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PRINCIPLES OF DISCLOSURE AND DIRECTORS' LIABILITY FOR CAPITAL MARKET OFFENCES

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ABSTRACT

This study aims to analyse the liability of directors for violations of the principle of information disclosure in the Indonesian capital market, with a focus on the implementation of information transparency obligations and the legal impact arising from such violations. This research also examines the application of the principles of Good Corporate Governance (GCG) in information management and the role of organ theory in regulating the responsibility of directors. The results show that violations of the principle of information disclosure can lead to administrative, criminal, and civil sanctions that harm the company's reputation and the integrity of the capital market. In addition, weak GCG implementation in information management increases the risk of violations. This study suggests strengthening regulations and law enforcement related to information disclosure as well as strengthening supervision of the implementation of GCG principles.
Keywords: Directors' responsibility, information disclosure, capital market.

I. INTRODUCTION

The capital market has a very important role in a country's economy. As an investment instrument, the capital market not only serves as a barometer for economic growth, but also reflects the level of confidence of investors, both domestic and foreign. The success of the capital market in supporting economic development is highly dependent on the existence of a strong and reliable legal system. In this case, capital market law acts as the basis that regulates all market mechanisms and provides legal certainty for stakeholders, including investors and issuers.

Capital market law has distinctive characteristics because it regulates securities transactions conducted in the open market (Rahmah, 2019; Serfiyani, et al., 2021). On the one hand, capital market law is dynamic, following market developments that are constantly changing. However, on the other hand, capital market law is also universal, as capital market mechanisms are similar across the world. Therefore, clear and transparent regulation is very important to create an efficient and fair market.

One of the basic principles in the capital market is the principle of disclosure (Suardana, et al., 2020; Radinda, et al., 2020; Widyastuti, et al., 2020; Billah, 2024; Nianzah, et al., 2024; Sinaga, et al., 2023). This principle requires issuers to disclose all relevant material information to the public, especially those that may affect investment decisions. In this context, information

disclosure serves to protect investor rights, increase public confidence, and create an efficient market. This openness is the basis for the creation of a fair capital market, where security prices reflect the information available, without any manipulation or concealment of information that could harm certain parties.

However, although the principle of information disclosure has been strictly regulated by laws and regulations, violations of this principle still often occur. One party that plays an important role in the implementation of this principle is the board of directors of companies listed on the capital market. The board of directors has the obligation to manage the company with full responsibility, as stipulated in Article 92 paragraph (1) and Article 97 paragraph (2) of Law Number 40 Year 2007 on Limited Liability Companies. In this case, the board of directors is responsible for disclosing material information that may affect investors' investment decisions. If this obligation is not properly implemented, either due to negligence or intentionality, the board of directors may be subject to sanctions in accordance with applicable regulations.

In Law No. 8 of 1995 on the Capital Market as amended by Law No. 4 of 2023 on the Development and Strengthening of the Financial Sector (hereinafter referred to as the Capital Market Law), the principle of information disclosure is regulated in detail, including in Article 2 of the Capital Market Law which emphasises the importance of transparency and accountability in capital market activities, as well as Article 6 of the Capital Market Law which requires issuers to disclose material information that may affect investment decisions. This disclosure includes various types of information, such as annual financial statements, material events that affect the share price, and changes in the company's management structure. Delays or inaccuracies in information disclosure can harm investors and undermine the integrity of capital markets.

Violations of the principle of information disclosure committed by directors can create significant losses for shareholders and the integrity of the capital market as a whole. One common form of offence is financial statement manipulation, where directors manipulate figures in financial statements to create a positive impression of the company's performance. In addition, *insider trading*- where directors use internal information for personal gain - is a serious offence that can be subject to criminal and administrative sanctions. Delay in reporting material events that may affect the price of securities is also an offence that may harm investors and the company itself.

The capital market law, in particular Article 86 paragraph (1) and Article 86 paragraph (2), regulates the obligation of issuers to submit regular reports to the Financial Services Authority

(OJK) and to the public. This obligation aims to maintain transparency and avoid misuse of information. In addition, Financial Services Authority Regulation No. 75/POJK.04/2017 of 2017 on Directors' Responsibilities for Financial Statements emphasises more detailed information disclosure obligations, including the disclosure of material information that may affect investment decisions.

In this context, the responsibilities of directors are enormous. Not only are they responsible for running the company in good faith and responsibly, but they are also obliged to disclose all relevant information in a timely and accurate manner. Violations of this principle of information disclosure not only create distrust among investors, but also undermine the integrity of the capital market as a whole. Therefore, it is important to enforce strict laws against these offences in order to protect the interests of investors and ensure the sustainability of a healthy and efficient capital market.

Thus, it is important to further examine the responsibility of directors for violations of the principle of information disclosure in the capital market, both in terms of legal application and legal implications that can be caused. This study aims to explore more deeply the responsibilities of directors in maintaining the principle of information disclosure and law enforcement against violations that occur.

II. RESEARCH OBJECTIVES

This study aims to analyse the responsibility of directors for violations of the principle of information disclosure in the capital market, with a focus on the implementation of information transparency obligations by directors and the legal impact arising from such violations. This research also aims to explore the extent of the application of the principles of *Good Corporate Governance* (GCG) in the management of information in the capital market and the role of organ theory in regulating the responsibilities of directors as organs that lead the company.

III. RESEARCH HYPOTHESIS

The hypothesis of this study is that violations of the principle of information disclosure by directors can lead to significant losses for companies and shareholders, and potentially damage the integrity of the capital market. In addition, weak implementation of Good Corporate Governance (GCG) principles in information management can increase the risk of violations of information disclosure. In this case, the board of directors as the main organ in the company must be responsible for any violations that occur, both legally and towards shareholders.

IV. CONTRIBUTION

This research is expected to make important contributions both theoretically and practically. Theoretically, this research will enrich the understanding of the responsibilities of directors in maintaining the principle of information disclosure in the capital market, by integrating the theory of *Good Corporate Governance (GCG)* and organ theory. Practically, the results of this study can be a reference for regulators, issuers, and companies in strengthening the implementation of the principle of information disclosure in the capital market and preventing violations. In addition, this study is expected to provide recommendations for strengthening regulations and law enforcement related to the principle of information disclosure in the capital market.

V. CONCEPTUAL FRAMEWORK

This study uses two main theories, namely Good Corporate Governance (GCG) Theory and Organ Theory to analyse the responsibility of directors for violations of the principle of information disclosure in the capital market. GCG theory emphasises the importance of transparency and accountability in corporate management, which forms the basis for the obligation of directors to disclose material information accurately and in a timely manner to the public and investors. This principle of disclosure is vital in creating an efficient capital market and protecting investors. Meanwhile, Organ Theory highlights the role of the board of directors as the main organ responsible for decision-making and disclosure of relevant information. The board of directors, as the manager of the company, has an obligation to ensure information is conveyed transparently, avoid misuse, and maintain the integrity of the capital market. This conceptual framework connects the two theories to analyse the relationship between directors' responsibilities, GCG implementation, and violations of information disclosure principles in the context of the Indonesian capital market.

VI. THEORIES AND LITERATURE REVIEWS

Good Corporate Governance **(GCG) Theory**

Good Corporate Governance (GCG) is a system that governs companies to create added value for all stakeholders, with a focus on transparency and accountability (Adina, et al., 2023; Tarigan, et al., 2024). GCG requires companies to provide accurate, timely and transparent information on performance and relationships with stakeholders, and ensure that shareholder rights are protected. In this context, the two main theories underlying the implementation of GCG

are stewardship theory and agency theory (Novianto & Firdaus, 2024; Sihaloho, et al., 2023). Stewardship theory assumes that management can be trusted to act in the best interest of shareholders, while agency theory states that management tends to act in their own self-interest, potentially creating a conflict of interest with shareholders.

Basic GCG principles, such as transparency and accountability, aim to reduce information manipulation and improve oversight of management (Suwandi, Arifianti, & Rizal, 2019). Transparency ensures clear and accurate financial reports, while accountability requires management to take responsibility for company decisions and activities. The implementation of these principles helps to maintain the integrity of the company and prevent violations of the principle of information disclosure, which is very important in the capital market. As such, GCG theory provides a foundation for analysing the responsibilities of directors in ensuring proper and accurate information disclosure.

Organ Theory

Organ theory proposed by Otto von Gierke (Oktavia & Svinarky, 2022; Prasetyo, 2021) states that legal entities have their own will which is manifested through their organs, such as administrators and members of legal entities. In the context of Good Corporate Governance (GCG), this theory emphasises the importance of the role of company organs to carry out their duties effectively in order to achieve company goals. Based on Law No. 40/2007 on Limited Liability Companies (UUPT), a company consists of three main organs: General Meeting of Shareholders (GMS), Board of Directors, and Board of Commissioners.

The GMS has the highest authority in making strategic decisions, such as amendments to the articles of association and ratification of important policies. The Board of Directors is responsible for the management of the company and has the authority to represent the company, although it remains limited by legal provisions and the articles of association. Meanwhile, the Board of Commissioners oversees the performance of the Board of Directors, provides advice, and ensures that decisions are made in accordance with the interests of the company. Thus, the success of Good Corporate Governance depends on the role of these organs in carrying out their respective functions with transparency and accountability, especially in maintaining the principle of information disclosure in the capital market.

VII. RESEARCH METHODOLOGY

This research uses a normative legal approach supported by empirical, statutory, conceptual and historical approaches. The normative approach analyses legal principles related to the problem, while the empirical approach relies on primary data. This research is descriptive to describe the object under study and analytical to draw conclusions from the data obtained. The data collection technique used is document study, namely the collection of archives and documents relevant to the research topic. The data analysis method refers to three types of legal materials. Primary legal materials consist of laws and regulations such as the Capital Market Law and Public Information Disclosure. Secondary legal materials include books, theses, journals, and related scientific papers. Tertiary legal materials include legal dictionaries and encyclopedias that provide additional explanations of primary and secondary materials.

VIII. RESULT

In Indonesia, the liability of directors for breaches of the principle of information disclosure in the capital market is not only a regulatory issue, but also closely related to good corporate governance, regulatory compliance, and investor protection. Directors are expected to ensure that their companies fulfil appropriate disclosure obligations, which is a fundamental aspect of transparency and reduces the information asymmetry that exists between companies and investors. Breaches of these obligations can result in various legal repercussions, whether in the form of administrative, criminal or civil sanctions, which can be detrimental to a company's reputation and financial condition.

Administrative Sanctions and Regulatory Enforcement by OJK

One of the most common legal repercussions for directors who fail to fulfil disclosure obligations is administrative sanctions that may be imposed by the Financial Services Authority (OJK). Based on regulations such as the Financial Services Authority Regulation Number 75/POJK.04/2017 of 2017 concerning the Responsibility of Directors for Financial Statements regarding information disclosure by issuers and public companies, directors have an obligation to disclose material information that is accurate and timely. If a company fails to disclose information in accordance with these provisions, OJK has the right to provide written warnings, fines, or even suspension of business activities in some cases. Inconsistent enforcement of regulations in certain sectors is also a challenge, as this can create inequities in compliance levels (Tulung et al., 2018).

Violations of these obligations can risk damaging a company's reputation and lowering investor confidence. In this case, better disclosure will reduce uncertainty in the market, reduce

the cost of capital, and increase the attractiveness of the market for investment (Tjahjadi et al., 2022). Therefore, directors should always ensure that they comply with the guidelines set by OJK to avoid administrative sanctions and maintain the sustainability of the company.

Criminal Liability: Severe Penalties for Information Manipulation

If information disclosure violations lead to criminal acts such as market manipulation or fraud, directors may be subject to criminal penalties. Under Law No. 8 of 1995 on Capital Markets, acts such as insider trading or deliberately disclosing false or misleading information can result in imprisonment of up to 10 years as well as huge fines. This applies if directors are found to be involved in market manipulation that could harm investors or unlawfully alter the price of securities (Ameraldo & Ghazali, 2021).

Strict enforcement of these criminal offences is an important step towards maintaining the integrity of Indonesia's capital markets and ensuring investor confidence. For example, if directors disclose false or delayed information in circumstances that affect investment decisions, this could result in substantial losses for investors and reduce the attractiveness of the Indonesian capital market as a whole. Therefore, directors must be committed to not only complying with information disclosure obligations, but also to ensuring that all information submitted is true and not misleading (Rahmawati et al., 2021).

Civil Liability: Claims for Damages by Investors

Violations of disclosure obligations that harm investors can also lead to civil liability for directors and companies. Under Article 111 of Law No. 8 of 1995, investors who feel aggrieved by the disclosure of incorrect or inadequate information have the right to file a lawsuit for damages against the company and its directors. If the information disclosed is incorrect or incomplete, leading to incorrect investment decisions and financial losses for investors, then they are entitled to claim compensation (Sun, 2023).

It is important for directors to understand that failure to disclose correct and timely information can cause significant losses to investors and deteriorate market integrity. In addition, civil lawsuits can also add to the company's financial burden and worsen the company's image in the eyes of the public and investors (Tjahjadi et al., 2022).

Damage to Company Reputation

In addition to the obvious legal sanctions, violations of the principle of information disclosure can damage the company's reputation in the long run. In a capital market world that increasingly emphasises transparency and accountability, the failure of directors to disclose information correctly and in a timely manner can lead to a loss of investor confidence. This, in

turn, can affect a company's share price and attractiveness in the market. Investors are more likely to avoid companies that have a bad reputation in terms of information disclosure, which can increase the cost of capital and reduce the company's ability to obtain funding through the capital market (Rahmawati et al., 2021).

The Role of Non-Financial Disclosure and CSR

Beyond the disclosure of financial information, directors' responsibilities also increasingly include the disclosure of non-financial aspects, such as intellectual capital and Corporate Social Responsibility (CSR). This change shows that investors are now increasingly paying attention to how companies manage non-financial aspects that can affect the sustainability and social impact of the company (Adhariani & Toit, 2020; Feliana & Novita, 2018). Boards of directors should be aware that failure to disclose information related to CSR or corporate social impact can potentially affect the company's reputation and attract lawsuits from investors who want companies to be socially and environmentally responsible (Zulkifli, 2024). Along with these developments, directors need to expand their understanding not only of financial disclosures but also more comprehensive disclosures covering social and environmental aspects. An emphasis on transparent and timely CSR disclosures will enhance corporate reputation and attract more investors who are concerned about sustainability and social responsibility.

IX. CONCLUSION

The responsibilities of directors in relation to breaches of the principles of information disclosure in the Indonesian capital market are complex. Directors must not only ensure compliance with applicable regulations, but also build a strong culture of transparency within the company. Violations of the principle of information disclosure can result in administrative sanctions, criminal penalties, compensation claims, and reputational damage that can potentially harm the company in the long run. Therefore, it is important for directors to not only comply with existing regulations, but also to actively disclose relevant, accurate, and timely information to enhance investor confidence and maintain the sustainability of the Indonesian capital market.With OJK regulations in mind and the growing importance of non-financial disclosures, directors must be prepared to meet the evolving expectations of investors and maintain the integrity of the Indonesian capital market in the future.

X. SUGGESTION AND RECOMMENDATION

To improve the implementation of information disclosure principles in the Indonesian capital market, company directors need to strengthen a culture of transparency that focuses not only on regulatory compliance, but also on ethical values and corporate social responsibility. The implementation of Good Corporate Governance (GCG) principles should be done more consistently, emphasising the importance of accurate, relevant and timely information management. The Board of Directors needs to ensure that any material information that may affect investment decisions is conveyed clearly and not misleadingly, in order to reduce uncertainty in the market and increase investor confidence. In addition, the Financial Services Authority (OJK) should tighten supervision and law enforcement related to information disclosure violations, by enforcing administrative, criminal and civil sanctions more strictly against violations that harm the capital market and investors. Consistent supervision will create a fairer and more transparent market climate, which in turn can reduce market manipulation practices. The implementation of stricter regulations on the disclosure of non-financial information, such as corporate social and environmental responsibility (CSR), also needs to be considered, given that more and more investors are paying attention to sustainability aspects in their valuations.

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