

# PENEGAKAN HUKUM

## Enforcement

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Dalam rangka mewujudkan pasar modal yang wajar dan efisien salah satu aspek yang harus diperhatikan adalah penegakan hukum dibidang pasar modal. Menyadari pentingnya peranan penegakan hukum dalam membangun kepercayaan pemodal, maka Bapepam senantiasa terus meningkatkan kualitas penegakan hukum dengan lebih bertindak proaktif terhadap peristiwa yang mengarah terjadinya pelanggaran maupun tindak pidana pasar modal. Tindakan tersebut berupa serangkaian kegiatan baik pemeriksaan dan atau penyidikan berdasarkan hasil temuan fakta dan data, hasil analisa Bapepam, pemberitaan pada media massa, dan laporan maupun pengaduan yang disampaikan para Pihak pelaku pasar modal.

Di tahun 2003 Bapepam telah menerima pelaporan dan pengaduan sejumlah 28 (dua puluh delapan) dugaan pelanggaran terhadap peraturan perundang-undangan di bidang Pasar Modal, baik yang disampaikan oleh biro teknis Bapepam, SRO maupun masyarakat. Terhadap 28 (dua puluh delapan) kasus

One way to create capital market that is fair and efficient is by reinforcing its enforcement. Proactive actions towards any occurrence which leads to capital market violation or criminal act through series of inspections and or investigations based on facts and data findings, Bapepam analysis, mass media, and reports as well as complaints from market participants are actual enforcement activities.

In 2003, Bapepam received 28 (twenty eight) reports and complaints on alleged violations against capital market regulations submitted by Bapepam Technical Bureaus, SROs, and public. In response to those reports and complaints, Enforcement Bureau had conducted 25 formal investigations and 3 (three) criminal investigations.

Under those investigations, 5 (five) companies had been imposed sanctions as follows:

1. PT Central Korporindo International Tbk, which involved in case concerning report on utilization of fund derived from public offerings;

tersebut Biro Pemeriksaan dan Penyidikan telah melakukan pemeriksaan terhadap 25 (dua puluh lima) kasus dan penyidikan sebanyak 3 (tiga).

Diantara kasus tersebut yang telah dikenakan sanksi sejumlah 5 (lima) kasus, yaitu:

1. PT. Central Korporindo International Tbk, kasus tentang Laporan Realisasi Penggunaan Dana Hasil Penawaran Umum;
2. PT. Bank Lippo Tbk, kasus Penyajian Laporan Keuangan dan Keterbukaan Informasi Yang Harus Disampaikan Kepada Publik;
3. PT. BBL Dharmala Finance Tbk, kasus pelanggaran pasal 107 Undang-undang Pasar Modal tentang perbuatan yang menyesatkan;
4. PT. Bank Lippo Tbk, kasus dugaan pelanggaran pasal 91 dan atau 92 Undang-undang Pasar Modal tentang Manipulasi Pasar.
5. PT. Eficorp Sekuritas, kasus pelanggaran Peraturan IV.C.II tentang Nilai Pasar Wajar Portofolio Efek Reksa Dana.

Kasus yang menarik perhatian pada tahun 2003 adalah kasus Penyajian Laporan Keuangan dan Keterbukaan PT. Bank Lippo Tbk karena adanya

2. PT Bank Lippo Tbk, which involved in case concerning presentation of financial statement and information disclosure that must be announced to public;
3. PT BBL Dharmala Finance Tbk, which involved in the violation of Article 107 of Capital Market Law (CML) concerning misleading behavior;
4. PT Bank Lippo Tbk, which involved in alleged violation of Article 91 and or 92 of CML concerning market manipulation; and
5. PT Eficorp Sekuritas, which involved in violation of Bapepam Rule Number IV.C.II concerning fair market value of investment fund portfolio.

One interesting case occurring in year 2003 was a case concerning the presentation of financial statement and disclosure by PT Bank Lippo Tbk because there were dissimilarity between financial statement as per 30 September 2002 submitted to public on 28 November 2002 and that of the same period submitted to Jakarta Stock Exchange (JSX). Those two versions of financial statements contained different information. The financial statement submitted to public stated that the company total asset was Rp 24 trillion

perbedaan Laporan Keuangan PT Bank Lippo Tbk per 30 September 2002 yang dipublikasikan di media massa pada tanggal 28 November 2002 dengan Laporan Keuangan periode yang sama ke PT BEJ. Dari kedua versi Laporan Keuangan tersebut, terdapat perbedaan data Laporan Keuangan. Perbedaan tersebut adalah didalam Laporan Keuangan LPBN yang dipublikasikan melalui media massa disebutkan bahwa total aktiva Rp. 24 triliun dengan laba bersih sebesar Rp. 98 miliar. Sementara dalam Laporan Keuangan ke PT BEJ (No. Pengumuman 1120/BEJ-2002), total aktiva berkurang menjadi Rp. 22,8 triliun dan rugi bersih menjadi Rp. 1,3 triliun. Laporan Keuangan yang disampaikan ke PT BEJ tersebut adalah perbandingan Laporan Keuangan per 30 September 2002 yang diaudit dengan Laporan Keuangan per 30 September 2001 yang tidak diaudit. Laporan Keuangan juga menyajikan perbedaan mencolok pada laba operasional yaitu rugi Rp. 1,2 triliun (pada laporan ke PT BEJ) dibandingkan dengan laba Rp. 170 miliar (pada laporan publikasi di media massa).

Dari hasil pemeriksaan Tim disimpulkan bahwa adanya kekuranghati-hatian Direksi PT Bank Lippo Tbk, dalam mencantumkan kata “diaudit” dan opini

and the net income was Rp 98 billion.

Conversely, the financial statement submitted to JSX (Announcement Number 1120/BEJ-2002) affirmed that the total asset was reduced to Rp 22.8 trillion and the net loss became Rp. 1.3 trillion.

Financial statement submitted to JSX was a comparative report between audited financial statement as per 30 September 2002 and non audited financial statement as per 30 September 2001. Those financial statements also presented significant discrepancy of operational income, which was stated loss of Rp 1.2 trillion in financial statement submitted to JSX and income of Rp 170 billion in that submitted to public.

The Investigation Team concluded that the Directors of PT Bank Lippo Tbk carelessly put the term “audited” and “unqualified opinion” in the advertisement of financial statement as per 30 September 2002 on 28 September 2002. Moreover, the Public Accountant, Drs. R K, partner of Prasetio, Sarwoko, and Sandjaja Public Accountant Firm was found negligent for his delay in submitting important and material event, i.e. the decreasing value of collateral of PT Bank Lippo Tbk to Bapepam.

Beside that, a case that had been announced to public was that involving PT

Wajar Tanpa Pengecualian pada iklan laporan keuangan per 30 September 2002 pada tanggal 28 November 2002 dan adanya kelalaian Akuntan Publik Drs. R K, partner KAP Prasetio, Sarwoko & Sandjaja, berupa keterlambatan dalam menyampaikan peristiwa penting dan material mengenai penurunan nilai AYDA (aset yang diagunkan) PT Bank Lippo Tbk kepada Bapepam.

Sedangkan 1 (satu) kasus telah diumumkan dimedia massa yaitu PT. Wahana Bersama Globalindo karena melakukan kegiatan Manajer Investasi tanpa izin yang diduga melanggar pasal 30 UU Pasar Modal. Selain itu terdapat 11 (sebelas) kasus yang telah selesai proses pemeriksaannya yaitu :

1. PT. Great River International Tbk, kasus tentang Penyajian Laporan Keuangan dan Benturan Kepentingan;
2. PT. Suryamas Dutamakmur Tbk, kasus tentang Penyajian Laporan Keuangan;
3. PT. Davomas Abadi Tbk, kasus tentang Penyajian Laporan Keuangan;
4. PT. Daeyu Orchid Indonesia Tbk, kasus tentang Laporan Realisasi Penggunaan Dana Hasil Penawaran Umum;
5. PT. Telekomunikasi Indonesia, kasus

Wahana Bersama Globalindo for conducting activity as Investment Manager without license and violating Article 30 of CML. Further, 11 (eleven) other cases had been accomplished by Bapepam, as the following:

1. PT Great River International Tbk, which involved in case concerning presentation of financial statement and conflict of interest;
2. PT Suryamas Dutamakmur Tbk, which involved in case concerning presentation of financial statement;
3. PT Davomas Abadi Tbk, which involved in case concerning presentation of financial statement;
4. PT Daeyu Orchid Indonesia Tbk, which involved in case concerning report on utilization of fund derived from public offering;
5. PT Telekomunikasi Indonesia, which involved in case concerning audit of consolidated financial statement year 2002 by Eddy Pianto Public Accountant Firm;
6. PT Dynaplast Tbk, which involved in case concerning conflict of interest on certain transactions;
7. PT Kasogi International Tbk, which

- tentang Audit atas Laporan Keuangan Konsolidasi Tahun 2002 oleh KAP Eddy Pianto;
6. PT. Dynaplast Tbk, kasus tentang Benturan Kepentingan Transaksi Tertentu;
  7. PT. Kasogi International Tbk, kasus tentang Penyajian Laporan Keuangan 2002;
  8. PT. Wahana Jaya Perkasa (UGAR), kasus dugaan pelanggaran pasal 91 dan atau 92 Undang-undang Pasar Modal dalam perdagangan saham UGAR tentang Manipulasi Pasar dan Perdagangan Orang Dalam;
  9. PT. Ever Shinetex Tbk (ESTI), kasus dugaan pelanggaran pasal 91 dan atau 92 Undang-undang Pasar Modal tentang Manipulasi Pasar dan Perdagangan Orang Dalam dalam perdagangan saham ESTI;
  10. PT. Siwani Makmur Tbk (SIMA), kasus dugaan pelanggaran pasal 91 dan atau 92 Undang-undang Pasar Modal dalam perdagangan saham SIMA;
  11. PT. Jembo Cable Company Tbk (JECC), kasus dugaan pelanggaran pasal 91 dan atau 92 Undang-undang Pasar Modal dalam perdagangan saham JECC tentang Manipulasi Pasar dan Perdagangan Orang Dalam.

involved in case concerning presentation of financial statement of year 2002;

8. PT Wahana Jaya Perkasa (UGAR), which involved in alleged violation of Article 91 and or 92 of CML concerning market manipulation and insider trading of UGAR shares;
9. PT Ever Shinetex Tbk (ESTI), which involved in alleged violation of Article 91 and or 92 of CML concerning market manipulation and insider trading of ESTI shares;
10. PT Siwani Makmur Tbk (SIMA), which involved in alleged violation of Article 91 and or 92 of CML concerning the trading of SIMA shares; and
11. PT Jembo Cable Company Tbk (JECC), which involved in alleged violation of Article 91 and or 92 of CML concerning market manipulation and insider trading of JECC shares.

By the end of year 2003, 8 (eight) cases were still in the process of formal

Pada tahun 2003 jumlah kasus yang masih dalam proses pemeriksaan sejumlah 8 (delapan) kasus, yaitu :

1. Dugaan pelanggaran Pasal 30 UUPM tentang Perusahaan Efek tanpa ijin terhadap Brook Pearson Investment Ltd., Solid Gold Investama;
2. PT Bank Lippo Tbk, Benturan Kepentingan Transaksi Tertentu dan Transaksi Material dan Perubahan Kegiatan Usaha Utama;
3. PT Great Golden Star Tbk, Penyajian Laporan Keuangan Konsolidasi 2002;
4. PT Multi Sarana Rasa Agung Tbk, Penyajian Laporan Keuangan Konsolidasi 2002 dan Keterbukaan Informasi Yang Harus Disampaikan Kepada Publik;
5. PT Semen Gresik Tbk, Penyajian Laporan Keuangan Konsolidasi 2002;
6. Dugaan pelanggaran dalam hal peralihan saham milik nasabah PT General Capital Indonesia oleh Direksi PT General Capital Indonesia;
7. Dugaan pelanggaran Pasal 95 dan atau 96 UUPM tentang menggunakan informasi orang dalam pada perdagangan saham PT Davomas Abadi Tbk. (DAVO);
8. Dugaan pelanggaran Pasal 30 UUPM tentang Perusahaan Efek tanpa ijin

investigation as the following:

1. Alleged violation of Article 30 of CML concerning activities of Securities Companies without license involving Brook Pearson Investment Ltd. and Solid Gold Investama;
2. PT Bank Lippo Tbk; which involved in case concerning conflict of interest of certain transactions, material transactions, and changing in core business;
3. PT Great Golden Star Tbk, which involved in case concerning presentation of consolidated financial statement of year 2002;
4. PT Multi Sarana Rasa Agung Tbk, which involved in case concerning presentation of financial statement of year 2002 and information disclosure that must be announced to public;
5. PT Semen Gresik Tbk, which involved in case concerning presentation of consolidated financial statement of year 2002;
6. alleged violation of transfer of shares owned by investors of PT General Capital Indonesia by the Directors of PT General Capital Indonesia;
7. alleged violation of Article 95 and or 96 of CML concerning insider trading of shares of PT Davomas Abadi Tbk

atas 52 perusahaan.

Selama tahun 2003 Bapepam sedang melakukan proses penyidikan sejumlah 3 (kasus), yaitu :

1. Perdagangan Saham PT Primarindo Asia Infrastruktur Tbk. (BIMA) periode 19 Januari - 23 Agustus 2002. Dugaan Tindak Pidana yang dilakukan oleh Sdr. ASS dan Sdr. JN yang masing-masing selaku Dirut dan karyawan PT CSI dalam perdagangan saham PT Primarindo Asia Infrastruktur Tbk. (BIMA);
2. Perdagangan saham PT Ryane Adibusana Tbk. periode 6 - 26 Agustus 2002. Dugaan Tindak Pidana yang dilakukan oleh Sdr. TD selaku nasabah PT BNI Securities dan PT Arab Malaysian Capital Indonesia dalam perdagangan saham PT Ryane Adibusana Tbk. (RYAN);
3. PT Jasabanda Garta yang diduga melakukan pelanggaran pasal 103 jo Pasal 30 dan 32 UUPM tentang Manajer Investasi Tanpa Izin dan Wakil Manajer Investasi Tanpa Izin.

Dalam tahun 2003, Bapepam telah melimpahkan 1 (satu) berkas penyidikan ke Kejaksaan Agung terhadap kasus perdagangan Saham PT Primarindo Asia Infrastruktur Tbk

(DAVO); and

8. Alleged violation of Article 30 of CML concerning activities of securities companies without license involving 52 companies.

During year 2003, the following cases were still in the process of criminal investigation by Bapepam:

1. Share trading of PT Primarindo Asia Infrastruktur Tbk (BIMA) between the period of 19 January - 23 August 2002. Mr. A S S and Mr. J N who were the president director and employee of PT Clemont Securities Indonesia respectively were suspected of criminal acts on the trading of BIMA shares;
2. Share trading of PT Ryane Adibusana Tbk (RYAN) between the period of 6- 26 August 2002. Mr. T D as a client of PT BNI Securities and PT Arab Malaysian Capital Indonesia was suspected of criminal act on the trading of RYAN shares; and
3. PT Jasabanda Garta, which was involved in alleged violation of Article 103 juncto Article 30 and 32 of CML concerning activities of Investment Manager and Representative of Investment Manager without licenses.

In the same year Bapepam delivered 1

(BIMA) periode 19 Januari - 23 Agustus 2002 dengan tersangka Sdr. Y N, Sdr. I D G N, Sdr. P S selaku Direksi dan pegawai PT Usaha Bersama Sekuritas.

(one) criminal case to the Attorney General concerning the trading of BIMA shares which involved Mr. Y N, Mr. I D G N, and Mr. P S, the director and employees of PT Usaha Bersama Sekuritas as suspects.