

Tanggung Jawab Anggota Direksi dan Anggota Dewan Komisaris atas Kerugian Perseroan Terbatas Penanaman Modal Asing = Responsibility of Members of the Board of Directors and Members of the Board of Commissioners upon Losses of the Foreign Investment Limited Liability Company

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Abstrak

Tesis ini menganalisis bentuk tanggung jawab anggota Direksi dan anggota Dewan Komisaris atas kerugian Perseroan Terbatas Penanaman Modal Asing dan menganalisis akibat hukum bagi anggota Direksi dan anggota Dewan Komisaris yang telah merugikan Perseroan Terbatas Penanaman Modal Asing dalam Putusan Pengadilan Negeri Batam Nomor:289/Pdt.G/2017/PN Btm. Penelitian ini menggunakan metode penelitian yuridis normatif dengan pendekatan kasus. Tesis ini menyimpulkan beberapa hal. Pertama, bentuk tanggung jawab anggota Direksi dan anggota Dewan Komisaris atas kerugian Perseroan Terbatas Penanaman Modal Asing (PT PMA) berupa tanggung jawab secara perdata dan/atau secara pidana. Tanggung jawab secara perdata berupa anggota Direksi dan Dewan Komisaris tersebut dihukum bertanggung jawab secara pribadi membayar ganti kerugian materiil berupa sejumlah uang kepada PT PMA yang telah dirugikan. Tanggung jawab secara pidana berupa anggota Direksi dan Dewan Komisaris tersebut dijatuhi sanksi pidana berupa pidana penjara dan/atau pidana denda. Kedua, Akibat hukum bagi anggota Direksi dan anggota Dewan Komisaris yang telah merugikan Perseroan Terbatas Penanaman Modal Asing (PT PMA) dalam Putusan Pengadilan Negeri Batam Nomor:289/Pdt.G/2017/PN Btm yaitu anggota Direksi dan Dewan Komisaris yang terbukti bersalah atau lalai dalam menjalankan tugasnya tersebut dihukum untuk bertanggung jawab secara pribadi atas kerugian yang dialami oleh PT PMA dan dihukum untuk secara tanggung renteng membayar ganti kerugian materiil sejumlah USD 78,284.6 kepada PT PMA yang telah dirugikan. Doktrin business judgement rule tidak digunakan dalam Putusan tersebut karena Para Tergugat terbukti bersalah atau lalai dalam menjalankan tugasnya, melanggar anggaran dasar dan Undang-Undang Perseroan Terbatas serta telah melakukan ultra vires.

.....This thesis analyzes the form of responsibility of members of the Board of Directors and members of the Board of Commissioners upon losses of the Foreign Investment Limited Liability Company and analyzes the legal consequences for members of the Board of Directors and members of the Board of Commissioners that to harm the Foreign Investment Limited Liability Company in the Verdict of Batam District Court Number:289/Pdt.G/2017/PN Btm. This research uses a normative juridical research method with a case approach. This thesis concludes several things. First, the form of responsibility of members of the Board of Directors and members of the Board of Commissioners upon losses of the Foreign Investment Limited Liability Company (PT PMA) in the form of civil liability and/or criminal liability. The civil liability in the form of members of the Board of Directors and the Board of Commissioners punished to be personally responsible to pay material compensation in the form of a sum of money to PT PMA that has been harmed. The criminal responsibility in the form of members of the Board of Directors and the Board of Commissioners imposed a criminal sanction in the form of imprisonment sanction and/or fines sanction. Second, the legal consequences for members of the Board of Directors and members of the Board of

Commissioners that to harm the Foreign Investment Limited Liability Company (PT PMA) in the Verdict of Batam District Court Number: 289/Pdt.G/2017/PN Btm namely the members of the Board of Directors and the Board of Commissioners that are found guilty or negligence in carrying out his duties punished to be personally responsible for losses suffered by PT PMA and punished jointly to pay material compensation in the amount of USD 78,284.6 to PT PMA that has been harmed. The business judgment rule doctrine is not used in the Verdict because the Defendants had been proven guilty or negligent in carrying out their duties, to violate the articles of association and the Limited Liability Company Law and had carried out the ultra vires.