

Peran notaris dalam pelaksanaan REITs (Real Estate Investment Trust)/DIRE-KIK (Dana Investasi Real Estat-Kontrak Investasi Kolektif) di Indonesia = Role of a Notary in the implementation of REITs (Real Estate Investment Trust) in Indonesia

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Abstrak

Dalam pasar modal Indonesia saat ini dikenal Real Estate Investment Trust (REITs) yang merupakan salah satu instrumen pasar modal. Metode penelitian yang digunakan dalam penulisan tesis ini adalah bersifat yuridis normatif yang bersifat kepustakaan dan jenis data yang digunakan adalah data sekunder. Alat pengumpulan data yang digunakan berupa studi dokumen dan metode analisis data digunakan secara kualitatif. REITs pertama kali ditujukan bagi investor kecil agar mereka mengumpulkan modal yang nantinya akan dipergunakan untuk melakukan investasi didalam properti komersil yang menghasilkan pendapatan dalam skala besar. Pembentukan REITs dalam pasar modal Indonesia dilakukan dalam bentuk Kontrak Investasi Kolektif (KIK) menurut Peraturan Bapepam-LK. Namun dalam pelaksanaan REITs tersebut masih terdapat berbagai kendala diantaranya kendala menyangkut masalah pengenaan pajak berganda dan masalah hukum pertanahan Indonesia yang belum dapat memfasilitasi berkembangnya REITs di Indonesia. Dalam pelaksanaan penawaran umum dana investasi real estat tersebut dibutuhkan peran notaris sebagai profesi penunjang pasar modal yang berperan dalam pembuatan akta-akta pendirian perseroan terbatas yang merupakan special purpose company, akta-akta kontrak investasi kolektif dan akta-akta likuidasi atau pembubarannya.

Real Estate Investment Trust (REITs) is currently known in Indonesia's capital market as one of the many capital market instruments. The research method that was adapted for this thesis is a juridical normative approach with literature study characteristics and the data variety used was secondary data. The data appliance applied was literature study, and the analyzing method applied was performed qualitatively. REITs are aimed for the small to medium (limited funds) investors to collectively sum funds, after the fund has been collected to a larger amount later it shall be used to purchase commercial properties which generates yields in a larger scale. According to the regulation issued by BAPEPAM-LK, REITs in Indonesia's capital market is applied in the form of collective investment scheme. However, the implementation of REITs in Indonesia is still facing various obstacles, including double tax issues and Indonesia's land ownership regulations issues, due to the obstacles mentioned above, Indonesia's capital market does not have the capability in facilitating REITs's growth in Indonesia. In the execution of REITs's public offering, the role of notary as the supportive professional in capital market is needed. It is needed to produce deeds of establishment of a limited liability company for the special purpose company, deeds of collective investment scheme and deeds of liquidation or dismissal.