

Analisis Yuridis Pemberhentian Komisaris Independen Perseroan Terbatas (Analisis Putusan Nomor 103/Pdt.G/2011/PN.Jkt.Sel dan Putusan Nomor 16/G/2014/PTUN-JKT)” = JUDICIAL ANALYSIS OF DISMISSAL OF INDEPENDENT COMMISSIONER OF A LIMITED LIABILITY COMPANY (ANALYSIS OF DECISION NUMBER 103/PDT.G/2011/PN.JKT.SEL & DECISION NUMBER 16/G/2014/PTUN-JKT)

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Abstrak

Perseroan Terbatas (PT) merupakan suatu badan usaha berbadan hukum dengan eksistensi yang sangat baik di Indonesia. Berdasarkan ketentuan mengenai PT dalam Undang-Undang Nomor 40 Tahun 2007 tentang Perseroan Terbatas (UUPT), terdapat tiga buah organ yang menjalankan kegiatan PT yang meliputi RUPS (Rapat Umum Pemegang Saham), Anggota Direksi, dan Dewan Komisaris. Dalam pelaksanaan kegiatan PT, ketiga organ tersebut harus menganut prinsip check and balances melalui tata kelola perusahaan yang baik yang disebut good corporate governance. Pada penelitian ini akan dibahas mengenai pemberhentian Komisaris Independen melalui studi kasus pada putusan nomor 103/PDT.G/2011/PN.JKT.SEL dan putusan nomor 16/G/2014/PTUN-JKT. Berdasarkan ketentuan dalam UUPT, pengangkatan, penggantian, dan pemberhentian Komisaris Independen dilakukan melalui RUPS dengan suara bulat mayoritas, dimana ketentuan tersebut juga tercantum pada Anggaran Dasar PT. Melalui metode penelitian yuridis normatif, penelitian dilakukan dengan menganalisa aspek-aspek hukum pada peraturan perundang-undangan terkait pemberhentian Komisaris Independen dalam kedua kasus pada putusan nomor 103/PDT.G/2011/PN.JKT.SEL dan putusan nomor 16/G/2014/PTUN-JKT.

Melalui studi pada kedua kasus dalam penelitian ini, terdapat beberapa permasalahan yang dibahas terkait pemberhentian Komisaris Independen, meliputi kebijakan pengangkatan, penggantian, maupun pemberhentian organ perusahaan Komisaris Independen, termasuk alasan dari pemberhentian Komisaris Independen. Berdasarkan hasil penelitian, disarankan untuk dibuatnya pengaturan yang jelas terkait kesempatan membela diri dalam RUPS mengenai pemberhentian suatu organ perusahaan, pedoman yang jelas mengenai alasan-alasan yang dibenarkan dalam memberhentikan organ perusahaan bagi RUPS, serta kebijakan terkait persyaratan calon Komisaris Independen yang disesuaikan dengan latar belakang dan kegiatan usaha perusahaan

.....Limited Liability Company (LTD) is a legal entity with a very good existence in Indonesia. Based on the provisions regarding LTD in Law Number 40 of 2007 concerning Limited Liability Companies (UUPT), three organs carry out LTD activities: the GMS (General Meeting of Shareholders), Members of the Board of Directors, and the Board of Commissioners. In carrying out LTD activities, the three organs must adhere to the principle of checks and balances through good corporate governance called good corporate governance. In this study, the dismissal of the Independent Commissioner will be discussed through a case study on decision number 103/PDT.G/2011/PN.JKT.SEL and decision number 16/G/2014/PTUN-JKT. Based on the provisions in the Company Law, the appointment, replacement, and dismissal of the

Independent Commissioner are carried out through the GMS with a unanimous majority, where the provisions are also stated in the Articles of Association of LTD. Through the normative juridical research method, the research was conducted by analyzing the legal aspects of the legislation related to the dismissal of the Independent Commissioner in both cases in decision number 103/PDT.G/2011/PN.JKT.SEL and decision number 16/G/2014 /PTUN-JKT.

Through the study of the two cases in this research, there were several issues discussed regarding the dismissal of the Independent Commissioner, including the policy on the appointment, replacement, or dismissal of the Independent Commissioner's company organs, including the reasons for the dismissal of the Independent Commissioner. Based on the results of the research, it is recommended to make clear arrangements regarding the opportunity to defend oneself at the GMS regarding the dismissal of a company organ, clear guidelines regarding the justifiable reasons for dismissing a company organ for the GMS, as well as policies related to the requirements for candidates for Independent Commissioners that are adjusted to the background. and company business activities.