

Tinjauan yuridis debt to equity swap terhadap obligasi yang dikonversi menjadi saham dalam rangka PKPU = Juridical review of debt to equity swap on bonds conversion into shares in the event of suspension of payment

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Abstrak

Obligasi sebagai surat berharga merupakan Efek sebagaimana yang disebutkan dalam Undang-Undang Pasar Modal dan merupakan bentuk surat bukti utang Emiten kepada kreditur obligasi yang harus dibayar lunas pada saat jatuh tempo. Namun seringkali Emiten tidak membayar lunas obligasi tersebut, baik karena Emiten tidak mampu atau tidak mau membayar maupun karena Emiten sedang dalam proses Kepailitan. Salah satu upaya yang dapat dilakukan Emiten untuk membayar obligasinya adalah dengan mengajukan rencana perdamaian melalui Penundaan Pembayaran Kewajiban Utang PKPU. Rencana perdamaian tersebut dapat berupa Debt to Equity Swap. Dalam penelitian ini akan dibahas mengenai tata cara Debt to Equity Swap terhadap obligasi jenis Non-Convertible dalam rangka perdamaian di PKPU, dan bagaimana kedudukan serta peran Wali Amanat sebagai perwakilan dari Pemegang Obligasi dalam proses Debt to Equity Swap. Bentuk penelitian ini disajikan dalam bentuk kajian yuridis normatif, yang menggunakan metode penelitian berupa tinjauan kepustakaan. Obligasi jenis Non-Convertible yang akan melalui proses Debt to Equity Swap dalam rangka PKPU harus melalui upaya pembatalan atau percepatan waktu jatuh tempo sehingga sebelum obligasi batal atau jatuh tempo, peran Wali Amanat dalam proses Debt to Equity Swap masih akan terus ada untuk mewakili pemegang obligasi.

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Bonds are categorized as Commercial Paper in Indonesian Capital Market Law. Bonds that also can be categorized as letter of credit has their maturity date which is the time for the Issuer should pay the bonds to the creditors. But however, it's a common situation that the issuer doesn't pay the bonds to the creditors when the maturity day come. It can be happened because the issuer doesn't want to pay, in a condition of insolvency or in the process of bankruptcy. One of the common way to solve the problem for the creditors to get paid of their bonds is through the process of Suspension of Payment by doing Debt to Equity Swap. This Research will emphasize the Juridical Review of Debt to Equity Swap on Non Convertible Bonds that converted into shares in the Event of The Suspension of Payment. This research will be focused on the procedure Debt to Equity Swap of Non Convertible Bonds in the event of The Suspension of Payment, how Trustee as the representative of Bonds Creditors, participate in the event of Debt to Equity Swap. This research will use normative juridical study and literature review methods. Non Convertible Bonds can be converted for Debt to Equity Swap if the Bonds has already delisted in Capital Market Law or have reached their maturity date. The trustee still have to participate as the representative of bonds creditors as long as the bonds haven't been delisted or reached their maturity date.