

Kekosongan Hukum Dalam Pengaturan Status Penanaman Modal PT Terbuka = Legal Vacuum in Regulation of the Investment Status of Public Company

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Abstrak

Tesis ini membahas kekosongan hukum dalam pengaturan status penanaman modal PT Terbuka. Masalah-masalah yang dibahas dalam tesis ini, yaitu perbandingan pengaturan status penanaman modal PT Terbuka berdasarkan UU 1/1967 juncto UU 6/1968 dengan UU 25/2007 serta peraturan pelaksanaannya, akibat kekosongan hukum pengaturan status penanaman modal PT Terbuka, dan perbandingan pengaturan status penanaman modal PT Terbuka di Indonesia dengan negara Australia dan India. Metode penelitian yang dipakai dalam tesis ini adalah yuridis normatif dengan tipologi penelitian diagnostik dan preskriptif serta data yang dikumpulkan adalah data sekunder. Hasil penelitian ini yang pertama adalah ditemukan bahwa sesudah terbitnya UU 25/2007 PT Terbuka mengalami kekosongan hukum dalam pengaturan status penanaman modalnya karena penanaman modalnya tidak langsung atau dilakukan melalui portofolio, dikecualikan dari pengaturan dalam UU 25/2007 dan peraturan pelaksanaannya. Kedua, kekosongan hukum dalam pengaturan status penanaman modal PT Terbuka di Indonesia berakibat kepada perizinan penanaman modal PT Terbuka serta anak perusahaan PT Terbuka. Ketiga, pengaturan status penanaman modal PT Terbuka di Indonesia, India, dan Australia, berbeda karena di India dan Australia pengaturan atas status penanaman modal PT Terbuka tidak terjadi kekosongan hukum karena peraturan penanaman modal kedua negara tersebut mengatur bahwa penanaman modal langsung maupun penanaman modal tidak langsung tidak diperlakukan berbeda dalam hal penentuan status penanaman modal di Australia dan India. Oleh karena itu, India dan Australia dapat dijadikan referensi untuk membentuk peraturan terkait penentuan status penanaman modal PT Terbuka yang mengikutsertakan penanaman modal tidak langsung dalam penentuan status penanaman modal PT Terbuka.

.....This thesis discusses the legal vacuum in regulating the investment status of Public Company. The problems discussed in this thesis are the comparison of the regulation on the investment status of Public Company based on Law 1/1967 in conjunction with Law 6/1968 with Law 25/2007 as well as its implementing regulations, due to the legal vacuum in regulating the investment status of Public Company, and the comparison of status arrangements. Public Company investment in Indonesia with Australia and India. The research method used in this thesis is normative juridical with a diagnostic and prescriptive typology of research and the data collected is secondary data. The first result of this research is it was found that after the issuance of Law 25/2007 Public Company experienced a legal vacuum in regulating its investment status because the investment was not direct or carried out through a portfolio, was excluded from the regulation in Law 25/2007 and its implementing regulations. Second, the legal vacuum in regulating the investment status of Public Company in Indonesia has resulted in the investment licensing of Public Company and its subsidiaries of Public Company. Third, the regulation on the investment status of Public Company in Indonesia, India and Australia is different because in India and Australia the regulation on the investment status of Public Company does not occur in a legal vacuum because the investment regulations of the two countries stipulate that direct investment and indirect investment are not treated

differently in the determination of investment status in Australia and India. Therefore, the regulations related to investment in India and Australia can be used as a reference to form regulations related to determining the investment status of Public Company which includes indirect investment in determining the investment status of Public Company.