

A REVIEW OF THE LAW AND PROFESSIONAL PRACTICES ON THE ROLE OF NOTARIES IN REGULATION OF THE CAPITAL MARKET IN INDONESIA

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Abstract

This study examines the legal and professional practice of the role of notaries in regulating capital markets in Indonesia, focusing on the functions and responsibilities of notaries as public officials who play a role in ensuring legal certainty over documents and agreements that form the basis of capital market activities. In a regulatory context, the role of notaries is regulated by Law Number 2 of 2014 concerning the Office of Notaries, Law Number 8 of 1995 concerning Capital Markets, and various implementing regulations from the Financial Services Authority (OJK). Using a normative juridical approach, this study examines the involvement of notaries in the process of registering securities issuances, drafting deeds of establishment and amendments to issuers' articles of association, as well as ratifying underwriting agreements and information disclosure in the capital market. The results indicate that notaries play a strategic role in maintaining transparency, legality, and accountability in capital market activities, while also acting as a bridge between legal interests between issuers, investors, and regulators. However, field practice still presents challenges, such as a lack of understanding of capital market instruments among notaries and the potential for conflicts of interest in carrying out their duties. Therefore, it is necessary to improve the professional competence of notaries and align their professional code of ethics with the principles of good corporate governance to strengthen the integrity and effectiveness of legal oversight in the Indonesian capital market sector.

Keywords: Notaries, Capital Markets, Legal Certainty, Financial Services Authority, Professional Responsibility.

INTRODUCTION

The capital market plays a strategic role in driving economic growth, connecting companies in need of funding with those with excess funds. Through securities transactions such as stocks and bonds, the capital market serves as a key instrument in supporting business growth, national financial stability, and economic equality. In Indonesia, capital market activities are comprehensively regulated by Law Number 8 of 1995 concerning Capital Markets (the Capital Markets Law), which provides the legal basis for various activities in the capital market, including supervision, regulation, and protection of market participants. In carrying out its functions, the capital market involves various supporting professions, including the legal profession. One profession that makes a significant contribution is the notary. As a public official regulated by Law Number 30 of 2004 concerning the Position of Notary Public, as amended by Law Number 2 of 2014 (the Notary Positions Law), notaries have the authority to draw up authentic deeds and ensure the legality and validity of documents used in capital market transactions. This responsibility makes notaries a pillar in ensuring legal compliance in every transaction in the capital market. Notaries have an important role at various stages in capital market transactions, including:

1. Before a company can go public and offer its securities on the capital market, a notary is responsible for drafting and ratifying the company's articles of association. This is in accordance with Article 15 of the Notary Law, which states that notaries are authorized to draw up deeds required by law or desired by the parties to ensure legal certainty. In the capital market context, amendments to the articles of association are often necessary to meet the requirements for public companies, as stipulated in Article 1(22) of the Capital Market Law.
2. Notaries are also involved in the preparation and ratification of documents that form the basis of securities issuance agreements between issuers and capital market supporting institutions, such as underwriters. This is crucial to ensure the validity of the agreement and protect the rights and obligations of all parties involved.

3. In the capital market, notaries play a role in compiling minutes of the General Meeting of Shareholders (GMS), which contain strategic decisions of public companies, including approval of corporate actions such as the issuance of new shares (rights issue) or bonds. This duty is based on Article 15 paragraph (2) letter f of the Notary Law, which regulates the notary's obligation to record events attended by the parties to be used as an authentic deed.
4. At each stage, the notary acts as a guardian of compliance with capital market regulations, including those regulated by the Financial Services Authority (OJK) under Article 5 paragraph (1) of the Capital Markets Law. This includes the obligation to comply with legal procedures in issuing securities, information transparency, and investor protection.

The involvement of notaries in the capital market plays a strategic role in creating a safe, transparent, and reliable financial system. As a vital economic instrument, the capital market serves to raise funds from the public and channel them to productive sectors to support business growth and development. In its operations, the capital market involves various parties, from issuers and investors to supporting institutions such as the legal profession, including notaries. The role of notaries in the capital market ecosystem is crucial, particularly in ensuring the legality and validity of documents that form the basis of transactions. This aims to ensure legal certainty, protect the rights of the parties involved, and prevent potential future legal disputes. The legal basis for the role of notaries in the capital market is very clear and comprehensive. Law Number 8 of 1995 concerning the Capital Market establishes basic regulations regarding capital market activities, including the importance of the involvement of the legal profession to support efficient and reliable operations. As public officials, notaries are regulated by Law Number 30 of 2004 concerning the Position of Notary, which was amended by Law Number 2 of 2014. Notaries have the authority to create authentic deeds that serve as strong evidence in court. These deeds cover various aspects, such as the issuer's deed of establishment, guarantee agreements, investment agreements, and deeds related to share transfers. Furthermore, the Financial Services Authority (OJK) Regulation, which governs the technical implementation of capital market transactions, provides guidelines on how documentation must be created and notarized to meet applicable legal requirements.

In practice, a notary is not only responsible for recording and validating documents, but also plays a preventive role, ensuring that the documents being validated meet the formal and material requirements in accordance with applicable law. Notaries serve as guardians of legal certainty, ensuring that the rights and obligations of all parties involved in the capital market are clearly and legally stated in legal documents. This is crucial because capital market transactions often involve significant economic value and involve multiple parties, necessitating adequate legal risk management. For example, in the issuance of shares or bonds, a notary is responsible for drafting and validating supporting documents, such as the deed of guarantee agreement and underwriting agreement. These documents not only ensure the legality of the transaction but also provide investors with a sense of security that their transactions are legally protected. Furthermore, the involvement of notaries in changes to the issuer's corporate structure, such as mergers, acquisitions, or restructuring, is also a crucial element in supporting transparency and legal compliance. Furthermore, the presence of notaries in the capital market contributes to increasing investor confidence, both domestic and foreign. The legal certainty provided through valid and authentic documents creates a conducive investment climate. This aligns with the spirit of capital market regulations aimed at enhancing Indonesia's global competitiveness. With a strong legal foundation and strategic role, notaries' involvement in the capital market is not merely complementary but also a key element in supporting the sustainability of a healthy, transparent, and integrated capital market. Collaboration between notaries, issuers, the Financial Services Authority (OJK), and other relevant parties is a crucial foundation for building a capital market capable of supporting sustainable national economic growth.

METHOD

This research uses a normative juridical approach that focuses on the study of positive legal norms governing the role and responsibilities of notaries in regulating the capital market in Indonesia. This approach was chosen because the research aims to analyze the conformity between applicable legal provisions and the professional practices of notaries in carrying out their duties in the capital market sector. The type of data used in this research is secondary data, consisting of primary, secondary, and tertiary legal materials. Primary legal materials include laws and regulations such as Law Number 2 of 2014 concerning the Position of Notary Public, Law Number 8 of 1995 concerning the Capital Market, as well as Financial Services Authority (OJK) Regulations and other implementing regulations related to the activities of issuers and supporting professions in the capital market. Secondary legal

materials include literature, books, scientific journals, research results, and opinions of legal experts discussing the notary profession and the capital market legal system. Meanwhile, tertiary legal materials are used to support the clarification of legal concepts and terms found in primary and secondary legal materials, such as legal dictionaries, encyclopedias, and official online sources. The data collection technique was conducted through library research by identifying, reading, and analyzing relevant legal documents and literature. The data obtained were then analyzed qualitatively and descriptively, namely by outlining and interpreting the contents of laws and regulations and legal doctrine to identify the relationship between legal theory and notary professional practice. Through this method, the research is expected to provide a comprehensive picture of the strategic role of notaries in ensuring legal certainty, transparency, and legal protection for capital market players in Indonesia.

RESULTS AND DISCUSSION

1. The Role of Notaries in the Capital Market

The role of a notary in the capital market is vital because it provides a strong legal basis for every stage of the capital market process. One of the primary functions of a notary is to ratify the articles of association of a company planning an initial public offering (IPO). Companies planning an IPO must change their status to a public company (Tbk), which is one of the first steps. Under Law No. 40 of 2007 concerning Limited Liability Companies (UUPT), notaries play a role in drafting, ratifying, and submitting new articles of association for companies already registered as public companies. Notaries also ensure that these changes comply with applicable laws and record important decisions at meetings related to the changes. Notaries are not limited to ratifying the articles of association; the legality of securities issuance documents is also a crucial aspect involving the role of a notary. In capital market activities, securities issuance includes the process of issuing shares, bonds, or other financial instruments traded on the stock exchange. This process involves a number of documents that must be carefully prepared, including the underwriting agreement deed and the paying agent agreement deed. These documents are an integral part of the entire securities issuance process. In this regard, the notary is responsible for ensuring that all documents are prepared in accordance with applicable legal requirements and for certifying their validity. This is crucial because valid documents can provide investors and related parties with confidence that the transactions are in accordance with existing regulations and free from legal defects.

Furthermore, in the capital market process, the holding of the General Meeting of Shareholders (GMS) is also a crucial moment that cannot be separated from the role of a notary. The GMS is the venue for strategic decision-making within the company, particularly regarding changes to capital, the issuance of new shares, and decisions related to an initial public offering (IPO). In this regard, the notary not only records the decisions taken at the meeting but also prepares official minutes of the GMS, which document all decisions agreed upon by the shareholders. The presence of a notary in this process ensures that all decisions taken comply with the company's articles of association, applicable laws, and capital market principles. As a public official authorized to draw up authentic deeds, the minutes prepared by a notary are legally binding and serve as valid evidence in the event of any future disputes. Notaries also play a role in verifying the legal compliance of all documents and transactions conducted in the capital market. Notaries are not only involved in the legalization and document preparation process, but also ensure that every step taken by a company, from the decision-making process at the General Meeting of Shareholders (GMS) to the issuance of securities, always complies with the regulations set by the Financial Services Authority (OJK). As the institution that oversees the capital market in Indonesia, the OJK issues various regulations that must be complied with by all parties involved in the capital market, from companies conducting IPOs, investors, and other institutions that support the capital market process. Therefore, notaries play a crucial role in maintaining regulatory compliance, ensuring that all documents and transactions meet the legal standards set by the OJK and other authorized institutions. This not only provides legal certainty for investors and issuers but also enhances the integrity of the Indonesian capital market as a whole.

The role of notaries in the capital market is increasingly relevant with the development of capital market activities in Indonesia, including the presence of companies conducting IPOs and other large transactions. Notaries serve as guardians of the transparency and credibility of capital market transactions, as well as minimizing the potential for legal issues that may arise in the future. In carrying out their role, notaries operate within a clear legal framework, including Law No. 8 of 1995 concerning Capital Markets, Law No. 40 of 2007 concerning Limited Liability Companies, and various other OJK regulations. Therefore, the involvement of notaries in the capital market is not only limited to the legal aspects of documents, but also to creating a conducive environment for investors and issuers, making the Indonesian capital market more organized, transparent, and trustworthy. Notaries play a crucial role in ensuring the validity of deeds drawn up and executed, particularly in the context of capital market

transactions. As public officials regulated by law, notaries are authorized to create authentic deeds that serve as valid and strong evidence. In any transaction involving the capital markets, a notary is responsible for ensuring that the deeds drawn up reflect a valid agreement between the parties, in accordance with applicable laws. Errors or omissions in the preparation of these documents can lead to serious legal consequences, ranging from transaction cancellation to claims for damages. For example, if there is a discrepancy between the documents submitted by the parties and applicable capital market regulations, this could derail the public offering process or cause investors to suffer losses.

Notaries are also required to maintain the confidentiality of the information they receive and document, in accordance with Article 16 of Law No. 30 of 2004 concerning the Position of Notaries, which stipulates the obligation to maintain the confidentiality of all information related to the preparation of deeds. This confidentiality is crucial because many capital market transactions involve sensitive data regarding a company's financial condition, stock prices, or other information that could influence investor decisions. Violations of this obligation to maintain confidentiality can result in financial losses for the parties involved and damage the reputation of the capital market as a whole. Therefore, notaries must always act with professionalism and caution in handling these documents. In carrying out their role, notaries face significant challenges, particularly related to the complexity of capital market transactions. Capital markets often involve complex transactions involving multiple parties with conflicting interests. For example, when a company conducts an Initial Public Offering (IPO), the transaction involves the issuer, potential investors, financial institutions, payment agents, and the authorities overseeing the transaction, such as the Financial Services Authority (OJK). Each of these parties has different objectives, making the transaction increasingly complex. In this situation, a notary must have in-depth knowledge of corporate and capital market law to ensure all legal aspects are covered in the documents being prepared and notarized.

Furthermore, the Indonesian capital market is experiencing rapid and dynamic regulatory changes. The government and the Financial Services Authority (OJK) frequently issue new regulations or revise existing ones to adapt to market developments and national economic needs. These changes can cover aspects such as information disclosure requirements, corporate governance, and technical procedures that issuers must comply with. As professionals, notaries must continuously monitor these developments to avoid errors in the deed-making process and to ensure that transactions remain valid and comply with applicable regulations. Notaries must also maintain a balance between professional independence and client interests. In many cases, notaries are commissioned by issuers or other interested parties to facilitate the preparation of documents in the capital market process, but they must maintain their independence to avoid being influenced by pressure from certain parties. This presents a significant challenge because there is often pressure from interested parties to manipulate documents or conduct transactions that are not entirely legitimate. Therefore, notaries must ensure that they act in accordance with the professional code of ethics and applicable laws and regulations, and maintain their integrity in every action they take.

The presence of notaries in the capital market makes a crucial contribution to creating a healthy and trustworthy investment climate. In capital market processes, whether IPOs or other secondary transactions, notaries serve as guarantees of the validity and legitimacy of the documents required for each transaction. Deeds prepared by notaries provide legal certainty for all parties involved, including issuers, investors, and related institutions. This legal certainty is crucial for increasing public trust in the capital market, as without legal validity in every transaction, investors may hesitate to invest. Furthermore, notaries play a significant role in creating transparency and accountability in the capital market. Notaries are tasked with ensuring that documents produced in the capital market process include all necessary information and that no information is withheld from interested parties, including investors. In this way, notaries play a role in preventing market manipulation practices that can harm investors and undermine the integrity of the capital market. The involvement of notaries also serves to reduce the potential for future legal disputes, as every capital market transaction authorized by a notary has a strong and accountable legal basis.

The role of a notary also encompasses educational aspects for parties involved in the capital market, particularly regarding compliance with applicable regulations. With their knowledge, notaries not only act as witnesses in document preparation but also provide legal advice to issuers and other parties regarding matters that need to be considered in the capital market process. Thus, notaries serve not only as transaction facilitators but also as guardians of legal compliance in the highly dynamic capital market world. Overall, the contribution of notaries to the capital market is crucial for maintaining market integrity, enhancing investor confidence, and ensuring compliance with applicable regulations. Notaries play a role not only in drafting deeds but also in ensuring that

transactions proceed smoothly, legally, and profitably for all parties involved. With the role of notaries, it is hoped that the capital market in Indonesia will continue to develop stably and sustainably.

2. The Role of Notarial Deeds in Guaranteeing Legal Certainty for Parties in Capital Market Transactions

The position of notarial deeds in Indonesian capital market transactions has a very strategic role because this deed is a legal instrument that guarantees certainty, validity, and legal protection for all parties involved. Legally, the authority of a notary is regulated by Law Number 30 of 2004 concerning the Position of Notary Public in conjunction with Law Number 2 of 2014, which emphasizes that notaries are authorized to make authentic deeds that have perfect evidentiary power before the law (Article 1868 and Article 1870 of the Civil Code). In addition, Capital Market Law No. 8 of 1995 emphasizes that issuers and related parties are required to provide true, clear, and non-misleading information (Article 7 and Article 13), so that notarial deeds become an important instrument to ensure the legality and legal compliance of each transaction. Practically, notarial deeds in the capital market are used in various legal acts with strategic implications. First, the deed of establishment and amendments to the articles of association of limited liability companies (issuers). Based on Articles 7 and 13 of the Capital Markets Law and Articles 3 and 15 of the Notary Law, every establishment or amendment to the articles of association must be recorded in a notarial deed to have formal legal force. This deed serves as the basis for listing on the Indonesia Stock Exchange and protects investor rights by ensuring transparency of the company's share ownership and capital structure.

Second, investment agreements and underwriting agreements play a crucial role in ensuring legal certainty and protection for all parties involved in capital market transactions. In this context, notaries are responsible for ensuring that each agreement meets the requirements for validity as stipulated in Article 1320 of the Civil Code, which encompasses four key elements: agreement of the parties, legal capacity of the parties, a specific subject matter, and a lawful cause. With notarial supervision, each of these elements is guaranteed to be fulfilled, ensuring that investment and underwriting agreements are not only formally valid but also possess strong legal legitimacy. Furthermore, notarial deeds provide authentic force to the agreement. This means that documents prepared by a notary have full evidentiary force before the law (Article 1870 of the Civil Code), and can therefore serve as a valid basis in the event of a future dispute. In practice, this is crucial because investment and underwriting transactions often involve significant economic value and high legal risk. With a notarial deed, the rights of both investors and issuers are protected, as every provision and agreement in the agreement has been officially recorded and is legally valid.

Furthermore, notarial deeds also serve as a dispute prevention tool. With the presence of a notary, the parties not only sign the agreement but also receive an explanation of their rights, obligations, and the legal consequences of each clause. This process creates transparency and accountability, thereby minimizing the possibility of disputes or differing contract interpretations in the future. The notary, with their authority, also ensures that the agreement does not conflict with the provisions of the Capital Markets Law (Articles 7 and 13 of Law No. 8 of 1995), the Limited Liability Company Law, or applicable OJK regulations. Third, the deed of implementation of the General Meeting of Shareholders (GMS) plays a central role in strategic decision-making for public companies. The GMS is an official forum where shareholders determine various important decisions, such as the ratification of the annual financial report, the determination of dividends, the appointment or dismissal of members of the board of directors and commissioners, and the approval of significant corporate actions. Based on Article 79 of Law Number 40 of 2007 concerning Limited Liability Companies (UUPT), every decision made at the GMS must be recorded in a notarial deed to have valid and official legal force. With a notarial deed, every GMS decision gains strong legal legitimacy, minimizes the risk of internal conflicts between shareholders and management, and provides legal certainty for investors and interested third parties. In addition, the notarial deed also serves as formal evidence in the event of a dispute regarding GMS decisions, thereby increasing transparency and accountability in the management of public companies.

Fourth, the deed of registration of changes in share ownership and the implementation of other corporate actions, such as mergers, acquisitions, rights issues, or limited public offerings, is an important instrument in maintaining legal certainty and capital market stability. Notaries are responsible for ensuring that all transaction documents comply with the provisions of Capital Market Law No. 8 of 1995, the Limited Liability Company Law (Articles 7, 13, 79), and implementing regulations of the Financial Services Authority (OJK), such as POJK No. 32/POJK.04/2015 concerning capital market support activities. With the involvement of a notary, any change in share ownership or capital structure is not only legally valid but can also be officially recorded with the relevant authorities, such as the Indonesia Stock Exchange or the Ministry of Law and Human Rights. Furthermore, notarial

deeds in this context serve as a dispute prevention instrument. For example, any change in share ownership recorded in a notarial deed provides certainty for existing and new investors regarding their rights and obligations, and minimizes the potential for disputes due to ignorance or differing interpretations of share ownership. Furthermore, notarial deeds enhance corporate certainty and accountability, as all corporate actions affecting capital structure and share ownership are legally and transparently documented. Thus, notarial deeds serve not only as an administrative formality but also as a key legal foundation supporting the stability, integrity, and trust of Indonesia's capital markets.

In addition to serving as valid evidence, notarial deeds also serve as a legal oversight instrument. Notaries are responsible for verifying the compliance of each transaction with applicable laws and regulations, including the Capital Markets Law, the Notary Law, the Civil Code, and OJK regulations. Therefore, notarial deeds play a preventive role in preventing legal violations, unethical practices, and the risk of disputes that could harm investors and issuers. With the development of modern financial instruments and the increasing complexity of the capital market, the role of notaries is increasingly crucial. Notaries not only serve to prepare documents but also to safeguard legal compliance and guarantee legal certainty, ensuring that all capital market transactions are transparent, accountable, and in accordance with statutory provisions. The existence of notarial deeds effectively strengthens the integrity of the capital market and increases investor confidence, ultimately supporting national economic stability and growth. In Indonesian legal practice, notarial deeds play a strategic role in creating legal certainty, particularly in the capital markets sector. Legal certainty is a key principle that ensures that every transaction in the capital markets is conducted legally, transparently, and in accordance with applicable laws and regulations. As a means of mobilizing public funds for economic activities, the capital market requires a mechanism that is not only financially efficient but also legally secure. This is where the function of notarial deeds becomes crucial, as notaries, as public officials authorized to create authentic deeds, play a role in ensuring that every transaction has a strong legal basis.

1) Notarial Deed as Authentic Evidence with Perfect Probative Power

One of the primary roles of a notarial deed is as authentic evidence with absolute evidentiary force in the eyes of the law. In accordance with Article 1868 of the Civil Code (KUHPerdata), a notarial deed has absolute evidentiary force regarding its contents against the party who created it. This means that documents prepared by a notary can be used as valid evidence in resolving legal disputes without the need for additional evidence unless proven to have been forged or procedurally incorrect. In the context of the capital market, this has significant implications. For example, when a company holds a General Meeting of Shareholders (GMS) to approve the issuance of new shares, the decision must be recorded in a notarial deed. This GMS deed then serves as legal evidence that all shareholders have been given the opportunity to express their opinions and approve the company's strategic decisions. In the event of a dispute regarding share ownership or the validity of the decision, the notarial deed can be used as primary evidence in court or before the Financial Services Authority (OJK). Another concrete example is a notarial deed recording the sale or transfer of a majority stake in a public company. This deed is the legal basis to ensure that the transaction is valid and does not harm the interested parties.

2) Ensuring the Legality and Compliance of Transactions with Applicable Laws

In addition to serving as authentic evidence, a notarial deed also serves to guarantee the legality and compliance of each transaction with applicable law. A notary's duty is to ensure that all documents drawn up comply with the provisions of the Law, Financial Services Authority (OJK) Regulations, and other relevant regulations. For example, in a company acquisition or merger, a notary will verify that amendments to the company's articles of association, GMS approval, and OJK requirements have been met. This prevents transactions from being void or detrimental to either party. A concrete example can be seen in the acquisition of a public company where a majority shareholding changes hands. The notary ensures that documents governing changes in share ownership are prepared in accordance with the provisions of Capital Markets Law No. 8 of 1995 and OJK regulations. Thus, a notarial deed serves not only as an administrative tool but also as a means of legal oversight that minimizes the risk of irregularities or unlawful acts.

3) Providing Legal Protection for Investors and Issuers

Notarial deeds also provide legal protection for both investors and issuers through a legally binding written document. Documents prepared by a notary public record the rights and obligations of each party in detail, ensuring that in the event of a dispute, the aggrieved party has a clear legal basis for claiming their rights. For example, when a company issues bonds, the notarial deed contains the bond issuance agreement, the number of bonds, the nominal value, the term, and the terms of interest payments. If the company fails to fulfill its obligations, investors can use this deed as the basis for a lawsuit. Similarly, for issuers, a notarial deed ensures

that all procedures for issuing capital market instruments comply with applicable regulations, thereby avoiding the risk of legal sanctions or lawsuits from regulators.

4) Supporting Transparency and Accountability in Capital Market Transactions

Transparency and accountability are crucial principles in capital markets, as they foster investor confidence and ensure market efficiency. Notarial deeds play a key role in supporting these principles, as every decision, transaction, and change in ownership is officially recorded and verifiable. For example, when a public company announces dividends, the notarial deed will document the GMS decision regarding the distribution of profits. This deed ensures that all shareholders are aware of and can transparently verify the dividend distribution. This reduces the potential for disputes and increases the accountability of company management, as every decision is formally recorded and accountable.

5) The Role of Notaries in Securities Transactions and Share Guarantees

In capital market practice, securities transactions and share underwriting require a notarial deed to be legally valid. A notary records all documents related to share issuance, share underwriting, and corporate debt issuance. For example, when a company conducts an initial public offering (IPO), a notary ensures that the prospectus, financial statements, and GMS approval documents comply with OJK regulations. The notarial deed serves as formal evidence that all stages of the IPO were conducted in accordance with the law, providing investors with a solid basis for assessing the legality and security of their investment.

6) Protection against Legal Disputes

Notarial deeds also play a central role as the primary tool in resolving legal disputes in the capital market. In accordance with Article 1868 of the Civil Code (KUHPerduta), a notarial deed constitutes authentic evidence with absolute evidentiary force regarding the contents of the document, so that every fact recorded in the deed is considered true until proven otherwise. This makes a notarial deed a valid legal basis for dispute resolution, particularly when disagreements arise between minority and majority shareholders regarding a company's strategic decisions, such as approval of corporate actions, asset transfers, or amendments to the company's articles of association.

In addition, Article 15 paragraph (1) of Law No. 30 of 2004 concerning the Position of Notary Public confirms that notaries have the authority to make legally binding deeds, including deeds of General Meeting of Shareholders (GMS), share transfer agreements, and other capital market transaction documents. With a notarial deed, the litigation process can be faster and clearer because the document reflects the facts that occurred and has been officially recorded by an authorized official, thereby reducing the potential for subjective disputes. A concrete example is seen in disputes over the transfer of shares or the issuance of bonds. In the case of the transfer of a majority share of a public company, a notarial deed containing a share sale and purchase agreement can be used as valid evidence in court or in dispute resolution through arbitration. Article 1320 of the Civil Code concerning the requirements for a valid agreement supports this, because a notarial deed guarantees that the consent of the parties is given consciously, without coercion, and the object of the agreement is clear. Similarly, in the issuance of bonds, a notarial deed contains the rights and obligations of the issuer and investors in detail, so that if the issuer fails to fulfill its obligations, investors can enforce their rights based on the deed as formal evidence. In addition to the Civil Code and the Notary Law, notarial deeds in the context of the capital market are also in line with the provisions of Article 5 paragraph (1) of Law No. 8 of 1995 concerning the Capital Market which regulates the need for official documentation to ensure transparency and accountability in securities transactions. Thus, the existence of a notarial deed not only strengthens the legal position of the parties, but also ensures that every transaction in the capital market can be legally accounted for, so that legal certainty and investor confidence are maintained.

7) Relationship with Financial Services Authority (OJK) Regulations

In addition to the Capital Market Law and the Civil Code, notarial deeds are also linked to regulations issued by the Financial Services Authority (OJK). Notaries are tasked with ensuring that all recorded documents and transactions comply with OJK guidelines and regulations, including requirements for financial reporting, share ownership, and securities issuance. This not only protects the parties involved in the transaction but also maintains the integrity of the capital market as a whole. For example, when a company conducts a rights issue, the notary ensures that documents related to shareholder approval, the implementation schedule, and public announcements comply with OJK regulations. Thus, every transaction in the capital market is not only legally valid but also transparent and accountable.

CONCLUSION

1. The Role of Notaries in the Capital Market Notaries play a crucial role in the Indonesian capital market. In processes involving initial public offerings (IPOs) and other capital market transactions, notaries are responsible for ensuring the validity of legal documents, including the articles of association of companies converting to public companies, securities issuance deeds, and minutes of General Meetings of Shareholders (GMS). Furthermore, notaries also ensure compliance with regulations set by the Financial Services Authority (OJK) and the Indonesia Stock Exchange (IDX), which provide legal guarantees for issuers and investors. By attesting documents and verifying the legality of transactions, notaries maintain transparency and credibility, and reduce the potential for legal disputes in the capital market. With the role of notaries, the capital market in Indonesia becomes more organized, transparent, and trustworthy, creating a safer and more sustainable investment environment.
2. Notarial deeds play a crucial role in capital market transactions. They not only serve as legally valid, authentic evidence but also as an instrument that guarantees legal certainty and provides protection for all parties involved, including issuers, investors, and third parties. With notarial deeds, capital market transactions can be conducted with greater transparency, accountability, and integrity, thus supporting a healthy investment climate. However, the effectiveness of notaries in capital market practices still faces several challenges. These challenges include the ever-evolving complexity of capital market regulations and the limited capacity and understanding of capital market instruments and practices among some notaries. This demonstrates that notarial deeds, while crucial, require support from various parties to function optimally.

SUGGESTION

To increase the effectiveness of the role of notaries in capital market transactions, several steps need to be taken. First, notaries need to continuously improve their understanding of capital market regulations and practices through ongoing training, specialized certification, and training on the latest capital market instruments. Second, the government and the Financial Services Authority (OJK) need to strengthen regulations governing notaries' involvement in capital market transactions, ensuring a clearer and more defined role and responsibility. Third, issuers and investors should always involve notaries in every important legal transaction to ensure legal certainty and protection for all parties. Fourth, closer cooperation is needed between notary associations and capital market authorities to align legal understanding and best practices, so that notaries' role in supporting a healthy capital market can be maximized.

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