

## ABSTRAK

**Nama** : Kanya Candrika K.  
**Program Studi** : Magister Kenotariatan Fakultas Hukum Universitas Indonesia  
**Judul** : Penerapan *Business Judgment Rule* sebagai Wujud Perlindungan Bagi Direksi dalam Pengurusan Perseroan Terbatas di Indonesia

Direksi merupakan organ dari perseroan terbatas yang berwenang dan bertanggung jawab penuh atas pengurusan perseroan terbatas dan mewakili perseroan terbatas, baik di dalam maupun di luar pengadilan. Hubungan antara Direksi dengan perseroan terbatas terjadi karena adanya kepercayaan yang diberikan oleh perseroan terbatas kepada Direksi. Karenanya dalam menjalankan tugas yang diembannya, Direksi memiliki kewajiban *fiduciary (fiduciary duty)*. Dalam mengelola perseroan terbatas, Direksi dituntut untuk dapat mengambil keputusan bisnis yang tepat dan cepat. Namun tuntutan tersebut tidak mengurangi pelaksanaan kewajiban *fiduciary duty* oleh Direksi. Penelitian ini membahas mengenai doktrin *business judgment rule*, yakni doktrin yang melindungi Direksi atas setiap keputusan yang diambilnya, selama hal tersebut dilakukan dalam batas-batas kewenangan dengan penuh kehati-hatian dan itikad baik. Doktrin *business judgment rule* kini diatur secara jelas dalam Undang-undang Nomor 40 Tahun 2007 tentang Perseroan Terbatas yang membebaskan anggota Direksi dari tanggung jawab penuh secara pribadi atas kerugian perseroan terbatas dalam hal-hal tertentu. Berdasarkan bentuknya, tipologi yang digunakan dalam penelitian ini adalah penelitian eksplanatoris karena penelitian ini bertujuan menggambarkan doktrin *business judgment rule*, hubungannya dengan adanya *fiduciary duty* pada Direksi dalam menjalankan pengurusan perseroan terbatas dan pengaturannya dalam Undang-undang Nomor 40 Tahun 2007. Sedangkan tipologi penelitian yang digunakan berdasarkan tujuan dalam penelitian ini adalah *problem identification*, dimana penelitian ini bertujuan untuk mengklasifikasikan permasalahan yang membawa kerugian bagi perseroan terbatas dan perlindungan bagi Direksi atas kerugian tersebut yang merupakan hasil dari keputusannya. Penelitian ini membahas mengenai hubungan antara *fiduciary duty* yang merupakan kewajiban Direksi dengan doktrin *business judgment rule* yang memberikan perlindungan bagi Direksi dalam mengurus perseroan terbatas, pengaturan *business judgment rule* berdasarkan Undang-undang Nomor 40 Tahun 2007 dan penerapan *business judgment rule* berdasarkan Undang-undang Nomor 40 Tahun 2007 pada suatu kasus gugatan terhadap Direksi (bilamana diasumsikan bahwa dalam kasus itu keputusan yang diambil Direksi tersebut membawa kerugian bagi perseroan terbatas yang diurusnya).

Kata kunci:

Perseroan terbatas, Direksi, *business judgment rule*

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**Name : Kanya Candrika K.**  
**Study Program : Public Notary Studies, Faculty of Law, University of Indonesia**  
**Title : The Implementation of Business Judgment Rule as a Protection for Board of Directors in the Management of Limited Liability Companies in Indonesia**

The Board of Directors is an organ within a limited liability company which is entitled to and fully responsible in managing the company and in representing the company, inside or outside the court. The relationship between the Board of Directors and the company arises due to a trust given by the company to the Board of Directors. Thus, the Board of Directors has a fiduciary duty in performing its management duties. In managing the company, the Board of Directors is required to make appropriate business resolution quickly. However, such requirement should not prejudice the performance of the fiduciary duty obligation by the Board of Directors. This research paper discusses the business judgment rule doctrine, which is a doctrine that protects the Board of Directors in respect of each of its resolution, to the extent that such resolution is made with due care and in good faith. The business judgment rule doctrine is now expressly stipulated in Law Number 40 of 2007 regarding Limited Liability Companies, which aptly relinquishes the member of Board of Directors from full personal responsibility with regard to the company's loss in particular conditions. The typology used in this research paper is explanatory research since the purpose of this research paper is to describe the business judgment rule doctrine, its relation with the fiduciary duty of the Board of Directors in managing the company and its stipulation in Law Number 40 of 2007. Further, the research typology based on the purpose used in this research paper is a problem identification, and the purpose of this research is to classify the problems which result in loss incurred by the companies and the protection given to the Board of Directors in regard to such loss due to Board of Directors's decision. This research paper discusses the relationship between the fiduciary duty which is the Board of Directors's obligation and the business judgment rule doctrine which grants a protection to Board of Directors, the stipulation of business judgment rule under Law Number 40 of 2007 and the implementation of the business judgment rule pursuant to Law Number 40 of 2007, in a lawsuit against the Board of Directors (assuming that in such lawsuit, the Board of Directors's decision resulted in a loss incurred by the company).

Key words:

Limited liability company, Board of Directors, business judgment rule