

## PERLINDUNGAN INVESTOR PEMEGANG SAHAM PUBLIK MELALUI RESTRUKTURISASI UTANG DALAM PROSES KEPAILITAN DAN PENUNDAAN KEWAJIBAN PEMBAYARAN UTANG DI INDONESIA TERHADAP PERSEROAN TERBATAS *GO PUBLIC*

F. Yudhi Priyo Amboro, Nindyo Pramono\*  
dan Paripurna P. Sugarda\*\*

### INTISARI

Penelitian ini bertujuan untuk mendapatkan gambaran implementasi restrukturisasi utang terhadap perusahaan *go public* dalam proses kepailitan Indonesia, identifikasi bentuk perlindungan hukum investor pemegang saham publik dalam restrukturisasi utang terhadap perusahaan *go public* saat ini, dan menyusun model pengaturan restrukturisasi utang yang dapat memberikan perlindungan bagi investor pemegang saham publik pada perusahaan *go public*.

Penelitian ini adalah penelitian yuridis normatif dan sekaligus penelitian yuridis empiris untuk menjawab permasalahan penelitian yang ada. Pendekatan yang digunakan adalah pendekatan kualitatif yang dianalisa dengan metode deduktif dan studi perbandingan hukum.

Hasil dari penelitian ini adalah : (1) implementasi restrukturisasi utang terhadap Perusahaan *Go Public* berdasarkan Hukum Kepailitan Indonesia yang paling banyak digunakan adalah *rescheduling*, yang dikombinasi dengan model restrukturisasi yang lain; (2) perlindungan investor Pemegang Saham Publik dalam proses kepailitan Indonesia diatur di dalam Undang-Undang Perseroan Terbatas. Di bidang pasar modal, perlindungan investor Pemegang Saham Publik juga diberikan oleh ketentuan yang terkait dengan pasar modal; (3) prospek pengaturan restrukturisasi utang adalah adanya *insolvency test* sebagai penegasan pemenuhan persyaratan dalam kepailitan. Selain itu pembuatan rencana perdamaian harus memenuhi tolok ukur *best interests of creditors*, dan harus ada pengaturan mengenai isi rencana perdamaian. Dalam pelaksanaan perdamaianya, harus ada pengawas pelaksanaan perdamaian. Perlu juga ditambahkan mengenai penegasan mengenai dimungkinkannya kewenangan Direksi dari perusahaan debitor diambilalih oleh kurator maupun pengurus dalam kondisi tertentu, yang berpotensi menambah aset debitor. Hasil analisis perbandingan hukum di atas telah sesuai dengan *volkgeist* Indonesia dan karenanya dapat diimplementasikan di Indonesia nantinya.

Kata Kunci : Restrukturisasi Utang, Hukum Kepailitan Indonesia, Perseroan Terbatas *Go Public*

\* Fakultas Hukum Universitas Gadjah Mada.

\*\* Fakultas Hukum Universitas Gadjah Mada.

## **PROTECTION FOR PUBLIC SHAREHOLDERS THROUGH DEBT RESTRUCTURING IN THE PROCESS OF BANKRUPTCY AND SUSPENSION OF PAYMENT OF GO PUBLIC COMPANIES IN INDONESIA**

F. Yudhi Priyo Amboro, Nindyo Pramono\*  
dan Paripurna P. Sugarda\*\*

### **ABSTRACT**

The purposes of this research are to get the description of the implementation in the debt restructuring of the go public companies in the process of bankruptcy and suspension of payment in Indonesia, to identify the form of the legal protection for public shareholders in the debt restructuring of the go public companies at this time, and to compose the model of debt restructuring that can provide a protection for public shareholders in the go public companies.

This research is a normative juridical research as well as empirical juridical research to answer existing research problems. The approach is qualitative approach which was analyzed by deductive method and comparative law study.

The results of this research are: (1) the implementation of debt restructuring of Go Public Companies based on Bankruptcy Law of Indonesia is rescheduling the debt and it becomes the common use, and combined with the other debt restructuring models; (2) the legal protection for public shareholders in the process of bankruptcy and suspension of payment in Indonesia is regulated by the Indonesian Company Law. In the field of capital market, legal protection of public shareholders is also provided by the provisions of capital market; (3) the prospect of debt restructuring arrangements are an insolvency test as an affirmation of the fulfillment of requirements in insolvency. In addition, the creation of a settlement plan must meet the standards of the best interests of creditors, and there should be arrangements regarding to the contents of the settlement plan. In the implementation of settlement, there must be a supervisor of the implementation of settlement such as deed administrator. It should also be added regarding the possibility that the authority of the Board of Directors of the debtor company is taken over by the receiver or trustee under certain conditions, which potentially adding the assets of the debtor. The result of comparative analysis of the above law has been in accordance with the soul of the Indonesia nation and hence can be implemented in Indonesia for the future.

Keywords : Debt Restructuring, Bankruptcy Law of Indonesia, Go Public Companies

\* Law Faculty Gadjah Mada University

\*\* Law Faculty Gadjah Mada University