

ABSTRAK

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PERTANGGUNGJAWABAN HUKUM BAGI PENGENDALI PERUSAHAAN TERHADAP PENERBITAN SURAT UTANG JANGKA MENENGAH / MEDIUM TERM NOTES YANG MENGALAMI GAGAL BAYAR DAN PAILIT

(XV+143 halaman; 33 lampiran)

Permasalahan dalam penelitian ini adalah bagaimana pengaturan pertanggungjawaban hukum bagi pengendali perusahaan apabila terjadi kegagalan bayar dan/atau dinyatakan pailit terhadap penerbitan surat utang jangka menengah atau *medium term notes* sebelum berlakunya Peraturan Otoritas Jasa Keuangan Republik Indonesia Nomor 30 Tahun 2019 tentang Penerbitan Efek Bersifat Utang dan/atau Sukuk yang Dilakukan Tanpa Melalui Penawaran Umum dan bagaimana bentuk penerapan pertanggungjawaban hukum pengendali perusahaan terhadap penerbitan surat utang jangka menengah *medium term notes*, apabila terjadi gagal bayar yang kemudian dinyatakan pailit berdasarkan Putusan Pengadilan Niaga. Metode penelitian yang digunakan adalah penelitian hukum normatif, sedangkan jenis pendekatannya adalah pendekatan sistematika hukum, pendekatan terhadap sinkronisasi hukum dan pendekatan *case study*. Hasil penelitian menunjukkan bahwa pengaturan hukum di Indonesia telah memberikan salah satu tujuan hukum yakni asas keadilan hukum dan kepastian hukum. Walaupun POJK No. 30 Tahun 2019 tidak dapat diberlakukan secara surut. Hal yang perlu dilakukan adalah pengawasan oleh negara ataupun instansi yang berwenang, baik OJK atau Bank Indonesia atau Kementerian terhadap dana yang telah diinvestasikan yang telah dihimpun oleh perusahaan penerbit surat utang jangka menengah atau *medium term notes*. Penerapan pertanggungjawaban hukum pengendali perusahaan terhadap penerbitan surat utang jangka menengah atau *medium term notes* apabila terjadi gagal bayar yang kemudian dinyatakan pailit haruslah sesuai dengan hukum positif, proses hukum dan eksekusinya. Penerapan pertanggungjawaban hukum kepada pengendali perusahaan penerbit surat utang jangka menengah atau *medium term notes* sehubungan dengan adanya kegagalan bayar atau sampai dinyatakan pailit, haruslah diutamakan proses hukum pidananya dahulu yang kemudian dapat dilakukan proses hukum perdata atau melalui gugatan *actio paulina* jika perusahaan penerbit telah dinyatakan pailit.

Kata Kunci : Pertanggungjawaban Hukum, Pengendali Perusahaan, *Medium Term Notes*, Gagal Bayar, Pailit.

Referensi : 98 (1847 – 2022)

ABSTRACT

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LEGAL LIABILITY FOR BENEFICIAL OWNERSHIP FOR THE ISSUANCE OF MEDIUM-TERM NOTES THAT EXPERIENCED DEFAULT AND BANKRUPTCY

(XV+143 pages; 33 appendices)

The problem in this study is how to regulate legal liability for company controllers in the event of default and/or being declared bankrupt for the issuance of medium term notes before the enactment of the Republic of Indonesia Financial Services Authority Regulation Number 30 of 2019 concerning Issuance of Debt Securities and/or or Sukuk Settled Without Going Through a Public Offering and what form is the implementation of the legal liability of the company's controllers for the issuance of medium-term debt notes, in the event of default which is then declared bankrupt based on a Commercial Court Decision. The research method used is normative legal research, while the type of approach is a legal systematic approach, an approach to legal synchronization and a case study approach. The results of the study show that legal arrangements in Indonesia have provided one of the legal objectives, namely the principles of legal justice and legal certainty. Even though POJK No. 30 of 2019 cannot be applied retroactively. What needs to be done is supervision by the state or supporting agencies, either OJK or Bank Indonesia or the Ministry of funds that have been invested that have been raised by companies issuing medium-term notes. The application of controlling legal liability for the issuance of medium-term notes in the event of a failure to pay a company which is later declared bankrupt must be in accordance with positive law, the legal process and its execution. The enforcement of legal liability to the controllers of companies issuing medium-term notes in connection with failure to pay or until declared bankrupt, priority will be given to the criminal law process which can then be carried out in civil law proceedings or through an actio paulina lawsuit if the issuing company has been declared bankrupt.

Keywords: Legal Liability, Beneficial Ownership Medium Term Notes, Default, Bankrupt.

References : 98 (1847 – 2022)