

## Tinjauan yuridis terhadap tindakan backdoor listing sebagai suatu bentuk corporate action (studi kasus PT BW Plantation Tbk.) = Judicial review of backdoor listing as a form of corporate action (case study PT BW Plantation Tbk.)

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### Abstrak

[Pendanaan perusahaan merupakan hal yang esensial dan krusial dari berjalannya suatu kegiatan perusahaan, baik sebagai bentuk dari upaya perusahaan untuk menjalankan atau bahkan memperluas kegiatan usahanya. Selain melalui pinjaman, perusahaan dapat mewujudkan usahanya untuk menghimpun modal melalui Pasar Modal. Hal tersebut dapat dilakukan dengan melakukan penjualan kepemilikan atas perusahaan berupa saham yang dikeluarkan perusahaan dalam bentuk efek kepada masyarakat yang selanjutnya akan bertindak sebagai pemodal/investor melalui Penawaran Umum yang didahului dengan penjualan saham yang dilakukan pertama kali, disebut sebagai Penawaran Umum Perdana atau Initial Public Offering ("IPO") dan berdasarkan Undang-Undang No. 8 tahun 1995 tentang Pasar Modal, perusahaan yang melakukan Penawaran itu disebut dengan Emiten. Dengan statusnya yang terdaftar sebagai Perusahaan Terbuka, perusahaan tersebut mendapatkan keuntungan-keuntungan yang hanya dapat didapat oleh Perusahaan Terbuka, salah satunya adalah kesempatan untuk menghimpun dana dari masyarakat melalui penjualan Efek lewat Pasar Modal. Namun selain keuntungan, terdapat beberapa hal yang perlu dijadikan pertimbangan antara lain proses yang cukup kompleks, biaya yang besar, dan keterbukaan informasi mengenai perusahaan yang harus dipenuhi oleh Emiten baik sebelum maupun sesudah dilakukannya IPO. Dalam menyiasati hal tersebut, para pelaku usaha berusaha agar Perusahaan Tertutup dapat menikmati keadaan selayaknya Perusahaan Terbuka tanpa melakukan IPO dimana hal tersebut dikenal dengan istilah backdoor listing. Penelitian ini membahas mengenai terjadinya transaksi backdoor listing di Pasar Modal Indonesia, dimana hingga saat ini belum ada definisi, pengaturan, maupun penegakan hukum secara spesifik ditujukan terhadap backdoor listing. Selanjutnya guna menjawab permasalahan tersebut, penulis menggunakan metode pendekatan hukum normatif yang dapat diinterpretasikan sebagai penelitian hukum kepustakaan yang dilakukan berdasarkan pada data-data sekunder. Berdasarkan pemaparan dari penelitian ini, dapat disimpulkan melalui contoh kasus PT BW Plantation Tbk. bahwa suatu backdoor listing dapat dilakukan salah satunya melalui cararights issue yang dilanjutkan dengan proses akuisisi dari Perusahaan Terbuka. Hal ini dapat berpotensi menimbulkan ketidakpastian hukum, mengingat tidak ada kewajiban-kewajiban tertentu dari calon Emiten yang terlibat dalam suatu backdoor listing, mengingat hingga saat ini belum terdapat peraturan tersendiri yang mengatur tentang itu dan hingga saat ini, pelaksanaan backdoor listing dijalankan berdasarkan pengambilalihan dalam Undang-Undang No. 40 Tahun 2007 tentang Perseroan Terbatas dan Undang-Undang No. 8 Tahun 1995 tentang Pasar Modal serta Peraturan Bapepam-LK (OJK) sebagai peraturan pelaksanaannya.

.....Company's financing is essential and crucial from the passage of a company's activities, both as a form of the company's efforts to run or even expand their business activities. Other than through loans, the company can realize its efforts to raise capital through the capital market. This can be done by selling the ownership of the company in the form of shares issued by the company in the form of securities to the



public who will then act as financiers / investors through a Public Offering which was preceded by the sale of shares is done first, referred to as IPO or Initial Public Offering ("IPO") and based on Law No. 8 of 1995 on the Capital Market, companies that do offer it is called by the Issuer. With its status as a listed public company, the company is getting the benefits that can only be obtained by a public company, one of which is the opportunity to raise funds from the public through the sale of securities through the capital market. However, there are benefits, there are some things that need to be taken into consideration, among others, the process is quite complex, huge costs, and disclosure of information about the company that must be fulfilled by the Issuer either before or after doing an IPO. In around this, entrepreneurs trying to make the Company closed the circumstances should be able to enjoy public company without doing an IPO where it is known as a backdoor listing. This study discusses about the backdoor listing transaction in Indonesian Capital Market, where until now there is no definition, regulation, and law enforcement is specifically directed against the backdoor listing. Furthermore, in order to address these problems, the authors use the method of normative approach which can be interpreted as a legal research literature conducted based on secondary data. Based on the presentation of this study, it can be concluded that based on case study PT BW Plantation Tbk, a backdoor listings can be done through a rights issue, followed by the acquisition of a public company. This could potentially lead to legal uncertainty, since there is no certain obligations of the Issuer candidate signaled in a separate regulation and to date, the implementation of backdoor listing is run by the takeover of the Act No. 40 Year 2007 on Limited Liability Companies and Law No. 8 of 1995 on Capital Markets and Bapepam-LK (now known as Otoritas Jasa Keuangan/OJK) as its implementing regulations., Company's financing is essential and crucial from the passage of a company's activities, both as a form of the company's efforts to run or even expand their business activities. Other than through loans, the company can realize its efforts to raise capital through the capital market. This can be done by selling the ownership of the company in the form of shares issued by the company in the form of securities to the public who will then act as financiers / investors through a Public Offering which was preceded by the sale of shares is done first, referred to as IPO or Initial Public Offering ("IPO") and based on Law No. 8 of 1995 on the Capital Market, companies that do offer it is called by the Issuer. With its status as a listed public company, the company is getting the benefits that can only be obtained by a public company, one of which is the opportunity to raise funds from the public through the sale of securities through the capital market. However, there are benefits, there are some things that need to be taken into consideration, among others, the process is quite complex, huge costs, and disclosure of information about the company that must be fulfilled by the Issuer either before or after doing an IPO. In around this, entrepreneurs trying to make the Company closed the circumstances should be able to enjoy public company without doing an IPO where it is known as a backdoor listing. This study discusses about the backdoor listing transaction in Indonesian Capital Market, where until now there is no definition, regulation, and law enforcement is specifically directed against the backdoor listing. Furthermore, in order to address these problems, the authors use the method of normative approach which can be interpreted as a legal research literature conducted based on secondary data. Based on the presentation of this study, it can be concluded that based on case study PT BW Plantation Tbk, a backdoor listings can be done through a rights issue, followed by the acquisition of a public company. This could potentially lead to legal uncertainty, since there is no certain obligations of the Issuer candidate signaled in a separate regulation and to date, the implementation of backdoor listing is run by the takeover of the Act No. 40 Year 2007 on Limited Liability Companies and Law No. 8 of 1995 on Capital Markets and Bapepam-LK (now known as Otoritas Jasa Keuangan/OJK) as its implementing



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