

Tinjauan klausul pengecualian kewajiban transaksi afiliasi sebagaimana tercantum dalam peraturan Bapepam dan LK No. IX.E.1 dan interpretasinya oleh perusahaan publik = Overview to the affiliate transaction liability exclusion clause as specified in the Bapepam and LK rules No IX E.1 and its interpretation by public company

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Abstrak

[ABSTRAK

Tesis ini membahas mengenai landasan dan latar belakang atas dibuatnya peraturan mengenai transaksi afiliasi sebagaimana tercantum dalam Peraturan Bapepam dan LK No. IX.E.1. Dimana dewasa ini terdapat tren bahwa grup perusahaan menjadi semakin banyak tumbuh dan berkembang dalam dunia usaha dan bisnis di Indonesia, sehingga akan banyak transaksi yang dilakukan oleh antar perusahaan yang memiliki keterkaitan atau disebut dengan transaksi afiliasi. Selanjutnya secara lebih khusus akan dibahas juga mengenai klausul pengecualian untuk melakukan kewajiban mengumumkan keterbukaan informasi dan melakukan pelaporan kepada OJK atas transaksi-transaksi afiliasi yang dilakukan oleh perusahaan publik atau emiten sebagaimana tercantum dalam Peraturan Bapepam dan LK No.IX.E.1 terutama dalam hal ini adalah mengenai interpretasi perusahaan publik atau emiten atas pengecualian kewajiban sebagaimana tercantum dalam peraturan tersebut. Terdapat interpretasi yang kurang tepat yang terjadi atas pengelompokan kewajiban untuk transaksi yang wajib diumumkan keterbukaan informasi atau dilaporkan kepada OJK atau bahkan transaksi tersebut dikecualikan dari kedua jenis kewajiban pengumuman keterbukaan informasi atau pelaporan tersebut diatas. Penelitian ini menggunakan metode penelitian kualitatif. Hasil penelitian kemudian menyarankan agar pemerintah selaku regulator dan pembuat kebijakan terutama terkait transaksi afiliasi memberikan penjelasan dalam Peraturan Bapepam dan LK No.IX.E.1 agar tidak terjadi ambiguitas dalam menginterpretasikan klausul-klausul dalam peraturan Bapepam dan LK, khususnya Peraturan Bapepam dan LK No.IX.E.1, khususnya dalam pengelompokan kewajiban dalam Peraturan Bapepam dan LK No. IX.E.1 tersebut oleh perusahaan publik atau emiten yang menjadi pelaku dalam transaksi afiliasi tersebut. Mengingat dewasa ini terdapatnya kelompok grup perusahaan sehingga transaksi afiliasi akan banyak dilakukan dengan mengatasnamakan efisiensi dan efektifitas biaya dalam grup perusahaan. Dalam hal melibatkan perusahaan publik atau emiten, maka pemerintah harus turut andil dalam mengawasi pelaksanaan kegiatan yang dilakukan oleh perusahaan publik atau emiten tersebut. Selain itu adalah penting sifatnya apabila pemerintah menerbitkan peraturan yang jelas sehingga tidak terdapat berbagai persepsi yang

berbeda pada pelaksanaannya dalam masyarakat.

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ABSTRACT

This master's thesis examines the basic and background of the issuance of regulation regarding affiliate transaction as specified in Bapepam and LK Rules No. IX.E.1. Recently, the trend of the group of companies are growing more in the business activity in Indonesia, so that there will be many transactions conducted inter-companies which have relationship or as called affiliate transaction. Furthermore, specifically this master's thesis will also examine the exclusion clause to conduct obligations either to announce the information disclosure or report to OJK for every affiliate transactions which is performed by the public company as specified in Bapepam and LK Rule No. IX.E.1, particularly in this case is on the interpretation of the public company for such exclusion which is specified in that regulation. There is a misinterpretation in qualifying the obligation either to announce the information disclosure or to report to OJK or even such transaction is being excluded from both of those obligations. This research is using the qualitative method of research. The research result thereafter is suggesting the government as a regulator and policy maker, particularly on affiliate transaction, to provide explanation in the Bapepam and LK rule No. IX.E.1, in order to prevent any ambiguity in interpreting the clause in Bapepam and LK rule, particularly Bapepam and LK rule No. IX.E.1, focusing in the obligation qualification in such rule. Considering that recently the trend is companies group so that the affiliate transaction will be mostly conducted in the background of cost efficiency and effectiveness in such companies group. In case involving the public company in the affiliate transaction, thus the government should contribute in supervising the performance of the such public company. Besides, it is important if the government issuing a regulation so that there are no misinterpretation in the implementation by the public; This master's thesis examines the basic and background of the issuance of regulation regarding affiliate transaction as specified in Bapepam and LK Rules No. IX.E.1. Recently, the trend of the group of companies are growing more in the business activity in Indonesia, so that there will be many transactions conducted inter-companies which have relationship or as called affiliate transaction. Furthermore, specifically this master's thesis will also examine the exclusion clause to conduct obligations either to announce the information disclosure or report to OJK for every affiliate transactions which is performed by the public company as specified in Bapepam and LK Rule No. IX.E.1, particularly in this case is on the interpretation of the public company for such exclusion which is specified in that regulation. There is a misinterpretation in qualifying the obligation either to announce the information disclosure or to report to OJK or even such transaction is being excluded from both of those obligations. This research is using the qualitative method of research. The research result thereafter

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