



The Urgency Of Enforcement Reform At Investigation Level Of Insider Trading Crime In Indonesia

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ABSTRACT

Indonesia's insider trading framework has undergone significant normative expansion, particularly after the enactment of the law number 4 of 2023 concerning development and strengthening of the financial sector (PPSK Law), which introduces a constructive knowledge standard and broadens liability beyond traditional fiduciary relationships. Despite these advancements, enforcement outcomes remain weak, largely due to unresolved institutional fragmentation, limited investigative powers, and the absence of an integrated mechanism capable of tracing material non-public information (MNPI) flows. At the investigative stage, insider trading cases rarely progress beyond preliminary surveillance findings. OJK's monitoring systems can detect trading irregularities but cannot independently reconstruct communication channels, relational proximity, or patterns of coordinated activity elements essential for building prosecutable evidence in information-based offences. As a result, conduct resembling insider trading failed to reach criminal adjudication, reinforcing a persistent gap between legal norms and their functional execution.

A comparative analysis with Singapore highlights how institutional design and procedural architecture determine the effectiveness of insider trading enforcement. Singapore integrates administrative and criminal authority through the MAS-CAD model, enabling compelled statements, real-time data analytics, communication-based evidence, and early stage investigative triggers grounded in reasonable suspicion. This model demonstrates functional convergence between legal norms, technological infrastructure, and governance obligations imposed on market participants. The contrast underscores the structural limitations embedded in Indonesia's reactive, multi-layered enforcement model, which relies heavily on administrative filtering and lacks unified investigative competence.

Drawing on empirical findings, comparative insights, and theoretical frameworks including comparative legal theory, law and economics, and public interest theory the study identifies three core reform imperatives: (1) institutional restructuring to strengthen OJK's investigatory autonomy, develop specialized financial forensics units, and create a streamlined escalation pathway from surveillance alerts to criminal investigation; (2) technological modernization to integrate analytics driven surveillance tools capable of mapping MNPI transmission and trading networks; and (3) governance based preventive measures requiring issuers and intermediaries to institutionalize MNPI protocols, insider lists, pre-clearance systems, and protected whistleblowing channels.

Keywords: insider trading, OJK, PPSK Law, Law Enforcement, Market Surveillance, MAS-CAD, MNPI.

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Urgensi Reformasi Penegakan Hukum Pada Tahap Penyelidikan Dalam Tindak Pidana Insider Trading Di Indonesia

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INTISARI

Perubahan mendasar terhadap pengaturan insider trading melalui Undang-Undang nomor 4 tahun 2023 tentang pembangunan dan penguatan sector keuangan (UU PPSK) memperluas cakupan pertanggungjawaban hukum melalui standar *constructive knowledge* yang tidak lagi bergantung pada perolehan informasi secara melawan hukum. Namun perluasan norma ini belum diikuti oleh kemampuan penegakan yang memadai. Pada tahap penyidikan, sistem pengawasan OJK hanya menghasilkan indikasi awal pola transaksi yang tidak wajar tanpa kapasitas untuk menelusuri aliran informasi, hubungan antar pelaku, maupun instruksi transaksi yang diperlukan untuk membuktikan terjadinya penggunaan MNPI. Kondisi ini membuat berbagai indikasi insider trading tidak berkembang menjadi proses pidana, sehingga menegaskan adanya jarak antara kerangka normatif dan efektivitas penegakan.

Perbandingan dengan Singapura menunjukkan bahwa efektivitas penanggulangan insider trading sangat bergantung pada desain kelembagaan dan arsitektur prosedural. Model MAS-CAD memungkinkan penggunaan alat administrasi dan pidana secara terpadu, termasuk *compelled statements*, analisis forensik berbasis teknologi, serta pemicu investigasi sejak munculnya *reasonable suspicion*. Mekanisme ini menciptakan jalur penyidikan yang cepat, adaptif, dan berbasis intelijen pasar. Sebaliknya, struktur penegakan Indonesia masih bersifat reaktif karena bergantung pada keputusan unit pengawasan dan tidak memiliki mekanisme investigatif tunggal yang mampu menangani kejahatan berbasis informasi.

Berdasarkan temuan empiris dan kajian komparatif, penelitian ini merekomendasikan tiga arah reformasi utama: (1) penguatan kelembagaan untuk memperluas otonomi investigatif OJK serta pembentukan unit forensik pasar yang terlatih; (2) modernisasi teknologi melalui integrasi sistem analitik yang mampu memetakan transmisi MNPI dan jaringan pelaku; serta (3) penguatan tata kelola melalui kewajiban internal bagi pelaku pasar seperti protokol MNPI, *insider list*, mekanisme *pre-clearance*, dan saluran *whistleblowing* yang terlindungi. Reformasi ini diperlukan untuk memastikan bahwa perluasan norma hukum tidak berhenti di tingkat tekstual, tetapi benar-benar berfungsi dalam praktik penegakan dan mampu meningkatkan integritas pasar modal Indonesia.

Kata Kunci: Insider Trading, OJK, UU PPSK, Penegakan Hukum, Pengawasan Pasar, MAS-CAD, MNPI.

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