

ABSTRAK

Divestasi merupakan salah satu cara perusahaan untuk merestrukturisasi perusahaan tersebut dengan tujuan pengembangan. Pemerintah Indonesia telah melakukan divestasi sahamnya yang ada di PT. Indosat (BUMN) pada PT. STT (*Singapore Technologies Telemedia*) Pte. Ltd., anak perusahaan dari Temasek Holding Singapura. Sebelumnya Temasek Holding telah menguasai saham PT. Telkomsel sebesar 35% lewat anak perusahaannya PT. Singtel. Ada banyak faktor yang menjadi permasalahan seperti mekanisme divestasi dan prinsip-prinsip investasi di Indonesia. Metode yang digunakan adalah menggunakan jenis penelitian hukum normatif dengan pendekatan perundang-undangan (*Statute Approach*). Adapun hasil pembahasan dan penelitian adalah mekanisme atau proses divestasi saham PT. Indosat ke investor asing menggunakan mekanisme privatisasi *private placement* di pasar modal. Mekanisme dalam jenis ini, investor asing diberikan peluang untuk menguasai saham PT. Indosat lebih dari 50% saham (*private sale*). Sebelumnya telah dilakukan Rapat Umum Pemegang Saham Luar Biasa (RUPSLB), yang telah menyetujui penguasaan saham di PT. Indosat. Mekanisme ini telah didahului *hearing* antara pemegang saham Indosat yang diwakili oleh Menteri Negara Penanaman Modal dan Pembinaan BUMN dengan Komisi IX DPR RI yang menetapkan mendivestasikan saham PT. Indosat. Berdasarkan dari beberapa perspektif seperti regulasi, pendapat para ahli hukum ekonomi, putusan KPPU, Pengadilan Negeri Jakarta Selatan, dan MA, maka kepemilikan saham investor asing di PT. Indosat dinyatakan telah melanggar Pasal 17 ayat (1) dan Pasal 27 angka (a) Undang-Undang Nomor 5 Tahun 1999 tentang Larangan Praktik Monopoli dan Persaingan Usaha Tidak Sehat dan kurang memenuhi prinsip-prinsip yang diatur dalam UU No. 19 Tahun 2003 tentang BUMN dan UU No. 36 Tahun 1999 tentang Telekomunikasi, seperti prinsip transparansi, prinsip penyederhanaan, prinsip kepatuhan terhadap perjanjian atau komitmen internasional, prinsip kepastian hukum, dan prinsip kesatuan.

ABSTRACT

Divestment is a way to restructure the company with the goal of development. The Indonesian government has divested its stake in PT. Indosat (SOEs) at PT. STT (Singapore Technologies Telemedia) Pte. Ltd., A subsidiary of Temasek Holdings of Singapore. Previous Temasek Holding has mastered shares PT. Telkomsel by 35% through its subsidiary PT. SingTel. There are many factors that a problem such as divestment mechanism and the principles of investing in Indonesia. The method used is to use a type of normative legal research to approach law (Statute Approach). The results of the discussion and research is the mechanism or process of divestment of PT. Indosat to foreign investors using private placement privatization mechanism in the stock market. Mechanism in this type, foreign investors are given the opportunity to acquire a controlling stake of PT. Indosat more than 50% of shares (private sale). Previously been performed Meeting Extraordinary General Shareholders (EGM), which has approved a controlling stake in PT. Indosat. This mechanism has been preceded hearings between Indosat shareholders, represented by the Minister of State for Investment and Development of SOEs with the House of Representatives Commission IX is set to divest stake in PT. Indosat. Based on several perspectives such as regulatory, economic law expert opinions, the Commission decision, the South Jakarta District Court, and the Supreme Court, then the foreign investor shareholding in PT. Indosat found to have violated Article 17 paragraph (1) and Article 27 points (a) of Law Number 5 of 1999 on the Prohibition of Monopolistic Practices and less in accordance with the provisions of set forth in the Law Number 19 of 2003 on State-Owned Enterprises and the Law Number 36 Year 1999 on Telecommunication, in which there are some principles such as the principle of transparency, simplification principle, the principle of adherence to international agreements or commitments, the principle of legal certainty and the principle of unity.