

Perlindungan investor pemegang obligasi dalam kepailitan emiten : studi kasus PT. Infoasia Teknologi Global Tbk = The protection of bond holders in bond issuer bankruptcy : case study PT. Infoasia Teknologi Global Tbk

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Abstrak

Dalam hukum di Bidang Pasar Modal di Indonesia, pihak Emiten harus berbentuk Badan Hukum. Sebagai Badan Hukum, Emiten dapat saja dipailitkan apabila pihak Emiten tersebut memenuhi persyaratan pailit sebagaimana diatur dalam Undang-Undang Nomor 37 Tahun 2004 tentang Kepailitan. Dalam hubungan hukum utang-piutang tersebut, maka emiten berkedudukan sebagai debitur bagi investor pemegang obligasi, sedangkan investor pemegang obligasi berkedudukan sebagai kreditur bagi emiten. Isu perlindungan investor pemegang obligasi tentu menjadi pusat perhatian bagi pemegang obligasi yang emitennya mengalami kepailitan.

Wali Amanat dan Bapepam LK merupakan dua pihak yang berperan utama dalam pelaksanaan perlindungan investor pemegang obligasi dalam hal terjadinya kepailitan emiten terkait dengan fungsinya masing-masing di Pasar Modal. Aspek perlindungan hukum pemegang obligasi sebagai kreditur dalam kepailitan emiten dapat digolongkan dalam dua pembagian, yakni aspek perlindungan hukum pemegang obligasi pada saat permohonan pailit emiten, dan aspek perlindungan hukum pemegang obligasi setelah putusan pailit diputuskan oleh hakim.

.....Based on capital market law in Indonesia, Bond Issuer must in the form of Legal Entity. As a Legal Entity, Issuer is possibly bankrupted if Issuer fullfils requierements of bankrupt which is ruled in Law Number 37 Year 2004 about Bankruptcy. In the concept of legal relation of debts and credits, Bond Issuer is considered as a debtor for the Bond Holder. Meanwhile a Bond Holder acts as a creditor for Bond Issuer. According to that description, Bond Holder has a unique position compared to other creditors. Protection of Bond Holders becomes a center attention of Bond Holders, who their Bond Issuer has bankrupted. Wali Amanat (Trustee) and Bapepam LK are two main parties in enforcement of Bond Holders protection in Bond Issuer bankruptcy.

Wali Amanat (Trustee) has a role as a party who acts to represent interest of Bond Holders, involving acts to represent Bond Holders in Bond Issuer bankruptcy. Meanwhile Bapepam LK acts as supervisor and law enforcer in Capital Market consisting of giving protection to Bond Holders in Bond Issuer Bankruptcy. Legal Aspects of Protection for Bond Holders as a creditor in Bond Issuer bankruptcy can be categorized in two categories. There are: Legal Aspect of protection for Bond Holders in the appeal for bankruptcy process; and Legal Aspect of protection for Bond Holders after Bankruptcy judgement have been decided by Judge in Commercial Court.