

ABSTRAK

Rapat Umum Pemegang Saham salah satu organ perseroan yang memiliki wewenang yang tidak diberikan kepada Direksi ataupun Dewan Komisaris perseroan berdasarkan Undang-undang Nomor 40 Tahun 2007 tentang Perseroan Terbatas dan/ atau anggaran dasar perseroan. Di dalam penyelenggaraan rapat umum pemegang saham, terdapat beberapa unsur yang harus dipenuhi dan dijalankan, antara lain, pemanggilan rapat, tempat rapat, agenda rapat, pemenuhan kuorum kehadiran, syarat pengambilan keputusan, dan pembentukan risalah rapat umum pemegang saham. Walaupun ketentuan setiap unsur tersebut sudah diatur dalam undang-undang, namun dalam tataran praktiknya masih terdapat unsur yang mengalami ketidakpastian hukum. Seperti contohnya perihal suara abstain, walaupun tidak ada pengaturannya dalam UU Nomor 40 Tahun 2007, namun ada perbedaan perlakuan perhitungan suara abstain antara Perseroan Terbatas Terbuka (Tbk) dan untuk PT (tertutup). Di dalam Peraturan Otoritas Jasa Keuangan Nomor 15 Tahun 2020, terdapat pengaturan mengenai suara abstain yang menyebutkan bahwa suara abstain dianggap sama dengan suara mayoritas yang dikeluarkan pemegang saham, bagaimana dilihat dari segi kepastian hukum, kemanfaatannya bagi regulator dan aspek keadilan bagi pemegang saham, sedangkan pada anggaran dasar PT tertutup menyebutkan suara abstain/blanko/blanko harus dikeluarkan dalam perhitungan suara. Akibat dari dari pengeluaran suara abstain ini dalam perhitungan suara juga menimbulkan permasalahan mengenai istilah yang disebut suara bulat, apakah harus ada persetujuan semua pemegang saham ataukah dimungkinkan adanya suara abstain. Untuk menemukan solusi dari permasalahan-permasalahan tersebut, di dalam penulisan disertasi ini digunakan metode penelitian yuridis normatif. Adapun beberapa pendekatan penelitian yang akan membantu peneliti dalam menganalisis permasalahan, yaitu pendekatan undang-undang, pendekatan konseptual, pendekatan kasus, dan pendekatan perbandingan. Adapun hasil akhir yang diharapkan dari penelitian terhadap permasalahan-permasalahan tersebut adalah adanya pengaturan yang lebih jelas dari regulator khususnya pengaturan suara abstain dan pedoman tata cara perhitungan suara yang memenuhi kepastian hukum dan keadilan.

Kata Kunci : Kuorum, Suara abstain, Risalah Rapat Umum Pemegang Saham.

ABSTRACT

The General Meeting of Shareholders is one of the company's organs that has authority that is not given to the Board of Directors or the Board of Commissioners of the company based on Law Number 40 of 2007 concerning Limited Liability Companies and/or the company's articles of association. In the implementation of the general meeting of shareholders, there are several elements that must be fulfilled and carried out, including the invitation to the meeting, the meeting venue, the meeting agenda, the fulfillment of the quorum of attendance, the requirements for decision-making, and the formation of the minutes of the general meeting of shareholders. Although the provisions of each of these elements have been regulated in the law, in practice there are still elements that experience legal uncertainty. For example, regarding abstention votes, although there is no provision in Law Number 40 of 2007, there is a difference in the treatment of abstention vote calculation between Public company and private company. In the Financial Services Authority Regulation (POJK) Number 15 of 2020, there is a regulation regarding abstention votes which states that abstaining votes are considered the same as the majority votes issued by shareholders, how to look at it in terms of legal certainty, its benefits for regulators and aspects of justice for shareholders, while in the articles of association of closed private company it is stated that abstain/blanks/blanks must be issued in the calculation of votes. As a result of the issuance of this abstention vote in the calculation of votes, it also raises the problem of the term called unanimity, whether there must be the approval of all shareholders or whether it is possible to abstain. To find solutions to these problems, in writing this dissertation, normative juridical research methods are used. There are several research approaches that will help researchers in analyzing problems, namely the legal approach, conceptual approach, case approach, and comparative approach. The final result expected from the research on these problems is the existence of clearer regulations from regulators, especially the regulation of abstention votes and guidelines for vote counting procedures that meet legal certainty and justice.

Keywords: *Quorum, Abstain Votes, Minutes of the General Meeting of Shareholders*