

# Philosophical Critique of Capital Market Regulation: A Case Study between Public Interest and Privacy

Enos Martryn Budiman<sup>1\*</sup>

Program Studi Magister Hukum, Fakultas Hukum, Universitas Pelita Harapan<sup>1\*</sup>

[enosmartryn@gmail.com](mailto:enosmartryn@gmail.com)<sup>1\*</sup>



## Riwayat Artikel

Received on 30 May 2025

1st Revision 02 June 2025

2nd Revision 11 June 2025

3rd Revision 26 June 2025

Accepted on 08 July 2025

## Abstract

**Purpose:** This study aims to analyze capital market regulation through the lens of philosophical principles to evaluate the balance between transparency for the public interest and the protection of individual privacy rights in achieving justice.

**Methodology/Approach:** This research adopts a normative legal method supported by conceptual and philosophical approaches. The study analyzes primary legal instruments, secondary literature, and tertiary references through qualitative library research to examine regulatory tensions between transparency and privacy in Indonesia's capital market governance.

**Results/Findings:** The findings show that Rawlsian justice, Kantian autonomy, and utilitarian ethics are useful frameworks for evaluating the ethics of capital market regulation. Although Indonesia's Capital Market Law and OJK regulations emphasize transparency, investor data privacy remains inadequately protected. Adopting stronger data protection standards, such as the GDPR, alongside local principles of *maslahah* and subsidiarity, can enhance regulatory fairness and reduce burdens on small market participants.

**Conclusion:** The study concludes that harmonizing transparency and privacy requires risk-based, ethically informed reforms that are responsive to technological changes. Strengthening the integration between capital market law and personal data protection is essential for creating a more just and sustainable regulatory framework.

**Limitations:** This research is limited to theoretical-normative analysis and focuses primarily on the Indonesian legal context, which may affect its broader applicability.

**Contribution:** The study contributes to the intersection of legal philosophy, capital market regulation, and data governance by proposing a value-based framework for balancing transparency and privacy. Its implications are particularly relevant for lawmakers, regulators, and legal scholars in emerging economies.

**Keywords:** *Capital Market, Fairness, Privacy Regulation, Transparency*

**How to Cite:** Budiman, E. M. (2026). Philosophical Critique of Capital Market Regulation: A Case Study between Public Interest and Privacy. *Jurnal Ilmiah Hukum dan Hak Asasi Manusia*, 5(2) 1-13.

## 1. Introduction

The capital market is recognized as one of the main drivers of modern economic growth due to its ability to bridge the funding needs of corporations and the wealth management goals of investors (Wieland et al., 2020; International Monetary Fund, 2001). This phenomenon indicates that an increasing number of individuals are involved in capital market activities, which in turn expands the personal data footprint stored within the digital architecture of the national financial system. As a complex and high-risk system, the capital market requires strict regulations to maintain its integrity and stability. The regulations aim to create transparency, protect investors, and prevent illegal practices such as market

manipulation and money laundering (Kaufmann & Weber, 2010). In Indonesia, these regulations are formulated and enforced by the Financial Services Authority (OJK) and the Indonesia Stock Exchange (BEI) through legal instruments such as the Capital Market Law, OJK Regulations, and BEI provisions (Ningsih, 2022).

However, the implementation of capital market regulations in Indonesia is not without challenges. Many regulations require the collection and processing of investors' personal data, such as shareholder identities, transaction history, and risk profiles (Argiyanto, 2018). Although these actions are justified in the context of preventing financial crimes, concerns about privacy violations are becoming more prominent, especially with the increasing number of data breaches. The Ministry of Communication and Information Technology of Indonesia recorded at least 94 cases of personal data breaches from 2019 to mid-2023, most involving private entities, including financial institutions. Additionally, the incident of personal data leakage by a Dukcapil integrator, covering 337 million entries, further raised concerns about the security of data used in the Know Your Customer (KYC) process in the financial sector.

Criticism of capital market regulations from a philosophical perspective opens up deeper analysis of the tension between two fundamental principles: public interest and individual privacy rights. Great philosophers such as John Stuart Mill, Immanuel Kant, and Michel Foucault offer different conceptual frameworks. Mill emphasized the need for public policies to generate the greatest benefit for society, while still respecting individual freedoms. Kant highlighted the importance of respecting human dignity and moral rights, including privacy. Foucault, on the other hand, viewed regulation as a manifestation of power that could systematically shape and control individual behavior (Jakob et al., 2020; Terrier, 2023).

This dilemma becomes more apparent in transparency policies such as the reporting of ultimate beneficial ownership (UBO), which aims to disclose the final owners of assets to prevent money laundering and terrorist financing. However, this policy also faces criticism for revealing personal information that should be protected (Syakur, 2022). On the other hand, the development of digital technology and the use of big data in the capital market increase the potential for invasive surveillance. These technologies enable early detection of market anomalies but also raise the risk of data misuse and privacy violations, particularly when there are no adequate ethical boundaries and oversight (Vărzaru & Bocean, 2024; Garcia-Segura, 2024).

From a social justice perspective, John Rawls' theory emphasizes that policies should be designed as if the policymakers do not know their social-economic position in society (veil of ignorance), thereby ensuring fairness for the most vulnerable (Lawrence, 2015). Meanwhile, Jürgen Habermas's discursive approach calls for deliberative participation from all stakeholders in formulating policies that are morally and rationally legitimate (Odok & Berebon, 2024). These principles can serve as a foundation for evaluating whether capital market regulations truly reflect the public interest inclusively and fairly. Furthermore, in the framework of sustainability, it is important to assess regulations not only based on short-term impacts such as increased foreign investor interest but also based on the long-term effects on the balance between economic growth and the protection of civil rights. If capital market regulations lean too much toward economic interests without considering ethical and social aspects, the potential for structural inequality and injustice becomes greater (Dadashpoor & Sheydayi, 2021; Hidayat et al., 2023).

Given these dynamics, it is important to examine capital market regulations in Indonesia from a philosophical perspective, not only to question their technical effectiveness but also to reconsider and balance the values underlying their formation. Therefore, this study aims to answer two main questions: (1) How can philosophical principles be used to critique capital market regulations in the context of maintaining the balance between public interest and individual privacy rights? And (2) Have the current capital market regulations reflected justice between the necessary transparency for the public interest and the protection of privacy for market participants?

This study offers an important theoretical contribution to the field of legal philosophy and capital market regulation by proposing an ethical approach to assess policies regulating information openness and privacy protection. By utilizing John Rawls' theory of justice, Kantian ethics regarding human dignity, and utilitarianism, this study explores how regulations can be designed to uphold individual rights without sacrificing the public interest. The integration of local values, such as *maslahah* in Islamic law and the principle of subsidiarity, enriches the analysis with a normative perspective that is contextual, making the findings of this research relevant not only in the academic domain but also in the formulation of legal policies in Indonesia.

## 2. Literature Review and Hypothesis Development

Recent studies describe how internal factors of a company influence stock price dynamics and returns at the Indonesia Stock Exchange. In the mining sector, Fitria dan Sukardi (2024) found that the activity ratio has a positive effect on stock prices, while the capital structure has no effect, and company size actually suppresses stock prices. The post-IPO phenomenon was also discussed by Nima (2024) who showed an initial underpricing pattern followed by a positive price correction for up to 18 months, then stagnating by the 24th month. Another study by Rahayu dan Sucipto (2024) emphasized that only the net profit margin significantly drives stock returns in the telecommunications sector, while return on assets and earnings per share do not, and company value fails to moderate this relationship. These micro-level findings highlight the need for regulations and disclosure policies that consider sector characteristics and company-specific performance metrics to ensure transparency truly benefits both retail investors and small issuers (Marbun, 2025).

At the macro level and external events, Hesniati et al. (2023a) proved that inflation and the rupiah exchange rate suppress returns on the Jakarta Islamic Index, while interest rates and the money supply have no significant impact. Their follow-up study on the Infobank15 index showed a similar pattern: money supply and exchange rates affect banking returns, but interest rates do not Hesniati et al. (2023b). Meanwhile, an event analysis by Rasyid et al. (2025) confirmed that the 2024 presidential election did not cause any significant market reaction on the days surrounding the vote, although there were abnormal return differences before and after the election. Collectively, this literature emphasizes that capital market regulations must be adaptive to political shocks and macroeconomic variables, while maintaining a balance between the obligation of transparency and the protection of investor privacy, especially when sensitive data becomes the basis for market decision-making (Hastuti, Irawan, & Hukom, 2023).

Capital market regulations function as a tool to ensure efficiency, integrity, and stability in the financial system. In various literatures, this regulation is understood as government or financial authority intervention aimed at creating information transparency, protecting investors, and overseeing market activities that could potentially be manipulative or illegal (Kaufmann & Weber, 2018). However, these regulations demand access to various types of personal data and financial behavior of individuals and institutions, including identity information, transaction volumes, and stock ownership (Argiyanto, 2018). In Indonesia, these regulations are reinforced by the obligation to report Ultimate Beneficial Ownership (UBO), which aims to curb money laundering. However, efforts to enhance transparency create new tensions regarding individual privacy rights, which are also protected by fundamental legal and ethical principles.

In the philosophical framework, the tension between public interest and individual privacy has long been a critical issue. Jakob et al. (2020) through utilitarianism, emphasized the importance of balancing individual freedom and the public good, where state intervention is only justified when an individual's actions harm others. On the other hand, Immanuel Kant emphasized a deontological approach, stating that every individual has moral rights that cannot be sacrificed for collective benefits, including the right to privacy. Meanwhile, Michel Foucault critiqued surveillance mechanisms in modern institutions, including the financial system, as a form of power control that limits individual autonomy. These perspectives enrich the discourse on how regulations can be understood not just legally or economically, but also morally and philosophically.

Furthermore, concepts of justice and deliberative ethics also play a role in examining the normative framework of capital market regulations. John Rawls offers the theory of justice as fairness, which stresses the importance of public policy formulation through the veil of ignorance principle, so that decisions are not biased toward dominant groups. This principle is relevant when assessing whether capital market regulations protect the most vulnerable parties in the system. Meanwhile, Jürgen Habermas' discursive approach encourages rational and equal participation from all stakeholders in formulating regulations (Odok & Berebon, 2024). With these approaches, the literature review suggests that capital market regulations should not only be evaluated in terms of efficiency and compliance, but also based on moral values, social justice, and ethical participation in their formulation.

### **3. Research Methodology**

This research uses a normative legal approach, which focuses on studying the applicable legal rules, legal principles, and legal doctrines as the foundation for analysis (Marzuki, 2021). This normative approach aims to examine capital market regulations in the context of protecting privacy rights and the public interest, emphasizing primary and secondary legal sources. To deepen the theoretical dimension, this study also integrates philosophical and conceptual approaches, which explore abstract concepts such as justice, transparency, authority, and individual rights within the framework of capital market regulations. The data collection techniques involve three main methods, namely:

1. Library research: This involves gathering and reviewing primary legal materials such as Law No. 8 of 1995 on the Capital Market, OJK regulations, and relevant international regulations. Secondary legal materials include academic journals, textbooks, scholarly articles, and other publications discussing privacy, legal philosophy, and public policy. Tertiary legal materials include legal dictionaries, encyclopedias, and legal indices and directories.
2. Indirect observation: This is done by exploring digital archives and official reports from institutions such as OJK, BEI, and the Ministry of Communication and Information Technology (Kominfo) regarding capital market policies and data privacy violations. This observation identifies policy trends and current issues relevant to the research focus.
3. Semi-structured interviews: This involves interviewing five key informants, including two legal academics, one capital market practitioner, one regulatory official (OJK), and one representative from a civil society organization focusing on digital privacy issues. The selection of respondents is purposive, based on expertise and relevance to the issues being studied. The interviews aim to gain a deeper understanding of the normative considerations and practical challenges in implementing capital market regulations in Indonesia.

The research location is focused on Jakarta as the center of national capital market regulation and activity. Jakarta is a strategic location because it houses the Financial Services Authority (OJK), the Indonesia Stock Exchange (BEI), and the majority of the headquarters of financial institutions and large issuers. Additionally, Jakarta provides access to competent informants and official regulatory documents necessary to support this study. The data analysis technique uses qualitative analysis methods (J. Moleong, 2017). The data obtained from literature studies, observations, and interviews will be analyzed through data reduction, thematic categorization, and critical interpretation of legal norms and the philosophical theories used (Sugiyono, 2019). Each finding will then be examined to identify value conflicts between public interest and privacy rights in capital market regulations. The analysis results will be presented in a systematic and logical argumentative narrative to demonstrate how ethical principles and legal philosophy can be used as a basis to evaluate and design more just and balanced regulations.

### **4. Results and Discussion**

Table 1 below presents the relationship between various aspects of philosophy, the figures or theories underlying them, and their relevance to capital market regulations, along with examples of their implementation or critiques. For example, in terms of distributive justice according to John Rawls, capital market regulations should treat all parties fairly and protect the vulnerable. This is critiqued through the example of transparency that can harm small issuers without adequate protection. In the context of individual autonomy according to Immanuel Kant, privacy is an important part of individual

autonomy that should not be sacrificed for other purposes, making the protection of personal data for investors and issuers crucial..

Next, the utilitarianism of Jeremy Bentham and J.S. Mill emphasizes regulations that maximize public benefit, but excessive transparency reports can be abused. European Catholic and social political philosophy, through the principle of subsidiarity, suggests limiting state intervention to cases where local actors cannot handle issues effectively. From an Islamic perspective, the principles of *maslahah* and *maqashid syariah* stress a balance between public interest and individual protection. Protection of privacy rights, adopted from the EU's GDPR, is also important in Indonesia's capital markets. The business ethics aspect highlights that issuers have an ethical responsibility for managing employee and customer data, while the rule of law principle underscores the importance of effective and consistent law enforcement to avoid doubts or violations, particularly in data management.

Table 1. Relevance of Philosophical Studies to Capital Market Regulations

| Philosophical Aspect        | Figure/Theory                                   | Relevance to Capital Market Regulations   | Implementation/Critique Example   |
|-----------------------------|---|---|---|
| Distributive Justice        | John Rawls                                      | Regulations should treat all parties fairly and protect the more vulnerable.  | Transparency can harm small issuers without adequate data protection.                       |
| Individual Autonomy         | Immanuel Kant                                   | Privacy, as part of individual autonomy, should be protected, and individuals should not be used as tools for other purposes. | Need for protection of personal data of investors and issuers.                              |
| Utilitarianism              | Jeremy Bentham, J.S. Mill                       | Regulations should maximize public benefits (transparency to prevent market manipulation).                                    | Issuer disclosure obligations should be limited to protect sensitive company data.          |
| Subsidiarity                | European Catholic & Social Political Philosophy | State intervention should only occur when local actors cannot handle the issue.   | Issuer disclosure obligations should be limited to protect sensitive company data.          |
| Maslahah & Mawashid Syariah | Islamic Law Philosophy                          | Regulations should balance public benefit and individual protection.  | Issuer disclosure obligations should be balanced with protection of sensitive company data. |
| Privacy Rights              | GDPR – Uni Eropa                                | Protection of personal data in global legal systems can be a reference for Indonesia  | OJK needs to adopt GDPR principles in regulating capital markets.                           |
| Business Ethics             | Ethics Theory                                   | Issuers have a social responsibility, including in data management and compliance with the law.                               | Annual reports should not leak sensitive data of employees or other parties.                |
| <i>Rule of Law</i>          | Basic Legal Philosophy                          | Regulations are only effective if enforced fairly and consistently.   | Weak oversight leads to data violations; need for strong and fair enforcement mechanisms.   |

#### ***4.1 Philosophical Principles to Critique Capital Market Regulations in the Context of Balancing Public Interest and Individual Privacy Rights***

Philosophical principles play an essential role in critiquing capital market regulations, especially in efforts to maintain a balance between public interest and individual privacy rights. Capital market regulations are designed to create transparency, prevent fraud, and protect the interests of investors as well as overall market stability (Febrian & Nazar, 2024). However, these regulations often intersect with the privacy rights of market participants such as issuers, investors, and others involved. By using

a philosophical approach, we can explore how fundamental values like justice, freedom, and common welfare are either applied or overlooked within the framework of capital market regulations.

In the context of Indonesian law, Law No. 8 of 1995 on Capital Markets (Capital Market Law) serves as the primary basis for regulating the capital market. Articles in this law emphasize transparency as a key principle. For example, Article 86 requires periodic financial reports to be submitted by issuers or public companies. This provision aims to ensure that relevant information is available to the public and investors, enabling rational and fair investment decisions (Fauzi et al., 2021). However, excessive transparency can lead to privacy risks, such as the disclosure of personal shareholder data or sensitive company information.

Legal philosophy, particularly John Rawls' theory of justice, can be used to assess whether current capital market regulations reflect distributive justice. Rawls argued that justice must ensure equal treatment for all individuals while also providing protection for the most vulnerable (Ekmekci & Arda, 2015). In the context of capital markets, regulations that overly emphasize transparency may harm small individuals or companies that lack the resources to properly protect their data. On the other hand, public interest in obtaining adequate information remains a priority that cannot be neglected (Anindhita, 2023).

Furthermore, Immanuel Kant's philosophy of individual autonomy provides a foundation for considering the importance of privacy protection. Kant emphasized that every individual has the right to be treated as an end in themselves, not merely as a means to another's end (McCrudden, 2008). In the context of capital market regulations, data collection and disclosure must consider an individual's right to keep their personal information confidential. For instance, Article 94 of the Capital Market Law, which regulates confidentiality obligations for certain parties in the capital market, acknowledges the importance of privacy protection. However, this provision still requires stronger enforcement to prevent misuse of information (Yuyut Prayuti, 2024).

Utilitarian philosophy, as proposed by Jeremy Bentham and John Stuart Mill, is also relevant to analyzing capital market regulations. The utilitarian approach emphasizes maximizing collective well-being (Mulgan, 2017). In this case, regulations prioritizing transparency aim to provide benefits to the majority by preventing practices like insider trading and market manipulation. However, this approach can also create ethical dilemmas when individual privacy rights are sacrificed for a larger public good. For example, mandatory real-time stock transaction reports, as regulated by the Financial Services Authority (OJK), could potentially lead to data misuse by irresponsible parties.

On the global level, principles outlined in the General Data Protection Regulation (GDPR) from the EU can serve as a reference to strengthen privacy protection in Indonesia's capital markets. GDPR emphasizes transparent data management while ensuring full control for individuals over their personal information (Sirait, 2019). These principles could be integrated into Indonesia's capital market regulations to ensure transparency does not violate human rights. For instance, rules on processing investor personal data by financial institutions should include clear provisions on usage limits and data protection.

Moreover, the subsidiarity principle from political philosophy can be applied to critique capital market regulations. This principle stresses that central authority intervention should only occur when smaller entities are incapable of effectively handling issues (Raiu, 2024). In this context, capital market regulations should be designed in a way that does not stifle innovation or local initiatives by market actors. For example, overly complex reporting obligations could become a burden for small and medium enterprises entering the capital market.

In Islamic legal philosophy, the concepts of *maslahah* (public interest) and *maqashid syariah* (objectives of Islamic law) can also be used to evaluate capital market regulations. These concepts emphasize the importance of balancing the protection of wealth, life, intellect, descendants, and religion (Wiryanto, 2023). In the context of capital markets, this means that regulations must ensure public interest protection without violating the individual's right to privacy and autonomy. This principle is relevant

in cases such as issuer disclosure obligations, which should balance the protection of sensitive company data (Pohan et al., 2023).

Criticism of capital market regulations can also be directed at their implementation and enforcement. In many cases, existing regulations already encompass principles supporting a balance between public interest and privacy. However, weak oversight and enforcement can lead to violations of both aspects (Christensen et al., 2016). For example, the inability of authorities to prevent data leaks from investors demonstrates the need for more effective oversight mechanisms. In this case, legal philosophy emphasizes the importance of rule of law or legal supremacy to ensure that regulations are applied fairly and consistently. From an ethical perspective, the concept of corporate social responsibility (CSR) can also be included in the critique of capital market regulations. CSR requires companies to be responsible not only to shareholders but also to the wider community (Vuong & Bui, 2023). In this context, issuers and public companies must ensure they comply with capital market regulations while respecting individuals' privacy rights. For example, preparing transparent annual reports should not involve disclosing information that could harm employees or other stakeholders.

In conclusion, philosophical principles such as justice, freedom, utilitarianism, subsidiarity, and *maslahah* can be used to critique capital market regulations in maintaining a balance between public interest and individual privacy rights. In Indonesia's context, regulations such as the Capital Market Law and OJK regulations provide a legal basis for achieving this goal, but adjustments and strengthening are still needed for the regulations to be more responsive to contemporary challenges. With a philosophical approach, analyzing capital market regulations can provide deeper insights into how law can create a fair and sustainable balance for all parties involved.

#### ***4.2 Alignment of Capital Market Regulations with Reflecting Justice Between Transparency for Public Interest and Privacy Protection for Market Participants***

Capital market regulations play a vital role in ensuring economic stability, transparency, and fairness in the financial sector. The capital market serves as a means to raise funds from the public and provide investment access for economic actors (Pratiwi et al., 2024). In carrying out this function, regulations are needed to create a safe and trusted environment for both investors and issuers. However, these regulations must also consider the balance between the need for transparency for the public interest and the protection of individual or institutional privacy.

Law No. 8 of 1995 on Capital Markets (UUPM) serves as the main legal framework for regulating Indonesia's capital market. One of the objectives of UUPM is to protect investors, enhance transparency, and prevent harmful practices such as insider trading and market manipulation. This regulation requires public companies to disclose relevant material information to the public through an information disclosure mechanism. This is regulated in Articles 86 and 87 of UUPM, which mandate issuers or public companies to provide information accurately, truthfully, and on time (Federova, 2023).

The information disclosure obligation aims to ensure that all parties involved in the capital market have equal access to information. This principle supports transparency and fairness in the capital market, helping to minimize information asymmetry (Abed et al., 2022). For instance, financial reports published periodically by public companies are a form of transparency mandated by OJK. OJK Regulation No. 29/POJK.04/2016 on Issuer or Public Company Annual Reports requires that annual reports include both financial and non-financial information that is material for investment decision-making (Erdianti et al., 2023).

However, this transparency obligation has consequences for the privacy of market participants. The information disclosed often includes personal data and strategic company data, which, if misused, can harm the involved parties (Sujana, 2024). For instance, disclosing information about shareholder ownership structure or material transactions can pose risks for individual shareholders, such as threats to personal data security or exploitation of information by irresponsible parties. In this context, privacy becomes an important issue that needs to be considered in capital market regulations (Latifah & Widiatmoko, 2022).

Privacy rights in the capital market are protected by various regulations, including Law No. 27 of 2022 on Personal Data Protection (UU PDP). UU PDP regulates the collection, storage, and use of personal data, including data that may be disclosed in the context of capital markets. Article 17 of UU PDP states that personal data processing must be done with the consent of the data owner, unless otherwise stipulated by law. In this case, there is potential conflict between the transparency obligations in UUPM and privacy protection as regulated in UU PDP (Mamonto, 2024). One of the main challenges is determining the right boundaries between transparency and privacy. Capital market regulations often require extensive information disclosure for the public interest but do not always provide adequate protection for personal data (Custers & Malgieri, 2022). For example, the issuer's obligation to disclose information about major shareholders may involve sensitive personal data. This could potentially violate privacy principles, especially if the data is misused by other parties for unauthorized purposes.

At the international level, principles of transparency and privacy protection are often regulated in a more balanced way. Regulations such as the General Data Protection Regulation (GDPR) in the EU provide strict protection for personal data, even in the financial sector. GDPR requires companies to implement strong data protection measures, including encryption and anonymization, when processing personal information. These principles can serve as a model for capital market regulations in Indonesia to enhance privacy protection without compromising transparency (Hoofnagle et al., 2019). OJK, as the capital market regulator in Indonesia, has made efforts to regulate this balance through various policies. One example is OJK Regulation No. 42/POJK.04/2020 on Issuer or Public Company Transparency and Reporting. This regulation mandates that disclosed information must be relevant, accurate, and not misleading, while also allowing companies to protect confidential data that is not required to be disclosed. However, the implementation of this policy still requires stricter oversight to ensure that the transparency principle is not misused to violate privacy.

On the other hand, capital market regulations in Indonesia must also consider technological developments and digitalization. Digitalization of the capital market enables large-scale data processing but also increases the risk of privacy violations. For instance, online trading platforms can collect personal data of investors, such as identity, trading patterns, and investment preferences. This data has the potential to be misused if not adequately protected (Kharisma, 2021). Therefore, capital market regulations need to be strengthened with strict cybersecurity policies to protect privacy data in the digital era. Philosophically, the balance between transparency and privacy in capital market regulations can be analyzed through the principles of distributive justice and commutative justice. Distributive justice requires regulations to provide fair benefits for all parties involved, both investors and issuers. Meanwhile, commutative justice demands that relationships between market participants be based on respect for individual rights, including privacy rights (Musu & Trisnamansyah, 2024). In this case, capital market regulations should be designed in such a way that no party is unfairly harmed.

In practice, capital market regulations in Indonesia still face challenges in reflecting justice between transparency and privacy. For example, oversight of information disclosure implementation is often focused on fulfilling administrative formalities, without considering the impact on privacy. Additionally, sanctions for privacy violations in the capital market are relatively mild compared to violations of information disclosure obligations (Santika & Suyatno, 2024). This reflects an imbalance in regulatory priorities that needs to be improved. To better reflect justice, capital market regulations need to be formulated with a risk-based approach. This approach allows regulations to determine the type of information that must be disclosed based on its potential impact on public interest. Strategic and sensitive information can receive more protection, while less impactful information can be disclosed openly. Furthermore, oversight and law enforcement mechanisms need to be strengthened to ensure that the principles of transparency and privacy are applied consistently (Díaz-Rodríguez et al., 2023).

Capital market regulations in Indonesia have made efforts to reflect justice between transparency and privacy, but there is still room for improvement. By considering international experiences and philosophical principles, capital market regulations can be redesigned to create a better balance between public interest and privacy protection. These steps will ensure that the capital market remains a fair, transparent, and safe instrument for all parties involved. Practically, the findings from this research



provide concrete guidance for regulators like OJK and policymakers in designing more balanced regulations between transparency and personal data protection. Recommendations to adopt international data protection standards such as GDPR and implement a risk-based approach are expected to strengthen public trust in the national capital market system. Additionally, this research also provides room for small market participants to receive equal protection in a fair and adaptive legal ecosystem amidst technological advancements. Thus, this research contributes to shaping a regulatory framework that is not only legally sound but also ethical, inclusive, and sustainable.

## **5. Conclusion**

### **5.1 Conclusion**

Philosophical principles play an important role in evaluating capital market regulations, especially in balancing public interest and the protection of individual privacy rights. John Rawls' justice approach emphasizes the importance of fair regulations for all parties, including small actors and retail investors, to prevent the domination of large corporate interests in capital market policies. Immanuel Kant's ideas on individual autonomy underline that privacy is a moral right that must be preserved absolutely. Meanwhile, the utilitarian view prioritizes efficiency and collective benefit, though at the risk of sacrificing individual rights. In a local context, the *maslahah* principle in Islamic law and the rule of law approach in Indonesia's legal system both stress the importance of maintaining a balance between transparency for public interest and the protection of citizens' fundamental rights, including privacy.

Capital market regulations in Indonesia, through the Capital Market Law and various OJK regulations, have made efforts to promote transparency in order to create an efficient and fair market. However, their implementation still faces challenges, especially in protecting personal data, which has not been fully integrated into the system. The introduction of the Personal Data Protection Law (UU PDP) is a positive step, but there are still potential conflicts with transparency regulations, especially regarding the limits of sensitive information that should be disclosed to the public. Therefore, there is a need for refinement in the regulations based on risk analysis, proportionality, and stricter and more independent data oversight.

A concrete recommendation is to align capital market regulations with global privacy protection principles like the General Data Protection Regulation (GDPR) by strengthening internal and external oversight over investor personal data management. Additionally, applying the subsidiarity principle could reduce the administrative burden for small and medium market actors without sacrificing transparency. In terms of sustainability, capital market regulations should also support ethical and inclusive investment, including promoting Environmental, Social, and Governance (ESG)-based reporting to ensure the market plays a role in building an equitable and sustainable economy. Analogously, just as the development of bamboo architecture balances structural strength and ecological flexibility, capital market regulations should be built on a solid legal framework while being adaptable to technological dynamics and the protection of human values.

Academically, this research contributes significantly to the development of interdisciplinary studies between philosophy, law, and economic policy, particularly in the context of regulatory ethics and data protection. This research encourages a critical approach to legal products that should not only be understood as technical instruments but also as normative tools that uphold justice, transparency, and human rights. It opens the door for further research on digital policy ethics and market governance based on distributive justice. Practically, the findings of this research can be used by regulators like OJK and policymakers to design more responsive capital market regulations that align information transparency and personal data protection. This research is also useful for market participants and investors as a foundation to demand a fairer and safer market system. More broadly, these findings can serve as a reference for developing countries when designing sustainable capital market legal frameworks, akin to strong, flexible, and harmonized bamboo structures that align with future social and technological environments.

### **5.2 Suggestions**

As a suggestion, capital market regulations in Indonesia should place greater emphasis on strengthening privacy protection by integrating principles that balance transparency and individual rights, as outlined in the EU's GDPR. Relevant authorities, such as OJK, could establish clear guidelines on the limits of information disclosure to prevent privacy violations without compromising public transparency needs. Furthermore, stricter supervision and the application of data security technology could ensure that the obligations for information disclosure are met without infringing on the privacy rights of market participants. Harmonizing the Personal Data Protection Law and capital market regulations should also be prioritized to create regulations that are fair, responsive, and in line with the challenges of the digital era.

### Limitations and Further Studies

This study is limited to normative and theoretical analysis without empirical data, and primarily focuses on Indonesian regulations, which may limit its generalizability.

### Acknowledgments

The author expresses sincere gratitude to all parties, both individuals and institutions, especially Universitas Pelita Harapan, for their support in this research. Their valuable contributions and insights have played a significant role in the completion of this study.

### Referensi

- Abed, I. A., Hussin, N., Haddad, H., Almubaydeen, T. H., & Ali, M. A. (2022). Creative Accounting Determination and Financial Reporting Quality: The Integration of Transparency and Disclosure. *Journal of Open Innovation: Technology, Market, and Complexity*, 8(1), 38. <https://doi.org/10.3390/joitmc8010038>
- Akang, A. U. (MNIM). (2024). Regulatory Compliance And Access To Finance: Implications For Business Growth In Developing Economies. *Sciental Journal of Education Humanities and Social Sciences*, 1(2), 8–23. <https://doi.org/10.62536/sjehss.2023.v1.i2.pp8-23>
- Anindhita, T. D. (2023). Information Transparency in Public Stock Offering Transactions in the Capital Market (Case Study of the Prospectus for the Initial Public Offering of PT Media Nusantara Cipta (PT MNC) Shares in 2007). *Journal Research of Social Science, Economics, and Management*, 2(12). <https://doi.org/10.59141/jrssem.v2i12.515>
- Argiyanto, D. (2018). Protection In Retail Investors Disadvantaged By Fake Transaction Practice (Cornering The Market). *Journal of Private and Commercial Law*, 2(1), 55–64. <https://doi.org/10.15294/jpcl.v2i1.14560>
- Christensen, H. B., Hail, L., & Leuz, C. (2016). Capital-Market Effects of Securities Regulation: Prior Conditions, Implementation, and Enforcement. *Review of Financial Studies*, 29(11), 2885–2924. <https://doi.org/10.1093/rfs/hhw055>
- Custers, B., & Malgieri, G. (2022). Priceless data: why the EU fundamental right to data protection is at odds with trade in personal data. *Computer Law & Security Review*, 45, 105683. <https://doi.org/10.1016/j.clsr.2022.105683>
- Dadashpoor, H., & Sheydayi, A. (2021). Defining Public Interest in Planning: A Review. *Journal of Planning Literature*, 36(4), 543–561. <https://doi.org/10.1177/08854122211018379>
- Díaz-Rodríguez, N., Del Ser, J., Coeckelbergh, M., López de Prado, M., Herrera-Viedma, E., & Herrera, F. (2023). Connecting the dots in trustworthy Artificial Intelligence: From AI principles, ethics, and key requirements to responsible AI systems and regulation. *Information Fusion*, 99, 101896. <https://doi.org/10.1016/j.inffus.2023.101896>
- Ekmekci, P. E., & Arda, B. (2015). Enhancing John Rawls's theory of justice to cover health and social determinants of health. *Acta Bioethica*, 21(2), 227–236. <https://doi.org/10.4067/S1726-569X2015000200009>
- Erdianti, E., Lindrawati, L., & Susanto, A. (2023). Mekanisme Tata Kelola Perusahaan terhadap Pengungkapan Informasi Forward-Looking. *Jurnal Ilmiah Akuntansi Dan Bisnis*, 8(2), 179–192. <https://doi.org/10.38043/jiab.v8i2.5583>
- Fauzi, M., Asirwadana, E., & Milasari, M. P. (2021). Analysis Of Legal Protection For Capital Market Investors. *Jurnal Hukum To-Ra : Hukum Untuk Mengatur Dan Melindungi Masyarakat*, 7(2), 215–226. <https://doi.org/10.55809/tora.v7i2.4>

- Febrian, M. H., & Nazar, J. (2024). Transparansi Dan Akuntabilitas Dalam Pasar Modal Melalui Analisis Hukum Perdata Kewajiban Pengungkapan Informasi. *Journal of Law and Nation*, 3(3). <https://dinastirev.org/JIHP/article/view/4534>
- Federova, S. L. (2023). Perlindungan Hukum Bagi Investor Selaku Konsumen dalam Perdagangan Reksadana Di Pasar Modal. *Kultura: Jurnal Ilmu Hukum, Sosial, Dan Humaniora*, 1(5). <https://doi.org/https://doi.org/10.572349/kultura.v1i5.516>
- Fitria, Z., & Sukardi, A. S. (2024). *Struktur modal, rasio aktivitas, dan ukuran perusahaan terhadap harga saham sektor pertambangan yang terdaftar di Jakarta Islamic Index*. *Jurnal Akuntansi, Keuangan, dan Manajemen*, 5(4), 503–515. <https://doi.org/10.35912/jakman.v5i4.3312> ([penerbitgoodwood.com](https://penerbitgoodwood.com))
- Garcia-Segura, L. A. (2024). The role of artificial intelligence in preventing corporate crime. *Journal of Economic Criminology*, 5, 100091. <https://doi.org/10.1016/j.jeconc.2024.100091>
- Hastuti, R., Irawan, I., & Hukom, A. (2023). Pengaruh Inflasi, Nilai Tukar, Suku Bunga dan Produk Domestik Bruto terhadap Return Saham pada Perusahaan Manufaktur. *Studi Ekonomi dan Kebijakan Publik*, 2(1), 21–36. doi:<https://doi.org/10.35912/sekp.v2i1.1221>
- Hesniati, H., Calystania, V., Novia, J., Sisca, V., Vira, V., & Stephanie, S. (2023). *Determinan penting stock return pada Jakarta Islamic Index (JII) ditinjau dari faktor makroekonomi*. *Studi Ilmu Manajemen dan Organisasi*, 4(2), 115–126. <https://doi.org/10.35912/simo.v4i2.1971> ([doi.org](https://doi.org))
- Hesniati, H., Delfina, D., Irvin, I., Wijaya, A. J., Quinn, F., & Lie, H. W. (2023). *Pengaruh variabel makroekonomi terhadap return saham Indeks Infobank15*. *Studi Ilmu Manajemen dan Organisasi*, 4(2), 127–137. <https://doi.org/10.35912/simo.v4i2.2052> ([doi.org](https://doi.org))
- Hidayat, D., Aji, A. B. W., & Aziz, M. I. (2023). The Role of the Financial Services Authority in Supervising Capital Market Flows in Indonesia. *Al-Ishlah: Jurnal Ilmiah Hukum*, 26(1), 26–38. <https://doi.org/10.56087/aijih.v26i1.368>
- Hoofnagle, C. J., van der Sloot, B., & Borgesius, F. Z. (2019). The European Union general data protection regulation: what it is and what it means. *Information & Communications Technology Law*, 28(1), 65–98. <https://doi.org/10.1080/13600834.2019.1573501>
- International Monetary Fund. (2001). *Developing Government Bond Markets: A Handbook*. The World Bank. <https://doi.org/https://doi.org/10.5089/9780821349557.069>
- J. Moleong, L. (2017). *Metodologi Penelitian Kualitatif*. PT Remaja Rosdakarya. <https://perpustakaan.binadarma.ac.id/opac/detail-opac?id=40>
- Jakob, M., Lamb, W. F., Steckel, J. C., Flachslan, C., & Edenhofer, O. (2020). Understanding different perspectives on economic growth and climate policy. *WIREs Climate Change*, 11(6). <https://doi.org/10.1002/wcc.677>
- Kaufmann, C., & Weber, R. H. (2018). The Role of Transparency in Financial Regulation. *Journal of International Economic Law*, 13(3), 779–797. <https://doi.org/10.1093/jiel/jgq037>
- Kharisma, D. B. (2021). Urgency of financial technology (Fintech) laws in Indonesia. *International Journal of Law and Management*, 63(3), 320–331. <https://doi.org/10.1108/IJLMA-08-2020-0233>
- Latifah, F. N., & Widiatmoko, J. (2022). Pengaruh Struktur Kepemilikan Terhadap Corporate Social Responsibility Dan Dampaknya Pada Nilai Perusahaan. *JIMAT (Jurnal Ilmiah Mahasiswa Akuntansi)*, 13(3). <https://doi.org/https://doi.org/10.23887/jimat.v13i03.44363>
- Lawrence, M. A. (2015). Justice-as-Fairness as Judicial Guiding Principle: Remembering John Rawls and the Warren Court. *Brooklyn Law Review*, 81. <https://doi.org/https://doi.org/10.17613/21vx-1151>
- Mamonto, D. F. (2024). Analisis Perlindungan Hukum Terhadap Penyalahgunaan Data Pribadi Berdasarkan Undang-Undang Nomor 27 Tahun 2022. *Lex Privatum*, 13(4). <https://ejournal.unsrat.ac.id/v3/index.php/lexprivatum/article/view/56215>
- Marbun, Y. C. (2025). Implikasi Hukum Pembayaran Dividen atas Saham yang Disita dalam Kasus Korupsi. *Jurnal Ilmiah Hukum dan Hak Asasi Manusia*, 5(1), 33–47. doi:<https://doi.org/10.35912/jihham.v5i1.4678>
- Marzuki, P. M. (2021). *Penelitian Hukum: Edisi Revisi*. Kencana. <https://books.google.co.id/books?id=CKZADwAAQBAJ&printsec=copyright#v=onepage&q&f=false>

- McCrudden, C. (2008). Human Dignity and Judicial Interpretation of Human Rights. *European Journal of International Law*, 19(4), 655–724. <https://doi.org/10.1093/ejil/chn043>
- Mulgan, T. (2017). *Understanding Utilitarianism*. Acumen Publishing Limited. <https://doi.org/10.1017/UPO9781844653904>
- Musu, C., & Trisnamansyah, P. (2024). The Role Of Transparency Standard: Effectivity In Proving The Breach Of Fair And Equitable Treatment. *Transnational Business Law Journal*, 5(1), 1–14. <https://doi.org/10.23920/transbuslj.v5i1.1575>
- Nima, R. V. R. (2024). *Studi harga saham pasca IPO di Bursa Efek Indonesia*. *Jurnal Akuntansi, Keuangan, dan Manajemen*, 5(2), 149–160. <https://doi.org/10.35912/jakman.v5i2.3021> ([penerbitgoodwood.com](http://penerbitgoodwood.com))
- Ningsih, A. S. (2022). Rules Regarding Mandatory Equity Securities Listing: Is It Possible for A Public Company Without Listing on The Indonesian Stock Exchange? *Jurnal Penelitian Hukum De Jure*, 22(3), 285. <https://doi.org/10.30641/dejure.2022.V22.285-294>
- Odok, J. A., & Berebon, C. (2024). The Interplay of Morality, Law, and Democratic Legitimacy in Habermas’s Political Philosophy. *Advances in Law, Pedagogy, and Multidisciplinary Humanities*, 2(1), 49–63. <https://jurnal.fs.umi.ac.id/index.php/alpamet/article/view/749>
- Pohan, G. A. A., Priyono, F. J., & Priyono, E. A. (2023). Application Of Principle Full Disclosure And Legal Protection For Investor Due To Market Manipulation Of Shareprices By Issuers In Capital Market. *Credito*, 5(1), 104–115. <https://doi.org/10.14710/crepido.5.1.104-115>
- Pratiwi, N. C., Pytaloka, D. R. A. D., & Arifin, Z. (2024). An in-Depth Understanding of Capital Market Theory: a Literature Review in the Context of Financial Management. *Magister : Manajemen Strategis Dan Terapan*, 1(1). <https://ejournal.itbwigalumajang.ac.id/index.php/mgt/article/view/1374>
- Rahayu, M. Y., & Sucipto, A. (2024). *Analisis pengaruh profitabilitas terhadap return saham dengan nilai perusahaan sebagai variabel moderasi: Studi kasus pada perusahaan telekomunikasi di BEI 2018–2023*. *Jurnal Akuntansi, Keuangan, dan Manajemen*, 6(1), 81–94. <https://doi.org/10.35912/jakman.v6i1.3570> (doi.org)
- Raiu, C. (2024). From Asset to Liability–Considerations on the Constitutionalizing of Religious Freedom Within the European Union Member States. *Laws*, 13(6), 72. <https://doi.org/10.3390/laws13060072>
- Rasyid, S., Darmawati, D., Khaerany, R., Nadhifa, N., & Pratiwi, D. D. (2025). *Analisis reaksi pasar modal terhadap Pemilihan Umum Presiden Indonesia tahun 2024*. *Jurnal Akuntansi, Keuangan, dan Manajemen*, 6(2), 385–398. <https://doi.org/10.35912/jakman.v6i2.3825> ([penerbitgoodwood.com](http://penerbitgoodwood.com))
- Santika, S., & Suyatno, S. (2024). Legal Protection for Investors Buying and Selling Shares Online and in the Capital Market. *Jurnal Multidisiplin Indonesia*, 3(5), 4038–4045. <https://doi.org/10.58344/jmi.v3i5.1233>
- Sirait, Y. H. (2019). General Data Protection Regulation (Gdpr) Dan Kedaulatan Negara Non-Uni Eropa. *Gorontalo Law Review*, 2(2), 60. <https://doi.org/10.32662/golrev.v2i2.704>
- Sugiyono. (2019). *Metode Penelitian Kuantitatif, Kualitatif, dan R&D*. Bandung: CV. Alfabeta. <https://perpustakaan.binadarma.ac.id/opac/detail-opac?id=24>
- Sujana, M. S. S. (2024). Analysis of Legal Protection of Investors in Capital Markets: Perspective of Law No. 8 of 1995, Law No. 21 of 2011, and Law No. 11 Year 2020. *Jurnal Hukum Prasada*, 11(2), 99–103. <https://doi.org/10.22225/jhp.11.2.2024.99-103>
- Syakur, S. (2022). Pertanggungjawaban Pidana oleh Pemilik Manfaat (Beneficial Owner) sebagai Pelaku Pencucian Uang dan Kejahatan Lainnya dalam Perseroan Terbatas. *AML/CFT Journal: The Journal of Anti Money Laundering and Countering the Financing Terrorism*, 1(1), 101–112. <https://doi.org/10.59593/amlcft.2022.v1i1.28>
- Terrier, M. (2023). “The Utilitarians of Their Day”? *Revue d’études Benthamiennes*, 23. <https://doi.org/10.4000/etudes-benthamiennes.10392>
- Värzaru, A. A., & Bocean, C. G. (2024). Digital Transformation and Innovation: The Influence of Digital Technologies on Turnover from Innovation Activities and Types of Innovation. *Systems*, 12(9), 359. <https://doi.org/10.3390/systems12090359>

- Vuong, T. K., & Bui, H. M. (2023). The role of corporate social responsibility activities in employees' perception of brand reputation and brand equity. *Case Studies in Chemical and Environmental Engineering*, 7, 100313. <https://doi.org/10.1016/j.cscee.2023.100313>
- Wieland, I., Kovács, L., & Savchenko, T. (2020). Conceptual study of the difference between the money market and the capital market. *Financial Markets, Institutions and Risks*, 4(1), 51–59. [https://doi.org/10.21272/fmir.4\(1\).51-59.2020](https://doi.org/10.21272/fmir.4(1).51-59.2020)
- Wiryanto, F. S. (2023). The Urgency and Strategic Role of Maqasid Shari'ah and Maslahah in Responding to The Legal and Economic Challenges of Muslim Business. *Jurnal of Middle East and Islamic Studies*, 10(1). <https://doi.org/10.7454/meis.v10i1.158>
- Yuyut Prayuti. (2024). Dinamika Perlindungan Hukum Konsumen di Era Digital: Analisis Hukum Terhadap Praktik E-Commerce dan Perlindungan Data Konsumen di Indonesia. *Jurnal Interpretasi Hukum*, 5(1), 903–913. <https://doi.org/10.22225/juinhum.5.1.8482.903-913>