

Peranan notaris dalam penerbitan depositary receipt (studi pada PT Telekomunikasi Indonesia Tbk) = Role of notary in the issue of depositary receipt (a study of PT Telekomunikasi Indonesia Tbk)

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Abstrak

Tesis ini membahas mengenai peran dan tanggung jawab notaris, permasalahan yang dihadapi notaris dalam penerbitan depositary receipt, serta perlindungan hukum terhadap pemegang depositary receipt. Penelitian ini merupakan penelitian yuridis normatif yang menekankan pada penggunaan data kepustakaan dan/atau norma hukum tertulis dengan tipe penelitian deskriptif analisis yang bertujuan memberikan gambaran umum secara tepat dan mendalam mengenai pokok permasalahan tersebut. Perkembangan ekonomi saat ini memungkinkan Perseroan Terbuka melakukan internasionalisasi pasar modal melalui penerbitan depositary receipt di bursa efek luar negeri.

Penulis memberikan contoh penerbitan American Depositary Receipt (ADR) PT Telekomunikasi Indonesia (Telkom) Tbk pada bursa efek Amerika, untuk memberikan gambaran yang lebih jelas mengenai penerbitan depositary receipt. Dalam penerbitan ADR Telkom pada bursa efek Amerika, notaris memiliki peran dan tanggung jawab membuat akta otentik terkait persetujuan RUPS yang diperlukan, termasuk akta perubahan anggaran dasar yang memuat ketentuan mengenai pengeluaran saham yang dijadikan dasar penerbitan depositary receipt, serta memberikan nasihat hukum mengenai penyelenggaraan RUPS dan memastikan perubahan anggaran dasar yang dibuatnya tidak melanggar ketentuan hukum yang berlaku.

Permasalahan yang dihadapi notaris adalah berkaitan dengan pemahaman akan aturan hukum baik di Indonesia maupun hukum asing mengenai depositary receipt. Perlindungan hukum pemegang depositary receipt sama dengan pemegang saham, perbedaannya terdapat pada pengenaan pajak atas dividen yang diterima dan harus ditunjuknya perwakilan yang mewakili suara pemegang depositary receipt secara bersama-sama di dalam RUPS.

.....This thesis discusses the roles and responsibilities of notaries, notary public of the problems related with the issuance of depositary receipts, as well as legal protection of holders of depositary receipts. This research is using normative juridical research that emphasizes the use of literature data and / or written legal norms with the type of descriptive analysis of research that aims to provide an exact overview and deep understanding of the subject. Current economic developments enable the Company to open internationalization of capital markets through the issuance of depositary receipts on stock exchanges abroad.

The author gives examples of the issuance of PT Telekomunikasi Indonesia (Telkom) Tbk American Depositary Receipt (ADR) on American stock exchanges, to provide a clearer picture regarding the issuance of depositary receipts. In the ADR issuance of Telkom on the American Stock Exchange, the notary has a role and responsibility to make authentic deeds related to the Shareholders General Meeting approval which is required, including the deed of amendment which contains provisions regarding the expenditure shares on which the issuance of depositary receipts, as well as providing legal advice on organizing the Shareholders General Meeting and ensure the amendments made do not violate applicable law.

The notary usually have problems related to the understanding and implementing the rule of law both in

Indonesia and foreign laws regarding the depositary receipts. Depositary receipt holders legal protection equal to its shareholders, there are differences in the taxation of dividends received and the obligation to appoint representatives of holders of depositary receipts representing the voting rights together at the Shareholders General Meeting.