

Translation of

**A GOVERNMENT REGULATION OF
THE REPUBLIC OF INDONESIA
NUMBER 46 YEAR 1995**

CONCERNING

CAPITAL MARKET FORMAL INVESTIGATIVE PROCEDURES

THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

- Considering** : a. that in implementing its investigative functions based on Law No. 8 of 1995, Bapepam is authorized to investigate Persons suspected of having violated or being involved in a violation of Capital Market laws or regulations;
- b. that in relation on the above, it is necessary to stimulate formal Capital Market investigative procedures in a Government Regulation;
- In view of** : 1. Article 5 item (2) of the 1945 Constitution;
2. Law No. 8 of 1995 on The Capital Market (Statute Book No. 64, Supplement to Statute Book No. 3608);

HAS DECIDED :

To enact : **A GOVERNMENT REGULATION CONCERNING CAPITAL MARKET FORMAL INVESTIGATIVE PROCEDURES.**

CHAPTER I GENERAL PROVISIONS

Article 1

Definition of terms used in this Government Regulation:

1. An Investigator is a Civil Servant that is an Officer of Bapepam and appointed by the Chairman to conduct formal investigations as stipulated in Article 100 of Law No. 8 of 1995.
2. An investigation is a series of activities by an Investigator related to the collection, gathering, and processing of data and other information, in order to prove whether or not there has been a violation of Capital Market rules or regulations.

CHAPTER II PURPOSE OF A FORMAL INVESTIGATION

Article 2

- (1) The purpose of a formal investigation is to determine whether there has been a violation of a Capital Market rule or regulation.
- (2) The formal investigation referred to in item (1) may be conducted when:
 - a. there is a report, notice, or complaint concerning a violation of a Capital Market rule or regulation;
 - b. there are unfulfilled obligations by Persons who have a license, approval or registration from Bapepam or other Persons that are required to submit a report to Bapepam; or
 - c. there is an indication regarding a possible violation of a Capital Market rule or regulation.

CHAPTER III FORMAL INVESTIGATIVE STANDARDS

Article 3

A formal investigation must be conducted in compliance with standards with respect to Investigators, investigations, and Persons being investigated.

Article 4

Investigative standards relating to Investigators are as follows:

- a. When conducting an investigation, the Investigator must have an Investigator Identification Card and a Formal Investigation Order from the Chairman of Bapepam;
- b. The Investigator must inform Persons under investigation in writing concerning the investigation;
- c. The Investigator must show the Investigator's Identification Card and Formal Inspection Order to the Persons under investigation;
- d. The Investigator must explain the objectives and purposes of the investigation to Persons under investigation;
- e. The Investigator must prepare a report on the results of the investigation; and
- f. The Investigator may not disclose evidence received during the investigation from Persons under investigation to others that do not have the right to such information.

Article 5

Investigative standards for conducting an investigation are as follows:

- a. the investigation must be conducted by more than one investigator;
- b. an investigation may take place in the Investigator's office, or any office, factory, work place, residence and or other place that seems to be related to the violation;
- c. the investigation shall be conducted during working hours on working days, but may be continued after working hours and on non-work days, when necessary;
- d. the results of an investigation shall be set out in a report of the investigation; and
- e. the results of the investigation that are agreed by Persons under investigation shall be included in a statement signed by such Persons.

Article 6

Investigative standards for Persons under investigators are as follows:

- a. Persons under investigation have the right to ask the Investigator to present the Formal Investigation Order and the Investigator's Identification Card;
- b. Persons under investigation have the right to ask the Investigator to provide an explanation regarding the intent and purposes of the investigation; and
- c. Persons under investigation may sign a statement indicating agreement with the results of the investigation.

Article 7

An investigation shall follow investigative guidelines that consist of general guidelines, implementation guidelines, and reporting guidelines.

Article 8

General investigative guidelines are as follows:

- a. an investigation must be conducted by competent Investigators that have adequate technical training and that use their expertise with precision and care;
- b. investigators must work honestly, fairly, and with responsibility and dedication and must avoid any inappropriate actions; and
- c. investigators must prepare reports that accurately describe the facts.

Article 9

Investigative implementation guidelines are as follows:

- a. an investigator must carefully plan and supervise the investigation to ensure that it is conducted efficiently and fulfills its objectives;
- b. the scope of an investigation shall be determined by the strength of evidence obtained through verification, interviews, observation, and other means; and
- c. conclusions must be based on evidence that is within the scope of the investigation and grounded upon rules and regulations pertaining to the Capital Market.

Article 10

Investigation reporting guidelines are as follows:

- a. in compiling the investigative report, the Investigator must pay attention to:
 - 1) the nature of the infraction;
 - 2) evidence and clues that there has been a violation;
 - 3) effects or consequences of the violation;
 - 4) the Capital Market rules and regulations that may have been violated; and
 - 5) other matters that are necessary within scope of the investigation.
- b. the investigative report must be clear, detailed, and brief and must conform to the scope and objectives of the investigation.
- c. descriptions and summaries must be supported by evidence and reasoning regarding the occurrence or non-occurrence of a violation of Capital Market rules and regulations.

Article 11

Further provisions regarding investigative standards may be established by Bapepam.

CHAPTER IV
INVESTIGATIVE PROCEDURES

Article 12

- (1) Investigations must be authorized by the Chairman of Bapepam.
- (2) In order to obtain the authorization referred to in item (1), an investigation proposal must contain:
 - a. the purpose of the investigation;
 - b. the scope of the investigation; and
 - c. the starting time for the investigation.
- (3) During an investigation, an Investigator may:
 - a. request any information, confirmation or evidence from Persons under investigation and other Persons as deemed necessary;
 - b. order Persons under investigation to do or not to do certain activities;
 - c. review records, books, and other supporting documents;
 - d. borrow or copy records, books, and other documents when necessary;
 - e. enter a place or room that is used to keep records, books, and other documents; and
 - f. order Persons under investigation to safeguard records, books and or other documents for purposes of the investigation.
- (4) When borrowing records, books and other documents as stipulated in item (3) letter d, the Investigator must provide a receipt that describes clearly and in detail all the documents borrowed.

Article 13

- (1) When either the Person under investigation, his agent, or his power-of-attorney is not present during the investigation, the investigation may continue as long as there is someone who can and who is authorized to represent the Person under investigation, within limits as to matters that may be investigated. Eventually, the investigation may be postponed and continued at another time.
- (2) As a matter of security, before postponing an investigation, the Investigator may order the Person under investigation to safeguard records, books and other documents as stipulated in Article 12 item (3) letter f.
- (3) If, after postponing of an investigation, the Person under investigation, his agent, or his power-of-attorney is still not present at the location, the investigation may continue after requesting an employee of the Person under investigation to facilitate the investigation.

- (4) When a Person under investigation, his agent or his power-of-attorney is available, but refuses or obstructs the investigation, such Person must sign a Statement of Refusal or Obstruction of the Investigation.
- (5) When employees of the Person under investigation refuse to cooperate or obstruct the conduct of the investigation, such employees must sign a Statement of Non-Cooperation or Obstruction of the Investigation.
- (6) When there is a refusal to sign the Statement referred to in items (4) and (5), the Investigator shall prepare and sign a memorandum regarding such refusal.
- (7) The Statement of Refusal or Obstruction of the Investigation, the Statement of Non-Cooperation or Obstruction of the Investigation, or the memorandum, indicated in items (4), (5), and (6), may be grounds for a criminal investigation.

Article 14

- (1) An Investigator shall prepare an investigative report to prove whether or not there have been violations of Capital Market rules and regulations.
- (2) The Investigative report required in item (1) shall be submitted to the Chairman of Bapepam.

Article 15

- (1) When initial evidence of criminal activity in the Capital Market is found during a formal investigation, the investigation should continue and the Investigator should submit a report of such preliminary evidence of a criminal act to the Chairman of Bapepam.
- (2) The Chairman of Bapepam may authorize a criminal investigation based on the preliminary evidence referred to in item (1).

CHAPTER V CLOSING PROVISIONS

Article 16

Bapepam may establish other rules that are necessary to implement this Government Regulation.

Article 17

This Government Regulation shall be effective on January 1, 1996

In order that all may be informed, this Government Regulation shall be promulgated by publication in the State Gazette of the Republic of Indonesia.

**Authorized in Jakarta
on December 30, 1995**

THE PRESIDENT OF THE REPUBLIC OF INDONESIA

by

SOEHARTO

Promulgated in Jakarta

on December 30, 1995

THE MINISTER STATE SECRETARY

THE REPUBLIC OF INDONESIA,

by

MOERDIONO

STATE GAZETTE OF THE REPUBLIC OF INDONESIA YEAR 1995 NUMBER 87

Based on the Original Documents

CABINET SECRETARY OF THE REPUBLIC OF INDONESIA

Chairman of the Bureau of Law and Regulations

by

Lambock V. Nahattands, S.H.

**ELUCIDATION
OF
A GOVERNMENT REGULATION OF
THE REPUBLIC OF INDONESIA
NUMBER 46 YEAR 1995**

CONCERNING

CAPITAL MARKET FORMAL INVESTIGATIVE PROCEDURES

General

To assure that Capital Market operations are orderly, fair, and efficient, and that public investors are protected from harmful and illegal practices, Bapepam is authorized to investigate any Person suspected of having violated or being involved in a violation of Capital Market laws or regulations.

To assure that investigations are conducted properly, with due consideration of the rights and obligations of Persons under investigation, it is necessary to issue a Government Regulation to implement the provisions of in Article 100 item (3) of Law No. 8 of 1995 on the Capital Market.

Article 1

Number 1

Sufficiently clear

Number 2

Sufficiently clear

Article 2

Item (1)

Sufficiently clear

Item (2)

Letter a

Sufficiently clear

Letter b

Sufficiently clear

Letter c

Sufficiently clear

Article 3

Investigative Standards are rules that regulate all matters between the Investigator and the Persons under investigation during an investigation.

Investigation standards must be followed by Investigators and Persons under investigation, so that the investigation may be conducted in an expeditious and orderly manner.

Article 4

Letter a

The Investigator's Identification Card is needed to ensure that only authorized Investigators conduct investigations. The Investigation Order is needed to ensure that only Persons whose names are included in the Investigation Order are subjects of the investigation.

Investigators must show the Investigator's Identification Card and the Investigation Order to Persons under investigation.

When an Investigator does not present the Investigator's Identification Card and the Investigation Order, or when the Persons named on the Investigator's Identification Card is different from the Investigator names in the Investigation Order, Persons under investigation have the right to refuse to cooperate in the investigation.

Letter b

Sufficiently clear

Letter c

Sufficiently clear

Letter d

Sufficiently clear

Letter e

Sufficiently clear

Letter f

This provision does not limit Bapepam's authority to announce the results of an investigation.

Article 5

Letter a

Sufficiently clear

Letter b

Sufficiently clear

Letter c

Sufficiently clear

Letter d

Sufficiently clear

Letter e

Sufficiently clear

Article 6

Letter a

Sufficiently clear

Letter b

Sufficiently clear

Letter c

Sufficiently clear

Article 7

Investigative guidelines are principles that include the bounds imposed upon Investigators regarding the nature and scope of the investigation and the content of inspection reports.

Article 8

Letter a

Sufficiently clear

Letter b

Sufficiently clear

Letter c

Sufficiently clear

Article 9

Letter a

Sufficiently clear

Letter b

Sufficiently clear

Letter c

Sufficiently clear

Article 10

Letter a

Number 1)

Sufficiently clear

Number 2)

Sufficiently clear

Number 3)

Sufficiently clear

Number 4)

Sufficiently clear

Number 5)

Sufficiently clear

Letter b

Sufficiently clear

Letter c

Sufficiently clear

Article 11

Sufficiently clear

Article 12

Item (1)

Sufficiently clear

Item (2)

Sufficiently clear

Item (3)

Letter a

Sufficiently clear

Letter b

Sufficiently clear

Letter c

Sufficiently clear

Letter d

Copies include photocopies.

Letter e

Sufficiently clear

Letter f

Sufficiently clear

Item (4)

Sufficiently clear

Article 13

Item (1)

Sufficiently clear

Item (2)

Before the Investigator leaves the room or place of Persons under investigation, he may order that books, records and or other documents related to activities of Persons under investigation be safeguarded by such Persons, so as to avoid damage, destruction, modification, falsification, or removal of these documents.

This provision also applies to an agent or power-of-attorney, or Persons that is able and is authorized to act as a representative of a Person under investigation.

Item (3)

Sufficiently clear

Item (4)

Sufficiently clear

Item (5)

Sufficiently clear

Item (6)

Sufficiently clear

Item (7)

Sufficiently clear

Article 14

Item (1)

An investigative report shall include, among other things, the objectives, findings, and conclusions of the investigation.

Item (2)

Sufficiently clear

Article 15

Item (1)

Sufficiently clear

Item (2)

Sufficiently clear

Article 16

Sufficiently clear

Article 17

Sufficiently clear