Al-Kharaj: Journal of Islamic Economic and Business
Volume 8 (1), 2025
P-ISSN: 2686-262X; E-ISSN: 2685-9300

Criminal Responsibility of Influencers for Illegal Crypto Pump and Dump Schemes Under Indonesian Law

Yehezkiel Marbun[1], Rospita A. Siregar[2]
[1, 2]Program Doktoral Ilmu Hukum, Pasca Sarjana,
Universitas Kristen Indonesia
Email: yehezkielmarbun89@gmail.com

Keywords:
Criminal Liability; Crypto Assets; Influencers

Abstract
This study aims to analyze the criminal liability of influencers in illegal crypto asset pump-and-dump schemes following the transition of oversight to the Financial Services Authority (OJK). Using a normative judicial method, it evaluates the synchronization between the EIT Law, the National Penal Code (Law No. 1/2023), and the P2SK Law. The results indicate that influencers can be held criminally liable under Article 28, paragraph (1) of the EIT Law for disseminating misleading information that causes material loss. Simultaneously, they may be prosecuted under Article 492 of the National Penal Code for fraud. The legal standing of influencers is constructed as "joint perpetrators" (medepleger) or "solicitors" (uitlokker) under Article 20 of the National Penal Code, given their dominant role in mobilizing the public through digital information manipulation. The use of disclaimers does not eliminate mens rea if criminal intent and profit from others' losses are proven. Integrative law enforcement is essential to protect consumers and the integrity of Indonesia's digital financial market.

INTRODUCTION

The development of financial technology in Indonesia has created a new paradigm in investment instruments, where crypto assets now occupy a strategic position as a digital financial asset that is in high demand but has a high risk of volatility and manipulation (Rolando & Rahmat., 2025)

The legal transformation, which was marked by the ratification of Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector (P2SK Law), is a turning point in the regulation and supervision of crypto assets, which were originally categorized as commodities under the Commodity Futures Trading Supervisory Agency (Bappebti), into digital financial assets under the Financial Services Authority (OJK). In the midst of this regulatory transition, there is a phenomenon of aggressive promotion by influential figures or *influencers* who are often trapped in pump *and dump* schemes, a form of market manipulation that is structured to create false price increases for unilateral profit (Firmana, 2024)

The Indonesian legal system initially viewed pure crypto assets as commodities that could be traded on futures exchanges. The main legal basis underlying this view is Law Number 32 of 1997 concerning Commodity Futures Trading as amended by Law Number 10 of 2011. Article 1 number 2 of Law Number 10 of 2011 provides the definition of commodities as follows:

"Komoditi adalah semua barang, jasa, hak dan kepentingan lainnya, dan setiap derivatif dari Komoditi, yang dapat diperdagangkan dan menjadi subjek Kontrak Berjangka, Kontrak Derivatif Syariah, dan/atau Kontrak Derivatif lainnya."

Based on this definition, Bappebti issued Bappebti Regulation Number 8 of 2021 concerning Guidelines for the Implementation of Physical Market Trading of Crypto Assets on the Futures Exchange as an operational basis. However, along with the complexity of the function of crypto assets, which also act as financial investment instruments, the government has restructured it through the P2SK Law. Article 312 paragraph (1) of the P2SK Law mandates the transfer of the task of regulating and supervising digital financial assets (including crypto assets) from Bappebti to the OJK in order to realize more inclusive and stable governance.

This transition was followed by the issuance of Government Regulation Number 49 of 2024 (PP 49/2024) and OJK Regulation Number 27 of 2024 (POJK 27/2024) concerning the Implementation of Digital Financial Asset Trading, Including Crypto Assets. POJK 27/2024 gives broad authority to the OJK to evaluate and even prohibit trading in certain assets if they are considered high-risk or do not meet consumer safety criteria. Article 14 paragraphs (1) and (2) of POJK 27/2024 affirms:

"(1) The Financial Services Authority is authorized to evaluate Crypto Assets in the Crypto Asset List.
(2) Based on the evaluation conducted by the Financial Services Authority as intended in paragraph (1), the Financial Services Authority is authorized to prohibit trading in certain Crypto Assets in the Crypto Asset List announced on the official media of the Financial Services Authority."

The evolution of this regulation shows that any crypto asset promotion activity that is not registered in the official list set by the authorities (Bappebti during the transition period, and the OJK in full later) is categorized as illegal asset promotion. The fiscal impact of this regulation can also be seen from the issuance of PMK Number 50 of 2025 which reregulates the taxation of crypto assets as a form of state recognition of the existence of this asset in the national economic system.

METHODS

This study analyzes in depth the criminal liability of these *influencers* using normative juridical methods, focusing on synchronization between the Electronic Information and Transaction Law (UU ITE) and the National Criminal Code (KUHP).

RESULTS AND DISCUSSION

Crypto Asset Pump and Dump Crime and the Role of Influencers

The *pump and dump* scheme in the crypto asset market is a form of market manipulation that involves two main stages: "pump" (pump the price) and "dump" (dump/sell the asset). From a legal perspective, this action is a gross violation of the principles of honesty and disclosure of information in the financial markets. Article 57 paragraph (1) letter a of Law Number 10 of 2011 explicitly prohibits such manipulative acts:

Every Person is prohibited directly or indirectly: a. from transacting in Futures Contracts, Sharia Derivative Contracts, and/or other Derivative Contracts that do not result in a change of ownership or create the impression of active trading or prices occurring in the Futures Market even though they do not represent the actual market price to affect the price of Futures Contracts, Sharia Derivative Contracts, and/or other Derivative Contracts.

The role of influencers or affiliates becomes very crucial in the "pump" stage. They use social media (Instagram, Telegram, Discord, TikTok) to spread positive narratives that are often false, exaggerated, or misleading (hoaxes) about a particular crypto asset. The strategies used include the use of false testimonials, flexing the claimed wealth as a result of investing in the asset, and providing promises of certain profits without risk. This action aims to create *Artificial Demand* or pseudo-demand from their followers who are often novice investors with low financial literacy.

After asset prices soared due to mass purchases by the public, influencers along with asset developers (perpetrators) "dumped", which is selling all their asset holdings at the peak price, resulting in a drastic plummeting price and massive financial losses for retail investors. In a juridical framework, this activity is not just an aggressive marketing strategy, but a series of lies designed to harm others for personal gain.

Criminal Liability Analysis Based on the ITE Law

The Electronic Information and Transaction Law is the main instrument in ensnaring crime in the cyber world. In the case of the promotion of illegal crypto assets through *the pump and dump* scheme, the most relevant article is Article 28 paragraph (1) of the ITE Law as amended by Law Number 1 of 2024. Article 28 paragraph (1) of Law Number 1 of 2024 reads as follows: "Every Person intentionally and/or transmits Electronic Information and/or Electronic Documents containing false notifications or misleading information that results in material losses for consumers in Electronic Transactions." Juridically normative, *the criminal liability of influencers* can be constructed through the fulfillment of the following elements:

1. **Everyone**: Legal subjects of both individuals and corporations. *Influencers* who act as affiliates or promoters independently are legal subjects who can be held accountable.
2. **Intentionally**: The element *of mens rea* (malicious intent). *An influencer* is considered to have intentionality if he knows that the promoted asset is illegal (unregistered) or the information conveyed is not based on objective facts, but he still spreads it in order to get a commission or profit from a price spike.
3. **Distribute/Transmit**: The act of uploading promotional content, video testimonials, or call-to-action in a publicly accessible social media group.
4. **False Notices or Misleading Information**: Includes false claims about legality, the technology behind crypto assets, or unreasonable promises of profits. This includes failure to disclose (*non-disclosure*) that the content is a paid advertisement.
5. **Material Loss to Consumers**: There are victims who lose their money or assets after following the advice of the electronic content. This element distinguishes this delicacy from the spread of general hoaxes, because there must be a direct economic impact on consumers.

Sanctions for this violation are regulated in Article 45A paragraph (1) of the ITE Law:

"Every person who meets the elements as referred to in Article 28 paragraph (1) or paragraph (2) shall be sentenced to imprisonment for a maximum of 6 (six) years and/or a maximum fine of Rp 1,000,000,000.00 (one billion rupiah)."

Analysis of this article shows that the ITE Law takes seriously the economic impact of digital disinformation. For *influencers*, the defense under the pretext of "only providing education" is often lost if there is evidence of receiving rewards from the developer or if *the influencer* is proven to have sold assets (*dumping*) shortly after promoting them.

Criminal Liability Based on the National Criminal Code (Law No. 1 of 2023)

In addition to the special ITE Law (*lex specialis*), the National Criminal Code also provides a strong foundation for ensnaring influencers through fraud and the concept of participation (*deelneming*).

Article 492 of Law Number 1 of 2023 concerning the National Criminal Code (National Criminal Code) regulates the crime of fraud which is substantially similar to Article 378 of the old Criminal Code but with adjustments to categorical fines. Article 492 reads:

> "Any person who with the intention of unlawfully benefiting himself or others by using a false name or position, using trickery or a series of false words, inducing people to hand over an Item, giving a debt, making a confession of debt, or writing off receivables, shall be convicted of fraud with imprisonment for a maximum of 4 years or a maximum fine of category V."

In the context of *pump and dump*, "fake position" can be interpreted as *an influencer* who positions himself as a financial expert or successful investor even though his wealth comes from the fraudulent scheme. "Gimmicks" and "string of lies" include manipulative narratives on social media designed to convince people to "hand things over" (in this case, funds to buy crypto assets).

It's important to understand that influencers often work with other parties (such as token developers or owners of illegal exchanges). Therefore, their criminal liability must also be analyzed through Articles 20 to 23 of the National Criminal Code regarding participation.

Article 20 of the National Criminal Code states: "Every person is convicted as a perpetrator of a criminal act if he commits the act by: a. Committing the crime himself; b. Committing a criminal act through the intermediary of another person; c. Participating in committing criminal acts together; or d. Inciting others to commit criminal acts by giving or promising something, abusing power or dignity, committing violence, threats of violence, deception, misleading, or providing opportunities, means, or information."

Influencers in pump and dump *schemes* can be categorized as:

1. **Participate in Doing (Medepleger**): If there is close and conscious cooperation between *influencers* and developers to deceive investors.
2. **Promoter/Promoter (Uitlokker):** If *the influencer* actively persuades or moves his followers to make illegal investments through misrepresentation or deception.
3. **Maid (Medeplichtige):** According to Article 22, if *the influencer* merely provides a means of promotion without being involved in the core planning of market manipulation. Article 22 reads: "A person shall be convicted as an accessory to a criminal act if he: a. Deliberately providing assistance at the time of the crime committed; b. Deliberately providing the opportunity, means, or information to commit a criminal act.".

Sanctions for assisting in criminal acts are reduced by one-third of the maximum principal criminal threat, as stipulated in Article 23 of the National Criminal Code. However, given the very broad influence of social media, *the role* of influencers is often considered the main instrument that "moves" the masses, so it is more appropriate to be ensnared as the main actor or advocate.

Types of Participation	Juridical Definition (Articles 20-22 of the National Criminal Code)	Relevance in the Case of Crypto Influencers
Pleger (Perpetrator)	Committing a criminal act yourself.	Influencers who are also developers of the crypto asset.
Medepleger (Participant)	Cooperate consciously and physically in implementation.	Influencers and developers coordinate *pumping*.

Provocation (Organizer)	Moving others by misleading/deception.	Influencers use their influence to persuade the purchase of illegal assets.
Accomplice (Pembantu)	Provide means or information.	Influencers only provide advertising services without knowing the dump plan.

In criminal law, a person can only be convicted if there is a mistake (*mens rea*) and his actions have a causal relationship with the prohibited consequences.

Mistakes in the form of intentionality (*opzet*) for *influencers* can be proven through several indicators:

1. **Intentionality as Intent**: *Influencers* do intend to harm others to enrich themselves.
2. **Intentionality as Certainty**: *The influencer* knows that promoting assets without permission is prohibited, yet he does it anyway because of the great rewards.
3. **Intentionality as a Possibility (*Dolus Eventualis*):** *The influencer* is aware of the risk that the asset is fraudulent, but he does not care and continues to promote it for personal gain.

The use of the phrase "Not Financial Advice" or "DYOR" (*Do Your Own Research*) in promotional content is often used as an alibi by *influencers* to remove mistakes. However, juridically, such warnings are considered inadequate if the entire content actively persuades and misleads consumers, especially if the *influencer* receives a commission from each of his followers' transactions.

The relevant theory of causality is the theory *of Conditio Sine Qua Non* or the theory of equilibrium. The question is: "Will investor losses still occur if the *influencer* doesn't promote the crypto asset?" Given the characteristics of social media followers who tend to follow their role models, promotion by *influencers* is the dominant factor that causes electronic transactions by consumers. Thus, there is a strong causality relationship between promotional actions and material losses experienced by the public.

Consumer Protection and Repressive Law Enforcement

The state has an obligation to carry out preventive supervision and repressive law enforcement to protect the integrity of the digital financial sector. The P2SK Law mandates the OJK to take extraordinary steps in the face of risky financial innovations.

Based on POJK 27/2024, business actors (including traders who collaborate with *influencers*) who violate the terms of crypto asset trading can be subject to administrative sanctions in the form of fines and revocation of licenses. Meanwhile, the ITE Law gives the authority to investigators to moderate content to terminate access to information that violates the law. Article 40A of Law No. 1 of 2024 gives the government the authority to order electronic system operators to cut off access to content that endangers public order or harms the public.

In the process of repressive law enforcement, the confiscation of crypto assets belonging to *influencers* obtained from crime proceeds is a priority for the recovery of victims' losses. Investigators have the authority to block and confiscate digital assets in accordance with the applicable criminal procedure law. Article 31 of the ITE Law provides a basis for investigators to conduct searches and seizures of electronic systems and electronic data related to criminal acts. Furthermore, crypto assets can be categorized as assets in the context of the Money Laundering Crime Law (TPPU), so that assets that have been "washed" or reshaped can still be confiscated by the state.

This normative juridical analysis shows that there is a convergence between the National Criminal Code as a general law and the ITE Law as a special law. The principle *of Lex Specialis Derogat Legi Generali* remains valid, where the criminal provisions in the ITE Law (Article 28 paragraph 1) will take precedence if the act is carried out through an electronic system. However, the fraud article in the Criminal Code (Article 492) and the inclusion article remain important supporters to ensnare the intellectual actors behind the *pump and dump* scheme who may not directly upload electronic content but control the flow of the crime.

This evolution of the law also reflects Indonesia's efforts to align itself with international standards in combating digital economy crime. The transition of supervision to the OJK is expected to minimize the regulatory loopholes that have been used by *pump and dump* actors. Sharp and in-depth law enforcement targets not only its physical actions, but also information manipulation which is the main "weapon" in modern crypto crime.

CONCLUSION

Influencer criminal liability in promoting illegal crypto assets through pump *and dump* schemes is a complex form of criminal liability, involving a wedge between material criminal law, cyber law, and financial sector law. Based on normative juridical analysis, *influencers* can be held criminally liable through Article 28 paragraph (1) jo. Article 45A paragraph (1) of the ITE Law for the dissemination of misleading information that results in material losses for consumers. Simultaneously, they can also be charged with Article 492 of the National Criminal Code (Law No. 1 of 2023) for fraudulent acts that move other people to hand over their property through digital tricks. The position *of influencers as subjects of criminal law is strengthened by the teaching of inclusion in Article 20 of the National Criminal Code, where their role often meets the criteria as a person who participates in committing (*medepleger*) or advocate (*uitlokker) in a crypto market manipulation syndicate. The transformation of crypto asset supervision to the OJK through the P2SK Law provides legal certainty regarding the legality of assets and strengthens the mechanism to protect consumers from illegal promotional practices that damage the integrity of the national financial market. Effective law enforcement requires *careful mens rea* proof through digital track records and the implementation of the Anti-Corruption Law to ensure that assets resulting from crime can be returned to the aggrieved state or society.

REFERENCE

Aditya, R., & Gunawan, H. (2023). Pertanggungjawaban pidana influencer dalam penipuan dengan modus aplikasi trading. *Azramedia Indonesia*.

Badan Pengawas Perdagangan Berjangka Komoditi. (2021). *Peraturan Badan Pengawas Perdagangan Berjangka Komoditi Nomor 8 Tahun 2021 tentang Pedoman Penyelenggaraan Perdagangan Pasar Fisik Aset Kripto (Crypto Asset) di Bursa Berjangka*. Bappebti.

Badan Pengawas Perdagangan Berjangka Komoditi. (2022). *Peraturan Badan Pengawas Perdagangan Berjangka Komoditi Nomor 11 Tahun 2022 tentang Penetapan Daftar Aset Kripto yang Diperdagangkan di Pasar Fisik Aset Kripto*. Bappebti.

Badan Pengawas Perdagangan Berjangka Komoditi. (2024). *Peraturan Badan Pengawas Perdagangan Berjangka Komoditi Nomor 8 Tahun 2024 tentang Perubahan Ketiga atas Peraturan Bappebti Nomor 8 Tahun 2021*. Bappebti.

Direktorat Jenderal Pajak. (2025). *PMK 50/2025: Babak Baru Pemajakan Aset Kripto*. pajak.go.id.

Fakhri, M. (2023). Implikasi atas pengesahan UU No. 4 Tahun 2023 terhadap pengaturan dan pengawasan aset kripto oleh Otoritas Jasa Keuangan. *Media Akademik*.

Firmana, B. (Tahun Publikasi/2023). *Perlindungan terhadap investor akibat praktik manipulasi transaksi di pasar modal* (Bachelor's thesis). Fakultas Syariah dan Hukum, Universitas Islam Negeri Syarif Hidayatullah Jakarta.

GRC Indonesia. (2024). *Perubahan Pengawasan Kripto: OJK Gantikan Bappebti, Apa Dampaknya?*. grc-indonesia.com.

Kementerian Keuangan Republik Indonesia. (2025). *Peraturan Menteri Keuangan (PMK) Nomor 50 Tahun 2025 tentang Tata Cara Pemungutan, Penyetoran, dan Pelaporan Pajak Pertambahan Nilai dan Pajak Penghasilan atas Transaksi Perdagangan Aset Kripto*. Direktorat Jenderal Pajak.

Lubis, A. S. (2023). Responsibility of influencers who conduct stock pomms as a law enforcement measure for investors. *Edelweiss: Jurnal Ilmiah Advokasi*.

Pratama, A., & Sari, D. (2024). The law enforcement of stock pump and dump practices by influencers through Act No. 4 of 2023 concerning development and strengthening of the financial sector. *ResearchGate*.

Republik Indonesia. (2023). *Undang-Undang Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana*. Lembaran Negara Republik Indonesia Tahun 2023 Nomor 1.

Republik Indonesia. (2023). *Undang-Undang Nomor 4 Tahun 2023 tentang Pengembangan dan Penguatan Sektor Keuangan (UU P2SK)*. Lembaran Negara Republik Indonesia Tahun 2023 Nomor 4.

Republik Indonesia. (2024). *Undang-Undang Nomor 1 Tahun 2024 tentang Perubahan Kedua atas Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik*. JDIH Kemkomdigi.

Rolando, B., Al-Amin, A. A., Rahmat, R., Zuwardi, Z., & Izmuddin, I. (2024). Memahami nilai tukar kripto dalam ekonomi digital: Pendekatan investasi di masa kini. *COSMOS: Jurnal Ilmu Pendidikan, Ekonomi dan Teknologi*, *1*(6), 560-571.

Salsabila, N. (2024). Sanksi pidana bagi influencer yang melakukan manipulasi pasar melalui media elektronik. *OJS UNPATTI*.

SIP Law Firm. (2023). *Penyitaan Aset Kripto sebagai Barang Bukti dalam Tindak Pidana Pencucian Uang*. siplawfirm.id.

Wijaya, K. (2023). Legal analysis of 'pump and dump' schemes in Indonesia's capital market. *Portal Jurnal Peneliti*.