E-ISSN: 2962-2816 | P-ISSN: 2747-1985
JOURNAL OF LAW, POLITIC AND HUMANITIES (JLPH)
https://dinastires.org/JLPH dinasti.info@gmail.com +62 811 7404 455
DOI: https://doi.org/10.38035/jlph.v4i4
Received: 25 May 2024, **Revised:** 10 June 2024, **Publish:** 12 June 2024

Legal Uncertainty of Administrative Sanctions in the Implementation of Digital Business: A Case Study of PT Sinergi Millenium Sekuritas

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Abstract: This research aims to analyze administrative sanctions in digital business, particularly focusing on investment aspects involving PT Sinergi Millenium Sekuritas. The urgency of this study lies in the rapid development of digital business, which necessitates a graduated and progressive approach to administrative sanctions that can support overall digital business growth.The research adopts a normative legal approach, emphasizing conceptualization and relevant legal provisions. The practical application of administrative sanctions in digital business becomes relevant when examining how the OJK enforces administrative sanctions against PT Sinergi Millenium Sekuritas. In a specific case, OJK imposed an administrative sanction by revoking PT Sinergi Millenium Sekuritas' license due to the company's failure to include Equity Appendices and Agency Appendices in the Repo Agreement.The research findings highlight legal issues related to administrative sanctions in digital business, particularly the uncertainty surrounding their implementation. The key question is whether administrative sanctions should be applied immediately through license revocation or whether a gradual approach, starting from warnings to eventual license revocation, is more appropriate. The implication of administrative sanctions lacking legal certainty is the risk faced by digital business operators who fail to provide mandatory information or data in their digital operations. Consequently, they may face direct administrative sanctions, such as license revocation. However, it is essential to recognize that making license revocation the primary step in administrative sanctions could adversely impact the business climate. Therefore, further consideration is necessary regarding utility, value, and efficiency aspects when implementing administrative sanctions in the digital business context.

Keyword: Digital Business, PT. Sinergi Millenium Sekuritas, Administrative Sanctions.

INTRODUCTION

The relentless progression of time has necessitated advancements in various aspects of human endeavors, and the business realm is no exception (Stefan Koos, 2018). Businesses, driven by the pursuit of profit, operate in a dynamic environment, constantly adapting to meet the evolving needs of consumers. As an ongoing human activity, businesses must remain up-to-date and align with contemporary trends to thrive (Hery,2020). This continuous adaptation to the changing tides of time is the very essence of business evolution, shaping its trajectory across eras.

The continuous adaptation of business practices to the ever-evolving landscape of time has given rise to a new paradigm: online business, also known as digital business (Hanen Khanchel, 2019). Digital business is a business model that leverages technological advancements, particularly digitalization, to transform traditional manual operations into a digital realm (I Gede Agus Kurniawan, 2022). In essence, conventional and digital businesses share similar fundamental objectives. However, the methods and procedures employed in digital business differ significantly from those of conventional business practices.

Indonesia has witnessed a remarkable surge in digital business activities in recent years. This growth is fueled by a combination of factors, including the expanding reach of the internet, the ubiquitous presence of smartphones, and a transformative shift in consumer lifestyles. However, amidst this promising landscape, digital businesses also face emerging challenges, one of which is the uncertainty surrounding administrative sanctions. This legal ambiguity can hinder the growth of digital ventures and deter potential investors.

PT. Sinergi Millenium Sekuritas, a prominent securities firm operating in the Indonesian capital market, stands as a stark example of the consequences associated with non-compliance in the digital realm. The firm incurred administrative sanctions imposed by the Otoritas Jasa Keuangan (OJK) due to violations committed within its digital business activities.

Capital markets, characterized by their intricate nature and growing prominence in today's financial landscape, demand a robust legal framework to ensure order, fairness, and overall market integrity. This necessity has given rise to the concept of Capital Market Law. As defined by Munir Fuady, Capital Market Law encompasses a comprehensive set of regulations governing all aspects of capital market operations. To effectively oversee and regulate the Indonesian capital market, the government has established a specialized financial institution known as the Otoritas Jasa Keuangan (OJK).

The intricate dynamics of capital markets, a burgeoning trend in today's financial landscape, necessitate a robust legal framework to ensure order, fairness, and overall market integrity. This imperative has given rise to the concept of Capital Market Law (Securities Law). As defined by Munir Fuady in his book "Pasar Modal Modern (Tinjauan Hukum)", Capital Market Law encompasses a comprehensive set of regulations governing all aspects of capital market operations. To effectively oversee and regulate the Indonesian capital market, the government has established a specialized financial institution known as the Otoritas Jasa Keuangan (OJK).

The complexities of capital markets, however, are not without their challenges. One such challenge is the occurrence of financial crimes, such as the misappropriation of client securities accounts by issuers. To address this issue and safeguard investor interests, the Indonesian Capital Market Law (Law No. 8 of 1995) clearly outlines the role of the Capital Market Supervisory Board (Bapepam) in "fostering, regulating, and supervising capital market activities to ensure a regulated, fair, and efficient market that protects investors and the public."

METHOD

In conducting research, the research method is one of the important aspects in writing scientific works. The research method is also used to achieve research objectives. The research method consists of steps through a specific process, starting from the type of research to data analysis techniques (Elisabeth Nurhaini,2018). The type of research in this writing is normative juridical research. Normative juridical research places law as a system of norms, including principles, norms, rules from legislation, court decisions, agreements, and doctrines (teachings) (Mukti Fajar et al., 2017).

Based on the research approach which involves examining existing legislation and using case studies to deepen the discussion, it's essential to collect data related to legal regulations in Indonesia. Specifically focusing on administrative sanctions and digital business. Here are some relevant legal sources:

1. Undang-Undang Tentang Perdagangan (Trade Law): Article 65 of the Trade Law may provide insights into administrative sanctions related to trade activities.
2. Peraturan Pemerintah (Government Regulation) No. 80/2019 on Electronic Commerce: This regulation specifically addresses trade conducted through electronic systems and may contain relevant provisions.
3. Peraturan Otoritas Jasa Keuangan (Financial Services Authority Regulation) No. 3 and 4/2021 on Capital Market Activities: These regulations pertain to the organization of capital market activities and may touch upon digital business aspects.
4. Peraturan Menteri Dalam Negeri (Minister of Home Affairs Regulation) No. 50/2020: This regulation could be relevant to administrative matters related to local government administration.

Additionally, consider referring to books that discuss Business Law and Administrative Sanctions, as well as academic research such as theses, dissertations, and national or international journals. These scholarly works can serve as valuable sources of data for this research.

RESULTS AND DISCUSSION

Legal Certainty of Administrative Sanctions in Digital Business Practices: A Case Study of PT. Sinergi Millenium Sekuritas

Administrative sanctions essentially refer to penalties imposed as a consequence of non-compliance with administrative legal provisions (Dezonda Rosiana et al., 2022). Administrative law, in essence, pertains to the legal field concerning the relationship between government officials' actions or decisions and citizens (Dewi Cahyandari et al., 2022). Administrative sanctions exhibit three fundamental characteristics: (i) condemnatory character, (ii) reparatory character, and (iii) mixed character (Sri Nur Hari Susanto, 2019).

1. Condemnatory Character:
   a. Relates to the imposition of administrative fines due to violations of legal norms.
   b. The condemnatory character aims to deter future violations by individuals or legal entities.
2. Reparatory Character:
   a. Focuses on rectification and restoration to the original condition.
   b. Seeks to address any harm caused by the violation.
3. Mixed Character:
   a. Combines punitive effects (condemnatory) with the goal of restoration (reparatory).
   b. Balances punishment and corrective measures.

In addition to these three characteristics, J. Dara Lynott and Ray Cullinane propose an additional character: the regressive character. This character essentially represents a reaction to non-compliance with administrative norms. According to Ridwan HR, administrative sanctions encompass four primary categories; Imposition of coercive payments (dwangsom),

Administrative fines (administrative boete), Government compulsion (bestuursdwang), Withdrawal of favorable decisions (Orit Fischman-Afori,2022).

Based on the characteristics and types of administrative sanctions outlined above, it can be concluded that their fundamental purpose lies in safeguarding citizens from arbitrary decisions or actions taken by government officials. Additionally, administrative sanctions serve a proactive role in establishing regulations that not only deter but also enforce compliance, thereby mitigating potential harm to society.

In the context of business law, administrative sanctions aim to both prevent and address deviations from administrative law principles within the evolving landscape of business practices. This preventive aspect of administrative law is particularly relevant in light of the dynamic nature of business, which often prompts the adoption of new practices and actions in response to technological advancements and societal shifts.

To effectively implement preventive measures, administrative law typically establishes a set of mandatory requirements for specific business practices, often coupled with registration or licensing procedures, thereby facilitating the orderly development of business practices.

In the context of administrative law and its relationship to evolving business practices, violations of legal provisions in business practices are typically addressed through administrative sanctions, ranging from reprimands and administrative fines to the revocation of favorable decisions, which in business practice often entails the withdrawal of licenses (Martin Wynn,2022).

In the realm of digital business, administrative sanctions serve as a manifestation of the state's role and responsibility in minimizing potential harm and risks associated with digital businesses that could negatively impact stakeholders. Within the context of digital business practices, administrative sanctions are prioritized as an initial measure before resorting to more severe sanctions such as criminal penalties, which should be employed as a last resort (ultimum remedium) in digital business practices. This approach is grounded in the recognition that digital business activities are primarily driven by profit generation, and administrative law is deemed a more effective tool for addressing violations in digital business practices.

Article 65(6) of the Indonesian Trade Law explicitly mandates the imposition of administrative sanctions on digital businesses that fail to provide complete and accurate product information. This emphasis stems from the unique characteristics of digital commerce, where product identification and accuracy assume paramount importance due to the inherent differences between digital and conventional business models (Yustina and Budi, 2021).

Digital commerce is distinguished from conventional business practices by two key characteristics:

1. **Digital Medium:** Digital transactions occur through electronic platforms, eliminating direct interaction between buyers and sellers. These virtual transactions necessitate heightened vigilance to safeguard consumer interests.
2. **Remote Interactions:** The absence of physical interaction between parties in digital commerce underscores the importance of transparent and accurate product information to minimize potential harm to buyers.

Digital business transactions are usually carried out through virtual transactions that only meet virtually through digital media. This certainly indicates that parties in the digital business, especially buyers of products from digital businesses must be "extra" careful to minimize various things that can harm buyers in digital business transactions (Shinki Katyayani Pandey 2022).

The next characteristic of digital business pertains to accountability for products that do not meet expectations in digital transactions. Claims of accountability must be detailed,

precise, and substantiated with specific documents indicating product specifications. The accountability aspect in digital business is particularly interesting because the non-face-to-face nature of digital transactions requires claims to be based on specific, written, and detailed documentation (Farell Dwi dan Yulia Hendri,2022).

Considering these two characteristics of digital business, it can be concluded that specific regulations related to digital business are necessary to ensure mutually beneficial practices for all parties involved. In this context, the effectiveness of administrative sanctions is considered more relevant for enforcing compliance in digital business. Administrative sanctions focus on maintaining legal order without disrupting the digital transaction environment, addressing administrative non-compliance among digital business actors

Article 65, paragraph (4) of the Trade Law establishes minimum standards regarding information or data that must be specified in digital business practices. As a minimum standard, the provisions in Article 65, paragraph (4) of the Trade Law can be supplemented with various relevant details. However, these provisions cannot be reduced or disregarded, even for a single aspect. According to Article 65, paragraph (4) of the Trade Law, the minimum criteria for information or data that must be included in digital business practices encompass: (i) technical requirements for goods offered or traded in digital business, (ii) qualifications or technical requirements for services offered, (iii) methods of delivering goods in digital transactions, (iv) payment methods and pricing offered in digital transactions, and (v) the identity and legal status of business entities.

Referring to the provisions in Article 65, paragraph (4) of the Trade Law, these regulations are essentially projected as efforts to address various potential issues in digital business. The technical requirements and qualifications for goods or services offered aim to ensure alignment between what is offered and what is transacted. This also relates to accountability regarding any discrepancies between the offered goods or services and those actually transacted.

The method of delivering goods in digital transactions is crucial and needs clarification in digital business. Given the non-face-to-face nature of digital transactions, where buyers and sellers interact through digital channels, specifying how goods are delivered becomes urgent. This allows both parties to consider shipping costs and delivery times, facilitating agreements between buyers and sellers.

Furthermore, pricing and payment methods require clear regulations to ensure that digital payments align with the preferences of all parties involved. Lastly, attention to the identity and legal status of business entities is essential. This emphasizes that digital businesses are operated by legally responsible and trustworthy entities.

As stipulated in Articles 5 and 6 of the Otoritas Jasa Keuangan (OJK) Law, OJK is mandated with the regulatory and supervisory oversight of the financial services sector (Stevannie E and Suherman, 2021). This authority extends to monitoring developments within the digital business landscape.

The application of administrative sanctions in digital business processes aligns with OJK's actions in imposing administrative sanctions on PT Sinergi Millenium Sekuritas. In this instance, OJK revoked the company's license due to its failure to include Annex Ekuitas and Annex Keagenan in the Repo Agreement. This administrative sanction served as a corrective measure, aimed at prompting PT Sinergi Millenium Sekuritas to fulfill the administrative requirements necessary for continued business operations (Anna Maria Tri Anggraini et all., 2022).

Article 65(4) of the Trade Law establishes that the administrative sanctions stipulated in Article 65(6) of the Trade Law apply when the provisions of Article 65(4) are not met. Specifically, Article 65(6) mandates the revocation of business licenses for digital businesses that fail to adhere to the minimum standards for digital business transactions outlined in

Article 65(4). This revocation of business licenses falls under the category of administrative sanctions involving the withdrawal of a favorable decision.

Under Article 65(6) of the Trade Law, the sole administrative sanction for digital businesses that fail to meet the minimum standards for digital business transactions as specified in Article 65(4) is the revocation of their business licenses. No alternative administrative sanctions are provided for.

However, this provision in Article 65(6) of the Trade Law raises potential legal conflicts when compared to the formulation of Article 80 of the Government Regulation on Electronic System Organizer (PP PMSE), which explicitly states that the sanctions for digital businesses that fail to include mandatory information or data in their digital operations are a series of escalating administrative sanctions, ranging from written warnings to the revocation of business licenses.

This discrepancy highlights the fundamental difference between Article 65(6) of the Trade Law and Article 80 of the PP PMSE. Article 65(6) of the Trade Law mandates the immediate revocation of business licenses for digital businesses that fail to include mandatory information or data, while Article 80 of the PP PMSE prescribes a tiered approach to administrative sanctions, starting with written warnings and culminating in the revocation of business licenses as the last resort.

The underlying logic of Article 65(6) of the Trade Law and Article 80 of the Government Regulation on Electronic System Organizer (PP PMSE) diverges in their approach to administrative sanctions for non-compliance in digital business practices.

Article 65(6) of the Trade Law establishes the revocation of business licenses as the primary remedy (primum remidium) or the main sanction for businesses that fail to include mandatory information or data in their digital operations. This implies that any business that does not include the mandatory information or data as stipulated in Article 65(6) of the Trade Law will directly face the administrative sanction of license revocation.

In contrast, Article 80 of the PP PMSE adopts a tiered approach, treating license revocation as the ultimate remedy (ultimum remedium) or the last resort after other administrative sanctions have proven ineffective in inducing compliance from businesses.

To address the conflict arising between Article 65(6) of the Trade Law and Article 80 of the PP PMSE, the legal principle of preference (asas preferensi) can be applied, specifically the maxim "lex superior derogate legi inferior," which states that a lower-ranking law is invalid when it contradicts a higher-ranking law. According to the hierarchy of laws in Indonesia, the Trade Law holds a higher position than the PP PMSE.

Therefore, based on the principle of preference, the provision in Article 65(6) of the Trade Law prevails over the conflicting provision in Article 80 of the PP PMSE. This implies that any digital business that fails to include the mandatory information or data as outlined in Article 65(4) of the Trade Law will be subject to the administrative sanction of license revocation.

The preceding discussion highlights a significant legal issue concerning administrative sanctions in digital business practices: the conflict between the provisions of Article 65(6) of the Trade Law and Article 80 of the Government Regulation on Electronic System Organizer (PP PMSE).

To resolve this conflict, the legal principle of preference (asas preferensi) comes into play, specifically the maxim *"lex superior derogate legi inferior,"* which dictates that a lower-ranking law is invalid when it contradicts a higher-ranking law. In this case, the Trade Law holds a higher position in the legal hierarchy compared to the PP PMSE.

Therefore, based on the principle of preference, the provision in Article 65(6) of the Trade Law prevails over the conflicting provision in Article 80 of the PP PMSE. This implies that any digital business that fails to include the mandatory information or data as outlined in

Article 65(4) of the Trade Law will be subject to the administrative sanction of license revocation.

Legal Recourse for PT. Sinergi Millenium Sekuritas in Response to OJK's License Revocation

PT Sinergi Millenium Sekuritas is currently facing administrative sanctions imposed by the Otoritas Jasa Keuangan (OJK). Based on the examination results, PT Sinergi Millenium Sekuritas has been found to violate regulations in the capital market sector. Some of the violations that occurred are as follows:

1. Repurchase Agreement (Repo) Transactions: PT Sinergi Millenium Sekuritas, acting as an intermediary (agent) in Repo Transactions between Mr. Michael Widjaja and 14 (fourteen) parties, failed to include the Equity Attachment and Agency Attachment in the Repo Agreement.
2. Lack of Authorization: PT Sinergi Millenium Sekuritas does not have authorized directors and/or employees to conduct Repo Transactions. Additionally, they did not obtain authorization from their clients to carry out Repo Transactions on their behalf and failed to provide regular reports to their clients.

As a consequence of these violations, PT Sinergi Millenium Sekuritas is subject to administrative sanctions. These sanctions are coercive measures applied for administrative violations or legal provisions of an administrative nature. Unlike criminal sanctions imposed by the court for criminal offenses, administrative sanctions are imposed by administrative institutions or authorities

The business license of PT Sinergi Millenium Sekuritas has been revoked (achmad arif 2022). The Chief Executive Officer (Direktur Utama) of PT Sinergi Millenium Sekuritas, Mr. Andy Purnomo Anthony, and the President Commissioner (Komisaris Utama), Ms. Bety, have each been subject to administrative sanctions in the form of a fine of Rp100,000,000 (one hundred million Indonesian rupiah). Additionally, they are prohibited from engaging in any activities, including working in the Capital Market sector, for 5 (five) years (for the Chief Executive Officer) and 15 (fifteen) years (for the President Commissioner), starting from the date the sanction letter is issued (Announcement OJK Website,2022).

As we discussed earlier, differences in provisions regarding administrative sanctions in legal regulations can lead to uncertainty and ambiguity in decisions. Companies facing situations where relevant legal regulations have multiple interpretations have several options to seek legal certainty

PT Sinergi Millenium Sekuritas can take several legal steps, such as:

1. Administrative Appeal (Banding Administratif):
   a. According to the **Financial Services Authority Regulation (POJK)** on the Procedure for Filing Objections and Administrative Appeals in the Capital Market Sector, the background for formulating this rule is to provide clear procedures for filing objections or administrative appeals by parties who have been subject to administrative sanctions or other decisions.
   b. Additionally, the OJK considers that the previous regulation, namely Bapepam and LK Regulation No. XIV.B.2, Attachment to the Decree of the Chairman of Bapepam and LK No. Kep-642/BL/2012 dated December 5, 2012, regarding the Submission of Objections to Sanctions, is no longer in line with current developments.
   c. In this POJK, the OJK aims to clarify various technical aspects related to objections and administrative appeals for capital market participants who are dissatisfied due to administrative sanctions or other decisions (Michiel A et al.,2012).

   According to this POJK, objection refers to an administrative effort filed by a party who does not accept or is dissatisfied with administrative sanctions or other decisions imposed by the OJK. On the other hand, administrative appeal (banding administratif) is

an administrative effort made by a party who disagrees with the objection decision regarding sanctions or other decisions.

Companies (PT) can file an administrative appeal against decisions issued by institutions or authorities that impose administrative sanctions. Administrative appeal is a right held by parties who feel aggrieved and is part of the administrative justice system designed to uphold justice and legal certainty

Administrative Appeal is a legal process that allows parties who feel aggrieved by administrative decisions (such as administrative sanctions) to file objections or appeals against those decisions. Here are some key points to understand about administrative appeals:

a. Purpose of Administrative Appeals: The primary purpose of administrative appeals is to provide an opportunity for aggrieved parties to assert their rights and ensure that administrative decisions issued are in accordance with applicable laws and regulations.
b. Administrative Appeal Process:
    1) Parties wishing to file an appeal must follow the procedures established by the institution or authority that issued the administrative decision.
    2) Typically, administrative appeals are submitted within a specified time frame after receiving the administrative decision.
c. Appeal Decisions:
    1) Upon receiving an appeal, the competent institution or authority will examine the arguments and evidence presented by the appealing party.
    2) Appeal decisions can result in affirmation (upholding the administrative decision), rejection (maintaining the administrative decision), or modification (changing part of the administrative decision).
d. Authority of Institutions or Authorities:
    1) The authority to adjudicate administrative appeals may vary depending on the type of administrative decision and the applicable regulations.
    2) Some institutions commonly handling administrative appeals include the State Administrative Court (Pengadilan Tata Usaha Negara, PTUN) and the Business Competition Supervisory Commission (Komisi Pengawas Persaingan Usaha, KPPU)."

Regardless of that, this RPOJK grants the OJK the right to request information, explanations, or documents necessary for examining submitted administrative objections or appeals. Such requests must be fulfilled no later than 14 days after the issuance of the information request letter.

Failure to comply with this requirement will result in consequences where the OJK will not consider the requested information in the process of determining the response. Additionally, within this RPOJK, the term ‘Response’ refers to the decision on objections or appeals made by the OJK.

2. Lawsuit at the State Administrative Court (PTUN)

In the event that an administrative appeal with the OJK Appeals Board proves unsuccessful, PT. Sinergi Millenium Sekuritas can pursue judicial review at the State Administrative Court (PTUN) to safeguard its rights and interests. This legal avenue is available to any individual or legal entity that feels aggrieved by the license revocation decision, as stipulated in Article 53(1) of Law No. 9 of 2004 on Amendments to Law No. 5 of 1986 on State Administrative Courts: "An individual or legal entity that feels its interests have been harmed by a State Administrative Decision may file a written petition with the competent court, containing a demand that the disputed State Administrative Decision be declared null and void, with or without a claim for damages and/or rehabilitation (David V.H Sitorus,2022)

The PTUN is a specialized court that adjudicates administrative disputes between individuals or legal entities and the government or administrative agencies(David V.H Sitorus,2022). PT. Sinergi Millenium Sekuritas must meticulously craft a compelling legal argument and ensure that any multi-interpretable legal provisions are clearly explained in the petition.

The State Administrative Court (PTUN) serves as a crucial avenue for individuals and legal entities to seek redress when they feel aggrieved by decisions or actions taken by state administrative officials. The PTUN's jurisdiction encompasses a range of circumstances, including:

a. **Violation of Law:** When administrative decisions or actions contravene applicable laws and regulations, they fall within the PTUN's purview for review. This includes instances where the decision or action is based on an invalid or inapplicable law, or where it conflicts with higher-ranking legal provisions.
b. **Exceeding Authority:** The PTUN can intervene when administrative decisions or actions are taken by officials who lack the requisite authority to do so. This may involve situations where the decision or action is issued by an unauthorized individual or body, or where the official has exceeded the scope of their delegated authority.
c. **Abuse of Authority:** Administrative decisions or actions that are taken in a manner that deviates from established procedures or that violates the principles of sound administration are also subject to PTUN review. This encompasses instances where the official has acted arbitrarily, capriciously, or with ulterior motives.
d. **Contravention of Principles of Good Governance:** The PTUN can also review administrative decisions or actions that contravene the fundamental principles of good governance. These principles include, but are not limited to, the principles of legal certainty, proportionality, and fairness.

If a lawsuit is filed, the plaintiff must first argue that the decision issued by the government is contrary to the prevailing laws and regulations and that the decision is inconsistent with the principles of good governance. Based on Article 53 paragraph (2) of Law No. 9 of 2004 concerning Amendments to Law No. 5 of 1986 concerning Administrative Court Proceedings. (David V.H Sitorus,2022)

The company must file an administrative lawsuit (gugatan PTUN) with the competent court within 90 days after becoming aware of any decision or action by a state administrative official that is considered invalid or contrary to the law.

If the PTUN (Administrative Court) wins the lawsuit, the court can:

a. Annul the decision or action of the state administrative official: The decision or action will no longer be valid, and the company can return to its original state.
b. Correct the decision or action of the state administrative official: The court can order the state administrative official to correct his decision or action to comply with the law.
c. Award compensation to the company: The company may be awarded compensation for damages it has suffered as a result of the decision or action of the state administrative official.

To strengthen its case for judicial review at the State Administrative Court (PTUN), PT. Sinergi Millenium Sekuritas must present compelling evidence and articulate clear arguments that demonstrate why the license revocation decision is invalid or unlawful. This requires a comprehensive approach that addresses both procedural and substantive aspects of the decision.

Evidentiary Requirements

PT. Sinergi Millenium Sekuritas must gather and present relevant evidence that supports its claims of illegality or violation of good governance principles. This evidence may include:

1. Copies of the license revocation decision and related administrative documents
2. Communications with OJK regarding the alleged violations and the revocation process
3. Expert opinions on legal or technical issues
4. Evidence of damages incurred as a result of the license revocation

Clarity of Arguments

PT. Sinergi Millenium Sekuritas must clearly articulate its legal arguments, explaining how the license revocation decision contravenes applicable laws, regulations, or principles of good governance. This may involve:

1. Identifying specific legal provisions or principles that have been violated
2. Explaining how OJK's decision-making process was flawed or procedurally improper
3. Demonstrating that the factual basis for the decision was inaccurate or incomplete
4. Articulating the disproportionate or unreasonable nature of the sanction

However, as of the time this journal was written, the author has not obtained specific information regarding the actions taken by PT Sinergi Millenium Sekuritas in response to the administrative sanctions imposed by the OJK.

In this case, I recommend that PT Sinergi Millenium Sekuritas take some common steps that companies typically follow after receiving administrative sanctions, such as:

1. Negotiation with OJK:
   a. The company can communicate with the OJK to discuss the next steps or engage in in-depth discussions aimed at resolving the issue.
   b. The goal is to reach an agreement acceptable to all parties involved in the negotiation. (Suherman, 2019)
   c. Collaborating with regulators can help better understand regulations and ensure compliance in the future
   d. *Mediation:*
   e. Mediation is a dispute resolution process outside the court system.
   f. It involves a neutral third party (mediator) who assists the parties in reaching a mutually beneficial agreement.
   g. Mediation provides a structured decision-making process where two parties work together with the mediator’s assistance. (Suherman, 2019)
   h. Arbitration:
      1) Arbitration is another form of dispute resolution outside the court system.
      2) It involves a neutral third party (arbitrator) who has the authority to make binding decisions on the case.
      3) Arbitration is less formal than court proceedings and offers certain advantages. (Suherman, 2019)
2. Internal Evaluation:

   The company will conduct an internal evaluation to identify the causes of violations and improve existing procedures and internal systems. This involves a thorough examination of policies, practices, and oversight.
3. Implementing Corrective Actions:

   After conducting the evaluation, promptly take necessary corrective actions to address the violations or issues that led to the license revocation. These actions may include:
   a. Rectifying non-compliance with regulations.
   b. Retraining staff and enhancing operational procedures.
   c. Improving facilities or equipment that do not meet standards.

   For customers of PT Sinergi Millenium Sekuritas who still hold securities and/or funds, they can perform the following actions: (Announcement OJK website, 2022)
   a. Securities Transfer:

1) Customers can transfer their securities by submitting a claim to PT Kustodian Sentral Efek Indonesia (KSEI).
2) KSEI is the central securities depository in Indonesia responsible for managing and recording securities ownership.

b. Fund Transfer:
1) Customers who have funds with PT Sinergi Millenium Sekuritas can request fund transfers to a designated bank.
2) The bank acts as the custodian for the funds.

CONCLUSION

The application of administrative sanctions in digital business processes is indeed relevant, as exemplified by the OJK's imposition of administrative sanctions on PT Sinergi Millenium Sekuritas. In this case, the OJK imposed an administrative sanction in the form of revocation of its license. This was because PT Sinergi Millenium Sekuritas failed to include Annex Equity and Annex Agency in the Repo Agreement. The OJK's practice of applying administrative sanctions is intended to provide corrective measures for PT Sinergi Millenium Sekuritas so that it can meet the administrative requirements if it wishes to continue its business transactions.

One of the legal issues related to administrative sanctions in digital business is the conflict between the provisions of Article 65(6) of the Trade Law and Article 80 of the Government Regulation on Electronic System Organizers (PP PMSE). This conflict can lead to legal uncertainty. Based on the principle of lex superior derogate legi inferior, Article 65(6) of the Trade Law should prevail. This is because, according to the provisions of the Law on Information and Technology (UU P3), the Trade Law has a higher hierarchical position than the PP PMSE.

However, from an Economic Analysis of Law (EAL) perspective, the current administrative sanctions for digital businesses do not meet the criteria of effectiveness (utility), value (value), and efficiency (efficiency). This is because Article 65(6) of the Trade Law directly imposes license revocation as the primary sanction, which can have a negative impact on the business climate. According to EAL, a more appropriate approach would be to implement a tiered system of administrative sanctions, as outlined in Article 80 of the PP PMSE. Therefore, it is necessary to revise the provisions of Article 65(6) of the Trade Law to align them with the formulation of Article 80 of the PP PMSE.

Companies who are facing a situation where there is a multiple interpretation of the relevant laws and regulations have several options to obtain legal certainty.

PT Sinergi Millenium Sekuritas can take several legal steps, such as Administrative Appeal. The POJK on the Procedure for Submitting Objections and Administrative Appeals in the Capital Market Sector states that the background to the formulation of this regulation is to provide a clear procedure for submitting objections or administrative appeals by parties who have been imposed with administrative sanctions or other decisions.

If the administrative appeal is unsuccessful, PT Sinergi Millenium Sekuritas can file a lawsuit with the Administrative Court (PTUN) to fight for its rights. This lawsuit can be filed by any person or legal entity that feels its interests have been harmed by the revocation decision, based on Article 53(1) of Law No. 9 of 2004 concerning Amendments to Law No. 5 of 1986 concerning the State Administrative Court, which states: "Any individual or legal entity that feels its interests have been harmed by a State Administrative Decision may file a written lawsuit with the competent court containing a demand that the disputed State Administrative Decision be declared null and void, with or without a demand for compensation and/or rehabilitation."

In this case, writer recommend that PT Sinergi Millenium Sekuritas take the following general steps that companies typically take after receiving an administrative

sanction such as negotiate with OJK (mediation or arbitration), Conduct an internal evaluation, and Implement corrective actions. For clients of PT Sinergi Millenium Sekuritas who still have securities and/or funds with the company, they can transfer their securities to another brokerage firm by submitting a claim to PT Kustodian Sentral Efek Indonesia (KSEI), the Indonesian Central Securities Depository and they can transfer funds to another bank by submitting a request to PT Sinergi Millenium Sekuritas.

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