

Peran notaris terhadap rencana go private perseroan terbuka (Studi kasus PT X Tbk)

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Abstrak

Dalam rangka mengembangkan dunia pasar modal Indonesia, otoritas pasar modal terus berupaya meningkatkan minat perusahaan Indonesia untuk go public. Berbagai upaya dilakukan otoritas pasar modal untuk mencegah perseroan terbuka go private, diantaranya dengan menetapkan persentase kuorum kehadiran dan persetujuan pemegang saham independen yang tinggi terhadap rapat umum pemegang saham untuk menyetujui pembaharuan status perseroan dan penghapusan pencatatan (delisting), serta menetapkan harga penawaran yang tinggi terhadap saham milik pemegang saham publik. Dengan persyaratan yang berat tersebut, ada kemungkinan go private perseroan terbuka gagal terlaksana. Ada juga beberapa kendala lainnya yang dapat mengakibatkan batalnya go private. Pembatalan rencana go private PT. X Tbk terjadi karena perbedaan interpretasi antara BEJ dan PT. X Tbk mengenai perhitungan harga penawaran sehubungan dengan proses delisting. Peran notaris pasar modal terhadap pembatalan rencana go private PT. X Tbk diperlukan dalam hal membuat akta otentik. Penelitian ini dilakukan dengan metode penelitian hukum kepustakaan dan lapangan. Hasil penelitian ini bersifat kualitatif analisis dengan desain diagnostik eksplanatoris. Dari penelitian ini dapat diketahui proses perseroan terbuka yang merencanakan go private adalah diawali dengan melakukan keterbukaan informasi atas rencana go private, pemenuhan persyaratan go private dan delisting yang ditetapkan oleh otoritas pasar modal, persetujuan pemegang saham publik terhadap harga penawaran, penyelenggaraan rapat umum pemegang saham sehubungan dengan rencana go private, penawaran tender, kemudian diakhiri dengan delisting. Akibat hukum dari pembatalan rencana go private PT. X Tbk adalah status perseroan tetap menjadi perseroan terbuka dan perusahaan tercatat. Peran notaris pasar modal terhadap pembatalan tersebut adalah membuat akta berita acara rapat umum pemegang saham yang memuat jalannya rapat sampai dengan pemberitahuan pembatalan rencana go private. Apabila rencana go private PT. X Tbk berhasil, peran Notaris Pasar Modal adalah membuat akta berita acara rapat umum pemegang saham mengenai persetujuan rencana go private dan akta perubahan seluruh anggaran dasar perseroan, serta menyampaikan permohonan persetujuan mengenai akta perubahan status perseroan dan perubahan seluruh anggaran dasar kepada Menteri Hukum dan HAM melalui Dirjen AHU sampai dengan pengumuman dalam tambahan berita negara Republik Indonesia.

.....To develop Indonesian Capital market sector, securities exchange authority is continuously making efforts to encourage and promote interests of Indonesian companies to go public and in the same time prevent them from making go private, including, to determine percentage of quorum present and resolution of major independent shareholders in the general meeting regarding the approval of the change in the company's status and delisting as well as stipulate highest quotation price for the shares owned by public shareholders. With such strict requirements, the go private plan of publicly held company is likely to fail. Some other obstacles appear to prevent the go private. Failure of go private plan of PT. X Tbk occurs due to different interpretation between BEJ and PT. X Tbk regarding calculation of quotation price in relation with delisting process. Role to be played by the notary of securities exchange in the cancellation of PT. X Tbk's

go private plan is required in preparing an authentic deed. This study consisted of legal literatures and field work. Result of study was analyzed qualitatively with explanatory design. From this study we will understand that a publicly-held company proposing go private starts with transparent information on its go private plan, compliance with requirements of go private and delisting provided by securities exchange authority, agreement of public shareholders with quotation price, the holding of general shareholders meeting in relation with go private plan, bidding, and delisting. Legal consequence of cancellation of PT. X Tbk's go private plan is that company status remains to be publicly held and listed company. The role to be played by notary of securities exchange in such cancellation is to prepare Minutes of General Shareholders Meeting containing the course of the meeting until notification on the cancellation of go private plan. When PT. X Tbk's go private plan succeeds, role to be played by Notary of Securities Exchange is to prepare Minutes of General Shareholders Meeting containing agreement with the go private plan and Minutes of amendment to all company's Rules of Association and extend recommendation for approval of minutes of amendment to company's status and amendment to all rules of association to Minister of Law and Human Rights through Director General of Public Law Administration and announcement of which in the State Gazette of the Republic of Indonesia.