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The Impact of Global Economic Wars on Emerging Markets: Legal Certainty and Capital Market Resilience in Indonesia

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Abstract

This research critically examines the structural and legal challenges that undermine the resilience of Indonesia's capital market during a period of heightened global economic instability. While the escalation of the United States–China trade war has introduced widespread volatility in financial systems worldwide, Indonesia remains particularly vulnerable due to its dependency on foreign capital and its domestic regulatory weaknesses. The analysis identifies key internal fragilities, including inconsistent enforcement of investor protection laws, regulatory uncertainty, and the growing influence of non-market actors such as mass organizations that disrupt commercial operations through extrajudicial means. A comparative legal framework is employed to evaluate the investor protection systems of China and the United States, revealing how centralized enforcement in China and institutional independence in the U.S. offer greater legal certainty and investor confidence. In contrast, Indonesia exhibits a hybrid model where capital market autonomy exists in theory but is frequently undermined by fragmented supervision, bureaucratic inertia, and politicized regulatory instruments. The discussion concludes that strengthening legal certainty, modernizing regulatory enforcement, and shielding capital markets from external and non-market pressures are critical to enhancing investor trust and financial stability. Reforms must focus not only on drafting comprehensive laws but also on ensuring their consistent application across jurisdictions. Without such measures, Indonesia risks capital flight, reduced competitiveness, and further marginalization in the global investment landscape.

Keywords: capital market resilience; legal certainty; investor protection

A. Introduction

The structural integrity of capital markets is increasingly tested by the volatility of the global economic order, marked by escalating geopolitical rivalries, retaliatory trade measures, and systemic disruptions in cross-border investment. As a jurisdiction situated within the Global South and highly reliant on foreign capital inflows, the Republic of Indonesia faces disproportionate exposure to these exogenous shocks. However, Indonesia's capital market vulnerability is not merely a consequence of external factors. Rather, it is deeply rooted in persistent institutional fragilities, including inconsistent regulatory enforcement, fragmented legal interpretation across jurisdictions, and the inadequate protection of investors from both market and non-market threats.

The confluence of these conditions renders the Indonesian capital market susceptible to instability, capital flight, and diminished competitiveness in the international investment landscape. While the Capital Market Law (Law No. 8 of 1995) and derivative regulations issued by the Financial Services Authority (Otoritas Jasa Keuangan/OJK) establish a normative framework for transparency, fairness, and investor protection, the enforcement of such provisions remains largely reactive, discretionary, and procedurally inefficient.[1] Compounded by extrajudicial interferences—such as coercive interventions by mass organizations—these systemic deficiencies erode legal certainty and deter long-term investment.

This journal undertakes a doctrinal and comparative analysis to examine the intersection of external economic pressures and internal regulatory weaknesses that jointly undermine the resilience of Indonesia's capital market. It further assesses the investor protection regimes of the United States and the People's Republic of China as comparative models, with the objective of formulating legal reform strategies to enhance market governance, institutional credibility, and the sustainability of capital mobilization in Indonesia.

B. Research Method

This research uses a normative-juridical method by analyzing legal norms and regulatory frameworks governing capital markets. The data employed consist of secondary data, including primary legal materials (laws and regulations), secondary legal materials (academic journals, books, and research reports), and tertiary legal materials (dictionaries and legal encyclopedias). Data collection was conducted through a literature study. The research applies several approaches: statutory approach (pendekatan undang-undang), comparative approach, and conceptual approach to evaluate the effectiveness of investor protection and regulatory practices

[1] Fajar Sugianto, "Efisiensi Ekonomi Sebagai Remedy Hukum," *Refleksi Hukum: Jurnal Ilmu Hukum* 8, no. 1 (2014): 61–72.

in Indonesia, China, and the United States.

C. Discussion

This part of the journal provides a comprehensive analysis of the structural and legal factors that undermine the resilience of Indonesia's capital market amidst intensifying global economic turbulence. While external disruptions—particularly the escalation of the trade conflict between the United States and the People's Republic of China—have caused substantial volatility in emerging market economies, Indonesia's capital market is uniquely exposed due to persistent internal governance challenges. These include weak enforcement of investor protection norms, regulatory unpredictability, and growing interference by non-market actors.[2]

To offer a coherent and grounded assessment, the discussion is organized into four subsections. Section C.1 examines the dual impact of external economic pressures and internal legal vulnerabilities. Section C.2 addresses the institutional and regulatory shortcomings that continue to erode investor confidence. Section C.3 undertakes a comparative legal analysis of investor protection mechanisms in China, the United States, and Indonesia, revealing key gaps in domestic enforcement. Lastly, Section C.4 outlines normative and institutional reforms necessary to strengthen legal certainty and enhance market resilience. Together, these analyses aim to support a more sustainable and competitive capital market framework aligned with Indonesia's long-term economic development goals.

C.1. Global Trade War Impact and Indonesia's Capital Market Vulnerabilities

The intensification of trade tensions between the United States and China has created significant volatility across global capital markets.[3] As an emerging market economy, Indonesia has been particularly exposed to these external shocks, experiencing capital outflows and heightened market instability.[4] However, beyond the influence of global factors, domestic structural weaknesses in legal enforcement and regulatory governance have exacerbated the vulnerability of Indonesia's capital market. This section examines how external economic pressures and internal legal fragilities collectively undermine Indonesia's market resilience.[5]

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[2] Claresta Devina Sugianto, Fajar; Indradewi A, Astrid; Valencia, "BETWEEN VALUATION AND MONETIZATION OF EFFICIENCY IN ECONOMIC ANALYSIS OF LAW : IS IT POSSIBLE ?," *Journal of International Trade, Logistics and Law* 10, no. 1 (2024): 286–294.

[3] Samuel Sekuritas Indonesia. "Quarterly Economic Insights: 1st Quarter 2025." *Samuel Sekuritas*, 8 April 2025. https://samuel.co.id/wp-content/uploads/2025/04/1st-Quarter-2025_Macro-Economy_08042025_EN.pdf.

[4] IndoPremier, "Indonesia stocks plunge more than 9% at open, trading suspended," *IndoPremier*, accessed May 7, 2025, https://www.indopremier.com/ipotnews/newsDetail.php?jdl=Indonesia_stocks_plunge_more_than_9%_at_open__trading_suspended&news_id=1678132&group_news=ALLNEWS&news_date=&taging_subtype=UNITEDSTATES&name=&search=y&q=COMPOSITE&halaman=

[5] Fajar Sugianto, Stevinell Mildova, and Felicia Christina Simeon, "Increasing Economic Performance Through

C.1.1 External Economic Pressures: The Global Trade War

The escalation of the United States–China trade war, marked by the mutual imposition of extremely high tariffs by both nations, has introduced profound volatility into the global economy (BBC, 2025).[6] As the two largest economies accounting for approximately 43% of global GDP,[7] disruptions in their trade relations destabilize global financial systems, elevate consumer prices, and suppress investment flows. For emerging economies such as Indonesia, which remain heavily reliant on foreign capital, these external shocks significantly amplify existing market vulnerabilities.

Moreover, the trade war's second-order effects extend into critical global sectors, notably the clean energy industry. Analysts highlight that disruptions to China's clean energy transition including the production of electric vehicles, solar panels, and lithium-ion (Another Name for Nickel Based Battery) batteries may disturb global supply chains, adding further financial uncertainty to interconnected markets.[8] For Indonesia, such disruptions threaten key trade linkages and increase the urgency for internal legal and regulatory strengthening, as reliance on global trade stability alone is no longer sufficient to secure domestic capital market resilience.

In addition to tariff escalations and sectoral disruptions, the deeper structural tensions underlying the U.S.-China conflict must be noted. According to the Eurasian Research Institute (2025), issues such as intellectual property theft, forced technology transfers, the dominance of Chinese state-owned enterprises, and manipulation of currency policies have triggered a broader global realignment. These systemic vulnerabilities highlight that the trade war is not merely political but reflects deeper structural imbalances within the global economy, necessitating urgent regulatory adaptations in emerging markets like Indonesia.

C.1.2 Internal Vulnerabilities: Protectionism, Fragmentation, and Governance Challenges

The global ramifications of the U.S.–China trade war have triggered a domino effect of protectionist policies across numerous economies. Studies show that many countries have adopted new trade barriers to shield domestic industries, further

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the Rule of Law in Indonesia: Law and Economics Perspective," *Advances in Economics, Business and Management Research* 140, no. International Conference on Law, Economics and Health (ICLEH 2020) (2020): 92–99.

[6] Ben Chu, "What Would a US-China Trade War Do to the World Economy?," BBC, April 11, 2025, https://www.bbc.com/news/articles/c4g2089vznzo.

[7] Pallavi Rao, "The $115 Trillion World Economy in One Chart," Visual Capitalist, December 19, 2024, https://www.visualcapitalist.com/the-115-trillion-world-economy-in-one-chart/.

[8] Ilaria Mazzocco, "Analyzing the Impact of the U.S.-China Trade War on China's Energy Transition," April 22, 2025, https://www.csis.org/analysis/analyzing-impact-us-china-trade-war-chinas-energy-transition.

fragmenting global supply chains and constricting international capital flows.[9] Emerging markets like Indonesia are disproportionately affected, facing reduced export opportunities and declining foreign direct investment.

Furthermore, academic analyses indicate that the inward-looking policies adopted during the Trump administration weakened the political supremacy of the United States, creating a strategic vacuum increasingly filled by rising powers such as China.[10] In this increasingly fragmented global environment, Indonesia's vulnerabilities are exacerbated not only by external shocks but also by internal regulatory fragilities.

Thus, strengthening domestic legal certainty, improving enforcement mechanisms, and insulating the capital market from global volatility are imperative. Without these reforms, Indonesia risks deeper marginalization and diminished competitiveness within the evolving global economic landscape.

C.2. Structural Weaknesses in Capital Market Governance

Indonesia's capital market governance reveals several persistent vulnerabilities that magnify the effects of global economic shocks. Key weaknesses include inadequate enforcement of investor protection measures, regulatory uncertainty, and the lack of effective mechanisms to address market disturbances, including extrajudicial threats such as harassment from non-market actors. The absence of swift and consistent legal action against these disruptions fosters a climate of unpredictability, thereby eroding investor confidence and diminishing the market's capacity to absorb external volatility.

C.2.1 Inadequate Enforcement of Investor Protection Laws

In the era of economic warfare marked by retaliatory tariffs, aggressive industrial policies, and the fragmentation of global supply chains, capital markets in emerging economies like Indonesia are disproportionately exposed to financial instability. Unlike advanced economies that possess institutional buffers and sophisticated legal systems capable of absorbing shocks, Indonesia faces the dual burden of external volatility and internal regulatory fragility.[11] The absence of strong investor protection mechanisms and credible enforcement not only weakens domestic market integrity

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[9] Jens Mühling, "Here Are The Domino Effects Of A U.S.-China Trade War — Military Risks Included," Worldcrunch, April 4, 2025, https://worldcrunch.com/world-affairs/us-china-trade-war-domino-effect/; Hongcheng Chen, "The Impact of the US-China Trade War on the Global Macroeconomy," ed. Azlina Md Yassin, *SHS Web of Conferences* 188 (2024): 2–4, https://doi.org/10.1051/shsconf/202418802013.

[10] Ahmad Sahide, "Proteksionisme Trump dan Masa Depan Supremasi Politik AS," *Jurnal Ilmiah Hubungan Internasional* 17, no. 1 (May 4, 2021): 9, https://doi.org/10.26593/jihi.v17i1.3570.1-16.

[11] Diana Wiyanti and Muhammad Umar Abdul Razak, "Challenges of the Financial Services Authority in Supervising Indonesia's Capital Market Independently," *Ilomata International Journal of Social Science* 5, no. 4 (2024): 1000–1016, https://doi.org/10.61194/ijss.v5i4.1287.:contentReference[oaicite:3]{index=3}

but also accelerates capital outflows, as investors redirect funds to jurisdictions with clearer legal safeguards and faster institutional responses. In this context, investor protection is no longer merely a matter of fair disclosure or consumer rights; it becomes a strategic defense mechanism essential for maintaining market confidence and safeguarding national financial sovereignty.

Indonesia's capital market framework is formally anchored in Law No. 8 of 1995 on Capital Markets, supported by a series of Financial Services Authority (OJK) regulations such as POJK No. 1/POJK.07/2013 on consumer protection and POJK No. 31/POJK.04/2015 on disclosure obligations. These instruments are designed to protect investors through transparency, accountability, and equitable market conduct.[12] [13] [14] However, in the face of today's global economic fragmentation, this normative structure proves insufficient. Foreign investors become reluctant to commit long-term capital in a legal environment where enforcement is inconsistent, dispute resolution mechanisms are sluggish, and market manipulation is rarely penalized. Domestic investors, too, exhibit hesitancy amid regulatory unpredictability, shifting policies, and institutional inertia. [15]

This fragility is further exacerbated by Indonesia's failure to modernize its capital market governance in line with global financial developments particularly in adapting to startup-driven IPOs, digital financial instruments, and cross-border capital flows.[16] As competition for investment intensifies worldwide, jurisdictions with underdeveloped legal enforcement and reactive regulatory postures risk being sidelined not because they lack written laws, but because they fail to execute those laws effectively when global trust and investor confidence are at stake.[17]

Studies highlight that supervisory and enforcement mechanisms are often suboptimal. Weak regulatory supervision, compounded by limited legal literacy among investors, frequently results in delayed responses to market misconduct.[18]

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[12] Undang-Undang No. 8 Tahun 1995 tentang Pasar Modal, Lembaran Negara Republik Indonesia Tahun 1995 No. 64, Tambahan Lembaran Negara Republik Indonesia No. 3608, sebagaimana telah diubah dengan Undang-Undang No. 4 Tahun 2023 tentang Pengembangan dan Penguatan Sektor Keuangan, Lembaran Negara Republik Indonesia Tahun 2023 No. 15, Tambahan Lembaran Negara Republik Indonesia No. 6845.

[13] OJK Regulation No. 1/POJK.07/2013 on Consumer Protection in the Financial Services Sector, State Gazette of the Republic of Indonesia Year 2013 Number 118.

[14] OJK Regulation No. 31/POJK.04/2015 on Disclosure of Material Information or Facts by Issuers or Public Companies, State Gazette of the Republic of Indonesia Year 2015 Number 306.

[15] Shintaro Tokuyama Fajar Sugianto, "False Transaction vs Wash Trading: Addressing the Gap to Rebuild Market Confidence (Legal Implication in Indonesia Nad United States Capital Market Law)," *Journal of Law and Legal Reform* 5, no. 1 (2024): 1–14.

[16] Shintaro Tokuyama Fajar Sugianto, "The Extended Nature of Trading Norms Between Cryptocurrency and Crypto-Asset: Evidence from Indonesia and Japan," *Lex Scientia Law Review* 8, no. 1 SE-Research Articles (September 22, 2024): 193–222, https://doi.org/10.15294/lslr.v8i1.14063.

[17] Herlina Waluyo, Irene Putri A.S.Sinaga, and Fajar Sugianto, "Perlindungan Hukum Otoritas Jasa Keuangan Terhadap Penyelenggara Layanan Urun Dana Berbasis Efek Berdasarkan POJK Nomor 16/POJK.04/2021," *DiH: Jurnal Ilmu Hukum* 18, no. 2 (2022): 131–146.

[18] Sujana, Made Sinta Syaharani. *"Analysis of Legal Protection of Investors in Capital Markets: Perspective of*

Similarly, Kusnawirawan et al.[19] observe that even though OJK possesses administrative authority to sanction violators under POJK No. 43/POJK.04/2020, enforcement actions often lack sufficient deterrent effect, as seen in cases like the Jiwasraya and Asabri scandals, where regulatory loopholes enabled significant investor losses.[20] [21]

Thus, while the normative framework for investor protection in Indonesia appears comprehensive, its practical enforcement is weak. This enforcement gap undermines market fairness, elevates systemic risk, and discourages both domestic and foreign investor participation.[22] Strengthening real-time supervision, imposing more stringent penalties for violations, and enhancing inter-agency coordination are essential to ensure the Indonesian capital market's long-term resilience.

C.2.2 Regulatory Uncertainty and Inconsistent Supervision

The complexity surrounding startup initial public offerings (IPOs) in Indonesia further exemplifies the regulatory uncertainty within the capital market framework. Startups inherently possess distinctive characteristics such as unstable cash flows, high growth dependency, and intangible asset dominance that are not adequately addressed by Indonesia's traditional IPO regulations.[23] Current disclosure and listing requirements are predominantly designed for conventional, profit-generating enterprises, resulting in a regulatory mismatch when applied to startup entities.

This regulatory gap has manifested in the IPOs of notable Indonesian startups, including Bukalapak and GoTo, where aggressive valuations based on projected future earnings were met with post-listing market skepticism. Inadequate specific disclosure obligations regarding startup risk profiles has led to investor uncertainty and heightened volatility in post-IPO share performance. Consequently, regulatory ambiguity surrounding the obligations of startup issuers exacerbates legal unpredictability, discouraging prudent investment behavior and undermining

Law No. 8 of 1995, Law No. 21 of 2011, and Law No. 11 Year 2020." Jurnal Hukum Prasada 11, no. 2 (2024): 99–103. https://ejurnal.warmadewa.ac.id/index.php/prasada/article/download/10184/6032.

[19] Iwan Kusnawirawan, Yofi Syarkani, Hernayati, and Imam Waluyo, "Safeguarding Investor Rights: OJK's Regulatory Framework Including Management and Challenges in Indonesia's Capital Market," *Indonesian Multidisciplinary Journal* 4, no. 3 (March 2025): 196, https://www.researchgate.net/publication/390832314_Safeguarding_Investor_Rights_OJK%27s_Regulatory_Framework_Including_Management_and_Challenges_in_Indonesia%27s_Capital_Market.:contentReference[oaicite:3]{index=3}

[20] Mentari Puspadini, "Kronologi Kasus Mega Korupsi Jiwasraya Hingga Akhirnya Ditutup OJK," *CNBC Indonesia*, February 21, 2025, https://www.cnbcindonesia.com/market/20250221095520-17-612478/kronologi-kasus-mega-korupsi-jiwasraya-hingga-akhirnya-ditutup-ojk.

[21] Kasus PT Asabri Rugikan Negara Rp22,78 Triliun," *Warta Pemeriksa*, June 16, 2021, https://wartapemeriksa.bpk.go.id/?p=26308.

[22] Fajar Sugianto, "The Nature of Hedging Risk in Derivative Contract : Modeling an Enforceable Risk-Shifting Contract in Indonesia," *Journal of Law, Policy and Globalization* 72 (2018): 97–106.

[23] Marsya Nabila, "Red Carpet for Startup on the Stock Market," *Hybrid.co.id*, February 25, 2021, https://hybrid.co.id/post/red-carpet-for-startup-on-the-stock-market/.:contentReference[oaicite:11]{index=11}

broader market stability.[24]

C.2.3 Extrajudicial Threats: Non-Market Actors and Investment Climate Risk

A growing concern within Indonesia's investment environment is the increasing incidence of extrajudicial interventions by non-market actors, particularly mass organizations (*ormas*) engaging in coercive or vigilante actions against businesses. Recent reports reveal that such activities have contributed significantly to the deterioration of the country's investment climate, with estimations indicating that hundreds of trillions of rupiah in potential investments have been cancelled due to *premanisme*, or organized intimidation by *ormas*.[25]

These groups often exploit socio-political narratives to justify unauthorized inspections, disruption of business operations, or extortion of enterprises, particularly in regions with weaker law enforcement presence. The resulting instability fosters a perception among investors both domestic and foreign that Indonesia lacks the legal certainty required for secure commercial activities. Prominent figures, including members of the national legislature, have publicly acknowledged that unchecked premanisme poses a serious threat to Indonesia's economic growth targets and have called for comprehensive eradication efforts.[26]

The escalation of non-market threats presents a systemic risk to Indonesia's capital market integrity. Government's lack of response to guarantee protection from such extralegal pressures diminishes investor confidence, encourages capital flight, and undermines the rule of law factors crucial for sustaining a resilient and attractive investment destination.[27] Unless decisive legal and regulatory measures are implemented to eliminate extrajudicial interventions, Indonesia risks further marginalization in an increasingly competitive global investment landscape.[28]

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[24] Laurenzia Luna Fajar Sugianto, Yuber Lago, "STATE LAW, INTEGRAL ECONOMIC JUSTICE, AND BETTER REGULATORY PRACTICES: PROMOTING ECONOMIC EFFICIENCY IN INDONESIA," *Global Legal Review* 3, no. 2 (2023): 91–108.

[25] Resty Woro Yuniar, "Indonesia's EV Revolution Held Hostage by 'Preman' Gangster Problem," *South China Morning Post*, 23 April 2025, https://www.scmp.com/week-asia/politics/article/3308879/indonesias-ev-revolution-held-hostage-preman-gangster-problem.

[26] Andy Dwibaskoro, "Industries Lose Trillions to Mass Organization Extortion in Indonesia," *Invest Indonesia*, 24 February 2025, https://investindonesia.co.id/2025/02/24/industries-lose-trillions-to-mass-organization-extortion-in-indonesia/.

[27] M. Rodhi Aulia, "Fakta-fakta Pemerintah 'Deklarasi Perang' ke Ormas Nakal yang Ganggu Investasi," *Metro TV News*, 25 April 2025, https://www.metrotvnews.com/read/ba4CzaXl-fakta-fakta-pemerintah-deklarasi-perang-ke-ormas-nakal-yang-ganggu-investasi.

[28] Fajar Sugianto and Tomy Saragih, "Intercalating Law As a Tool To Promote Economic Efficiency in Indonesia," *Arena Hukum* 6, no. 2 (2013): 152–167.

C.3. Comparative Overview Of People's Republic of China, United States of America, and Unitary Republic of Indonesia

Investor protection in capital markets depends not only on the existence of comprehensive legislation but also on the effectiveness and consistency of enforcement mechanisms. A comparative analysis of China, the United States, and Indonesia reveals how differences in regulatory certainty and enforcement practices significantly affect investor confidence and market resilience.

C.3.1.1 People's Republic of China

China's capital market resilience amid external economic shocks such as the second U.S.–China trade war and post-2015 stock market volatility—stems from a centralized and robust legal framework, primarily governed by the *Securities Law of the People's Republic of China (Amended 2019)*. The law vests comprehensive regulatory authority in the China Securities Regulatory Commission (CSRC), which acts under the State Council to ensure national-level oversight of securities markets. Article 7 of the Securities Law grants CSRC the mandate to supervise securities issuance, trading activities, market intermediaries, and enforcement actions across China's financial system.[29]

Following the 2015 stock market crash, China expanded the CSRC's investigative powers. Article 170 authorizes the CSRC to conduct on-site inspections, interrogate suspects, freeze assets, and seize records without court orders.[30] These powers enable the CSRC to act swiftly against violations and maintain systemic stability. In practice, such authority was exercised in the 2020 enforcement against *Kangmei Pharmaceutical*, a case in which the firm was found to have fraudulently inflated revenue by RMB 88.7 billion. Senior executives were fined and permanently banned from holding capital market positions.[31]

To prevent market manipulation and insider misconduct, Articles 53 to 56 prohibit false disclosures, insider trading, and coordinated price manipulation.[32] These provisions form the legal foundation for aggressive enforcement actions, particularly during periods of heightened volatility triggered by geopolitical or macroeconomic shocks. The CSRC complements these rules with ongoing surveillance in cooperation with stock exchanges, which are authorized under Article

[29] *Securities Law of the People's Republic of China (Amended 2019)*, art. 7. English translation. https://fyjjxy.zuel.edu.cn/_upload/article/files/68/72/2f6833774fa1b877d91a1fe06d06/addfdf5a-f0b2-4016-bb72-309fa105ff28.pdf.

[30] Ibid., art. 170.

[31] Fortune. "A Chinese Court Fined Five Independent Directors Hundreds of Millions of Dollars. Now China's Board Members Are Quitting." *Fortune*, 22 November 2021. Accessed 3 May 2025. https://fortune.com/2021/11/22/china-kangmei-pharmaceuticals-fine-independent-corporate-board-directors-quit/.

[32] *Securities Law of the People's Republic of China (Amended 2019)*, arts. 53–56.

111 to impose temporary trading suspensions and emergency interventions.[33]

On the disclosure front, Article 78 mandates real-time disclosure of material events that may influence stock prices, such as mergers, asset sales, or changes in corporate control.[34] This requirement was reinforced during U.S. technology export restrictions and trade sanctions, where Chinese firms were expected to disclose material exposure to cross-border regulatory risks.

China also strengthened its investor protection system through the introduction of representative litigation under Article 95. This quasi-class action mechanism allows eligible investors to collectively seek compensation in cases of securities fraud or disclosure violations.[35] While the mechanism lacks the opt-out flexibility of the U.S.-style class actions, it reflects significant progress in safeguarding investor rights within China's administrative legal system.

China's capital market resilience is underpinned by a legal regime that emphasizes administrative enforcement, real-time market discipline, and investor protection mechanisms. Although concerns about judicial independence and political interference persist, the CSRC's centralized authority as well as the ultimate control by the state, and aggressive oversight have proven effective in strengthening the trust of investors in China's capital markets from external volatility, particularly during periods of geopolitical confrontation.

C.3.1.2 United States of America

The foundational architecture of the U.S. capital market is not only defined by its regulatory strictness but also by its institutional separation from direct government control over market behavior. Two critical statutes cement this structure: the *Securities Exchange Act of 1934*, which established the Securities and Exchange Commission (SEC) as an independent regulatory agency, and the *Government Corporation Control Act of 1945*, which prevents direct political interference in independent agencies like the SEC by separating them from executive branch budgetary and operational control.[36]

The independence of the SEC ensures that the U.S. capital markets operate under a rule-based, disclosure-focused framework rather than being subject to politicized decision-making. This separation is reinforced by the *Administrative Procedure Act of 1946*, which mandates public notice and comment procedures for rulemakings by federal agencies, thereby embedding market regulation within a transparent and

33 Ibid., art. 111.
34 Ibid., art. 78.
35 Ibid., art. 95.
36 *Securities Exchange Act of 1934*, 15 U.S.C. § 78a; *Government Corporation Control Act*, 31 U.S.C. §§ 9101–9110.

legally bounded process.[37]

Together, these statutes institutionalize a framework where the U.S. government does not direct investment flows, determine capital allocation, or exert day-to-day influence over market outcomes. Instead, the federal role is confined to maintaining fairness, transparency, and integrity through regulatory enforcement. Consequently, while political decisions—such as tariffs or foreign policy shifts—may affect market behavior, the regulatory institutions themselves remain functionally insulated from direct political control.

However, this institutional insulation creates its own vulnerability: the U.S. government cannot force capital relocation or industrial policy through directive orders. Thus, unlike centralized models such as China's, the U.S. must rely on incentive-based tools (e.g., tax credits, tariffs) and hope for private sector responsiveness. This explains why the Trump administration's strategy in 2024–2025 centers on external pressure through tariffs on Chinese imports and investment restrictions rather than direct industrial reordering.[38]

C.3.1.3 Unitary State of Indonesia

Indonesia's Capital Market Law (Law No. 8 of 1995) provides a comprehensive normative framework intended to ensure market transparency, fair trading practices, and investor protection. Articles 86 to 89 establish detailed reporting and disclosure obligations, requiring various market participants to report regularly to the Financial Services Authority (OJK). Issuers must report financial conditions and material events within two days, and substantial shareholders must disclose ownership changes within ten days. Articles 88 and 89 further regulate procedural aspects and public accessibility of disclosed information.[39]

Beyond disclosure, Articles 90 to 99 prohibit deceptive and manipulative activities. False statements, insider trading, and market manipulation are explicitly forbidden, with insider trading regulations targeting both insiders and securities firms in possession of confidential information. Bapepam (now OJK) holds the authority to issue clarifications and exceptions to these rules.[40]

Despite the strong normative foundation, Indonesia's enforcement remains inconsistent and reactive. Regulatory responses to violations are often delayed,

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[37] *Administrative Procedure Act of 1946*, 5 U.S.C. §§ 551–559.
[38] Clarke, Jennifer. "What Are Tariffs and Why Is Trump Using Them?" *BBC News*, 23 April 2025. https://www.bbc.com/news/articles/cn93e12rypgo.
[39] Sudiyana, Jamal Wiwoho, and Hudi Asrori S., "Legal Protection of Investors in Capital Market in the Framework of the Capital Market Law No. 8 of 1995," *South East Asia Journal of Contemporary Business, Economics and Law* 12, no. 4 (2017): 86, https://seajbel.com/wp-content/uploads/2017/05/LAW-337.pdf.
[40] Suwinto Johan, Ariawan, and Luo Yuan Yuan, "Insider Trading: Law of the Republic of Indonesia Number 8 of 1995 on Capital Market from Typewriters to Digital Era," *Novelty: Jurnal Hukum* 13, no. 1 (March 2022): 17, https://journal.uad.ac.id/index.php/Novelty/article/download/19101/pdf_82/64611.

investor grievances are processed slowly, and surveillance systems lack real-time capability. Legal recourse mechanisms are cumbersome and costly, limiting effective protection for aggrieved investors. Consequently, legal uncertainty persists, eroding investor confidence and exposing the capital market to heightened vulnerability during global economic shocks.[41]

C.3.2 Key Comparative Findings

This section distills the key institutional distinctions between the regulatory frameworks previously discussed. Each model reflects a unique balance between market autonomy, state intervention, and legal enforceability. The comparative analysis reveals how differing levels of regulatory certainty, enforcement strength, and political influence affect investor confidence and capital market stability. These contrasts are essential to understanding Indonesia's current position and identifying strategic reforms that can enhance its legal and institutional competitiveness.

C.3.2.1 China's State-Directed Market Under Central Political Control

China exemplifies a state-capitalist model characterized by centralized economic coordination under the Chinese Communist Party (CCP). While it has developed sophisticated financial instruments and capital markets, including major exchanges in Shanghai and Shenzhen, these operate within a governance system where political directives override pure market logic. [42] Industrial strategies such as the Made in China 2025 Plan and the New Energy Vehicle (NEV) Development Plan are reinforced by synchronized regulatory support, subsidies, land use permits, state bank financing, and export credit mechanisms.[43]

Private enterprises are expected to align with national strategic goals or risk sanctions, market exclusion, or regulatory barriers. This top-down structure enables rapid scaling in priority sectors like electric vehicles, batteries, and rare earth materials, giving China substantial supply chain leverage. However, it also generates structural opacity, politicized resource allocation, and global allegations of market distortion, especially under WTO scrutiny.[44]

[41] Shintaro Tokuyama Fajar Sugianto, "Efficient Punishment for Insider Trader In Merger : Interjected Values of Economic Analysis of Law" 3, no. December 2023 (2024): 327–355.
[42] Office of the United States Trade Representative, *2023 Report to Congress on China's WTO Compliance* (Washington, D.C.: USTR, 2023), 31, https://ustr.gov/sites/default/files/USTR%20Report%20on%20China%27s%20WTO%20Compliance%20%28Final%29.pdf.
[43] Ibid., 29-31.
[44] Neha Mishra, "China's Strategic Control Over Rare Earths: Global Supply Chain Implications," Observer Research Foundation, 5 Mei 2025, https://www.orfonline.org/expert-speak/china-s-strategic-control-over-rare-earths-global-supply-chain-implications.

C.3.2.2 United States Market-Oriented with Limited State Steering

The United States adopts a liberal market economy model, where capital allocation and industrial development are predominantly shaped by private sector decisions rather than centralized planning. Regulatory bodies such as the Securities and Exchange Commission (SEC) operate with institutional independence, emphasizing investor protection, transparency, and strong legal enforcement mechanisms. Statutory instruments like the Securities Exchange Act of 1934 and the Sarbanes-Oxley Act of 2002 provide clear safeguards for market integrity, including mandatory disclosures, fiduciary duties, and liability for misconduct.[45]

While the U.S. government can influence industrial behavior through indirect tools such as tax incentives, tariffs, or deregulation—particularly under nationalist or protectionist administrations, it lacks the legal authority to compel capital relocation or mandate sectoral investment. Thus, entrepreneurial decisions are primarily guided by shareholder interests, competition, and innovation outcomes, rather than state planning. This structural separation ensures high regulatory predictability and global investor confidence, although it limits the state's capacity for rapid industrial pivoting.

C.3.2.3 Indonesia's Independent Capital Market With Government Direction

Indonesia operates a hybrid system in which formal capital markets are institutionally independent supervised by the OJK under Law No. 21 of 2011 but broader economic activity remains subject to strong state direction. This direction manifests not through day-to-day micromanagement, but via strategic policy levers embedded in the OSS-RBA system, the Positive Investment List, and sector-specific mandates such as domestic mineral processing and export restrictions.[46]

In practice, capital flows are influenced by national priorities, particularly in extractive industries like nickel. Cases such as Jiwasraya and Asabri exposed systemic enforcement weaknesses, while investor dispute mechanisms remain procedurally complex and underutilized.[47]

Thus, while Indonesia's legal framework supports capital market autonomy, its implementation is hampered by bureaucratic inertia, slow enforcement, and fragmented inter-agency coordination. Investment decisions, particularly in sectors deemed strategic, are guided as much by regulatory instruments and state-imposed

[45] Coleman Gilkey Newton, "Show Me the Money": The SEC's Use of Distribution as a Tool for Investor Protection," *American University Business Law Review* 8, no. 1 (2019): 146–154. https://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1158&context=aublr&

[46] Norton Rose Fulbright, "Indonesia," *Global Rules on Foreign Direct Investment*, August 2024, https://www.nortonrosefulbright.com/en/knowledge/publications/68640358/indonesia.

[47] Dea Prasetyawati Wibowo Fajar Sugianto, Felicia Christina Simeon, "IDEALISASI SIFAT ALTERNATIF DALAM PENYELESAIAN SENGKETA MELALUI MEDIASI," *Jurnal Hukum Bisnis Bonum Commune* 3, no. 2 (2020): 253–265.

obligations as they are by market demand. This hybrid posture places Indonesia between the liberal institutionalism of the U.S. and the centralized economic coordination of China.

C.4 Strengthening Indonesia's Legal Certainty to Build Capital Market Resilience

Indonesia's capital market will only grow stronger if the country makes serious improvements in legal certainty and the effectiveness of its regulations. A stable and predictable investment environment is essential to attract long-term investors and protect the national economy. At the moment, unclear regulations, weak enforcement, and slow legal processes are still major problems. These issues reduce investor trust and increase the risk of capital leaving the market.

The real problem is not a lack of laws. Indonesia already has many regulations in place. However, the application of these laws is often inconsistent. In different provinces and regions, rules are interpreted differently, making it hard for investors to feel secure. This makes Indonesia's capital market less attractive and more vulnerable to outside economic shocks.

To fix these problems, the government must focus on enforcing investor protection rules consistently across all sectors and regions. The Financial Services Authority (OJK) and the Indonesia Stock Exchange (IDX) must supervise the market more actively. They need to monitor activities in real time, take fast action when violations occur, and clearly communicate with market players. Also, legal disputes should be handled by faster and more specialized systems like arbitration boards or dedicated capital market courts.[48]

At the same time, the legal framework must also be strong enough to deal with outside pressures, such as interference by mass organizations or politically motivated groups. These groups often disrupt the investment climate, and the government must ensure that financial institutions can operate independently and safely.

Legal certainty is not just a technical requirement. It is the foundation of a strong and reliable capital market. When investors know that laws are clear, fair, and applied equally, they are more willing to invest. This will help Indonesia attract higher quality investments, maintain financial stability, and support its long-term development goals.

D. Conclusion

The strength and resilience of Indonesia's capital market depend heavily on the level of legal certainty and the effectiveness of regulatory enforcement. As shown by

[48] Astrid Athina Indradewi and Fajar Sugianto, "Peran Dan Manfaat Arbitrase Sebagai Alternatif Penyelesaian Sengketa Ditinjau Dari Perspektif Pelaku Usaha," *Jurnal Hukum dan Sosial Politik* 2, no. 2 SE-Articles (February 13, 2024): 85–95, https://ifrelresearch.org/index.php/jhsp-widyakarya/article/view/2798.

the comparison with China and the United States, investor confidence is not built by regulations alone, but by how consistently and fairly those rules are applied in practice. Legal institutions that are clear, predictable, and well-enforced tend to attract more investment and offer better protection against economic shocks.

Indonesia already has a strong legal framework through Law No. 8 of 1995 and the oversight of the Financial Services Authority (OJK). However, enforcement remains weak and inconsistent. Delays in legal processes, unclear supervision, and interference from non-market actors such as mass organizations continue to undermine trust in the market. These problems increase risk for investors and limit Indonesia's ability to compete globally.[49]

To improve, Indonesia must focus on applying its laws more consistently across sectors and regions. Authorities like the OJK and the Indonesia Stock Exchange (IDX) must be more proactive in monitoring the market, acting quickly against violations, and communicating transparently with stakeholders. The legal system must also be protected from outside interference to ensure it operates independently and fairly. Improving legal certainty is not only a technical matter—it is a necessary foundation for building a capital market that is trusted, stable, and ready to support Indonesia's long-term economic goals.

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[49] Fabian Jonathan, Fajar Sugianto, and Tomy Michael, "Comparative Legal Analysis on the Competence of the Indonesia'S Financial Services Authority and Monetary Authority of Singapore on the Enforcement of Insider Trading Laws," *Journal of Central Banking Law and Institutions* 2, no. 2 (2023): 283–300.

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