictitious claims or deviating from procedures that could harm state finances. Thus, the strict check and balance system in the bailout scheme is an implementation of corruption prevention efforts as mandated in the Corruption Eradication Law.

In the bailout scheme, it is necessary to implement a rating system for issuers' compliance with the provisions and laws and regulations in the capital markets sector. This issuer's compliance rating can be used as a consideration in the process of verifying and validating the claims of investors who apply for compensation for losses. The higher the issuer's level of compliance, the lower the potential for violations, thereby reducing the risk of fictitious or distorted bailout claims.[30]

The implementation of the issuer rating system is in line with Article 109 of Law Number 8 of 1995 concerning Capital Markets which requires every public company to submit periodic reports to Bapepam (now OJK). The issuer's compliance rating can be part of the issuer's periodic report as a form of supervision by the regulator. Apart from that, Article 111 of the Capital Markets Law also gives Bapepam (OJK) the authority to carry out inspections of each party in the context of capital market supervision. The issuer's compliance rating can be a complete inspection tool for regulators.

Issuer compliance ratings are important to provide objective information regarding the quality of governance and issuer compliance with capital market regulations. This information is useful for investors and regulators in assessing the potential for violations detrimental to investors. Thus, implementing an issuer compliance rating system can strengthen efforts to protect investors

[24] Firdaus, Rachmat, and Maya Puspa. Capital Market Law in Indonesia. (Jakarta: Prenada Media, 2019), p. 29.
[25] Ibid hlm. 30
[26] Financial Services Authority, POJK No. 1/POJK.07/2013 concerning Consumer Protection in the Financial Services Sector, Ps. 18.
[27] Firdaus, Rachmat, and Maya Puspa, op.cit., p. 67.
[28] POJK Number 1/POJK.07/2013, Ps. 29
[29] Sentosa Sembiring, "Legal Responsibility of Issuers for Investor Losses in the Capital Market", Journal of Mimbar Hukum 28, no. 3 (2016): p. 528-541
[30] Firdaus, Rachmat, op.cit., p. 89.

and prevent violations in the capital market as mandated in the Capital Markets Law.

In order to realize optimal legal protection for investors in the capital market, the bailout scheme needs to be regulated comprehensively by taking into account various important aspects. These crucial aspects include the source of compensation funds coming from the issuer, transparency of information on the bailout process, setting claim deadlines, implementing a check and balance system, and enforcing issuer compliance ratings. Strengthening investor bailout regulations that take into account these various aspects is necessary to ensure the protection of investors' rights and the creation of a healthy, fair and accountable capital market in accordance with the spirit of the Capital Markets Law.

C. Procedures and Mechanisms for Legal Protection of Investor Bailouts According to Indonesian Laws

The Capital Markets Law does not explicitly regulate investor bailouts. However, there are several provisions that can become the basis for the government or financial institutions to carry out an investor bailout. Article 5 paragraph (1) of the Capital Markets Law mandates that the government is obliged to protect investors' interests. This provision can be the basis for the government to bail out investors, especially if the failure of a company or investment instrument can cause significant losses for investors. Article 6 paragraph (1) of the Capital Markets Law mandates that the OJK is obliged to implement an investor protection system. This provision can be the basis for the OJK to carry out an investor bailout, especially if a company or investment instrument fails have a systemic impact on the capital market. Article 32 paragraph (1) of the Capital Markets Law mandates that the OJK can take administrative action against parties who violate the provisions of the Capital Markets Law. This provision can be the basis for the OJK to carry out an investor bailout, especially if the failure of a company or investment instrument is caused by a violation of the provisions of the Capital Markets Law. The investor bailout procedure begins with the registration stage and submission of claims by retail investors to the capital market authority. Submitting a claim must be accompanied by investor identity data, share ownership data or other securities, as well as supporting data about losses experienced such as share transaction reports and detailed investment loss calculations. This is in accordance with Article 113 of Law Number 8 of 1995 concerning Capital Markets which mandates that procedures for compensation for losses are further regulated in Government Regulations.[31]

Investor bailout, as regulated in POJK Number 49/POJK.04/2020 concerning the Implementation of Investor Protection Funds, is a mechanism and procedure carried out by the Financial Services Authority (OJK) in order to provide protection to investors who experience losses due to failure or errors in offerings. general, trading, or settlement of securities transactions. The definition of Investor Protection Fund, as explained in Article 1 POJK Number 49/POJK.04/2020, refers to funds managed by OJK to provide protection to investors who experience losses due to various obstacles that may occur in securities transactions.[32]

The sources of funds used for the Investor Protection Fund, as stated in Article 2 POJK Number 49/POJK.04/2020, come from various sources, including annual fees paid by entities such as issuers, public companies, securities companies, securities settlement and depository institutions, and futures clearing institutions. Apart from that, the sources of these funds also include interest and investment returns from the Investor Protection Fund, fines and administrative sanctions imposed by the OJK related to violations in public offerings, trading or settlement of securities transactions, as well as possibly receiving grants, donations and/or assistance from third parties that is not binding and does not conflict with statutory provisions.

Management of the Investor Protection Fund, as mandated in Article 3 POJK Number 49/POJK.04/2020, must comply with certain principles. These principles include aspects of accountability, efficiency, prudence, independence and legal certainty. Thus, fund management must be carried out with high accountability and transparency, achieving efficiency by maximizing the use of available resources, considering the risks and benefits that may arise, free from dependence on third parties, and in accordance with the provisions of laws and regulations.

Invitations that take place.

Investors who are entitled to protection from the Investor Protection Fund, in accordance with Article 5 POJK Number 49/POJK.04/2020, must meet certain requirements. One of them is having proof of legal securities ownership and being registered with a securities settlement and depository institution, as well as experiencing losses due to failure or errors in public offerings, trading or settlement of securities transactions caused by parties determined by the OJK.[33] They are also required to submit a request for protection to the OJK within a time limit of 90 (ninety) days since the loss occurred and complete the documents and information required by the OJK to verify the application for protection.[34]

Windows Dressing is a practice carried out by issuers with the intention of manipulating financial reports or company performance to make them appear more profitable than they actually are. This action is usually carried out to attract investor interest, increase share prices, or avoid potential sanctions from the authorities in the capital market. However, Windows Dressing can be

[31] Adrian Sutedi, op.cit., p.66.

[32] M. Irsan Nasarudin, op.cit., p. 98.

[33] Agus Raharjo, "Effectiveness of Investor Protection Funds in Protecting Investor Rights", Journal of Business Law, Vol. 32 No. 3, September 2019, p. 201-215

[34] Yuli Andriansyah, "Investor Protection Funds as a Form of Legal Protection for Capital Market Investors", Journal of Law and Capital Markets, Vol. 7 No. 1, March 2017, p. 56-69.

detrimental to investors who, without knowing that there is manipulation, decide to buy shares at prices that do not reflect the actual condition of the company. Therefore, investors who are victims of Windows Dressing practices are entitled to legal protection in accordance with the provisions stipulated in Financial Services Authority (OJK) Regulation Number 1/POJK.07/2013 concerning Consumer Protection in the Financial Services Sector.

Based on POJK Number 1/POJK.07/2013 there are several series of protection procedures that can be followed by investors who experience losses due to window dressing practices. Investors who experience losses due to Windows Dressing can submit complaints to the OJK through various complaint channels provided by the OJK, including via the official website, email, telephone service, mail delivery, or in-person visits. In the complaint submitted, investors are required to include evidence that supports their claims. This includes proof of share ownership, stock transaction records, financial reports from the relevant issuer, and other relevant information to support their claims

After receiving a complaint, OJK will carry out the stages of receiving, recording and classifying complaints based on type and level of urgency. OJK will continue to verify and clarify complaints and evidence submitted by investors as part of investigative steps. After the initial verification is complete, the OJK will follow up on the complaint by carrying out a more in-depth examination, assessment, and looking for solutions that are in accordance with its authority.

OJK is committed to providing responses and/or solutions to complaints to investors within a maximum period of 20 (twenty) working days from the date of receipt of the complaint. If investors are not satisfied with the response and/or solution provided by OJK, they have the right to submit an objection within a maximum of 10 (ten) working days from the date of receiving the response and/or solution. OJK will review the complaint and provide a final response and/or solution within a maximum period of 10 (ten) working days from the date of receipt of the objection submitted by the investor. If, after going through the entire process, investors still feel dissatisfied and believe that their rights have not been fully protected, they have the right to take the next step by filing a civil or criminal lawsuit in court as a last resort to seek justice.[35]

The bailout process begins with investors submitting compensation claims to the OJK as the capital market supervisory authority in accordance with POJK Number 49/POJK.04/2020 concerning the Implementation of Investor Protection Funds. Claims submitted by investors are then verified by the OJK to ensure the validity and completeness of the claim data as stated regulated in the POJK. Once verified, claims that meet the requirements are further validated by a team of independent verifiers in accordance with the mandate of POJK Number 49/POJK.04/2020 to ensure investor losses due to the issuer's detrimental actions. OJK then calculates the amount of compensation based on the real losses experienced by investors by referring to POJK Number 1/POJK.07/2013 concerning Consumer Protection in the Financial Services Sector. The issuer is then obliged to disburse compensation from the issuer's internal funds in accordance with the principle of issuer responsibility in the Capital Markets Law. Throughout the bailout process, OJK carried out strict supervision to ensure compliance with applicable procedures to protect investor rights.[36]

D. PROTECTION OF INVESTORS FROM WINDOWS DRESSING IN LAW NO. 4 OF 2023 2023 CONCERNING DEVELOPMENT AND STRENGTHENING OF THE FINANCIAL SECTOR (PPSK Law)

The investor protection system in issuer Windows Dressing is a system that regulates the rights and obligations of investors, issuers and capital market authorities related to Windows Dressing practices carried out by issuers. Windows Dressing is a practice carried out by issuers to manipulate financial reports or company performance to make them look better than their actual conditions. This practice aims to attract investor interest, increase share prices, or avoid sanctions from capital market authorities. However, this practice can be detrimental to investors who do not know the actual condition of the issuer and buy shares at unreasonable prices. Therefore, investors who suffer losses are entitled to legal protection in accordance with the provisions applicable in their respective countries. The investor protection system in Windows Dressing issuers can divided into two types, namely preventive systems and repressive systems. A preventive system is a system that aims to prevent Windows Dressing from occurring by supervising, regulating and educating issuers and investors. A repressive system is a system that aims to handle and resolve Windows Dressing cases by carrying out law enforcement, resolving disputes and recovering investor losses.[37]

The practice of windows dressing, which is an issuer's attempt to beautify financial reports with the intention of misleading investors, can have a detrimental impact on investors because it presents a picture of the issuer's financial condition that is not in accordance with the actual fundamental condition. This phenomenon clearly violates the principle of information disclosure expected in the capital market.

Implementation of Law no. 4 of 2023 concerning the Development and Strengthening of the Financial Sector (UU PPSK) implicitly provides a legal basis for supervisory authorities to protect investors from windows dressing practices. This law provides

[35] D. A. Purboningtyas & A. Prabandari, "Legal Protection for Indonesian Capital Market Investors by the Securities Investor Protection Fund", Jurnal Notarius, vol. 10, no. 1, pp. 1-14, 2019

[36] F. H. Patrianto & D. Hartono, "Legal Aspects of Insider Trading Practices Against Investors in the Capital Market in Indonesia", Journal of Legal Sciences, vol. 7, no. 1, pp. 1-12, 2019.

[37]Principles on Financial Consumer Protection, Bank Indonesia, https://www.bi.go.id/id/publikasi/peraturan accessed on 7 January 2024. (3) Law no. 8 of 1995 concerning Capital Markets, JDIH BPK RI

a special mandate to provide protection for consumers and users of financial services, including the capital market.

Article 47 of Law no. 4 of 2023 expressly grants authority to the Financial Services Authority (OJK) to further regulate and supervise financial services activities, with the aim of protecting the interests of consumers and the public. This includes protection of investors in the capital market from detrimental actions carried out by issuers.[38]

Article 48 of the PPSK Law confirms the OJK's authority to impose sanctions on financial services business actors who are proven to have violated regulations in the financial services sector, including issuers involved in windows dressing practices. These sanctions are a firm step to enforce compliance with regulations.

Furthermore, Article 49 of Law no. 4 of 2023 mandates the OJK to optimize its supervisory role, ensuring that financial services institutions always protect the interests of consumers and the public. This includes preventing windows dressing practices by issuers in the capital market.

With the existence of Law no. 4 of 2023, OJK has a strong legal umbrella to supervise and enforce regulations aimed at protecting investors from losses due to misleading financial information presented by issuers.

Law 4 of 2023 regulates the financial sector ecosystem which covers various aspects, such as institutions, banking, capital markets, insurance, pension funds, technological innovation, financial literacy and law enforcement. This law aims to reform the financial sector by regulating supervisory and regulatory relations between the Financial Services Authority (OJK), Bank Indonesia, the Deposit Insurance Corporation and the Ministry of Finance.

One of the issues regulated in this law is consumer and investor protection in the financial sector. This law stipulates that the OJK has the authority to supervise, investigate and take action against financial service business actors who carry out financial services cheating, fraud, or other violation of law. This law also regulates that investors who feel they have been harmed by financial services businesses can file a civil lawsuit in court.

One form of fraud that can harm investors is the practice of windows dressing by issuers. Windows dressing is an action that beautifies a company's financial reports to make them appear more positive and attractive to investors. This practice can give rise to misleading information or issues that affect market mechanisms. This practice can be categorized as a capital market crime if it violates the principle of information disclosure regulated in Law no. 8 of 1995 concerning Capital Markets.

In the event that the practice of windows dressing occurs, the legal protection provided to investors can be carried out preventively and repressively. Preventive protection is carried out by PT. Indonesia Stock Exchange by temporarily suspending securities trading. OJK carries out repressive protection by monitoring, investigating and taking action against issuers who are proven to be practicing windows dressing. In addition, investors who feel disadvantaged can file a civil lawsuit in court against the issuer concerned.[39]

However, the law is general in nature and does not provide detailed regulations regarding technical prevention and sanctions related to the practice of windows dressing. Further regulations regarding this matter are determined by the OJK. For example, OJK Regulation no. 8/POJK.04/2017 concerning Form and Content of Prospectus prohibits issuers from providing information misleading, including manipulation of financial statements. Violations of this regulation may be subject to administrative sanctions by the OJK.[40]

In addition, issuers are required to submit financial reports in accordance with accounting standards set by the OJK, as regulated in OJK Regulation No. 29/POJK.04/2016 concerning Issuer Annual Reports. Manipulation of financial statements can also be subject to sanctions.

With legal support from Law no. 4 of 2023 and other related regulations, it is hoped that OJK can effectively protect investors from losses due to misleading financial information, including window dressing practices by issuers. Good supervision will create a healthy and quality investment climate.

IV. CLOSING

Legal protection for investor bailouts against issuer window dressing in the Capital Markets Law is regulated in Article 114 paragraph (1) of the Capital Markets Law which explains that any party who violates the provisions of the Capital Markets Law and causes losses to other parties, is obliged to provide compensation. In addition, Article 111 paragraph (2) letter b of the Capital Markets Law requires issuers to compensate investors who suffer losses due to the issuer's errors or negligence. Compensation can

[38] Rizky Ramadhan, "Legal Analysis of Legal Protection for Investors from Windows Dressing Practices by Issuers", USU Law Journal, Vol. 4, no. 2, p. 17-29, March 2016

[39] Rizky Fauzi, “Window Dressing Stocks & Its Impact on Investors”, Qoala Indonesia, 23 December 2023, https://www.qoala.app/id/blog/manajemen-aset/window-dressing-saham/, accessed 7 January 2024.

[40] Dian Eka Rahayu, "Analyst Predicts Window Dressing Will Happen at the End of 2023", Kontan, 29 November 2023, https://investasi.kontan.co.id/news/analis-mempreksikan-window-dressing-will happen-di- end-of-2023, accessed on January 7, 2024.

be provided in various forms according to the investor's real losses. Compensation can be in the form of a return of the initial funds invested by investors in the issuer's shares. If an investor experiences an opportunity loss because they cannot carry out stock transactions in a timely manner due to false information from the issuer, the investor has the right receive compensation as compensation for the opportunity loss. Investors can also receive compensation if the value of their share portfolio with the issuer decreases significantly due to the issuer's disclosure of false financial information. The investor protection system in issuer Windows Dressing can be divided into two types, namely a preventive system and a repressive system. A preventive system is a system that aims to prevent Windows Dressing from occurring by supervising, regulating and educating issuers and investors. This is regulated in Article 6 paragraph (1) of the Capital Markets Law which mandates that the OJK is obliged to implement an investor protection system. A repressive system is a system that aims to handle and resolve Windows Dressing cases by carrying out law enforcement, resolving disputes and recovering investor losses. As regulated in Article 32 paragraph (1) of the Law

The Capital Markets Law mandates that the OJK can take administrative action against parties who violate the provisions of the Capital Markets Law. This provision can be the basis for the OJK to carry out an investor bailout. However, in reality, there are still many investors who do not understand and do not receive their rights to compensation as aggrieved parties as mandated in the Capital Markets Law.

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