

DOI: <https://doi.org/10.38035/jlph>.

Received: 12 July 2024, Revised: 22 July 2024 Publish: 4 August 2024

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Legal Review Of Shareholder Protection In The Online Application Related To The Dissolution Of The Issuer

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Abstract: One of the alternative ways that people can use to invest is the use of online investment applications which are now widespread and easy for people to use. As a place to invest, a securities application is needed to make it easier for people to invest in the capital market. However, it cannot be denied that a company listed on the stock exchange experiences delisting for some reason. This could happen because the company goes bankrupt or other things. So it is necessary to review shareholder protection in online applications if there are problems that require the issuer to be dissolved and delisted from the stock exchange. This research uses a qualitative method with a type of normative juridical research which uses secondary legal sources originating from primary legal materials from statutory regulations and secondary legal materials originating from books, journals and other literature. The research results show that shareholder protection in online applications regarding the dissolution of issuers, custodian banks play an important role in maintaining the flow of transactions in the capital market. Based on Article 46 of Law no. Article 8 of 1995 concerning Custodian Banks in the Capital Market is responsible for all losses resulting from their actions and their form and value in more detail, so that if losses arise they can be immediately borne by the bank.

Keyword: Shareholders, Online Application, Dissolution of Issuer.

INTRODUCTION

In the era of globalization, the problems faced by economic entities are increasing, especially the problem of competition with emerging economic entities. Therefore, the government combines a number of regulations to limit the actions of these economic bodies, especially after the regulation of the capital market, precisely Law Number 8 of 1995 was established. The company will build a collection point of state money engaged in investment for the benefit of society and government, issued bonds and sold to investors for profit (Tavinayati & Qamariyanti, 2009).

The choice to use capital markets is a decision taken by many in our society, and is designed to meet the needs of the future as the needs of life increase and life becomes uncertain and unpredictable. The use of capital markets is considered the best option to meet these needs. This is because smart people sometimes think of ways to improve their quality of

life or, at least, strive to maintain their current income level so that they do not lose money in the future. This condition encourages people to invest part of their income in containers, which are expected to increase in value in the future. This activity is called investment.

According to Martalena and Malinda, the definition of investment is a form of postponement of consumption in the present to obtain consumption in the future, where it contains elements of uncertainty risk so that compensation is needed for the delay. Meanwhile, according to the statement of Financial Accounting Standards (PSAK) as of October 1, 2004, the definition of investment is an asset used by companies for the growth of wealth (acceleration of wealth) through the distribution of investment results (such as interest, royalties, dividends, and rent), for the appreciation of investment value, or for other benefits for companies that invest such as benefits obtained through trade relations (Pramita & Hendrayana, 2021).

The existence of online investment makes it easier for people to invest their wealth, simply by accessing sites that offer investment. This is considered more practical than investing directly or offline. However, utilizing the development of internet technology to make online investments has a negative impact on consumers. Considering that online investments are made without direct face-to-face and do not know each other between the subjects who will invest (investors) with companies that offer investments, or in other words it can be said that online investments are only based on trust from the parties. A problem that can occur in terms of online investment is the emergence of fictitious investments (Pramita & Hendrayana, 2021).

One alternative way that can be used by the public to invest is the use of online investment applications that are now widespread and easy to use by the public. People who want to try investing can make small-scale transactions through mutual fund securities applications such as bibit and Magik applications. A small amount of investment can be said to be relatively safe. Investment is the process of adding funds or money. (Wiguna et al., 2021). However, according to Sunariyah, investment is the activity of investing capital in the form of assets that will generate profits in the end. (Sunariyah, 2000).

Mutual funds can be classified as indirect investment instruments because investors submit their mutual funds to investment managers, namely parties who manage investments in the form of portfolios, to invest in capital markets and financial markets. Investment Managers must be approved by Bapepam as the party that manages the Mutual Fund. However, investment managers have the support of custodian banks to address administrative issues. (Rahmawati & Khairani, 2015).

As a place to Invest, Securities applications should allow people to invest in the capital market or capital. For example, in the case of a mutual fund application, the custodian Bank manager creates the mutual fund through a notary who then forms a collective contract deed. To manage the investment wealth accumulated by the public or investors to invest in a portfolio, the investment manager, such as bonds and stocks, will be in charge. Custodian banks, on the other hand, are responsible for depositing funds or portfolios and carrying out mutual fund administration processes.

Investors can invest into several types of investments available in the market in mutual funds, and they do not have to worry about managing and managing their investment portfolio. Where investments are managed by managers in the form of stocks, bonds and monetary assets as a portfolio. One form of fund management is an instrument such as a mutual fund. Mutual funds provide investors with initial capital to invest in several instruments in the capital market through the purchase of shares of mutual fund participants. Because mutual funds are the people's choice to increase capital, foreign investors can decrease. We all know that foreign investors are very dominant in stock trading. Because they ultimately have control over the resilience of the Indonesian market, the public is in dire need

of mutual funds for investment and to help the success of national resilience in Indonesia's capital market development. (Usman, 1999).

However, it cannot be denied if a company that is listed on the stock exchange is delisted due to something. It could be because of a company that is bankrupt or something else. PT Bank Global Internasional, for example, was suspended for committing a banking crime by manipulating the CAR, or capital adequacy ratio, resulting from the manager issuing mutual fund products. The Mutual Fund warning illustrates the weakness of the capital market legal system. Too much news about the weakness of investor protection, as happened with Bank Asiatic and Bank Dagang Bali.

In the mutual fund application provided to make it easier for the public to invest, Of course, there is a risk of delisting issuers from the stock exchange. If the investment that has been made has a large nominal then it will be easy to claim that there are losses or there are investment activities in it. But in the online application not a few users who use a relatively small nominal investment. Even so, investors must still get legal protection. Based on this phenomenon, it is necessary to conduct a discussion to analyze the legal protection of shareholders in online applications related to the dissolution of issuers.

METHOD

This study was prepared by qualitative methods based on the type of normative juridical research, where researchers use secondary legal sources sourced from primary legal materials in the form of regulations and secondary legal materials sourced from legal books, journals and other literature. This study is based on the rules that serve as the foundation of the norm system as a method in this study which is based on the rules, norms, doctrines, and principles in legislation.

RESULTS AND DISCUSSION

Legal position of shareholders and issuers in buying and selling in the Capital Market Implementation of national development, the capital market plays a role to improve the stability, growth, and equity of the national economy in order to improve the welfare of society. In order to achieve this goal, the capital market has a strategic influence that acts as a source of funding for the business world, for example SMEs to develop their businesses. In addition, the capital market also serves as a means that can be used by the public to invest as small and medium investors.

The purpose of the capital market is to support the implementation of national development aimed at improving the stability, equity, and growth, of the national economy with the aim of improving the welfare of society. To achieve this goal, the capital market has a strategic influence as a source of funding for businesses, including SMEs, to develop their businesses. On the other hand, the capital market also serves as a means of investment for the community, including small and medium-sized investors.

With this, the government issued Law No. 8 of 1995 on Capital Markets to facilitate the process. Capital market activity in Indonesia has been growing since the Capital Market Law was enacted. Many entrepreneurs are looking for capital to enter the capital market. Communities are a potential source of capital that can provide large amounts of money over a long period of time.

Talking about the role of issuers and investors is inseparable from investing in the capital market. According to Article 1 Number 13 of Law Number 8 of 1995 on Capital Markets, "Capital Markets are activities related to public offerings and Securities Trading, public companies related to the securities they issue, institutions and professions related to securities".

The capital market, like any other public market, is where buying and selling transactions take place. Ownership rights and debt securities of the company is a sale and

purchase that is done in the capital market. Institutions that are willing to buy and sell in the capital market are called capital buyers. Investing in the capital market means buying commodities traded in the capital market, such as stocks and bonds, in the hope of making a profit in the future. Companies that need start-up capital or additional capital are called sellers of own capital.

In the end, like any other market, the capital market is a place where buyers and sellers meet. A market is a place where the activities of buyers and sellers for a good or service converge. Capital can take the form of capital goods or money. (Saliman, 2017)

Article 1 Number 23 of Law No.8 of 1995 on capital market regulates the legal position of investors and securities companies in investment activities in the capital market. This law stipulates that investors are assessed as parties when capital market activities occur. Furthermore, Article 1 Number 15 of Law 21 of 2011 concerning the Financial Services Authority regulates protected consumers that:

"Consumers are parties who place their funds and / or utilize services available at Financial Services Institutions, among others, customers in banks, investors in the Capital Market, policyholders in insurance, and participants in pension funds, based on laws and regulations in the financial services sector"

and Article 1 Number 3 POJK No. 49 / Pojk.04/2016 on Investor Protection Fund, states that "Investor / investor is a customer of a securities broker who administers the customer's securities account and custodian Bank".

The investor is placed as a customer of a securities trader who manages the securities account and the custodian bank of the customer, or in other words the domiciled party who invests, buys the securities through a securities company. While the position of securities companies according to Article 1 Number 21 in conjunction with Article 30 of the Capital Market Law, "Securities companies are parties that carry out business activities as underwriters, brokerages, and or investment managers." Therefore, based on the explanation of this article, it is known that the duties or positions of securities companies are:

- 1) Is an underwriter, see Article 1 Number 17 of the Capital Market Law understood: "an underwriter is a party that enters into a contract with an issuer to conduct a public offering for the benefit of the Issuer with or without the obligation to purchase the remaining unsold Securities."
- 2) Is a securities broker, see Article 1 Number 18 of the Capital Market Law understood: "securities broker is a party that carries out business activities for the sale and purchase of securities for its own or other parties' interests".
- 3) An investment manager, See Article 1 Number 11 of the Capital Market Law is understood: "an investment manager is a party whose business activities are managing securities portfolios for customers or managing collective investment portfolios for a group of customers, except for insurance companies, pension funds, and banks that conduct their own business activities based on applicable regulations."

Based on this explanation, one of the important urgency that can be learned and understood about the position of securities companies in the capital market is that they need to operate as companies, and cannot operate as individuals. Companies according to Abdul R Saliman are business entities that carry out activities in the field of economics (finance, industry, and trade) continuously or regularly (regelmatic) and openly (openlijk) with the aim of obtaining profits and/or profits. (Nurhilmayah, 2015).

Legal Review On Shareholder Protection On Online Application Related To Dissolution Of Issuers

As a country of law, Indonesia is obliged to provide legal protection to all its citizens without exception. Because legal protection is a human right owned by every citizen of Indonesia. The right of every Indonesian citizen to obtain legal protection has been regulated

in Article 28 d paragraph 1 of the Constitution of the Republic of Indonesia year 1945 (Aryani et al., 2022).

The state provides two types of legal protection, the first is prevention (prohibited) and the second is punishment (sanction). The most common types of legal protection that can be witnessed are law enforcement agencies, such as courts, police, and other agencies that serve to resolve non-contentious disputes. This is in accordance with the definition of law by Soedjono Dirdjosisworo, who said that there are many legal meanings in society, and the existence of law enforcement agencies is one of the most obvious meanings. Aspects of justice are closely related to legal protection. Soediman Kartohadiprodjo believes that achieving justice is the ultimate goal of law. Therefore, one way to improve justice is to protect the law. This is especially true for capital markets and economic sectors. (Dimiyati, 2014)

In the field of Capital Markets, legal protection protects the economic activities of companies, especially limited liability companies. This is because this legal protection involves capital market participants, including issuers, investors, and organizations that help with market operations. All of these parties are managed by legal entities in the form of limited liability companies.

Legal protection of investment refers to a set of laws and regulations and legal mechanisms designed to protect the rights and interests of investors to invest. The purpose of this protection is to create a safe, stable and fair environment for investors so that they feel confident and safe in investing. Here are some ways in which legal protection can be given to investments (Simanjuntak, 2023):

1) Investment Law

Countries usually have regulations that specifically regulate foreign and domestic investment. This investment law establishes regulations regarding ownership, permits and other requirements that investors need to comply with in investing in a territory

2) contract Protection

The law should provide strong protection to contracts in investment between investors and other parties, including the company or party receiving the investment. It involves strict enforcement against breach of contract and provides a means for investors to resolve disputes if a contract is breached

3) Protection Of Property Rights

The law must guarantee the right of ownership or a share as an asset invested by investors. This protection includes protecting assets from threats or illegal actions such as fraud, theft or embezzlement

The protection that the law provides to investors on online applications is a guarantee regarding positive standards, rules, regulations and legislation relating to natural or legal persons. This is a situation where the OJK is directly responsible to the Minister of Finance of the OJK and where an individual or business entity uses custody services to purchase investment products and invest capital. OJK also has the authority to ensure preventive and repressive capital market protection. The government carries out preventive protection to prevent violations from occurring (Dimiyati, 2014)

CONCLUSION

Capital Market Law has legal standing in capital market activities. Which in positive law is regulated in Article 1 Number 23 of Law Number 8 of 1995 on capital markets, that “investors are considered as one of the parties in capital market activities”. Then in Article 1 Number 15 of Law Number 21 of 2011 concerning the Financial Services Authority that “investors are part of consumers who should be protected”, and in Article 1 Number 3 of POJK No. 49 / Pojk.04/2016 on Investor Protection Fund, states that “Investor / investor is a customer of a securities broker who administers the customer's securities account

and custodian Bank”. While the position of securities companies according to Article 1 Number 21 in conjunction with Article 30 of the Capital Market Law, “Securities companies are parties that carry out business activities as underwriters, brokerages, and or investment managers.”

In terms of shareholder protection in online applications regarding the dissolution of issuers, custodian banks play an important role in maintaining the flow of trading transactions in the capital market. Banks must maintain the principles of trustworthiness, prudence, confidentiality, and customer understanding to function as a place to store customer money. Pursuant to Article 45 of Law No. 8 of 1995 concerning Capital Market, custodian can only issue securities or funds recorded in securities account in accordance with the registered order of the account holder or the authority to act on its behalf. interests. Custodian banks are holders of capital funds so that investor funds are not directly held by Capital Managers to avoid abuse and minimize the risk of being caught in capital-related financial fraud is still common. Based on Article 46 of Law No. Article 8 of 1995 on custodian banks in the capital market is responsible for all losses caused by their actions and their form and value in more detail, so that if losses arise, they can be immediately borne by the bank. losses incurred and how to overcome them, because the Capital Market Law is a special implementation regulation relating to capital markets. So if the issuer experiences a dissolution of the company to require delisting from the capital market, the wealth of the shareholders will be protected by the custodian bank.

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