

The Role of Notaries as a Supporting Profession for Capital Markets in Companies That Will Conduct an Initial Public Offering (IPO) on the Indonesia Stock Exchange

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Abstract. *This study aims to determine and analyze the Role of Notaries as Capital Market Supporters in Companies that will conduct Initial Public Offerings (IPOs) on the Indonesia Stock Exchange and the obstacles to the Role of Notaries as Capital Market Supporters in Companies that will conduct Initial Public Offerings (IPOs) on the Indonesia Stock Exchange. The approach method in this study is the sociological legal approach method. The research specifications used are descriptive analytical research. The type of data uses primary and secondary data. Data collection using the interview method. The data analysis method used is qualitative descriptive analysis. The results of the study show the Role of notaries as capital market supporters in companies that will conduct initial public offerings. In this capacity, notaries play a role in helping to compile and ratify important legal documents, such as changes to the company's articles of association, minutes of the General Meeting of Shareholders (GMS), and other agreements related to the initial public offering process. The obstacles faced by notaries in ensuring the validity and legal certainty of stock transactions in the capital market in the initial public offering process such as Regulatory Inconsistency, Lack of Specific Guidelines for Notaries in the IPO Process, Inaccurate or Incomplete Data and Documents, Issuers' Ignorance of Capital Market Regulations, Rapid Regulatory Changes, Complexity of Capital Market Transactions, Limited Access to Digital Information and Inconsistencies Between National Law and International Practices. These obstacles can hamper the administrative process, create legal risks, and affect the trust of capital market players. To overcome these challenges, solutions are needed such as better data validation, education for issuers, improving notary competency, collaboration with related parties, development of an integrated digital system, and alignment of national regulations with international standards. Thus, notaries can carry out their role optimally to create legal validity and certainty in capital market transactions.*

Keywords: Initial; Notary; Public; Role.

1. Introduction

The role of a notary in the world of capital markets is very important. The position of a notary in carrying out a capital market activity is needed when a company is going to conduct an IPO (Initial Public Offering) which requires binding business contracts, including contracts binding business relations between legal entities such as buying and selling shares and securities on the capital market, especially for companies that wish to Go Public by conducting an initial public offering (IPO), which as a whole requires legal protection and certainty, guided by a notary as a supporting institution for the Capital Market in order to obtain public legitimacy, conducting a public offering process in terms of making and examining the validity of deeds or agreements made by a Notary relating to the General Meeting of Shareholders (GMS) and changes to the articles of association or bylaws of parties or actors in the capital market and requiring the Notary to submit information in the form of input or provide independent information advice.¹To carry out their duties in the capital market, notaries must have expertise and knowledge in the capital market sector, therefore, notaries must undergo training recognized by the OJK.

The increasing capital market activities have increased the need for supporting professional services in the capital market sector. One of the supporting professions in the capital market is a Notary. According to Law Number 30 of 2004 concerning the Position of Notary (hereinafter referred to as UUJN) Article 1 number 1 explains that the authority of a Notary in making authentic deeds and other authorities is regulated in UUJN. Notarial deeds according to UUJN Article 1 number 7 explain that authentic deeds made by or before a Notary according to the form and procedures stipulated in this Law. An authentic deed according to Article 1868 of the Civil Code is a deed made in the form stipulated by Law by and/or before a public official authorized for that purpose at the place where the deed was made. According to Article 15 number 2 letter e UUJN explains that in addition to making authentic deeds, Notaries have the authority to provide legal counseling related to the making of deeds. The obligations of professions supporting capital market activities according to UUPM (Capital Market Law) Article 66 explains that professions supporting capital markets are obliged to comply with the code of ethics and professional standards set by their respective professional associations as long as they do not conflict with this Law and/or its implementing regulations. As one of the supporting professions of the capital market, the role of Notaries is needed during the public offering process (going public).

¹Tjiptono Darmadji & Hendy M. Fakhrudin. (2001). *Pasar Modal di Indonesia, Pendekatan Tanya Jawab*, Jakarta: Salemba Empat. p. 40.

Financial Services Authority Regulation Number 67 /PoJK.04/2017 concerning notaries who carry out activities in the capital market states that a notary is a public official who is authorized to make authentic deeds and has other authorities as referred to in the Law concerning the position of notary registered with the Financial Services Authority as a supporting profession for the capital market to make authentic deeds as required by laws and regulations in the Capital Market sector.²In the context of the Indonesian capital market, notaries play a strategic role as a crucial supporting profession in supporting a company's Initial Public Offering (IPO) process. The notary's main focus is to provide protection and legal certainty for all parties involved. The IPO process begins with obtaining approval from shareholders through a General Meeting of Shareholders (GMS). This GMS includes changing the company's status from a private entity to a public company as well as comprehensive updates to the articles of association in accordance with capital market regulations.³

By seeing how important the role of the notary is, this is not comparable to the number of notaries involved in the capital market world. This is emphasized again based on data launched by the OJK in 2024, which states that there are only...307 notaries registered with the OJK from a total of more than 20,000 notaries in Indonesia registered with the Indonesian Notary Association (INI) this number is certainly very small and not all notaries registered with the OJK are active in capital market activities this is reinforced by research conducted by Hukum online which conducted the 2020 Capital Market Transaction Ranking Research, where data was obtained that only 19 notaries were involved in handling IPO transactions in 2020. As many as 52.63% or 10 of the 19 notaries handled IPO transactions more than once. Of the 19 notaries, 12 notaries handled IPO transactions for two consecutive years, namely 2019 and 2020.⁴

Based on the explanation above regarding the capital market, the author found legal issues related to capital market notaries, where there is a gap that not all notaries registered with the OJK are active in the capital market world, injustice related to the Regulation regarding levies that must be paid by notaries, the mechanism for continuing education for notaries that does not have standard rules, not only that in reality, various problems are often found in the implementation of the law related to the role of notaries in the IPO process. Some of the issues that arise are the ambiguity in documents, violations of administrative procedures, or the lack of involvement of notaries in supervising certain transactions to deviations that have the potential to violate both civil and

²Financial Services Authority Regulation Number 67 /Pojk.04/2017 Concerning Notaries Carrying Out Activities in the Capital Market.

³H. Budi Untung. (2012). *Hukum Bisnis Pasar Modal*, Yogyakarta: Andi Perkasa Putra. p.10

⁴<https://www.hukumonline.com/berita/a/wajah-pemeringkatan-konsultan-hukum-dan-notaris-di-sektor-pasar-modal-lt607f93dcd85cb/?page=2> accessed on 06 May 2025.

criminal laws, this is because many notaries only focus on the formality aspect, without substantially delving into the details of transactions that have the potential to harm investors or companies, In some cases, notaries may face pressure to speed up the document verification process without conducting an in-depth examination. This poses a risk to the validity of the transaction and the potential for legal disputes in the future. Based on this background, the author is interested in researching the "Role of Notaries as Professionals Supporting the Capital Market in Companies that will conduct an Initial Public Offering (IPO) on the Indonesia Stock Exchange."

2. Research Methods

In the research, the author applies the empirical legal research method. Empirical research, namely a research method by looking at the law in real conditions in the field related to how the law works in people's lives.⁵ Empirical research methods focus on the description of facts and data that can be observed or measured concretely. This approach tries to avoid speculation or thoughts that are not based on observable reality. This study will explain the role of notaries as a supporting profession for the capital market in companies that will conduct a Public Offering of Shares on the Indonesia Stock Exchange. The research specifications used are analytical descriptive research. The type of data uses primary and secondary data. Data collection using Field Study and Literature Study methods. The data analysis method used is qualitative descriptive analysis.

3. Results and Discussion

3.1. The role of notaries as a supporting profession for capital markets in companies that will conduct an initial public offering (IPO) on the Indonesia Stock Exchange.

The involvement of a Notary basically starts from the establishment of a company, but in the case of a company wanting to carry out or participate in the capital market, the notary in this case who has the authority to permit will participate in the preparation for the company to go public, both during planning and after the public offering on the primary market. The legal basis for Notaries is determined as a supporting profession for the capital market as stated in Article 64 paragraph (1) of Law Number 8 of 1995 concerning the Capital Market in conjunction with Law (UU) Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector and its implementing regulations and as one of the capital market players, the supporting profession for the capital market is also responsible for developing the capital market which is then followed up with Financial Services

⁵Soerjono Soekanto. (2005). *Pengantar Penelitian Hukum*, Jakarta: Universitas Indonesia Press. P. 51

Authority Regulation Number 67 / POJK.04 / 2017 concerning notaries who carry out activities in the capital market.

Notaries as a supporting profession for the capital market have a role to assist an issuer in the process of going public and fulfilling the requirements regarding continuous transparency.⁶In the Financial Services Authority Regulation Number 67 /POJK.04/2017 concerning notaries who carry out activities in the capital market, several requirements have been determined that must be met by notaries in order to be able to carry out their activities in the capital market, including the following:

- 1) Has been appointed as a notary by the ministry in charge of the notary sector and has been sworn in as a notary by the authorized agency
- 2) Has been a member of the Notary Organization;
- 3) Have good morals and ethics;
- 4) Never committed a reprehensible act and/or been punished for being proven to have committed a crime in the financial services sector;
- 5) Be independent, objective and professional in carrying out activities in the capital market sector;
- 6) Comply with the code of ethics established by the Notary Organization;
- 7) Have expertise in the capital market sector which is fulfilled through a Professional Education program with a minimum of 30 (thirty) professional credit units;
- 8) Not working concurrently as a supporting profession in the capital market and/or other positions which are prohibited by statutory regulations from being held concurrently with the position of notary; and
- 9) Never been subject to administrative sanctions in the form of cancellation of a registered certificate from the Financial Services Authority.

By seeing how important the role of the notary is, it is not comparable to the number of notaries involved in the capital market world, based on data from the OJK that currently there are 300 notaries registered in the capital market but in fact only around 20 notaries are actively in the capital market this is due to several factors including Specialization and Complexity, Competition and market concentration, Connections and Reputation, Lack of demand in certain areas and

⁶Rahma Putri Prana, "Peran Notaris sebagai Profesi Penunjang Pasar Modal dalam Upaya Perlindungan Hukum terhadap Investor untuk Menghindari Kerugian Akibat Praktik Manipulasi Pasar di Pasar Modal," *Jurnal Ilmiah Hukum Kenotariatan* (Vol 8, No. 1, Mei 2019), p. 44

Lack of Further Education or Access to Information not only the issue of the number of notaries as explained above the regulation regarding the levies that must be paid by notaries also gets polemics this is based on that notaries as a capital market profession are marked by STTD, however having STTD does not provide a guarantee that a notary has ever been active in the capital market or made a deed related to the capital market but they are charged to continue to pay based on the contract value of 1.2% (one point two percent) of the contract value of the activity and annual levies so that this provision reflects injustice for notaries so that it should be improved by the OJK regarding the regulation of these levies.

The role of a notary in the capital market sector is certainly needed, especially in relation to the preparation of the Articles of Association or Bylaws (AD/ART) of parties or capital market players such as issuers, public companies, securities companies and important contracts such as Collective Investment Contracts (KIK), underwriting contracts or important deeds such as the Deed of Dissolution and Liquidation of Mutual Funds.⁷In addition, Notaries as one of the professions supporting the capital market are needed in several cases, namely:⁸

- 1) Making minutes of the General Meeting of Shareholders (GMS) and compiling GMS decision statements, both in preparation for going public and GMS after going public.
- 2) Examine the validity of matters relating to the holding of the GMS, such as compliance with the company's articles of association, the procedure for summoning the GMS and the validity of shareholders or their proxies to attend the GMS.
- 3) Examining changes to the articles of association cannot be separated from the material of the articles of association that are in conflict with applicable laws and regulations. It is even necessary to make adjustments to the articles in the articles of association so that they are in line with and meet the provisions according to regulations in the capital market sector in order to protect investors and the public.

In addition to being responsible for checking documents related to initial public offering activities as mentioned above, notaries also have other more important roles, namely in accordance with the notary law, namely to make deeds required by applicable laws and regulations in the capital market sector in the context of IPO activities, the following types of deeds are usually made by notaries in the context of IPOs as follows:

Faisal Santiago, "Peranan Notaris Dalam Transaksi Saham Pada Pasar Modal Di Bursa Efek Jakarta", *Jurnal Constitutum*, Vol. 12, No. 2, April 2013, p. 509-510.

⁸Tan Thong Kie. (2011). *Serba Serbi Praktek Notaris*. Buku I Cet.2, Jakarta: PT. Ichtiar Baru Van Hoeve. p. 94.

- 1) Deed of Minutes of General Meeting of Shareholders (GMS)
- 2) Deed of Extraordinary General Meeting of Shareholders (EGMS) regarding approval to conduct an Initial Public Offering (IPO);
- 3) Deed of Public Offering of Shares
- 4) Deed of Underwriting Agreement for Securities Issuance and its amendments
- 5) Deed of Share Administration Management Agreement and Amendment to Share Administration Management Agreement
- 6) Printed Goods Procurement Agreement
- 7) Trusteeship Agreement
- 8) Deed of Share Registration on the Stock Exchange

So based on the explanation above, the Role of Notaries as a Supporting Professional for Capital Markets in Companies that will Conduct Initial Public Offerings (IPOs) on the Indonesian Stock Exchange includes making authentic deeds to ensure the validity of the implementation of the General Meeting of Shareholders (GMS) and changes to the articles of association, preparing the necessary deeds of agreement, official reporting to the OJK, and making authentic deeds specifically for initial public offerings, conducting in-depth analysis of the required company documents. The scope of this examination includes the company's deed of establishment, articles of association, and all documents related to changes to the articles of association. The main focus of this examination is on the validation of the General Meeting of Shareholders (GMS), both annual and extraordinary. Notaries are expected to be able to carefully examine various important aspects, such as fulfilment of quorum requirements, voting mechanisms, and the validity of decisions taken. A comprehensive examination also includes the necessary official documents, such as a letter of approval from the Ministry of Law and Human Rights, proof of company registration in accordance with applicable regulations, and documentation of announcements in the State Gazette of the Republic of Indonesia, in addition to authentic deeds made in the context of implementing an IPO, notaries also play a role in making all types of agreements in relation to the initial public offering of shares, facilitating discussions between parties before drafting a contract, with the aim of creating a legal document that truly reflects good intentions and shared commitment so that the role of a notary is not merely administrative, but strategic in supporting the integrity and sustainability of the legal process in the capital market realm with the main objective of providing guaranteed protection and legal certainty for all parties involved in the IPO process.

3.2. Obstacles and Solutions for Notaries Supporting professions in capital markets for companies that will conduct an Initial Public Offering (IPO) on the Indonesia Stock Exchange.

The role of a capital market notary in the world of capital markets is needed in matters relating to the preparation of articles of association for parties such as issuers, public companies, securities companies, and mutual funds, and the creation of various other important agreements. This is the mandate of Article 64 paragraph (1) of the UUPM which explains that a notary is one of the supporting professions in the world of capital markets, where the explanation of the article also states that a notary is a public official who is authorized to make authentic deeds and is registered with the OJK. Not all notaries are able to become a capital market notary. Notaries who can become notaries in the supporting profession of the capital market are notaries who are registered with the OJK.⁹

Notaries in carrying out their duties face various obstacles that can affect the validity and legal certainty in carrying out their duties as a supporting profession for the capital market in companies that will carry out a Public Offering of Shares (IPO). The following are some of the main obstacles that are commonly faced, including the following:

- 1) Regulatory Inconsistency, Capital market regulations continue to evolve to keep up with market dynamics and changing economic conditions. However, regulations regarding the position of notary are not always updated along with these developments. This lack of synchronization is a problem especially in terms of the legalization procedure for IPO documents, where notaries are asked to adjust documents to a new format that is not supported by existing notary guidelines.
- 2) Lack of Specific Guidelines for Notaries in the IPO Process, the capital market regulation (POJK) does not explicitly provide clear guidelines or procedures on how notaries should be involved in the IPO process. This causes confusion in the interpretation of the role and authority of notaries, who often have to work with regulations that are not detailed about their involvement in IPOs, especially related to documents that require legalization.
- 3) Inaccurate or Incomplete Data and Documents, notaries often encounter serious obstacles in the form of inaccurate data and incomplete documents. These obstacles not only slow down the process, but can also have long-term legal consequences, for example, Company Data Inconsistencies, Incomplete Legal

⁹Soebekti, R., & Gunawan, D. (2012). *Kamus Istilah Hukum: Notariat dan Peradilan*. Jakarta: Prenada Media. p.80

Documents, Technical Errors in Documents and Documents that are No Longer Valid or Out of Date

4) Rapid regulatory changes, very complex and ever-evolving regulations in the capital market world, especially in the implementation of IPOs. The IPO process involves various regulations originating from capital market authorities such as the Financial Services Authority (OJK) and the Indonesia Stock Exchange (IDX). In addition, there are also legal provisions from the Ministry of Law and Human Rights, relating to the ratification of deeds and changes to the company's Articles of Association. Capital market regulations and other related regulations often change, which are sometimes not well socialized so that as a result notaries often face difficulties in interpreting complex regulations or those with ambiguous provisions.

5) Issuers' Ignorance of Capital Market Regulations, Issuers, especially companies that are just about to go public, often have little understanding of relevant capital market regulations, including legal requirements for an IPO.

6) Limited Access to Digital Information, in practice, the role of notaries in the IPO process is inseparable from a number of obstacles, one of which is limited access to digital information. In fact, a fast and accurate legality process is highly dependent on the availability of easily accessible and reliable data. The forms of limitations that are often faced are as follows: Data is not digitally integrated, Limited access to the database of related authorities, Limited digital infrastructure, Dependence on manual documents

7) Inconsistency Between National Law and International Practice, Capital markets often involve foreign investors, who sometimes require different document standards from Indonesian law. Notaries must ensure that documents meet national legal requirements while being internationally acceptable. The solution that can be done is that Notaries must understand the needs of the international capital market and work with international legal consultants to ensure that legal documents made meet national legal requirements while being globally acceptable.¹⁰

The obstacles faced by notaries in stock transactions in the capital market can be overcome with the right solutions, such as strengthening regulatory understanding, document digitization, and better coordination. Thus, notaries can carry out their roles effectively to ensure legal validity and certainty on the Indonesia Stock Exchange.

¹⁰Direct interview with Mrs. Retno Hertiyanti, SH, MH, Notary in Semarang City who is registered with the Financial Services Authority as a Notary Supporting Capital Market in Semarang City, on 28 October 2024 at 13.46 WIB at the Notary Office on Jl. Wologito Utara No.66, Kalibanteng Kulon, West Semarang District, Semarang City, Central Java

The main role of a notary in creating legal certainty in society is related to the making of deeds, a notary has an obligation to create authenticity from the deeds he makes. To obtain legal certainty in a deed made by a notary, it is necessary to fulfill the formal and material requirements in making a notarial deed. This refers to material truth (*materiele waarheid*) which can be interpreted as the real truth, the essential truth, and the real truth that is sought in the process of proof and can convince the judge in deciding a case. In addition, formal truth (*formeel warheid*) can be interpreted as the truth obtained based on formal evidence submitted to the trial whose truth is only proven based on the evidence submitted. It is known that the Notarial Deed in this case related to the transfer of rights to shares made by a Notary has the function of providing legal certainty for the seller and buyer of shares, in terms of a formal function which means that a legal act in this case the transfer of rights to shares will be more complete if a Notarial deed is made, as well as a means of proof where the making of the deed by the parties bound by an agreement is intended for proof at a later date.

Based on the description above, notaries face various obstacles in ensuring the validity and legal certainty for notaries in carrying out their duties and obligations, such as Regulatory Inconsistency, Lack of Specific Guidelines for Notaries in the IPO Process, Inaccurate or Incomplete Data and Documents, Issuers' Ignorance of Capital Market Regulations, Rapid Regulatory Changes, Complexity of Capital Market Transactions, Limited Access to Digital Information and Inconsistencies Between National Law and International Practices. These obstacles can hamper the administrative process, create legal risks, and affect the trust of capital market players. To overcome these obstacles, solutions are needed such as better data validation, education for issuers, improving notary competency, collaboration with related parties, developing an integrated digital system, and aligning national regulations with international standards. Thus, notaries can carry out their role optimally to create legality and legal certainty in capital market transactions.

4. Conclusion

The Role of Notaries as a Supporting Professional in Capital Markets in Companies that Will Carry Out an Initial Public Offering (IPO) on the Indonesian Stock Exchange includes the preparation of authentic deeds to ensure the validity of the implementation of the General Meeting of Shareholders (GMS) and changes to the articles of association, preparation of the necessary deeds of agreement, official reporting to the OJK, as well as the preparation of authentic deeds specifically for the initial public offering of shares, conducting an in-depth analysis of the required company documents. The scope of this examination includes the company's deed of establishment, articles of association, and all documents related to changes to the articles of association. The main focus of this examination is on the validation of the General Meeting of Shareholders (GMS), both annual and extraordinary. Notaries are expected to be able to carefully examine various important aspects,

such as the fulfillment of quorum requirements, voting mechanisms, and the validity of decisions taken. A thorough examination also includes the necessary official documents, such as a letter of approval from the Ministry of Law and Human Rights, proof of company registration in accordance with applicable regulations, and documentation of announcements in the State Gazette of the Republic of Indonesia, in addition to authentic deeds made in the context of implementing the IPO, notaries also play a role in making all types of agreements in relation to the initial public offering of shares, facilitating discussions between parties before drafting a contract, with the aim of creating legal documents that truly reflect good intentions and shared commitments so that the role of a notary is not merely administrative, but strategic in supporting the integrity and sustainability of the legal process in the capital market realm with the main objective of providing protection and legal certainty for all parties involved in the IPO process. Obstacles faced by notaries in carrying out their profession as Capital Market Supporters in Companies that will Carry Out Initial Public Offerings (IPOs) on the Indonesia Stock Exchange such as regulatory inconsistencies, Lack of Special Guidelines for Notaries in the IPO Process, inaccurate or incomplete data and documents, issuers' ignorance of regulations, rapid regulatory changes, the complexity of capital market transactions, limited access to digital information, and potential inconsistencies between national laws and international practices. These obstacles can hamper the administrative process, create legal risks, and affect the trust of capital market players. To overcome these challenges, solutions are needed such as better data validation, education for issuers, improving notary competency, collaboration with related parties, development of integrated digital systems, and alignment of national regulations with international standards. Thus, notaries can carry out their role optimally to create legal validity and certainty in capital market transactions.

5. References

Journals:

Faisal Santiago, "Peranan Notaris Dalam Transaksi Saham Pada Pasar Modal Di Bursa Efek Jakarta", *Jurnal Constitutum*, Vol.12, No. 2, April 2013.

Rahma Putri Prana, "Peran Notaris sebagai Profesi Penunjang Pasar Modal dalam Upaya Perlindungan Hukum terhadap Investor untuk Menghindari Kerugian Akibat Praktik Manipulasi Pasar di Pasar Modal," *Jurnal Ilmiah Hukum Kenotariatan* (Vol 8, No. 1, Mei 2019).

Books:

H. Budi Untung. (2012). *Hukum Bisnis Pasar Modal*, Yogyakarta: Andi Perkasa Putra.

Soebekti, R., & Gunawan, D. (2012). *Kamus Istilah Hukum: Notariat dan*

Peradilan, Jakarta: Prenada Media.

Soerjono Soekanto. (2005). *Pengantar Penelitian Hukum*, Jakarta: Universitas Indonesia Press.

Tan Thong Kie. (2011). *Serba Serbi Praktek Notaris*, Buku I Cet.2. Jakarta: PT. Ichtiar Baru Van Hoeve.

Interview:

Direct interview with Mrs. Retno Hertiyanti, SH, MH, Notary in Semarang City who is registered with the Financial Services Authority as a Notary Supporting Capital Market in Semarang City, on 28 October 2024 at 13.46 WIB at the Notary Office on Jl. Wologito Utara No.66, Kalibanteng Kulon, West Semarang District, Semarang City, Central Java