

EKSISTENSI PT BURSA EFEK INDONESIA SEBAGAI LEMBAGA PENYELENGGARA PERDAGANGAN EFEK DI INDONESIA

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INTISARI

Penelitian ini bertujuan untuk mengetahui dan mencari jawaban atas masalah-masalah Eksistensi PT Bursa Efek Indonesia (BEI) selaku *Self Regulatory Organization* (SRO) yang berbentuk Perseroan Terbatas, dan secara khusus tujuan akhir penelitian ini adalah menemukan jawaban bentuk hukum paling ideal bagi bursa efek Indonesia. Keberadaan organisasi bursa saham di Indonesia dalam sejarahnya telah beberapa kali mengalami perubahan bentuk, sebelum kemerdekaan berupa cabang dari bursa saham di Belanda yang disebut *Vereniging voor de Effectenhandel*, setelah kemerdekaan berubah menjadi Perserikatan Perdagangan Uang dan Efek ("PPUE"), kemudian digantikan oleh Badan Pelaksana Pasar Modal (Bapepam), dan pada tahun 1991 didirikanlah PT Bursa Efek Jakarta ("PT BEJ"). Pada tahun 2007 PT BEJ dan PT Bursa Efek Surabaya dimerger menjadi PT Bursa Efek Indonesia ("PT BEI"). Meskipun berbentuk Perseroan Terbatas, namun PT BEI bersifat *non profit oriented*, dan dilarang membagikan dividen kepada pemegang sahamnya. Ketentuan-ketentuan khusus lainnya juga mengikat PT BEI selaku *Self Regulatory Organization* ("SRO") yang berada di bawah pengawasan Otoritas Jasa Keuangan ("OJK"), termasuk peraturan-peraturan OJK. Peneliti melakukan penelitian mengenai bentuk organisasi PT BEI yang ada saat ini, apakah sudah tepat berbentuk Perseroan Terbatas, dan apakah trend di negara-negara lain yang mereorganisasi bursa efek non profit menjadi profit dengan melakukan demutualisasi bursa juga tepat diterapkan di Indonesia.

Penelitian yang dilakukan adalah penelitian hukum normatif juridis bersifat analitis, data yang diperoleh dianalisis dengan aspek pendekatan undang-undang (*statute approach*), pendekatan historis (*historical approach*) dan pendekatan komparatif (*comparative approach*) untuk mendapatkan gambaran yang komprehensif mengenai asas-asas hukum yang terkait.

Hasil Penelitian menunjukkan bentuk hukum PT BEI berupa Perseroan Terbatas serta rencana demutualisasi tidak sesuai dengan dasar/landasan filosofi Pasar Modal Indonesia yang termaktub dalam Pancasila, Undang-Undang Dasar Negara Republik Indonesia tahun 1945, UU Pasar Modal dan Anggaran Dasar PT BEI. PT BEI lebih tepat berbentuk organisasi Perkumpulan berbadan hukum yang khusus (*sui generis*), yang hak, kedudukan dan kewenangannya diatur secara rinci dalam Anggaran Dasarnya, termasuk hubungannya dengan OJK.

Kata Kunci: Organisasi, Perkumpulan, Badan hukum, PT Bursa Efek Indonesia, *Self Regulatory Organization* (SRO).

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EXISTENCE OF INDONESIA STOCK EXCHANGE AS A SECURITY TRADING INSTITUTION IN INDONESIA

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ABSTRACT

This study aims to find out and find answers to the problems of the Existence of the Indonesia Stock Exchange (IDX) as a Self Regulatory Organization (SRO) in the form of a Limited Liability Company, and specifically the ultimate goal of this research is to find the most ideal legal form for the Indonesian stock exchange. The existence of the stock exchange organization in Indonesia has undergone several changes in its history, before independence in the form of a branch of the stock exchange in the Netherlands called *Vereniging voor de Effectenhandel*, after independence turned into the Trade and Money Union ("PPUE"), then replaced by the Capital Market Implementer Agency (Bapepam), and in 1991 the Jakarta Stock Exchange was established ("PT BEJ"). In 2007 PT BEJ and PT Bursa Efek Surabaya were merged into PT Indonesia Stock Exchange ("PT BEI"). Although in the form of a Limited Liability Company, PT BEI is non profit oriented, and is prohibited from distributing dividends to its shareholders. Other special provisions also bind IDX as the Self Regulatory Organization ("SRO") which is under the supervision of the Financial Services Authority ("OJK"), including OJK regulations. Researchers conducted research on the current form of PT BEI's organization, whether it was right in the form of a Limited Liability Company, and whether the trends in other countries that were reorganizing the non-profit stock exchange into profit by conducting stock demutualization were also appropriate being applied in Indonesia.

The research conducted is juridical normative legal research that is analytical, the data obtained is analyzed with aspects of the statute approach, historical approach and comparative approach to get a comprehensive picture of the principles of law related.

The results of the study show that the legal form of PT BEI in the form of a Limited Liability Company and demutualization plan is not in accordance with the basic / philosophical basis of the Indonesian Capital Market as contained in the Pancasila, the 1945 Constitution of the Republic of Indonesia, the Capital Market Law and the BEI Articles of Association. BEI is more appropriate in the form of a special legal entity organization (*sui generis*), whose rights, position and authority are regulated in detail in its Articles of Association, including its relationship with OJK.

Keywords: Organization, Association, Legal Entity, Indonesia Stock Exchange, Self Regulatory Organization (SRO).

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