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The Role of the Indonesian Attorney General's Office in Capital Market Law Enforcement (a Case Study of PT Asuransi Jiwasraya)

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Abstract

The capital market serves as a strategic instrument in national economic development, acting as a vehicle for fund mobilization and investment. However, the complexity of transactions within the capital market sector also creates opportunities for financial crimes that result in state financial losses and diminished investor confidence. One of the most significant cases involves corruption at PT. Asuransi Jiwasraya (Persero), characterized by the misuse of investments through capital market instruments. This study aims to analyze the authority and role of the Indonesian Attorney General's Office (Kejaksaan RI) in capital market law enforcement and to examine its implementation in handling the PT. Asuransi Jiwasraya case. The study employs a normative legal research method, utilizing statutory, conceptual, and case-based approaches. Legal materials were gathered through a literature review comprising primary, secondary, and tertiary sources and analyzed qualitatively using a descriptive-prescriptive method and deductive reasoning. The findings indicate that the Indonesian Attorney General's Office possesses strategic authority as "dominus litis" within the criminal justice system to investigate and prosecute corruption crimes related to the capital market sector, provided the element of state financial loss is established. In the PT. Asuransi Jiwasraya case, the Office successfully proved the abuse of authority, investment manipulation, and state financial losses amounting to IDR 16.81 trillion; it also applied corporate criminal liability and utilized "follow the money" and "follow the asset" approaches in its efforts to recover state assets. The study concludes that the role of the Indonesian Attorney General's Office is not only vital for repressive law enforcement but also contributes to strengthening capital market governance, enhancing legal certainty and investor protection, and fostering the integrity of the national financial system.

Keywords Indonesian Attorney General's Office; Law Enforcement; Capital Market; Jiwasraya; Corruption Crime

INTRODUCTION

Capital markets constitute one of the most strategic pillars in a nation's economic system because they perform the essential function of mobilizing capital from surplus units (investors) to deficit units (issuers). Through this intermediary function, corporations are able to obtain long-term financing without relying solely on internally generated funds, while investors are provided with opportunities to allocate their capital to investment instruments that offer expected returns corresponding to their risk preferences. Consequently, a well-functioning capital market contributes significantly to economic growth, business expansion, employment creation, and national financial stability (Balfas, 2006).

In modern economies, capital markets have evolved beyond their traditional financing role to become fundamental indicators of macroeconomic performance and investor confidence. The development of an efficient, transparent, and accountable capital market encourages sustainable investment while simultaneously strengthening national competitiveness in the global financial system. Conversely, weak governance and inadequate legal enforcement undermine market integrity, reduce investor confidence, and ultimately threaten economic stability (Balfas, 2006). The Indonesian capital market has experienced significant growth over the past two decades. Nevertheless, this development has also been accompanied by increasingly sophisticated financial crimes involving corporations, investment managers, public companies, and other financial institutions. Among the most prominent cases is the PT Asuransi Jiwasraya (Persero) scandal, which represents one of the largest financial crimes in Indonesian history involving the capital market sector.

Investigations conducted by Indonesian law enforcement authorities established that PT Asuransi Jiwasraya caused state financial losses amounting to approximately Rp16.807 trillion, consisting of Rp4.650 trillion in stock investment losses and Rp12.157 trillion in mutual fund investment losses. The losses resulted from long-term financial statement manipulation through *window dressing* practices and investment placements that ignored objective analysis and prudent investment principles (Surat Dakwaan No. Reg. Perk. PDS-11/M.1.10/Ft.1/05/2020; Bintoro, 2020). The Jiwasraya case demonstrates that capital market violations frequently extend beyond ordinary investment losses and constitute complex economic crimes involving corruption, securities fraud, abuse of authority, and money laundering. Such offenses are categorized as white-collar crimes because they are committed by individuals possessing authority, professional expertise, and access to sophisticated financial systems. Unlike conventional criminal offenses, these crimes are often concealed through complex corporate transactions, making them difficult to detect while generating substantial losses for both the state and investors (Atmasasmita, 2021).

From the perspective of criminal justice policy, the Jiwasraya scandal illustrates the close relationship between capital market crimes and corruption offenses. The investment decisions undertaken by corporate management allegedly disregarded prudential principles, manipulated stock transactions, and abused corporate authority for personal enrichment. These circumstances raise important legal questions concerning the distinction between legitimate business judgment and criminal conduct within corporate investment activities (Harahap, 2019; Santoso, 2022). Although the Financial Services Authority (OJK) exercises supervisory authority over Indonesia's capital market, criminal law enforcement involving corruption and state financial losses depends significantly upon the Indonesian Attorney General's Office. Accordingly, the effectiveness of the Attorney General's Office has become an essential factor in ensuring legal certainty, protecting public investment, and maintaining confidence in the national capital market (Law No. 11 of 2021; Hamzah, 2020).

Law Number 11 of 2021 concerning the Attorney General's Office further strengthens prosecutorial authority in investigating and prosecuting corruption while safeguarding state assets through asset recovery mechanisms. Consequently, prosecutors are expected not only to secure criminal convictions but also to maximize the recovery of state financial losses arising from corporate crimes (Law No. 11 of 2021). Corporate criminal liability has become increasingly significant in addressing financial crimes committed through complex corporate structures. Indonesian law recognizes that corporations may bear criminal responsibility where offenses are committed for corporate benefit or through corporate policies. Therefore, prosecutors are required to possess comprehensive knowledge of capital market regulations, corporate governance principles, beneficial ownership structures, and financial transaction mechanisms (Supreme Court Regulation No. 13 of 2016).

Despite these legal developments, several challenges continue to hinder effective capital market law enforcement, including limited technical understanding of securities crimes among investigators and prosecutors, inadequate implementation of corporate due diligence, difficulties in tracing illicit assets, and the complexity of proving financial transactions involving multiple corporate entities. These challenges frequently reduce the effectiveness of prosecution and asset recovery while weakening investor confidence in the legal system (Yustisia, 2022; Atmasasmita, 2021). Against this background, this study examines the role of the Indonesian Attorney General's Office in enforcing capital market law through the prosecution of the PT Asuransi Jiwasraya (Persero) case. The study focuses on the legal authority exercised by prosecutors, the challenges encountered during criminal proceedings, and the effectiveness of prosecutorial strategies in ensuring legal certainty, recovering state losses, and strengthening the integrity of Indonesia's capital market.

METHODS

This study employs a normative legal research method (doctrinal legal research) to analyze norm vagueness and the enforcement authority of the Indonesian Attorney General's Office regarding criminal offenses in the capital market sector, aiming to achieve legal certainty (rechtszekerheid) and the recovery of state losses. The research utilizes a statute approach by examining regulations related to the financial sector and corruption eradication (including the Law on the Indonesian Attorney General's Office, Capital Market Law, Financial Services Authority Law, Corruption Eradication Law, and the Criminal Procedure Code); a conceptual approach to dissect the “dominus litis” doctrine, the Business Judgment Rule (BJR), corporate criminal liability, and theories of legal certainty; and a case approach focused on analyzing the corruption and capital market crime scandal involving PT Asuransi Jiwasraya (Persero). Data sources rely entirely on library research, encompassing primary legal materials (the 1945 Constitution, relevant statutes, Supreme Court Regulation No. 13 of 2016, and court rulings from the Corruption Court and Supreme Court regarding the Jiwasraya case) and secondary legal materials (textbooks on economic and criminal law, scholarly journals, BPK RI audit reports, and expert legal opinions). Legal materials were gathered through a study of documents inventoried thematically. Subsequently, a qualitative analysis was conducted using legal reasoning based on deductive logic (syllogism) drawing conclusions from general principles and norms to address concrete issues in capital market criminal law enforcement to produce a legal argument that is solution-oriented, prescriptive, and comprehensive.

FINDINGS AND DISCUSSION

Authority and Role of the Indonesian Attorney General's Office in the Investigation and Prosecution of Criminal Offenses in the Capital Market Sector

The Attorney General's Office (AGO) of the Republic of Indonesia occupies a fundamental constitutional position within Indonesia's criminal justice system as the institution exercising the principle of *dominus litis*, namely the authority to prosecute criminal cases on behalf of the state. In the field of special crimes, particularly economic crimes committed within the capital market sector, the AGO serves as one of the principal law enforcement institutions responsible for safeguarding legal certainty and protecting state financial interests. Its authority has been strengthened through Law Number 11 of 2021, which amended Law Number 16 of 2004 concerning the Attorney General's Office, granting prosecutors broader powers in handling corruption and other crimes affecting state finances (Republic of Indonesia, 2021).

Indonesia's capital market regulatory framework places the Financial Services Authority (*Otoritas Jasa Keuangan* OJK) as the primary regulator and supervisor responsible for maintaining market integrity. Pursuant to Law Number 8 of 1995 concerning the Capital Market and Law Number 21 of 2011 concerning the Financial Services Authority, OJK investigators are authorized to investigate violations such as insider trading, market manipulation, fraudulent securities transactions, and other capital market offenses (Republic of Indonesia, 1995; Republic of Indonesia, 2011). Nevertheless, when capital market misconduct causes state financial losses or involves state-owned enterprises, the jurisdiction of the AGO becomes relevant because such conduct may constitute corruption rather than merely an administrative or financial violation.

The distinction between the investigative authority of the OJK and that of the AGO reflects different legal philosophies governing financial law enforcement. The OJK generally adopts an *ultimum remedium* approach, emphasizing market supervision and administrative enforcement before resorting to criminal sanctions. Conversely, the AGO applies the *primum remedium* principle whenever sufficient evidence demonstrates that financial transactions have caused state losses or involve abuse of authority amounting to corruption (Hamzah, 2019; Bakhri, 2020). Consequently, the prosecution of modern financial crimes requires institutional coordination that transcends sectoral boundaries while ensuring that criminal law remains the ultimate safeguard of public financial interests.

The legal authority of the AGO in corruption investigations is primarily derived from Law Number 31 of 1999, as amended by Law Number 20 of 2001 concerning the Eradication of Corruption Crimes. Articles 2(1) and 3 of the Law authorize prosecutors to investigate and prosecute unlawful acts or abuses of authority resulting in state financial losses, including those committed through complex financial transactions in the capital market (Republic of Indonesia, 1999; Republic of Indonesia, 2001). This legal framework enables prosecutors to pursue financial misconduct that may initially appear as ordinary investment activities but, upon closer examination, constitute criminal schemes designed to benefit private parties at the expense of public assets.

Accordingly, the investigative strategy employed by the AGO extends beyond proving formal violations of capital market regulations. Prosecutors must demonstrate that financial instruments including stock repurchase (*repo*) transactions, speculative stock purchases, market manipulation, and inflated mutual fund valuations were intentionally utilized as mechanisms for diverting or misappropriating state assets. Such transactions therefore cannot automatically be protected under the *business judgment rule* where evidence indicates fraudulent intent or abuse of authority (Marzuki, 2021; Santoso, 2021).

Investigating sophisticated financial crimes also requires prosecutors to possess advanced expertise in financial analysis, forensic accounting, and corporate structures. Modern capital market crimes frequently involve intricate relationships among issuers, investment managers, securities companies, nominee shareholders, beneficial owners, and officials of state-owned enterprises. Consequently, investigators are required to identify not only the direct perpetrators but also the *man behind the gun* who orchestrates the criminal scheme through complex corporate arrangements (Yustisia, 2022).

Another significant development in Indonesian capital market law enforcement is the recognition of corporate criminal liability. Under the Anti-Corruption Law and Supreme Court Regulation Number 13 of 2016 concerning Procedures for Handling Criminal Cases by Corporations, corporations may be prosecuted where criminal acts are committed for their benefit or through corporate policies (Supreme Court of the Republic of Indonesia, 2016). This development enables the AGO to prosecute not only individual directors and corporate officers but also investment management companies, securities firms, and other corporate entities that facilitate or benefit from corruption-related financial transactions. Despite these legal developments, overlapping authority between the AGO and OJK has generated concerns regarding legal certainty and investment confidence. Some capital market participants argue that aggressive criminal prosecution may discourage legitimate business decisions and increase regulatory uncertainty. Accordingly, legal scholars emphasize the importance of harmonizing investigative authority through inter-agency coordination, joint investigations, and clearly defined institutional responsibilities to avoid jurisdictional conflicts while maintaining effective law enforcement (Prasetyo, 2022).

The prosecutorial role of the AGO extends beyond securing criminal convictions. Contemporary anti-corruption policy increasingly emphasizes the recovery of state assets through the application of the *follow the money* and *follow the asset* doctrines. Accordingly, prosecutors are expected to seek imprisonment, criminal fines, asset confiscation, restitution, and compensation orders designed to restore state financial losses arising from capital market crimes (Yustisia, 2022). Effective implementation of these objectives depends heavily upon institutional cooperation among the AGO, the Audit Board of the Republic of Indonesia (BPK), the Financial Transaction Reports and Analysis Center (PPATK), and financial regulators. Financial intelligence, forensic audits, and suspicious transaction reports constitute essential evidentiary instruments for tracing illicit financial flows involving multiple corporations, cross-border transactions, and beneficial ownership structures (PPATK, 2021).

From an institutional perspective, the AGO therefore functions as the final guardian of legality when supervisory mechanisms within the financial sector fail to prevent systemic irregularities. Through the exercise of its *dominus litis* authority, the AGO reinforces the principle that the capital market cannot serve as a legal sanctuary immune from the enforcement of anti-corruption law. Instead, capital market regulation and criminal law must operate in an integrated manner to ensure transparency, accountability, and the protection of public financial interests (Atmasasmita, 2020). Overall, the authority exercised by the Indonesian Attorney General's Office in capital market law enforcement is integrative, strategic, and transformative. Beyond functioning as investigator and public prosecutor, the AGO serves as a corrective institution that addresses regulatory failures, protects state finances, strengthens investor confidence, and promotes the integrity of Indonesia's capital market through effective criminal law enforcement.

Analysis of the PT Asuransi Jiwasraya Case: Modus Operandi of Capital Market Crimes, Proof of State Losses, and the Impact of Law Enforcement

The corruption scandal involving PT Asuransi Jiwasraya (Persero) represents one of the most significant financial crimes in Indonesia's legal history and serves as a landmark case in the enforcement of capital market law. Beyond exposing corporate governance failures within a state-owned enterprise, the case illustrates how weaknesses in investment supervision, internal control systems, and capital market regulation can be exploited through sophisticated financial engineering to conceal corruption and generate unlawful private benefits (BPK RI, 2020).

The criminal scheme employed in the Jiwasraya case was systematic, well-planned, and disguised within transactions that formally complied with capital market procedures. Members of Jiwasraya's management collaborated with private investors, investment managers, and securities companies to channel insurance investment funds into highly speculative and illiquid stocks whose prices had been artificially inflated. In addition, investment funds were placed in specially structured mutual funds designed primarily to accommodate overvalued securities rather than to achieve prudent portfolio diversification. Consequently, investment decisions were driven not by objective financial analysis but by coordinated agreements intended to benefit selected parties (Siregar, 2021; Wicaksono, 2022).

One of the principal mechanisms underlying the scheme involved the use of *pump-and-dump* practices. Shares were acquired after coordinated price inflation, creating the appearance of profitable investments. Once prices declined, the impaired securities were transferred into mutual fund portfolios managed by affiliated investment managers, thereby delaying the recognition of investment losses. Through this mechanism, Jiwasraya's financial statements continued to report favorable financial performance despite the substantial deterioration of the company's actual financial condition. Such accounting manipulation constituted a classic form of *window dressing* that concealed the company's insolvency from regulators, policyholders, and investors (BPK RI, 2020; Siregar, 2021).

The investigation conducted by the Indonesian Attorney General's Office, particularly through the Junior Attorney General for Special Crimes (*Jampidsus*), successfully reconstructed the entire criminal network underlying the investment scheme. The investigation identified the involvement of members of Jiwasraya's Board of Directors, beneficial owners, securities brokers, investment managers, and numerous corporate entities participating in the fraudulent transactions. This comprehensive investigative strategy reflected a significant advancement in Indonesia's prosecution of complex corporate and financial crimes by focusing not merely on individual offenders but also on the corporate structures facilitating the offenses (Attorney General's Office of the Republic of Indonesia, 2020).

One of the most significant legal challenges encountered during prosecution concerned the proof of state financial losses, an essential element under Articles 2 and 3 of the Anti-Corruption Law. The defendants consistently argued that the decline in portfolio value merely represented ordinary business risk resulting from fluctuations in capital market conditions and therefore should be protected under the *business judgment rule*. According to this argument, unsuccessful investment decisions should not automatically result in criminal liability where directors acted within the scope of corporate discretion (Harahap, 2021). The prosecution successfully refuted this defense through comprehensive forensic financial evidence prepared by the Audit Board of the Republic of Indonesia (BPK). The investigative audit concluded that Jiwasraya suffered actual state financial losses amounting to approximately IDR 16.81 trillion. The losses were calculated based on unlawful investment expenditures, manipulated securities transactions, and the substantial disparity between the acquisition costs of financial assets and their actual recoverable market value. Accordingly, the losses constituted real and measurable state financial losses rather than hypothetical business risks (BPK RI, 2020).

During the trial proceedings before the Corruption Court, prosecutors presented extensive documentary evidence, expert testimony, electronic transaction records, communications among the perpetrators, and forensic accounting analyses establishing both the *actus reus* and *mens rea* of the defendants. The evidence demonstrated that Jiwasraya's investment policies violated prudential investment principles, disregarded fiduciary obligations, and failed to comply with corporate governance standards established under Indonesian financial regulations, including the Financial Services Authority's Good Corporate Governance requirements for insurance companies (OJK, 2016; Attorney General's Office of the Republic of Indonesia, 2020). Judicial decisions issued by the Corruption Court and subsequently affirmed by the Supreme Court accepted the prosecution's legal arguments and confirmed the criminal responsibility of the principal defendants. The courts imposed severe criminal sanctions, including life imprisonment, substantial criminal fines, compensation orders, and the confiscation of assets derived from criminal activities. These judgments reinforced the principle that sophisticated financial crimes committed through capital market mechanisms remain subject to anti-corruption legislation and cannot be justified as ordinary business decisions (Supreme Court of the Republic of Indonesia, 2021; Suparman, 2022).

The prosecution of corporations and investment management companies involved in the Jiwasraya scheme also established an important precedent for Indonesian capital market law enforcement. By extending criminal liability beyond individual corporate executives to legal entities benefiting from corrupt investment schemes, the Attorney General's Office strengthened the application of corporate criminal responsibility within Indonesia's financial sector. This approach conveys a clear legal message that financial institutions bear responsibility for ensuring that their investment products are not utilized as instruments for unlawful financial activities (Setiawan, 2023).

The legal consequences of the Jiwasraya case extended well beyond criminal punishment. The scandal prompted substantial regulatory reforms by the Financial Services Authority, including stricter governance requirements for insurance companies, tighter investment portfolio limitations, enhanced supervision of investment managers, and greater transparency concerning beneficial ownership and financial reporting. These reforms were intended to improve market integrity and reduce the likelihood of similar systemic failures occurring in the future (OJK, 2023). Nevertheless, significant challenges remain regarding the recovery of state financial losses. Although extensive asset confiscation orders were issued by the courts, practical implementation continues to encounter legal and technical obstacles, including declining asset values, competing ownership claims by third parties, cross-border asset tracing, and difficulties associated with liquidating complex financial assets. These challenges highlight the continuing importance of strengthening Indonesia's asset recovery mechanisms through enhanced institutional capacity and international cooperation (Asset Recovery Center of the Attorney General's Office, 2022).

Overall, the Jiwasraya case demonstrates that the Indonesian Attorney General's Office plays an indispensable role in combating sophisticated white-collar crime within the capital market sector. By successfully proving that the defendants' conduct constituted deliberate corruption rather than legitimate business judgment, the prosecution established an important judicial precedent for distinguishing criminal financial misconduct from ordinary commercial risk. Furthermore, the case contributed significantly to strengthening investor confidence, promoting better corporate governance, reinforcing regulatory reform, and enhancing the credibility of Indonesia's capital market and financial services industry (BPK RI, 2020; Supreme Court of the Republic of Indonesia, 2021).

Absolute Jurisdiction of the Corruption Court and the Referral of Separated Cases (Splitzing) Involving Capital Market Sector Criminal Offenses

The enforcement of economic criminal law in Indonesia increasingly demonstrates the intersection between corruption offenses and capital market crimes. Large-scale financial scandals involving state-owned enterprises frequently originate from violations of capital market regulations, including market manipulation, insider trading, and fraudulent investment practices governed by Law Number 8 of 1995 concerning the Capital Market (Republic of Indonesia, 1995). However, when such conduct simultaneously causes state financial losses, prosecutors generally pursue corruption charges rather than prosecuting the offenses separately under the Capital Market Law. This practice raises important jurisdictional questions regarding the authority of the Corruption Court (*Pengadilan Tindak Pidana Korupsi* Tipikor) and the procedural separation (*splitsing*) of criminal cases.

1. Absolute Jurisdiction of the Corruption Court

The Corruption Court was established under Law Number 46 of 2009 concerning the Corruption Court to adjudicate corruption-related offenses as part of Indonesia's specialized criminal justice system (Republic of Indonesia, 2009). Article 6 of the Law limits the Court's absolute jurisdiction to three categories of cases: (i) corruption offenses regulated under Law Number 31 of 1999, as amended by Law Number 20 of 2001; (ii) money laundering offenses where corruption constitutes the predicate crime pursuant to Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering; and (iii) other criminal offenses expressly assigned by legislation to the jurisdiction of the Corruption Court (Republic of Indonesia, 1999; Republic of Indonesia, 2001; Republic of Indonesia, 2010).

Consequently, capital market offenses such as insider trading, market manipulation, wash trading, and fraudulent securities transactions remain, in principle, criminal offenses falling within the jurisdiction of the ordinary criminal courts under the general court system because the Capital Market Law does not expressly confer jurisdiction upon the Corruption Court (Republic of Indonesia, 1995). Nevertheless, where capital market violations form part of a broader corruption scheme causing measurable state financial losses, prosecutors frequently rely upon corruption legislation as the principal legal basis for prosecution rather than initiating separate proceedings under the Capital Market Law. This prosecutorial approach reflects the principle that the Corruption Court possesses jurisdiction only when the essential elements of corruption have been established, particularly the existence of unlawful conduct, abuse of authority, and actual state financial losses. Accordingly, capital market violations are often treated as factual components supporting corruption charges rather than as independent criminal offenses requiring separate adjudication.

2. Challenges in the Consolidation of Criminal Cases and the *Splitsing* Mechanism

Although the Indonesian Criminal Procedure Code (KUHAP) recognizes the possibility of joining criminal cases (*concursus* or *samenloop*) for reasons of procedural efficiency, prosecutors frequently apply the *splitsing* mechanism by separating corruption charges from capital market offenses whenever differences in jurisdiction, procedural requirements, or evidentiary standards make consolidation impractical (Republic of Indonesia, 1981).

The first challenge concerns differences in procedural law governing corruption and capital market prosecutions. Proceedings before the Corruption Court are subject to statutory procedural timelines established under Law Number 46 of 2009, whereas capital market cases generally involve highly technical financial evidence requiring lengthy examination by financial experts, investment analysts, and securities regulators. Combining these proceedings within a single trial may jeopardize compliance with statutory deadlines and affect the defendant's procedural rights (Republic of Indonesia, 2009). The second challenge relates to institutional differences in investigative authority. Capital market crimes are primarily investigated by investigators of the Financial Services Authority (OJK), with assistance from the Indonesian National Police where appropriate, pursuant to the Capital Market Law and the Law concerning the Financial Services Authority (Republic of Indonesia, 1995; Republic of Indonesia, 2011). By contrast, corruption cases involving state financial losses are investigated and prosecuted by the Indonesian Attorney General's Office under the Anti-Corruption Law. The existence of different investigative institutions frequently complicates the preparation of integrated case files and encourages prosecutors to separate criminal proceedings according to their respective legal frameworks.

Legal Implications of Treating Capital Market Violations as Corruption Offenses

The jurisdictional limitations of the Corruption Court have generated an important legal phenomenon in Indonesian criminal law. Rather than prosecuting capital market violations independently before the ordinary courts, prosecutors increasingly incorporate securities law violations into corruption indictments by characterizing them as evidence of unlawful conduct or abuse of authority resulting in state financial losses (Republic of Indonesia, 1999; Republic of Indonesia, 2001). As a consequence, the capital market offense functions as an evidentiary component supporting corruption charges instead of constituting a separate offense. This prosecutorial strategy carries several legal implications. First, it significantly limits the effectiveness of defenses traditionally recognized in corporate and capital market law, including reliance upon the *Business Judgment Rule*. Since proceedings before the Corruption Court primarily focus on unlawful enrichment, abuse of authority, and state financial losses, arguments concerning commercial risk, investment discretion, or market volatility receive substantially less emphasis than in ordinary capital market litigation.

Second, the increasing convergence between corruption law and capital market regulation demonstrates the need for greater legal certainty regarding the allocation of jurisdiction between specialized courts and ordinary criminal courts. More comprehensive procedural guidance is therefore required to regulate the consolidation (*concursus*) or separation (*splitsing*) of complex financial crime cases involving multiple predicate offenses, different investigative authorities, and overlapping statutory frameworks. Such harmonization would promote consistency in criminal law enforcement while preserving the *lex specialis* character of Indonesia's capital market regulatory regime. Overall, the relationship between corruption law and capital market law illustrates the growing complexity of financial crime prosecution in Indonesia. While the utilization of corruption legislation has enabled prosecutors to respond effectively to large-scale financial scandals involving state losses, clearer jurisdictional rules remain necessary to balance effective law enforcement, procedural fairness, and legal certainty within Indonesia's financial sector.

DISCUSSION

Law enforcement actions taken by the Indonesian Attorney General's Office (AGO) regarding capital market crimes as explicitly illustrated by the PT Asuransi Jiwasraya (Persero) case have sparked fundamental theoretical and practical discussions concerning the shifting boundaries of criminal law within the modern financial sector. Research findings indicate that capital market crimes have undergone a metamorphosis; they are no longer merely conventional in nature (such as standard retail fraud) but have evolved into white-collar and systemic crimes that exploit regulatory gaps (regulatory arbitrage) and complex capital market instruments. The AGO's success in penetrating the technical complexities of the capital market demonstrates that investment schemes can and must be prosecuted under corruption laws when elements of bad faith (mens rea) and actual financial loss to the state are established.

From a doctrinal perspective, the AGO's intervention into the capital market sphere often ignites fierce debate regarding the protections afforded by the Business Judgment Rule (BJR) doctrine. Fundamentally, the BJR doctrine grants legal immunity to directors or investment managers regarding business losses, provided that decisions are made in good faith, with due care, and without conflicts of interest. However, the discourse surrounding the Jiwasraya case underscores the clear distinction between genuine business risk and crime masked as a business decision. When a decision to allocate funds into illiquid stocks is executed through an unlawful agreement (such as an illicit kickback) with a private party, the BJR shield is automatically forfeited effectively piercing the corporate veil thereby allowing the action to be validly categorized as an unlawful act within the realm of criminal corruption.

On the other hand, the study's findings highlight a jurisdictional friction between the Indonesian Attorney General's Office (Kejaksaan RI) and the Financial Services Authority (OJK). Under the Capital Market Law regime, the OJK was designed as a single regulator possessing specific investigative powers, grounded in a philosophy that prioritizes the recovery of industry losses (a restorative or "ultimum remedium" approach). Conversely, the involvement of the Attorney General's Office utilizing the Law on the Eradication of Corruption Crimes, which operates on a "primum remedium" basis is often perceived by some market participants as a threat to legal certainty and investment dynamics.4 However, progressive legal discourse posits that when a sectoral regulator experiences systemic failure and the crimes committed threaten national economic stability, the intervention of the Attorney General's Office acting as the guardian of the "dominus litis" principle becomes essential to safeguarding market integrity and the broader public interest.

Another crucial issue arising from this discussion is law enforcement against corporate entities, particularly Investment Managers. Designating a corporation as a suspect in a corruption case marks a new era in Indonesian criminal jurisprudence, which previously tended to focus on individual liability. Enforcement actions taken against over a dozen Investment Managers during the Jiwasraya scandal established a normative precedent: corporations can no longer shield themselves behind the negligence or lack of personal *mens rea* (criminal intent) of their executives. Under Supreme Court Regulation Number 13 of 2016, a corporation's failure to implement preventive measures as well as its acquiescence to practices such as front-running or portfolio manipulation is sufficient to trigger corporate criminal liability.

While the Indonesian Attorney General's Office (AGO) has effectively secured custodial sentences and imposed massive fines, the asset recovery process continues to present complex legal and practical challenges. Discussions regarding "follow-the-money" strategies in capital market crime cases reveal the intricacies of tracing assets that have been converted into derivative financial instruments or offshore assets, or transferred as movable or immovable property to third parties. Obstacles such as executing auctions for assets that have depreciated in market value and facing legal challenges from good-faith third parties underscore the need for the AGO to strengthen non-conviction-based asset forfeiture mechanisms within Indonesia's future criminal justice framework.

Ultimately, the policy implications of the AGO's enforcement actions have driven governance reform within the national financial services industry. The Financial Services Authority (OJK) and the Ministry of State-Owned Enterprises (SOEs) have been prompted to tighten Good Corporate Governance regulations, limit the allocation of insurance funds to high-risk instruments, and mandate transparency regarding beneficial ownership. Thus, the AGO's decisive actions serve not only as a means of retributive justice but also play a preventive and corrective role in building an Indonesian capital market ecosystem that is more transparent, accountable, and trustworthy in the eyes of both domestic and international investors.

CONCLUSION

The Strategic Position and Role of the Indonesian Attorney General's Office (AGO) in Capital Market Crimes: As the holder of the monopoly on prosecution (dominus litis) and the enforcer of the single prosecution system, the AGO possesses the legitimate and constitutional authority to investigate and prosecute criminal offenses in the capital market sector whenever such acts meet the elements of corruption and result in financial loss to the state. The AGO acts as a corrective instrument (ultimum or primum remedium) when sectoral oversight mechanisms suffer systemic failure. By employing a corruption-law approach, the AGO has successfully penetrated the complexities of financial engineering and affirmed that losses stemming from malicious intent (mens rea) and illicit agreements cannot be shielded by the Business Judgment Rule (BJR) doctrine. Legal Lessons from the PT Asuransi Jiwasraya (Persero) Scandal: The AGO's handling of the Jiwasraya case serves as a significant precedent in Indonesian economic criminal law jurisprudence. The AGO not only succeeded in proving an actual state financial loss of IDR 16.81 trillion based on an investigative audit by the Supreme Audit Agency (BPK RI) but also extended the scope of criminal liability to the corporate level (corporate criminal liability) regarding over a dozen investment managers. Through the application of "follow the money" and "follow the asset" doctrines, this law enforcement effort resulted not only in the imposition of maximum custodial sentences but also facilitated state asset recovery and spurred reforms in governance (Good Corporate Governance) within the national financial services industry.

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