

The Effect of the Disruption of the Information of the Legal Responsibility in the Jordanian Stock Exchange and Comparison

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Abstract

The International and local stock markets have witnessed significant developments in terms of the volume of money traded and the large number of companies whose shares are traded in those markets, which give a clear indication of the importance of the stock market as one of the institutions operating in the capital market, but has become one of the most important institutions influential in the economies of countries, It should be noted that the information has a significant role and influence in the decisions of dealers and investors in the financial market, the theories of efficiency of the stock market confirms that all information about the market and companies registered in it are available in general, freedom of information and access reach all without a cost, or at a low cost, but the practical reality reveals that there are illegal practices in the stock exchange dealings with information, there is a class of dealers have free access to internal information is not available to everyone, and there is a class that can publish false information in the market, or they can leak valid information that will make a big profit at the expense of the rest of the investors and traders who do not have access to this information, which has a negative impact on the financial markets and investors. In order to avoid this, the laws of various countries, including Jordan, have issued various penalties in violation of these obligations, which are the responsibility of the persons and entities concerned in case of breach of information related to stock exchange transactions. Information in the first subject, then the legal responsibility arising from the internal dealing in the second section, and then the legal responsibility of false and misleading disclosure in the third topic. **The conclusion** is that legal liability is determined by the violators of the stock exchange, and includes many parties in exchange for other beneficiaries. The basis of this responsibility is the texts of the special laws, in addition to the principle of good faith in the transactions imposed by all legislation in all types of contracts but by different standards. The study recommended the need to tighten the legal responsibility for all forms of breach of information in the stock exchange transactions committed by multiple parties, and then to organize and develop the disclosure of real and influential information in the light of international standards to include all necessary basic information to protect investors and maintain confidence in the market financial, and other necessary information in this area.

Keywords: Stock Exchange, Stock Market, Legal Responsibility, Infringement of Information And Data , Auditors, Financial Analysts, Service Companies , Investors

Undoubtedly, the information has a significant and influential role in the dealers and investors decisions in the financial market, and the efficiency of the stock market theories assume that all information about the market and registered companies are available in general, and the free of information circulation and access to all without cost, or at low cost, in practice, all investors get all the necessary information to evaluate an investment decision is one of the challenges that financial markets can face, despite the information importance for market stability, transaction growth and customer confidence

On the other hand, the inadequacy of deterrent laws leads to the impossibility of justice in transactions which carried out in the stock market, and the absence of these laws stimulate the motivation to circumvent the financial markets capabilities, so that a specific class of dealers benefit, who have free access to internal information not available to the public, or who can publish false information in Market, or they can leak valid information that will generate significant profits if such information is entered in the decisions of dealers, at the expense of other investors and dealers who do not have free access to this information.

What is meant by information in this case is that it is structured data in a way that gives it meaning and value to the beneficiary, which in turn interpreted and determined its content for use in drafting Investment decision, particularly in the field of securities investment ¹.

It can be said, that the stock market is different from the regular markets because it is an organized market, though what is done is the sale and purchase in the general sense, where the seller is interested in the price and the buyer cares about receipt the sold thing, but there is what distinguishes the stock market from other, the seller and the buyer do not meet, but each of whom intends to delegate a brokerage company in securities, and the broker (financial intermediary) if he carried out the deal or bought or both, it is only the seller or buyer who makes the decision either by sale or purchase, but each of them shall make their decision in the correct manner,

¹ Abdul Salam, Safwat, Transparency, Disclosure and Impact on Capital Market Efficiency, Conference of Prospects and Challenges, Dubai, Part V, 2006, p. 2029.

and this shall be based on good basis and rules to achieve a fair price, or this is done without the provision of information related to the issue Trading.

The sale (sold) in the bank note, ie stocks and bonds of all types, are transferred values by their proper name, and they actually represent a material part of the project's ownership or debt and calendaring this project, whether material or moral, future and cash flows and the type of activity and other various technical and interrelated aspects of the evaluation of this instrument make it difficult for any individual to know out.

So, it is located on many companies operating in the capital market (stock exchange) provide a set of data and information relating to each paper accurately and safely, starting from the companies exporting to this and the Capital Market Authority, which supervises and supervises this information which needed both by buyer and seller alike, and even by the whole public of potential dealers , and many internal and external bodies.¹

The information and data are the backbone of bank notes trading in the market, where market efficiency is valued as much as a strong and honest information and data network is provided to all in a framework of equity and equity².

In France, the rules of the information system (COB) define the characteristics of the information that must be published to the public. It should be characterized by being accurate, accurate and influential on the price of the security, and to reach all at the same time and the same amount in the sense³ means to be real, not misleading, declared to all and fundamental in decision-making ⁴.

As for the Jordanian law, the disclosure instructions of the Amman Stock Exchange for the year 2018 in subject III, paragraph (b), it specifies ⁵ The information to be declared, and provided that the Exchange shall immediately disclose information and data received and may have an impact on the prices of the paper financial and trading movement, as stipulated in subject VII of the ban and to not disclosure the data and information which are classified under the provisions of Article IV of these instructions and which reached them by virtue of their work under Liability⁶.

In order for the information to find its natural place⁷, there must be bodies exercising control and supervision, This is a guarantee of stability and among the regulatory bodies that perform this active role in the stock exchange and approve it the law is the public bodies of securities.

The research process the problem of information in the Jordanian Stock Exchange compared to some countries, to show the adequacy of laws in place to prevent illegal infringement of information affecting stakeholders and Investors and other parties in securities trading on the exchange.

The importance of the research aims to draw attention to the development of deterrent laws to protect investment through the stock exchange Through the precise identification of information or data so that they are honest away from misinformation, and given to all In a framework of equality and justice.

For this reason, the laws of various countries, including Jordan, have resulted in the issuance of various sanctions in violation of these obligations of the persons and entities concerned in the event of breach of information related to stock exchange transactions. We will try to study the types of these sanctions until we reach the strength of these sanctions, Whether these sanctions are civil or criminal through three investigations:

The legal responsibility for delay and lack of disclosure of information in the first Topic, then legal responsibility Arising from the internal treatment in the second Topic, and then the legal responsibility of false and misleading disclosure in the third Topic.

The First Topic: legal responsibility for delay and lack of information disclosure:

The public bodies of securities and stock exchange administrations in accordance with the legislations governing them decide a number of sanctions on those who refrain from periodic disclosure of information or delay in disclosure or reveal information, but are incomplete, so public bodies also report sanctions that begin after the warning and may impose fines on those who lag behind this disclosure, and according to the legislation system in each country ⁸ and may reach the limit of the suspension of the listing of its securities, and the right to cancel the inclusion of securities from circulation if the suspension of listing for a certain period⁹ all in order obligating the listed entities which is listed on the Stock Exchange with its duty to periodically disclose its information and

¹ Berberi, Saleh Ahmed, *Illegal Practices in the Stock Exchange, Legal and Economic Comparative Study*, Legal Support Center, First edition, 2001, p. 20.

² Berberi, Saleh Ahmed, *op. Cit.*, P. 21

³ El-Baz, Ahmed, *Transparency and Disclosure of Information on the Stock Exchange, Comparative Study*, New University House, Egypt, Alexandria, 2015, p. 126.

⁴ Berberi, Saleh Ahmed, *op. Cit.*, P. 82

⁵ The third article of the disclosure instructions of the Amman Stock Exchange for the year 2018.

⁶ Article (7) of the Disclosure Instructions of the Amman Stock Exchange for the year 2018.

⁷ Article (15 / B) of the Listing Instructions of the Amman Stock Exchange (Jordan).

⁸ Al-Othman, Jamal Abdul Aziz, *Disclosure and Transparency in Information on Securities Traded on the Stock Exchange*, Dar Al-Nahda Al Arabiya, Egypt, Cairo, 2010, p. 276.

⁹ Of Article 15 / b of UAE Securities and Commodities Authority No. 3 of 2000 on the disclosure and transparency system.

data.

Comparative laws may stress the requirement for listed entities to periodically disclose information and its data in the form determined by those laws and imposed on those who fail to disclose, by procedures and sanction may range from the suspension of trading in the securities of the offending parties, and then the decision to cancel the listing in the event that the violation continues for a specified period. These laws have the same effect as the Jordanian legislator¹.

Some legislation also required disclosure of interests and ownership of securities in case of arrival shareholder's ownership of certain percentages, as the French legislator has done in particular when it enters into a penalty of non-compliance Disclosure in this case².

It can be said that all legislation has established appropriate sanctions in case of delay and non-disclosure of information, but vary from one state to another.

The Second Topic: The Legal Liability Arising from the Internal Dealing (Insider Trading)

The regulation of stock exchanges has dealt with internal securities issues by prohibiting them, But they were not as strong in their ability to face this picture of disruption.

The French legislator had a clear role in the French law of 1989 by punishing an informed person who divides the internal information to others with six months' imprisonment and a fine of 100,000 francs, in addition to punishing the person who committed the crime on his behalf under the law of June 2 of 1996³.

The US legislator has faced cases of internal dealing firmly, and this began clearly in the Securities Exchange Act of 1934, where the US law requires on those who have Internal information to do one of two things, either to refrain from using the information he holds in dealing with securities, or to advertise the information mentioned publicly⁴.

The Jordanian law has dealt with cases of internal dealing in Jordanian law, which considered contrary to the provisions of the law of any person trading securities or carrying others to circulation based on internal information or exploitation of this information to achieve material or moral gains to the person dealing or other disclosure of internal information⁵. The Jordanian legislator shall act in another text, subject to a fine not exceeding one hundred thousand Jordanian Dinars, in addition to a fine not less than double the profit achieved by the client or the double loss avoided, in addition to imprisonment for a term not exceeding three years⁶. Also make right for the Board of Commissioners of JSC may restrict, suspend or cancel the license or credit granted in any of the cases that constitute a violation of the provisions of the law, regulations, instructions or decisions issued pursuant there to⁷.

Those sanctions against those violating the provisions of the prohibition on internal transactions do not affect the right of any investor to claim compensation for any losses sustained by transactions based on internal information⁸. In such cases, the rules of tort liability are applied when determining the liability of the offending person and assessing the compensation of the injured person.

It can be said that the Jordanian law was strict in this matter and the appropriate punishment for the violators.

The Third Topic: The Legal Responsibility of False and Misleading Information

Many entities and persons responsible for false information in the stock exchange transactions, whether issuers of securities or auditing accounts, financial analysts or service companies, as well as the media, are responsible for the performance of false or misleading information. The determination of the legal **liability of each of them is therefore determined as follows:**

Section I: The legal liability of the issuers of the securities for false information:

Misinformation and data lead to the exposure of capital flowing in the stock exchange to the risk of erosion and lead to the high risk, which leads to the size of investors and exit from the stock market, not to invest in them⁹, and the dissemination of data and information is incorrect or exaggerated or misleading leads to the rhythm of

¹ Article 22 / A and Articles 110 and 112 / A of the Jordanian Securities Law No. 76 of 2002.

² Berber, Saleh Ahmed, op. Cit., P. 117; article 356/1 of the French Companies Act of 1966.

³ Abdul Rasoul, Mohamed Farouk, Criminal Protection of the Stock Exchange of Securities, New University House, 1, Alexandria, Egypt, 2007, p. 150; Othman, Jamal Abdul Aziz, op. Cit., P. 262.

⁴ Abu Saleh, Sami Abdel Baqi, The Legal System of Offers in the Securities Market, Dar Al-Nahda Al Arabiya, Cairo, Egypt, 2006, P. 258; the text of the American legislator the phenomenon of internal handling in Chapter 10 / b of the Securities Exchange Act of 1934.

⁵ Article 108 of the Jordan Securities Commission Law No. 76 of 2002.

⁶ Article 110 of the Jordanian Securities Law No. 76 of 2002.

⁷ Article 112 of the Jordanian Securities Law No. 76 of 2002.

⁸ Article 111 of the Jordanian Securities Law No. 76 of 2002.

⁹ Youssef, Mohamed Mahmoud, cheating in the stock exchange and accounting officials, a book attached to Al-Ahram in 1997

the investor in error and lose confidence in the transactions of the stock market¹.

So that, besides defining the law for information issuers and data to be disclosed the legislator has decided to deter the false information situation and arrange the responsibility of several parties for lying, including the directors, the chairman and members of the board of issuers as the main actors in the process of disclosing information and data pertaining to those entities in the past and future plans². The criminal and civil liability of both directors and members of the Board of Directors for false disclosure cases in the prospectus or in the periodic reports, where they are each subject to liability under the legislative texts that prohibit and penalize such practices³, is the responsibility of the false disclosure of In the dissemination of false or misleading data and information.

As for the Jordanian law, imposed from one to three years, and a fine of not less than one thousand dinars and not more than ten thousand Jordanian dinars for anyone who falsely discloses the information, and the number of legislators to which the effectiveness of this penalty applies⁴. The Jordanian financial sanction shall be imposed on the exporting company with a fine not less than one thousand Jordanian Dinars and not exceeding ten thousand Jordanian dinars with the cancellation of the offending act if the Court deems it⁵.

Under the US law, the legislator gave the Securities and Exchange Commission the authority to refuse to include any security if a lie was found in the data contained in the listing form⁶. The Commission may also suspend trading if it finds that the information disclosed is incorrect⁷ and may also impose fines or issuing stop orders through administrative procedures has become an important means for the Commission to deal with illegal practices committed on US stock exchanges⁸.

Section II: Auditors' Responsibility for False Information.

The auditor shall be considered as the main element in the supervision of the issuers of the securities, including the joint stock company, the shareholding company, and other issuers of securities, and in fulfilling the duties of his profession, the right to request what he deems necessary for the completion of his profession, The accounts of the audited entity are prepared according to the approved accounting rules.

Among the acts punishable by law is the auditor's violation of his duties in supervising the works of the establishments that audit and audit their accounts, preparing for the disclosure of information and financial data relating to them, including giving or confirming false information about the status of the person responsible for returning their accounts, The information from the financial report, whether the information is included in the prospectus or included in the prospectus for the purpose of listing or financial reports issued after the listing⁹, and the responsibility of the auditor is to establish evidence of his lack of performance in his professional duties. The responsibility for the auditor to take one of three types.

First: Civil Liability.

The civil liability of the auditor is realized when he gives false or misleading information or when he is unable to disclose or intentionally conceal such information. The criminal responsibility for the acts or omission is realized and the liability arises. The elements of criminal responsibility may not be realized in the act or omission¹⁰.

As a result, the Auditor becomes liable to indemnify the Company, shareholders or third parties for his or her faults in the exercise of his or her duties by failing to comply with the obligations. It shall disclose any defect in the disclosure of the financial position of the audited entity by giving or confirming false information or data, and by failing to perform its supervisory duties. There is no difference in the French legislature on this responsibility in the face of he establishment and liability in the face of shareholders and third parties, and no difference on the other hand between the report of the liability of the nodal, on the one hand, and tort liability on the other. The comparative legislation on the report on contractual liability has been differed or tort liability¹¹, including Jordanian legislation.

Second: Criminal Liability

The criminal responsibility of the auditor for his acts shall be realized either as an original actor in cases that

¹ Abu Risha, Munir, Criminal Liability of Financial Brokers in Stock Exchange Operations, New University House, Alexandria, Egypt, 2002, p. 195.

² Othman, Jamal Abdul Aziz, op. Cit., P. 313; Baz, Ahmed, op. Cit., P. 318.

³ Al-Madani, Hamza Ali, Commercial Law, Business, Trader, Commercial Companies, Commercial Companies, I 5, Dar Al Madani, Jeddah, Saudi Arabia, 2001, p.

⁴ Article 278 of the Jordanian Companies Law No. 22 of 1997.

⁵ Article 279 of the Jordanian Companies Law No. 22 of 1997.

⁶ Article 6 of the American Securities Act of 1933; Abdul Rasool, Mohamed Farouk, op. Cit., P. 62.

⁷ Article 12 of the American Securities Exchange Act of 1934; Abdul Rasool, Mohamed Farouk, *ibid.*, P. 62; Baz, Ahmed, *Ibid.*, P. 319.

⁸ Abdul-Rasoul, Muhammad Farouk, op. Cit., P. 63; Al-Othman, Jamal Abdul Aziz, op. Cit., P.316.

⁹ Qasem, Ali Sayed, Accounts Payable, Comparative Legal Study of the Role of Auditors in Joint Stock Companies, Dar Al Fikr Al Arabi, Cairo, Egypt, 1991, p. 117.

¹⁰ Baz, Ahmed, op. Cit., P. 321; Al-Othman, Jamal Abdul Aziz, op. Cit., P. 320.

¹¹ Hussein, Zeinab Ahmed Aziz, The Role of Accounts in Disclosing the Disruption of the Financing Structure of Industrial Establishments, PhD Thesis in Accounting, Faculty of Commerce, Zagazig University, Banha, Egypt, 1997, pp. 162-165.

constitute a breach of the duties of his job or as a partner in other acts if collusion with original actors such as directors or members of the board of directors is carried out. In accordance with the special texts or in accordance with the general rules of the Penal Code¹.

The crimes for which the auditor is charged with the offense of giving or confirming false or misleading information or data through his report. The criminal responsibility of the auditor for this crime must be fulfilled. Material, of giving or confirming false information about the status of the enterprise. And the moral pillar, which takes the form of criminal intent to verify the bad faith of the auditor, and enough to verify the moral element of the general criminal intent, which is supposed to inform the auditor to lie information without requiring intent² to damage the establishment or shareholders or others, French legislator³.

Third: Disciplinary Responsibility:

The professional associations in all countries were keen to set the rules governing the profession of accounting, auditing and the decision of a disciplinary system for the auditors in the form that aims to establish a proper framework for the practice of this profession, in addition to deterring those who violate these rules⁴.

Disciplinary liability is defined as a breach of the employee's duties in a positive or negative manner or in the performance of any of the acts prohibited⁵. The disciplinary penalty that affects the auditor shall be as long as it is proven that he is short of his profession after the investigation, And dropping the membership of the union⁶. It is agreed that the legal responsibility of the three types of civil, criminal and disciplinary rests with the auditor in the event of proven its right when it fails or violates its professional obligations through false or misleading information, And not familiar with him or without the knowledge.

Section 3: Financial Analysts' Responsibility for Making False or Misleading Information.

There is an important role for financial analysts in stock exchanges to contribute to their reports on the circulation of listed securities and related activities, which has a great role in enabling users of these reports to know the reality of the conditions and circumstances of the issuer and then make the right investment decisions⁷. The role of the financial analyst is to rely on a number of data disclosed by the issuers that reach through the channels authorized to advertise, and include those documents the accounts of those entities and their budgets and profit and loss accounts for the year of analysis and comparative comparison. The financial analyst examines the situation with the so-called economic health report, in a way that allows them to indicate their ability to self-finance and cash flows for the coming years and their ability to achieve profits⁸.

Most financial analysts are functional for both listed and brokerage firms. In both cases, the functional dependency of the financial analyst has a significant role to play in influencing the outcome of the report, which eventually results in the interest of a subsidiary. And provided in his false information whether by mistake or willful, it is subject to general rules of responsibility⁹.

Section IV: Responsibility of Financial Services Companies for Making False Statements.

Financial services companies, including brokerage firms and holding and keeping securities companies, are committed to applying the principle of disclosure and transparency, both for the information and data related to them, which the legislator is required to submit to the General Authority for Securities and Stock Exchange under which it operates¹⁰. In addition to the duty of those companies to refrain from doing acts and actions that would damage the stock exchange or its members or dealers, or arrange for any dealings do not work on real transfer for securities in work Trading place¹¹.

If these companies have any false information or data, they are exposed and who represented by those who are responsible for providing such information to legal accountability by the official bodies represented by the General Authority for Financial Supervision, the stock market administrations and the local authorities, which are subject to supervision and control¹².

It is the responsibility of the brokerage firms to issue advice to the client and advice him by taking into account the information they have had previously provided to them when the conclusion of the agreement

¹ Kubish, Mahmood, Criminal Liability of the Comptroller of the Joint Stock Company, Comparative Study, University of Sharjah, United Arab Emirates, Center for Research, Studies and Publishing, 2996, p. 309 et seq., Ahmad Al-Baz, op. Cit

² Othman, Jamal Abdul Aziz, op. Cit., P. 320.

³ Article (477) of the French Companies Law No. 537 of 1966. Article 162/6 of the Egyptian Companies Law No. 159 of 1981, And Article 322/6 of the Companies Law No. 8 of 1984.

⁴ Hussein, Zeinab Ahmed Aziz, op. Cit., P. 182.

⁵ Baz Ahmed, op. Cit., P. 324.

⁶ Qasem, Ali Syed, op. Cit., P. 255; Al-Othman, Jamal Abdul Aziz, op. Cit., 323

⁷ Al-Berbari, Saleh Ahmed, Professional Responsibility of Financial Analyst in the Stock Market, Research at the University of Sharjah, Center for Research and Studies, United Arab Emirates, 2006. , P. 478.

⁸ Qasim, Ali Sayed, op. Cit., P. 479.

⁹ Baz Ahmed, op. Cit., P. 326; Othman, Jamal Abdul Aziz, op. Cit., P. 479.

¹⁰ Othman, Jamal Abdul Aziz, op. Cit., P. 325.

¹¹ Baz, Ahmed, op. Cit., P. 327.

¹² Othman, Jamal Abdul Aziz, op. Cit., P. 325.

between them on the management of his investment account as a financial intermediary, and the responsibility of the company to its customers from the unreliable declarations or the concealment of any facts or material information in a manner that may affect the safety of the client or any recipient of advertising or information its decisions to invest in securities to buy, sell or retain¹. And the responsibility for brokerage firms is also involved cases of disclosure to others of the information entrusted to them by their customers or related to their transactions without approval the client shall be liable to do so, except in cases where it is necessary to disclose them to the regulatory authorities and the other which supervises the stock exchange, including the General Authority for Financial Supervision and Stock Exchange².

Section V: The Responsibility of The Media for Making False or Misleading Information

Media, including television, radio and Internet sites, as well as newspapers and magazines, play an important role in communicating information to investors in capital markets.

If the information produced by such means is false and misleading, it leads to the fulfillment of its responsibility, whether directly responsible if it is the source of the false or misleading information, or indirect liability according to the provider of such information, and the general rules of liability for damages arising from transmitting false information³.

We conclude that the images of the disruption with information are multiple, as well as the illegal practices resulting from the disruption. Legal liability is a legally binding duty on all those related to the stock exchange, starting from the issuers of securities to the smallest trader. The information available on the stock exchange is clear, transparent and easily accessible to the investor. Investors' decisions were correct, which would raise the efficiency of the stock exchange.

The Information is the basis for achieving the integrity and fairness of dealing with securities listed on the stock exchange. It is also a standard for measuring the efficiency of any stock exchange. In addition, it works to block those who target the stock market from illegal manifestations and practices. Where, thus earning illegal profits at the expense of others.

The disclosure of information related to the stock exchange results in the importance of equality between dealers by knowing the basic information and data that are of interest to all parties in dealing, and the investor to deal with the stock exchange is aware of and knowledge of dealing.

Finally, we conclude by saying that the legal responsibility is determined by the violators of the stock exchange, means it is determined by any of the parties related to the stock exchange, and includes many parties in exchange for other beneficiaries, and the other monitors the transactions and transactions of dealers.

The basis of this responsibility is the texts of the special laws of the laws of companies, stock exchanges and others, in addition to the principle of good faith in the transactions imposed by all legislation in all types of contracts, but by different standards

The study recommends the need to deal with all forms of information disruption in the Stock Exchange that are committed by multiple parties in a manner that leads to the application of all legislation, both those related to the activities of the stock market or related to those activities, and work to organize and develop the disclosure of information and International standards, covering all the basic information necessary to protect investors and maintain confidence in the financial market, and other necessary information in this area.

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¹ Al-Ahwani, Hussam Al-Din Kamel, the responsibility of the brokerage companies in the securities to their clients under the Egyptian Capital Market Law, *Ibid.*, P.206-210.

² Al-Ahwani, Hossam Eddin Kamel, *op. Cit.*, P. 211; Al-Othman, Jamal Abdul Aziz, *op. Cit.*, P. 327.

³ Othman, Jamal Abdul Aziz, *op. Cit.*, P. 328.

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