

## PUMP AND DUMP CRIMINAL OVERVIEW ACCORDING TO CAPITAL MARKET LAW NO. 8 YEAR 1995

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### Abstract

This study aims to look at the Juridical Review of the *Pump and Dump* crime in capital market transactions on the Indonesia Stock Exchange based on the Capital Market Law. The main problem that the author discusses and analyzes in this research is the form of the Pump and Dump crime in capital market transactions on the Indonesia Stock Exchange based on the Capital Market Law and the proof of the Pump & Dump crime in the capital market (Case Study of *TAXI* and *LUCK Issuers*). The research method is a normative legal research method with a law approach and a case approach. Based on the analysis and provisions of the Capital Market Law, the author concludes that the Pump and Dump crime in capital market transactions on the Indonesia Stock Exchange, can be seen in its form based on certain patterns and methods. The form of the pump and dump pattern and method is in accordance with the elements of market manipulation as stipulated in the provisions of Articles 90 to 93 of the Capital Market Law. To prove that a pump and dump crime has occurred, evidence can be used as regulated in the Criminal Procedure Code.

**Keywords:** Juridical Review, Pump and Dumb Crime, Market Crime Capital, Capital Market Manipulation

## INTRODUCTION

The capital market has an important role in the macroeconomic development of a country. Some of the functions of the capital market that are known apart from being a way to add capital to a business, it can also function in increasing state income obtained from transaction taxes on buying and selling shares and company dividends distributed to owners or shareholders. The state is very interested in the development of the Capital Market which is a vehicle for investment and a vehicle for financing at the same time.<sup>1</sup>

By definition, the capital market or *capital market* according to Law No. 8 of 1995 concerning the Capital Market (UUPM) is an activity related to public offerings and securities trading, public companies related to the securities they issue, as well as institutions and professions related to securities.<sup>2</sup>

## RESEARCH METHODS

To analyze the questions posed, this study uses normative legal research, namely the method of writing based on an analysis of several legal principles and legal theories as well as laws and regulations that are appropriate and related to problems in writing legal research. This normative legal research is a procedure to find the truth based on the logic of legal science from a normative perspective.

The approach taken is a statutory *approach* and a *case approach*. Research using the *statute approach* is a research that prioritizes legal materials in the form of legislation as a basic reference material in conducting research.

The statutory *approach* is usually used to examine statutory regulations where there are still shortcomings or even fertilizing practices of irregularities at the technical level or in their implementation in the field<sup>3</sup>.

The data used in this study is secondary data consisting of:

1. Primary Legal Material  
Is a legal material that has binding legal force, consisting of the Criminal Code, Law Number 8 of 1995 concerning the Capital Market.
2. Secondary Legal Material  
Legal materials in the form of scientific writings in the field of law can provide an explanation of primary legal materials, consisting of scientific books on criminal law, seminars and works, as well as journals.
3. Tertiary Law Material  
Are materials or writings that can add explanations to primary and secondary legal materials, consisting of a Legal Dictionary, an Indonesian Dictionary and an English Dictionary. The specifications carried out are descriptive analytical, namely examining and reviewing legal certainty against criminal sanctions in the *Pump and Dump crime*.

## REVIEW OF CAPITAL MARKET ACCORDING TO LAW NO. 8 OF 2008 CONCERNING CAPITAL MARKET

### Understanding Capital Market

Based on the Capital Market Law No. 8 of 1995, the definition of the capital market is activities related to public offerings and securities trading, public companies related to the securities they issue, as well as institutions and professions related to securities.<sup>4</sup>

### 1. Regulations Related to Capital Market Crime Prevention

Several steps have been taken based on IDX regulations, including:

#### a. Single Investor Identification (SID)

In accordance with the Decree of the Board of Directors of KSEI No. KEP-0029/DIR/KSEI/0616 dated June 21, 2016, is Single Investor Identification Number, hereinafter referred to as "SID" is a single and special code issued by KSEI used by Customers, Investors, and/or other Parties based on applicable regulations to carry out activities related to Securities Transactions and/or use other services either provided by KSEI or by other parties based on KSEI's approval or

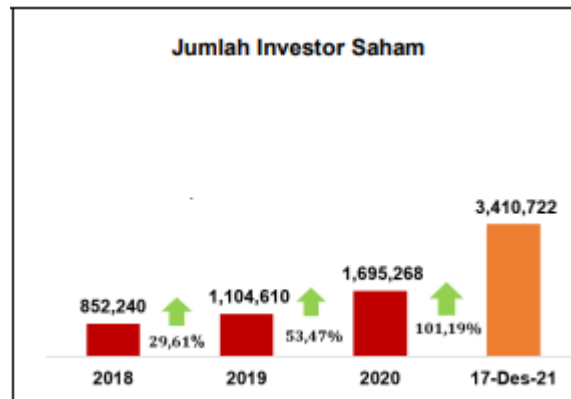
<sup>1</sup>Arman Nefi, *Trading Insider Indications, Evidence, and Law Enforcement*, Sinar Graphic, East Jakarta 2020, p. 1

<sup>3</sup>Soerjono Soekamto, *Introduction to Legal Research*, University of Indonesia, Jakarta, 2006, p. 42

<sup>4</sup>Law No. 8 of 1995, Article 1 Number 13

applicable regulations. <sup>5</sup>Based on this definition, SID is required to carry out activities related to securities transactions. The IDX applies the obligation to include a *trading ID* for Securities Company customers when making transactions on the IDX <sup>6</sup>. With this obligation, information on trading data on the exchange becomes clearer. After the application of the SID, it is possible to identify the party conducting the transaction to the customer level. This facility is very supportive of the supervisory function of the capital market authorities on transactions on the Exchange so that they can run fairly. Based on the latest data for November 2021 (Figure 2.4), SID growth has increased by 84.28% or as many as 7,151,318 investors, which is KSEI's highest achievement considering the very high number of investors.

Graph 2.3 Growth in the Number of Stock Investors  
(Source: <https://www.ksei.co.id/publication/press-releases> )



b. *Unusual Market Activity (UMA)*

UMA is trading activity and/or unusual price movement of a Securities at a certain period of time on the Exchange which, according to the Exchange's assessment, could potentially interfere with the implementation of orderly, fair and efficient securities trading.<sup>7</sup>

c. Suspension

Based on Kep-00086/BEI/10-2011 concerning Rule Number III-G concerning Suspension and Revocation of Exchange Membership Approval, suspension is a temporary ban on trading activities at the Exchange for Securities Exchange Members and or personnel authorized or responsible for trading Securities. *Auto Rejection Up* or *Auto Rejection Down (ARA/ARB)*

Table 1. The current limit for auto rejection is in accordance with the Decision of the Board of Directors No Kep-00023/BEI/03-2020

No.	Reference Price	Upper Auto Rejection	Lower Auto Rejection	Volume limit per order
1	IDR 50, - up to IDR 200, -	>35%	<Rp50, - or <7%	> 50,000 lots or 5% of the registered securities amount (whichever is less)
2	>Rp200, - up to Rp5,000,-	>25%	<7%	
3	> IDR 5,000, -	>20%	<7%	

**OVERVIEW OF THE CRIME OF MARKET MANIPULATION *PUMP AND DUMP* IN CAPITAL MARKET**

**Capital Market Crimes based on UUPM**

The Capital Market Law explains the types of capital market crimes such as fraud, market manipulation, and *insider trading*.

<sup>5</sup>Ksei Regulation No. IE – Single Investor Identification (Sid)

<sup>6</sup>Legal Protection Against Investors Related to the Use of Single Investor Identity (Sid), Nadiah Khairunnisa Akbar, Heru Prijanto, SH, MH, M. Zairul Alam, SH, MH

<sup>7</sup><https://www.idx.co.id/berita/unusual-market-activity-uma/>, 10 January 2022, 16:29 WIB

### Proof of Crime in the Capital Market

Proof of a capital market crime is quite difficult, considering that besides the transaction contains transaction techniques that are not simple, and requires comprehensive knowledge of the transaction mechanism itself, also because capital market crimes are carried out not using evidence that is physically visible, but contains a lot of verbal evidence. just.<sup>8</sup>

#### 1. Theory and System of Evidence

In the theory of evidence, there are four main elements that must be known so that what you want to prove in a trial can meet the criteria of a proof, namely <sup>9</sup>:

a. There is an expert opinion.

( *expert opinion* ), is the thoughts or conclusions of people who have knowledge or expertise in a particular field about a matter related to evidence.

b. There are ways.

It is an effort on the part of the plaintiff or the defendant or the public prosecutor or the defendant so that the judge can believe or believe in the evidence presented to the judge before the trial.

c. There is a subject

The subjects analyzed were the plaintiff, the defendant, the defendant and the judge.

d. There is a purpose

Plaintiff is a person who sues a case in court because of something that is detrimental to the plaintiff. The defendant is the person being sued by the plaintiff, where the definition of being sued means that there is a defendant who is demanded to do something by the plaintiff, such as compensation, returning rights or fulfilling certain achievements. The defendant is a non-criminal who has been brought before the trial process. Judges are state judicial officials who are authorized by law to adjudicate.

### Pump and Dump Crime

*pump and dump* manipulation technique is a fairly complex technique because it utilizes and disseminates misleading information on an issuer that falls into the *microcaps category* (micro capitalization) with a capital of USD \$50 million to USD\$300 million. Market manipulations that have occurred so far can be categorized as follows <sup>10</sup>:

1. *Action-based manipulation*

Manipulation of company data such as asset values, even in a commodity company that is sensitive to the amount of production can be manipulated, resulting in changes in commodity prices in the trading market.

2. *Information-based manipulation*

Manipulation by spreading misinformation such as rumors or untrue news. Usually this activity uses print media and *boiler rooms* which are usually used to offer various securities to prospective investors.

3. *Trade-based manipulation*

This manipulation is carried out by a group of large traders or a group of traders who have sufficient capital capacity by making transactions to buy shares and then sell them without paying attention to information circulating that affects changes in stock prices that are currently happening.

4. *Order-based manipulation*

Manipulation is carried out by ordering shares which aims to show the number of stock orders that are waiting to be executed, but are ultimately canceled or not executed with the aim of giving a false picture with the aim of only showing high activity in these shares.

Manipulation can also be seen based on the time when the price is maintained at an abnormal level, several types of manipulation consist of *Long-run manipulation*, *Medium-run manipulation*, *Short-run Manipulation*, and *Daily Manipulation*

### Pump & Dump. Crime Model

One type of stock manipulation that often occurs is 'pump and dump'. The phenomenon of frying stocks that is often discussed in our stock exchange is the pump and dump type. To determine whether market manipulation has occurred using the *pump and dump technique*, the authors use several research journals to provide a scientific description that can be used as a basis for proving the

<sup>8</sup> Sjawie , Hasbullah . *Some Notes Against Capital Market Crimes As Part of Economic Crimes* , LAW ERA NO.2/TH.16/OCTOBER 2016

<sup>9</sup>Army, Eddy. *Electronic Evidence and Judicial Practice*, Sinar Graphic, Jakarta 2020

<sup>10</sup>May, Jiangping. *Behavior Based Manipulation: Theory and Prosecution Evidence* , 2004

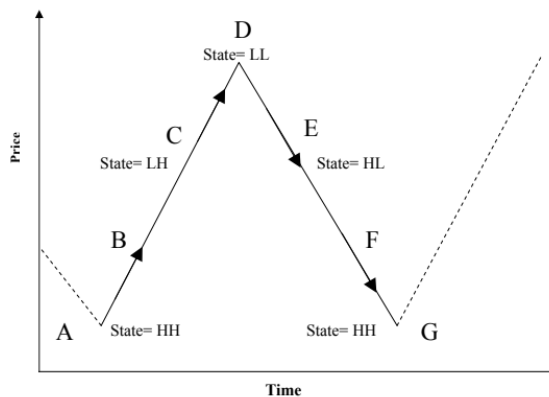
crime of market manipulation. Some of the research journals refer to one model, namely *Behavior Based Manipulation: Theory and Prosecution Evidence* by Jianping Mei (New York University), Guojun Wu (University of Michigan), Chunsheng Zhou (Peking University), 2004. This empirical research resulted in a model that consistent in proving *Pump and Dump market manipulation* at the *United States Securities and Exchange Commission (US SEC)*.

Meanwhile, to be able to understand the pattern of capital market manipulation with a *pump and dump scheme*, the author uses a model based on the journal that has been described by Asim Ijaz Khwaja, Atif Mian (2004) "*Unchecked Intermediaries: Price Manipulation in an Emerging Stock Market*" which finds that capital market manipulation using *pump and dump techniques* is indicated by many securities/brokers, as can be seen in Table 2.

Table 2. Example – Trading with Securities/Brokers with Behavior as *Principal* and Intermediary.

(1) Broker A ("Intermediary") <i>PRIN</i> = 0.05			(2) Broker B ("Principal") <i>PRIN</i> = 1			
Trading Day	Shares Sold	Shares Purchased	Trading Day	Shares Sold	Shares Purchased	
1	27000	35000	1	0	25000	} Period 1: "Principal Buys"
2	20000	27000	2	0	20000	
3	15000	15000	3	0	50000	
4	24000	29000	4	0	10000	
5	53000	32000	5	0	68000	
6	49000	133000	...	...	...	
7	86000	91000	1	50000	0	} Period 2: "Cycles"
8	71000	131000	2	0	50000	
9	163000	102000	3	50000	0	
10	117000	75000	4	0	50000	
11	228000	286500	5	50000	0	
12	102000	113000	6	0	50000	
13	185000	108000	7	50000	0	} Period 3: "Principal Sales"
14	25000	37000	8	5000	5000	
15	173000	153000	9	0	50000	
16	168000	311000	...	...	...	
17	62000	81500	1	100000	0	
18	70000	135000	2	10000	0	
19	271500	128500	3	25000	0	
20	240000	266500	4	625000	0	

Based on the explanation in Table 3.1, it can be explained that the securities/brokers who are supposed to be securities trading intermediaries between investors and the Company in conducting



trading activities in the capital market, actually trade on their own (without any instructions from the Investor) and act as *Principal*, even participating in the trading activities. influence news and information on price movements on issuers that aim for their own interests. To find out whether the securities/brokers have a pattern of transaction activities as intermediaries or as *principals*, the term PRIN (principle) can be used, which is a method of measuring the extent to which the broker tends to act as Principal or as an intermediary based on the PRIN value level. The broker will be considered acting as the principal if the PRIN value level is 1. This value is indicated by the tendency of the broker to only carry out one type of transaction pattern, either selling or buying only within 1 transaction day. While the Broker will be considered to act as an intermediary if the PRIN value level is 0.05. The broker's transaction pattern in 1 day indicates that there are buying and selling transactions according to the investor's request.

At the initial stage, the time of purchase ( $I_B$ ) and time of sale ( $I_S$ ) is determined, assuming that  $I$  can be at a high level of price value (High – “H”) and a low level of price value (Low – “L”). Point A, HH Phase (*High Buy* and *High Sell*). At this point, investors who follow stock price movements leave the market due to declining prices (naive investors). Manipulators trade among themselves to raise stock prices to attract the attention of naive investors. This price increase also provides special interest for naive investors who see this increase in value as providing a positive value for issuers, so that more and more investors buy the shares. (points B and C).

1. Point B. Artificial price increases attract naive investors to re-attract to buy stocks with positive price movements as “bait”.
2. Point C, LH Phase (*Low Buy* and *High Sell*). More investors are buying stocks, as manipulators sell their last remaining stock of stock. Some naive investors also start selling to other naive ones.
3. Point D, Phase LL (*Low Buy* and *Low Sell*). The price reached its peak. Manipulators have sold everything to naive investors. With the release of the manipulator, the price began to decline.
4. Point E, Phase HL (*High Buy* and *Low Sell*):. When the price drops enough, the manipulator starts buying again.
5. Point F: The price drops further. Manipulators start buying back the same shares.
6. Point G: The cycle is restarted (as in A).

## ANALYSIS OF CRIMES ON PUMP AND DUMP CRIME

### Types of Crime *Pump and Dump*

As the authors have stated in previous chapters, the authors are interested in analyzing crimes in the capital market (especially the crime of market manipulation in the form of Pump Dump transactions) because there are unique or special characteristics of capital market crimes that distinguish them from criminal acts in the capital market. generally. The uniqueness or special characteristics are related to what is the object of a capital market crime.

To understand more about the Pump and Dump crime, in this chapter the author will discuss the analysis of 2 (two) Issuers which, according to the author, indicate that there is an act of market manipulation in the Indonesian capital market in the form of *Pump and Dump*; as follows:

- a. PT. Express Transindo Utama Tbk (TAXI)

PT. Express Transindo Utama is a taxi operator that was established in 1989 with business activities providing three types of services, namely regular taxis, premium taxis, and car rentals. On November 2, 2012, with the issuer code TAXI, PT Express Transindo Utama Tbk conducted an Initial Public Offering- (*Initial Public Offering/IPO*) using PT Mandiri Sekuritas as the Managing Underwriter. In the IPO the number of shares offered was 1,051,280,000 shares with a nominal value per share of Rp100,- and an offering price of Rp560, - per share. Furthermore, in 2012 and 2013 TAXI distributed dividends with a value of IDR 25 billion (in 2012) and with a value of IDR 132 billion (in 2013). Since that year TAXI has suffered losses so that it is not possible to distribute dividends in the following years. After the IPO, the following are important matters related to the movement of TAXI's shares on the IDX:

Lowest Level (All Time Low) TAXI Issuer's Share Price.

During the time TAXI issuers are listed on the Exchange, TAXI's share price has undergone quite a number of changes. TAXI's share price experienced its lowest level (all time low) in the period from December 5, 2017 to January 29, 2018, at the price level of Rp 50 per share. SE-001/BEJ/06-2007 dated 18 June 2007, which stipulates that any Exchange Member (AB) whose shares have reached a price of Rp 50, is not allowed to submit a selling offer and/or purchase request below the price of Rp 50. Violation of This provision will cause the AB concerned to be subject to sanctions in accordance with the applicable laws and regulations. If the offer to sell

and/or request to buy the shares in question results in a transaction on the Exchange, then the transaction is invalid or null and void (automatically cancelled). Furthermore, in the period of January 30, 2018 and in February 2018, transactions began to occur which resulted in the price TAXI's shares began to move up to Rp 62 per share and reached its highest price level on March 22, 2018 at a price of Rp 264 per share.

**Decline in Financial Performance (Decrease in Profit) of TAXI Issuers.**

Analysis of the condition of Taxi's stock price levels from the IPO to 2018 as referred to above, can produce several predictions of TAXI's stock prices for the future.

For traders who use fundamental analysis, predicting that TAXI's stock price trend is not good for the future. So that traders on the basis of fundamental analysis will most likely not make transactions to buy TAXI shares. The comparison of stock prices with the comparison of company fundamentals can be seen in Graph 4.1. In this graph, it is clear that the decline in stock prices followed the decline in *Net Income* from TAXI.

Graph 2. Comparison of stock prices with company net income



However, for traders who use technical analysis with historical data, it makes predictions that there will be better price movements. These traders see the potential for an increase in TAXI's share price in the future and most likely will make a transaction to buy TAXI's shares.

Apart from the things mentioned above, in fact since conducting the IPO, the financial condition of TAXI issuers has suffered losses and recorded a decline in profit as shown in Table 3.

Table 3. TAXI Financial Ratios

Deskripsi / Description	2018	2017	2016
<b>Rasio Keuangan / Financial Ratio</b>			
Rasio Laba Bersih terhadap Aset / Return on Assets (ROA)	(66%)	(24%)	(7%)
Rasio Laba Bersih terhadap Ekuitas / Return on Equity (ROE)	143%	(200%)	(25%)
Rasio Marjin Laba Usaha terhadap Pendapatan / Operating Profit Margin	(125%)	(126%)	(4%)
Rasio Penghasilan Komprehensif terhadap Aset / Return on Assets (Comprehensive)	0,45%	0,09%	0,02%
Rasio Penghasilan Komprehensif terhadap Ekuitas / Return on Equity (Comprehensive)	(1,0%)	0,8%	0,1%
Rasio Lancar / Current Ratio	0,31%	0,85 %	4,08%
Rasio Liabilitas terhadap Aset / Liabilities to Assets Ratio	1,46%	0,88 %	0,71%
Rasio Liabilitas terhadap Ekuitas / Liabilities to Equity Ratio	(3,17%)	7,15%	2,47%

- a. Increase in Share Price, Transaction Volume and News. Before TAXI reached its highest share price level on March 22, 2018 which was Rp264 which was then closed at the end of trading with a value of Rp. 186 per share with transaction volume of up to 671 million shares and on March 23, 2018 trading volume reached up to 795 million shares, this is a high volume as long as TAXI shares are in the capital market. There are reports in several media, both print and electronic, which contain positive information about TAXI issuers including:
- 1) TAXI issuers' corporate action plans, such as the acquisition by Go-Jek, increasing the number and value of investments made by foreign investors;
  - 2) There is a regulation that will soon be issued to provide protection for conventional taxi companies (including TAXI issuers) from online taxis.
- This positive news also experienced an increase in stock prices up to 295%, this price increase can be seen in Graph 3.

Chart 3. Increase in TAXI share price



TAXI's transaction volume on March 16, 2018 also reached transactions of up to 599.65 million shares worth Rp 66.98 billion. A registered Exchange Member, Mirae Asset Sekuritas, purchased 160.27 million shares with an average share price of Rp. 112 / share to reach Rp. 17.9 billion and sales of 178.94 million shares with an average price of Rp. 111 per share with a total value of Rp. 19.9. Billion. This increase is in line with rumors circulating in the market regarding the plans of an online transportation service provider company, PT. The Karya Anak Bangsa (Go-jek) application acquires TAXI <sup>11</sup>. This price movement can be seen in Graph 3.



<sup>11</sup><https://businessinsight.kontan.co.id/news/rumor-gojek-harga-saham-express-transindo-bergejolak>, 10 January 2022, 15:55 WIB



In Graph 4.2 points, it can be seen that there was a significant increase in transaction volume and also the price which had increased for 1 month. In this segment, it is estimated that pump and dump market manipulation has occurred based on transaction volume and price increases followed by price declines for several months, until finally TAXI shares reached the lowest price limit (Rp 50/share) to date. This fairly high price movement can be assumed by investors to suffer losses of up to IDR 17.8 billion based on the calculation of the total volume and average price on March 20, 2018.

#### *Unusual Market Activity (UMA)*

UMA is IDX's policy in dealing with allegations of quasi-transactions which are the main activity in market manipulation crimes. During the time TAXI issuers are listed on the stock exchange, IDX has implemented 2 (two) UMA policies on TAXI issuers, as follows:

- a. On Wednesday, March 14, 2016 where IDX finally stopped trading activities; and
- b. Wednesday, March 21, 2018 Peng-UMA-0006/BEI.WAS/03-2018 and re-opened trading on Thursday, March 22 2018, after previously experiencing an Auto Reject of 34.5% to a price of Rp. 74 per share.
- c. PT Sentral Mitra Informatika Tbk (LUCK)  
PT Sentral Mitra Informatika, is a company engaged in the business of printing and document solutions as well as the sale and rental of information technology products, which started its commercial operations. on November 14, 2008. On November 21, 2018 PT Sentral Mitra Informatika Tbk. obtain an effective statement to conduct an IPO with the code: LUCK. This initial offering was carried out as many as 154,601,900 new shares with a nominal value of Rp100,- per share and an offering price of Rp285,- per share. LUCK's shares have been listed on the IDX since November 28, 2018. Furthermore, in 2019 LUCK has distributed dividends. with a value of Rp 3,578,748,200.

#### **Pump and Dump Crime Proof Method**

To be able to prove that a Pump and Dump crime has occurred, it is necessary to understand the types of capital market manipulation patterns and a certain method of proof.

Articles 91 to 93 of the Capital Market Law specifically regulate market manipulation. Based on the provisions of the articles mentioned above and the description of market manipulation in the previous chapters, the author understands the elements of capital market manipulation as follows:

1. actions/actions, either directly or indirectly, which aim to create a false picture, especially of market conditions, the price of a share;
2. independently/individually or collectively/together with other parties perform (either directly or indirectly) 2 or more securities transactions, which causes the price of a security to continue to rise or fall so that other parties will be affected to carry out securities trading activities such as selling or buying;
3. intentionally or unintentionally provide information that is materially incorrect so that it affects the price of securities on the market. Or in other words, a simple pattern of market manipulation is in the form of spreading false/false/incomplete/unreal information (using any type of media such as the internet or in any way including through influencers) on an issuer, with the aim of influencing the price. securities on the issuer concerned so that securities transactions occur at the price desired by market manipulation actors.
4. The pattern of capital market manipulation is basically carried out on:
  - d. Securities transactions, namely manipulation of securities trading activities that can be seen from the total volume of trading transactions (as if many investors bought a stock, but in fact it was carried out by 1 or a group of people through several securities); and
  - e. Securities prices, namely manipulation of the price of an issuer's securities (as if the price of a security has risen high due to a lot of demand, resulting in many potential investors being interested and participating in buying the shares).

The pattern of market manipulation transactions mentioned above is also in accordance with the analysis of the market manipulation model that the author discussed earlier in this chapter, namely the one used by Asim Ijaz Khawja and Atif Mian. The method of proving that a *pump and dump* has occurred can be done in several ways:

#### **Elements of Proof of Expert Opinion**

One of the elements of evidence is the existence of an *Expert Opinion*, which is the thought or conclusion of a person who has knowledge or expertise in their field about a matter related to evidence so that what is to be proven in a trial can meet the criteria of a proof.

Which according to the analysis of the two experts, the mechanism of the *pump and dump* pattern can be seen based on the pattern of transactions in which securities act as *principals* (acting on their own decisions without any request from investors) and not acting as intermediaries. The application of this opinion in the case of the LUCK Issuer is as follows:

PT Jouska Finansial Indonesia (Jouska) as a financial planning company allegedly mobilized its client to sign a contract for managing Investor Fund Accounts (RDI) with PT Mahesa Strategis Indonesia (MSI) related to investment management funds which in the agreement stated that it authorized MSI to place funds in a number of portfolios through 2 (two) securities. In the end, the investment funds were used to buy shares of PT. Sentral Mitra Informatika Tbk (LUCK) which later became a problem because the company's stock price was decreasing.

In this case, it appears that the securities that have collaborated with MSI are securities that act not as intermediaries but act as *principals*, so that in purchasing MSI shares, they can do it themselves without having to be together with the owners of investment funds who are clients of Jouska and this step makes it easier in managing the transaction strategy of the shares to be invested. Meanwhile, in securities as an intermediary, purchasing decisions will be more difficult to control because individual investors are given the freedom to make transactions based on the decisions and risk considerations of each investor.

### Types of Electronic Evidence

Evidence has a very important position in evidence at trial, related to electronic evidence, in general there are 2 (two) general rules governing electronic evidence, namely:

- 1) Definition of Electronic Evidence, is stored data that is transmitted through an electronic device, network or communication system. These stored data are used to prove the occurrence of a crime, as well as to test the veracity of the evidence before the trial.
- 2) Acceptance ( *Admissibility* ) electronic evidence in court. Because the characteristics of electronic evidence have a distinctive characteristic that is invisible ( *intangible* ), very fragile because it is easy to change and easy to modify, in acceptance in court sometimes it is difficult for judges (judges' beliefs) to accept electronic evidence that is different from physical evidence such as witness statements, letters. , instructions and statements of the defendant.

In accordance with the provisions of Article 183 of the Criminal Procedure Code which stipulates that:

"A judge may not pass a criminal verdict on a person unless, with at least two valid pieces of evidence, he obtains the conviction that one crime has actually occurred and that the defendant is guilty of committing it."

It is clear from the examples of the cases of TAXI and LUCK issuers that the presence of Exchange Members has a very important role in preventing criminal acts of market manipulation with the *pump and dump system*. This can be seen from transactions that can be carried out unilaterally by Exchange Members / Brokers without any orders from investors. *The broker summary* is one way to detect whether market manipulation has occurred with a *pump and dump system* that is recorded electronically and presented to the public on securities trading days. This *broker summary* is a summary of stock trading activities carried out by brokers or securities during exchange trading hours. This transaction can be clearly seen in the *Broker Summary* which can be seen in the period 11 April 2019 on the LUCK transaction. It can be seen that there are several Brokers (AZ, LS, XA, OD, EL, IF, and CD) who only carry out purchasing activities and do not make sales, this is difficult to do because to be able to control investors who are registered with the Exchange Member to only making purchases of LUCK shares requires coordination between investors in sending orders to purchase shares on a regular basis.

**Table 4.1:** Broker Summary LUCK - April 11, 2019

Source: Aplikasi si Hots (Mirae Asset Sekuritas)

**Table 4.1:** Broker Summary LUCK - April 11, 2019

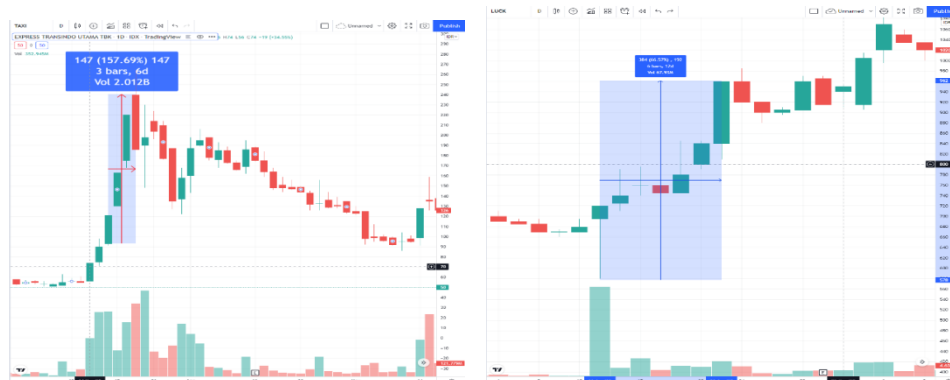
Source: Aplikasi si Hots (Mirae Asset Sekuritas)

Broker Summary TAXI - 14 Maret 2018							
Seller	Volume	Freq	Avg	Buyer	Volume	Freq	Avg
YP	1145940	1547	71.05	YP	1196665	2440	71.43
KK	492597	2256	68.84	KK	806097	1319	67.02
PD	218743	504	68.34	CP	288696	398	67.73
CC	178824	376	69.08	NI	165920	229	71.28
CP	157404	209	71.27	PD	141933	418	70.53
NI	148408	327	70.12	CC	136776	328	67.78
YJ	101547	104	70.03	YJ	112031	210	71.31
HP	97815	187	71.67	YB	107281	101	72.86
GR	86293	111	69.23	HP	94446	203	70.93
DH	77350	56	61.65	OD	46968	46	72.84
YU	76850	76	72.1	YU	45880	19	73.3
YB	74854	99	71.81	EP	42071	146	69.27
DR	64584	91	65.42	FZ	41000	51	66.61
AF	57000	14	74	LG	31429	55	63.64
EP	52281	107	66.69	AG	31155	21	66.88
AG	50634	54	67.8	IN	29000	31	70.62
LG	41251	44	67.33	GR	27909	45	66.16
OD	39139	80	67.77	DR	24570	43	70.82
RO	32675	27	62	FS	20699	27	68.04
XA	24974	5	67.56	DH	15566	50	69.05
FS	23982	10	71.22	PC	11002	16	67.26
RG	23810	37	70.85	SH	11000	10	71.55
BF	23000	17	61.83	IF	10748	29	65.56
CG	20501	17	59.89	AO	10600	4	64.34
KS	15623	32	71.72	HD	10200	4	73.98
CD	15563	31	67.04	CD	9358	23	69.92
IP	12830	16	70.49	AD	8225	23	64.79
DX	12644	18	62.99	MG	7000	318	74
AO	12304	19	69.49	AZ	5555	5	73.2
PC	11818	37	72.15	KS	5537	10	69.71
AD	11380	17	68.64	XA	4501	3	64
SH	11000	4	73.41	RF	4200	5	68.76
IH	10223	5	69.88	LS	4000	1	69
HD	10000	2	73	KI	3700	4	69.78
AI	9541	18	72.11	TP	3516	13	62.34
ZP	9080	30	69.02	AT	3214	41	69.87
IN	9000	4	64.44	ZP	2506	5	61.54
IF	8020	9	66.26	BQ	1850	3	71.49
KI	7200	6	73.21	AI	1680	4	70.73
AT	5579	37	68.17	DX	1225	6	63.41
MG	5065	8	67.57	RG	1020	3	70.45
AH	5000	1	74	ES	1000	1	66
MU	4419	4	74	RO	675	2	63.99
MI	4300	9	66.09	SQ	650	6	69.46
ES	4200	7	71.52	MI	300	1	69
TX	4000	3	65	PF	100	1	73

Broker Summary LUCK - 11 April 2019							
Seller	Volume	Freq	Avg	Buyer	Volume	Freq	Avg
KK	337762	1704	608.69	TF	216109	539	605.63
TF	16250	60	682.65	KK	38040	327	628.73
YJ	9165	81	633.62	AZ	28562	248	618.57
YB	6000	10	599.62	CP	19940	104	649.2
CP	5123	66	652.55	NI	10876	81	624.13
YP	4743	66	677.01	DX	10179	76	677.55
NI	2884	22	719.84	YJ	9165	70	599.74
SH	1875	19	685.79	GR	7992	65	664.09
PD	1453	23	684.3	CC	7758	52	605.96
KS	600	4	679.17	YP	6513	92	613.86
MG	425	6	600.16	YB	5750	21	596.96
CC	361	30	666.59	EP	5699	212	625.6
YU	353	1	705	PD	5587	95	651.25
DH	339	3	659.16	SH	3547	20	598.97
DR	289	4	634.81	YU	2144	24	594.92
DX	220	1	700	LS	1700	3	604.41
HP	200	1	720	XA	1390	1	615
GR	139	2	639.24	RO	1270	7	630.55
AD	105	3	666.67	HP	1200	12	608.23
ES	50	1	640	OD	1110	4	594.86
PP	50	1	645	DR	751	19	662.61
LG	45	2	672.78	DH	709	5	597.88
EP	33	2	670	KS	624	9	618.08
PC	25	1	695	EL	500	3	607
IP	25	1	690	LG	445	7	621.4
HD	25	1	645	MG	425	4	586.76
RO	20	1	590	IF	200	2	600
ID	20	1	645	AG	100	1	615
AO	3	1	640	AD	80	4	635.62
				PP	50	2	590
				ES	50	1	605
				HD	25	2	590
				IP	25	1	685
				PC	25	1	615
				CD	22	3	655
				ID	20	1	595

Transactions carried out by several Exchange Members show a very high volume even compared to the transactions before and after it. The price increase also occurred a few days after the large volume increase, which is assumed by more and more other investors to see that this increase in volume gives a positive signal to make purchases, while at this stage the manipulators are "luring" other investors into the transaction. as seen in Figure 4.

Figure 4. Price movement and volume of LUCK & TAXI



### IMPLEMENTATION OF the Provisions of Capital Market Law by Capital Market Regulators Against Market Manipulation Crimes (Especially Pump and Dump)

As the author has discussed previously, the crime of market manipulation is regulated in Articles 90 to 93 of the Capital Market Law. Violation of the provisions of the Capital Market Law, namely in the form of criminal acts such as market manipulation (including pump and dump), may be

subject to criminal sanctions in the form of imprisonment and/or fines. The provisions regarding the criminal sanctions referred to are as regulated in the articles of the Capital Market Law below:

**Article 104** “Any Party violating the provisions as referred to in **Article 90**, **Article 91**, **Article 92**, **Article 93**, Article 95, Article 96, Article 97 paragraph (1), and Article 98 are punishable by a maximum imprisonment of 10 (ten) years and a maximum fine of Rp. 15,000,000,000.00 (fifteen billion rupiah)”.

**Article 107** “Any Party that deliberately aims to deceive or harm another Party or to mislead Bapepam, removes, destroys, deletes, alters, obscures, hides, or falsifies records from Parties that obtain permits, approvals, or registrations, including Issuers and Public Companies, are threatened with imprisonment for a maximum of 3 (three) years and a maximum fine of Rp. 5,000,000,000.00 (five billion rupiahs).”

However, even though the Capital Market Law has included provisions for sanctions that are quite severe for the manipulators as mentioned above, in fact, criminal acts of market manipulation still often occur in the Indonesian Capital Market. The phenomenon of market manipulation transactions does not only involve issuers of private companies but also issuers of State-Owned Enterprises (BUMN).

According to the author, the prevalence of market manipulation by manipulators, one of which is caused by the existence of capital market provisions that provide gaps and opportunities for manipulators to carry out market manipulation, for example:

1. The provisions of the Capital Market Law prohibit the provision of incorrect and incomplete information (among them Article 80 of the Capital Market Law), but it does not regulate the prohibition of inaccurate information. The high degree of accuracy of information and the degree of completeness of information are very important for investors to obtain when making decisions in stock trading (including accuracy regarding stock prices).
2. The provisions of the Capital Market Law regarding information disclosure have not been regulated in substantial detail (for example Article 86 of the Capital Market Law). So that investors have not been able to obtain clear, correct, honest information regarding the condition of the issuer, and there is no provision for procedures/methods for implementing supervision over issuer information.
3. The provisions of the Capital Market Law have not regulated the standard system for monitoring and handling capital market crimes in the form of market manipulation (including pump and dump). So that the examination and investigation of a capital market crime is a protracted process and in the end does not provide legal certainty for investors.
4. The provisions of the Capital Market Law do not specifically regulate electronic evidence as evidence that can be used in the investigation, investigation or trial stage. Meanwhile, electronic evidence plays an important role in proving that a capital market crime has occurred (including pump and dump), considering that transaction and operational activities in the capital market currently utilize digital electronic technology as the main support in carrying out capital market activities.
5. Apply the *know your customer* (KYC) principle. This principle recognizes investors not only literally but also more comprehensive information, not limited to the identity of investors but also other matters relating to the profile and character of investor transactions in conducting transactions in the capital market, hereby identifying whether the transactions carried out are indeed based on the investor's own decision or because there is an "order" that asks the investor to make a transaction, in most cases the "pump and dump" market manipulation where this transaction activity is carried out by a group of people or several people whose identity is actually obtained by how to "borrow" and carry out a transaction with a value whose financial profile makes it impossible to carry out investment activities with the value of the transaction.
6. In addition, because there are still loopholes in the provisions of the Capital Market Law related to the criminal act of capital market manipulation and its sanctions that provide opportunities for manipulators to exploit, the supervisory and *law enforcement functions* by the Indonesian capital market regulatory agency are: The Financial Services Authority (OJK) and all Self-Regulatory Organizations (SROs) in the Indonesian capital market, namely the Indonesia Stock Exchange (IDX), the Indonesian Clearing and Guarantee Corporation (KPEI) and the Indonesian Central Securities Depository (KSEI), which are authorized to make regulations that binding all its members in relation to their respective business activities, becomes very important in anticipating, overcoming and taking firm action against the perpetrators of market manipulation in the Indonesian capital market.

## CONCLUSION

There is a significant increase in stock trading volume at certain periods of time, both daily, weekly and monthly. This can be proven by electronic data in the form of volume charts, *broker summary data* or the number of transactions that occur in a particular issuer's stock, the source of which is the IDX. There was a sudden increase in stock trading volume but not in accordance with the positive financial performance of the issuer concerned. This can be proven by related financial documents.

There are news/rumors that have a positive impact and significantly increase the price of a share on the stock exchange, but are not reflected in the financial performance of the issuer concerned. There are brokers who act as *principals* who carry out transaction activities of their own free will and without orders from investors. This can be proven by the existence of patterned transactions (only making 1 transaction at a certain time such as buying only or selling only).

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