



LEGAL PROTECTION OF PUBLIC INVESTORS WHO CONDUCT STOCK SPLIT BASED ON POJK NUMBER 15/POJK.04/2022

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Abstract

Legal Protection for Public Investors Carrying out Stock Splits Based on POJK Number 15/POJK.04/2022. In the capital market, public investors play an important role in providing funds for companies listed on the stock exchange. One strategy often used by companies to increase the liquidity of their shares is a stock split. However, stock splits also have risks for public investors. Therefore, adequate legal protection is needed for public investors who carry out stock splits. This research aims to analyze legal protection for public investors who carry out stock splits based on Financial Services Authority Regulation (POJK) Number 15/POJK.04/2022. The research method used is a normative juridical method with a statutory approach and case analysis. The research results show that POJK Number 15/POJK.04/2022 has provided sufficient legal protection for public investors. This protection includes the company's obligation to provide transparent and accurate information regarding the stock split, including the reasons and impact on share prices. Apart from that, POJK also regulates sanctions for companies that violate these provisions. However, this research also found that there are several weaknesses in the implementation of this regulation, such as a lack of supervision and strict law enforcement against companies that commit violations. Therefore, efforts are needed to increase supervision and law enforcement by the Financial Services Authority (OJK) to ensure effective legal protection for public investors. Thus, it is hoped that this research can contribute to improving legal protection for public investors who carry out stock splits, as well as providing input for the OJK in formulating better policies in the future.

Keywords: Legal Protection, Investors, POJK

A. INTRODUCTION

A stock split is expected to attract new public investors. When a company carries out a stock split, the number of shares in circulation will increase due to the reduction in the nominal value of the shares. However, a Stock Split cannot always increase the share price, it is possible that the share price will still be cheap and did not increase. If the shares that have already been split do not increase, there is a risk that the company's shares will experience the worst thing, namely, delisting by the Indonesian Stock Exchange (BEI).

The stock split must be carried out no later than 30 (thirty) days after the GMS which approves the share split plan and vice versa, it will be canceled if it is not carried out no later than 30 (thirty) days after the GMS which approves the split plan. Shares Voting by shareholders is based on Article 84 paragraph (1) of the Limited Liability Company Law, provided that each share owned has one voting right. Therefore, when making decisions at the GMS, the votes of the majority shareholders determine the decisions taken by the company.

The majority shareholder must take into account the interests of the minority shareholders wherever possible. Minority shareholders are also protected in the Company Law. The Company Law also provides legal protection to minority shareholders as in Article 54 paragraph (1), Article 55, Article 66 paragraph (2), Article 67, Article 110 paragraph (3), Article 117 paragraph (1) letter b. Minority

shareholders have the right to get a share price in accordance with the market price if they do not agree with company policy or the majority shareholder, minority shareholders have the right to determine company policy through the General Meeting of Shareholders. This means that public investors who acquire shares through the stock split process will have legal protection depending on the shares they obtain. Public investors who acquire majority shares from the stock split process will apply legal protection to majority shareholders, while public investors who acquire minority shares will apply legal protection to minority shareholders.

B. FORMULATION OF THE PROBLEM

Based on the background above and to provide research limitations, several problems were formulated, as follows:

1. How are stock splits regulated in Indonesian laws and regulations?
2. What is legal certainty in stock split arrangements in the Indonesian capital market?
3. What is the legal protection for public investors in issuers/public companies that carry out stock splits?

C. DISCUSSION

1. Regulations for Stock Splits in Indonesian Legislation

Law no. 40 of 2007 concerning Limited Liability Companies as a general rule that has been applied to the day in running the company, its application is to recognize the majority shareholder and the majority shareholder. The majority shareholder is the shareholder who is able to control the Company with the decisions they make. Control can be exercised by the holder of 50% (fifty percent) of the shares or more. Basically, the rights and obligations of shareholders are the same, but majority shareholders can be given more rights at the GMS. The majority shareholder legally has the power to control through the GMS institution.⁶ Furthermore, minority shareholders, if referring to the definition of majority shareholder above, are shareholders whose portion of share ownership in a company is less than 50% or in other words, if referring to Article 79 paragraph (2) letter a, it is 1 (one) person or more shareholders who together represent 1/10 (one tenth) or more of the total number of shares with voting rights, unless the articles of association determine a smaller number.

The existence of majority shareholders and minority shareholders is known in Open PTs and Closed PTs. However, in the development of the business world, Open PT is known as a stock split. Share splits in Indonesia do not refer to law but refer to institutional regulations. The institution in question is the OJK and OJK Regulation no. 15/POJK.04/2022 concerning Stock Splits and Stock Mergers by Public Companies. Regulations in OJK Regulation no. 15/POJK.04/2022 Concerning Stock Splits and Stock Mergers by Public Companies, the shares that can undergo a stock split are all shares held by majority shareholders or held by minority shareholders. Referring to the description above, stock splits refer to or are subject to OJK Regulation No. 15/POJK.04/2022 Concerning Stock Splits and Stock Mergers by Public Companies, the OJK Regulation should be born as a special regulation so that it is subject to the principle of *lex specialis derogat legi generalis*. Furthermore, these rules should be implementing rules or laws, not institutional rules, so that in terms of legal rules they are less binding on legal subjects, only practically

binding on legal subjects.⁸ The existence of these OJK regulations must be seen as complementary to one another. This is due to Law no. 40 of 2007 concerning Limited Liability Companies, Law Number 8 of 1995 concerning Capital Markets and Law Number 21 of 2011 concerning the Financial Services Authority do not yet have clear parameters regarding stock splits. With the OJK regulations, there are actually still conflicts or ambiguities in the formulation of these norms. However, even so, the existence of these legal rules is an attempt to fill the legal vacuum.

2. Legal Certainty in Stock Split Arrangements in the Capital Market in Indonesia

a. Administrative Aspects of Stock Splits in Indonesia

Stock splits are regulated in OJK Regulation no. 15/POJK.04/2022 Regarding Stock Splits and Stock Mergers by Public Companies from an administrative perspective or aspect can be seen in the information disclosure section. This means that the disclosure of information contained in OJK Regulation no. 15/POJK.04/2022 Concerning Stock Splits and Stock Mergers by Public Companies, in its implementation or understanding it can be equated with one of the administrative principles that apply to the principles of good corporate governance (GCG), namely: Openness of information (transparency).).

Information disclosure in stock splits in Indonesia is a good corporate management concept which leads to 2 (two) things, as follows:⁹

- 1) The importance of shareholders' rights to obtain correct (accurate) and timely information;
- 2) The company's obligation to disclose accurately, timely and transparently all information on company performance, ownership and stakeholders.

This means, in essence, if awareness or ethics in the culture of running a Limited Liability Company is good then there is no need to issue regulations containing obligations in implementing information disclosure where OJK Regulation no. 15/POJK.04/2022 concerning Stock Splits and Stock Mergers by Public Companies which only contains the principles of information disclosure is sufficient. This is because the existence of ethics in the practice of stock splits is expected to create an organizational culture that prioritizes openness of information so that if ethics are not implemented then what will happen is unhealthy competition, injustice, the emergence of moral hazard, bribery and other deviant behavior so that legal uncertainty will arise in stock splits. ¹⁰ However, the existence of administrative aspects in terms of information disclosure contained in OJK Regulation no. 15/POJK.04/2022 concerning Stock Splits and Stock Mergers by Public Companies as a rule for stock splits as well as filling the legal vacuum contained in Law no. 40 of 2007 concerning Limited Liability Companies and at the same time as implementing Law Number 8 of 1995 concerning Capital Markets if information disclosure is violated by the company in carrying out a stock split.

b. Civil Aspects in Stock Splits in Indonesia

OJK Regulation no. 15/POJK.04/2022 concerning Stock Splits and Stock Mergers by Public Companies as a rule for stock splits as well as filling the legal vacuum contained in Law no. 40 of 2007 concerning Limited Liability Companies and at the same time as implementing Law Number 8 of 1995 concerning Capital Markets where in this regulation there is no explicit mention of civil aspects so that what will be seen is an action where as a result of a share split there is a loss therein.

Share splitting to see if there is a loss or not if there is a loss at the PT can be seen or discovered through an audit of the annual report. The annual annual report referred to in connection with a stock split is a financial report consisting of at least the final balance sheet of the previous financial year in comparison with the previous financial year, a profit and loss statement from the relevant financial year, a cash flow report, and a report on changes in equity, as well as notes to the financial statements. This civil aspect looks at whether or not there is a loss through the annual report as well as looking at who will be responsible if there is a loss to the GMS where the GMS comes from shareholders who obtained shares, one of which is through a stock split.

c. **Criminal Aspects of Stock Splits in Indonesia**

OJK Regulation no. 15/POJK.04/2022 concerning Stock Splits and Stock Mergers by Public Companies as a rule for stock splits as well as filling the legal vacuum contained in Law no. 40 of 2007 concerning Limited Liability Companies and at the same time as implementing Law Number 8 of 1995 concerning Capital Markets where in this regulation there is no explicit mention of criminal aspects so that what will be seen is bad faith (duty of bad faith) in the share splitting process carried out PT organ loss occurs or not.

The company experiencing losses is certainly not the responsibility of the PT organs, in this case the shareholders, because in running the company the conditions above cannot be categorized as errors or negligence of the PT organs, in this case the shareholders, but rather the risks faced by the company due to corporate actions. The business risks faced if you want to actually hold the PT organ accountable, where in business risks where the PT organ has taken a decision and it turns out it is still experiencing losses, it cannot be done, this is because the PT organ's decision is usually in accordance with the business judgment rules.¹² This means that if you look at the criminal aspect or the imposition of a criminal act, it can be imposed on shareholders if the above shareholders (who have obtained shares through the stock split process) carry out actions based on bad faith (duty of bad faith).

3. Legal Protection for Public Investors in Issuers/Public Companies Carrying Out Stock Splits

Legal protection is an event desired by every legal subject if a legal relationship occurs with another legal subject. This is also inseparable from the existence of stock splits or stock splits where the public or people want to own shares in small amounts or certain ratios.¹⁴ Context of OJK Regulation No. 15/POJK.04/2022 Concerning Stock Splits and Stock Mergers by Public Companies, there are provisions in article by article in the form of administrative sanctions aimed at companies carrying out stock splits if they violate several processes in carrying out the split. Article 38 paragraph (4) OJK Regulation no. 15/POJK.04/2022 concerning Stock Splits and Stock Mergers by Public Companies, namely: Written warning; A fine is an obligation to pay a certain amount of money; Restrictions on business activities; Suspension of business; Revocation of business license; Cancellation of consent; and/or Cancellation of registration. The application of the above administrative sanctions, including fines, namely the obligation to pay a certain amount of money, restrictions on business activities, freezing of business activities, revocation of business permits, cancellation of approvals and cancellation of registration, can be applied directly without having to give a written warning first. The imposition of the above administrative sanctions is a form of protection. law for people who want to own shares through a stock split mechanism. Theoretically, legal protection can be

carried out preventively.

Preventive legal protection is a form of legal protection where the people are given the opportunity to submit objections or opinions before a government decision takes a definitive form.¹⁶ OJK Regulation no. 15/POJK.04/2022 Concerning Stock Splits and Stock Mergers by Public Companies, if we look at it, it only protects erroneous procedures for stock splits, the true existence of which can only be known by internal parties or parties involved in the stock split process, which is included in preventive protection. Furthermore, if people have purchased shares through a stock split and the public suffers losses due to this, then the public can take preventive legal action, which is because this is not regulated in OJK Regulation No. 15/POJK.04/2022 Concerning Stock Splits and Stock Mergers by Public Companies, it will refer to Law no. 40 of 2007 concerning Limited Liability Companies.

The handling of legal protection by general courts and administrative courts in Indonesia falls into this category of legal protection.¹⁷ OJK Regulation no. 15/POJK.04/2022 concerning Stock Splits and Stock Mergers by Public Companies does not regulate repressive protection for people who acquire shares through stock splits. Therefore, repressive legal protection for people who acquire shares through stock splits within the company is as follows: Right to File a Direct Suit and Right to File a Derivative Suit.

D. CLOSING

1. Conclusion

- a. The regulation of stock splits in Indonesian laws and regulations refers to OJK Regulation No. 15/POJK.04/2022 concerning Stock Splits and Stock Mergers by Public Companies where the OJK Regulations were born as special regulations so that they are subject to the principle of *lex specialis derogat legi generalis* where these regulations should be implementing regulations or laws, not institutional regulations. so that in terms of legal rules it is less binding on legal subjects, it only binds legal subjects in practice.
- b. Legal certainty in stock split arrangements in the Indonesian capital market where administrative aspects still refer to OJK Regulation No. 15/POJK.04/2022 Concerning Stock Splits and Stock Mergers by Public Companies, namely regarding the disclosure of information on stock splits, the civil aspect is the split of shares to see whether or not a loss has occurred in the PT can be seen or known through an audit of the annual report. referring to Article 66 of Law no. 40 of 2007 concerning Limited Liability Companies, while the criminal aspect is related to bad faith in the share splitting process carried out by PT organs as regulated in Article 3 of Law no. 40 of 2007 concerning Limited Liability Companies.
- c. Legal protection for public investors in issuers/public companies that carry out stock splits is preventive legal protection including administrative sanctions as regulated in Article 38 paragraph (4) of OJK Regulation No. 15/POJK.04/2022 concerning Stock Splits and Stock Mergers by Public Companies, whereas repressive legal protection is implemented by filing a direct lawsuit or derivative lawsuit.

2. Suggestion

- a. It is hoped that the government and legislature will formulate new regulations regarding stock splits in the form of laws or government regulations or amend the capital market law by including stock split regulations in it.
- b. It is hoped that in terms of administrative, civil and criminal aspects, supervision will be established by the OJK together with the IDX so that there is more legal certainty.
- c. It is hoped that the OJK will carry out advocacy regarding legal issues related to stock splits so that it can achieve preventive and repressive legal protection.

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