

**DEMUTUALIZATION OF INDONESIA STOCK EXCHANGE  
AS A STRATEGIC MEASURE AND A MEANS TO IMPROVE  
EFFICIENT TRADING**

Created by: Achmad Ragil

Dion Kusuma

**Abstract**

*The purpose of establishment of Indonesia Stock Exchange is to run the securities trading which orderly, fair and efficient. The demand for the implementation of good corporate governance is one of the issues to attract the interest of potential investor on capital market in a state. Driven from article 8 of law number 8 of 1995 that the member of Indonesia Stock Exchange is also the shareholder of the stock exchange. By that, many possibilities of problems may occur such as crime in the form of fraud, manipulation of market, and insider trading. The problem statements are: Has the structure of Indonesia Stock Exchange nowadays implemented the Good Corporate Governance principles in order to create orderly, fair and efficient trading exchange?; Why is demutualization necessary by Indonesia Stock Exchange to create orderly, fair and efficient trading exchange?. The result of this research shows that the implementation of good corporate governance principle is not well implemented yet due to the conflict of interest between existing structure owners and the legal status of Indonesia Stock Exchange is not in accordance with the Law Number 40 of 2007 about Indonesia Limited Liability Company Law. And demutualization is considered as a solution to increase the quality of corporate governance, for instance, in the issue of conflict of interest by separating the ownership from the membership and trading rights so that it can lead into proper running of the stock exchanges which is orderly, fair and efficient trading. This research recommends the amendment of article 8 of Law Number 8 of 1995, and conducting the demutualization in the form of establishing a holding company.*

**Keywords:** *Demutualization, Indonesia Stock Exchange, orderly fair and efficient trading.*

**A. Background**

The capital market<sup>1</sup> plays significant role in the national economy. It mobilizes funds from people for further investments in the productive channels of economy, activating idle monetary resources and put them in proper investments<sup>2</sup>. Capital market unites the fund suppliers with the fund users in the purpose of *middle-term investment* and *long-term investment*. Capital

markets consist mainly equity and debt instrument, it provides an avenue for raising the financial needs of business through equity and long-term debt by attracting investors with kinds of investments<sup>3</sup>.

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<sup>1</sup> According to Rosenberg: Capital Market is “the place through which the buying and selling of stock for the purpose of profit for both buyers and sellers of the security take place”.

<sup>2</sup>[http://www.finance.gov.pk/survey/chapter\\_12/06-CapitalMarkets.pdf](http://www.finance.gov.pk/survey/chapter_12/06-CapitalMarkets.pdf) page 81 accessed on 22nd October 2015 at 10.23pm.

<sup>3</sup> Supra note at 2, p. 81.

Stock exchanges are pillars of a nation's economy<sup>4</sup>. Stock exchange<sup>5</sup> have been viewed as an important catalyst of economic growth. They provide an organized market for the trading of securities to individuals and organizations which intend to invest their saving or excess funds through the purchase of securities. This market is regulated by established rules that promote and maintain fair, efficient, secure and transparent market and facilitate the orderly development of the stock exchange<sup>6</sup>. A fair and efficient performance of a stock exchange is a substantial benefit to the public.

In Indonesia, the capital market<sup>7</sup> also play a significant role along with banking institution, this is due to the contribution of capital markets which contribute to Indonesian economy as one of the financing in business and investment area<sup>8</sup>. The capital which is traded in capital market is in the form of commercial paper or in the financial terminology is known as securities<sup>9</sup>. The term of securities can be defined

as promissory notes, commercial paper, shares, bonds, evidences of indebtedness, mutual fund of collective investment contracts, futures contracts related to securities and all derivatives<sup>10</sup> of securities<sup>11</sup>.

The structure of Indonesia Stock Exchange<sup>12</sup> is different from the most of structure of Stock Exchange in the world, for example, London Stock Exchange, Hong Kong Stock Exchange and New York Stock Exchange whereas a process of continuing an organization from its mutual ownership structure to a share ownership structure which is known as Demutualization<sup>13</sup>. The members of mutually owned exchanges that are, Broker-Dealer dealers with "seats" on the exchange are also its owners, with all the voting rights conferred by ownership<sup>14</sup>. In contrast, a demutualized exchange is a limited liability company owned by its shareholders. Trading rights and ownership can be separated; shareholders provide capital to the exchange and receive profits, but they need not conduct trading on the

<sup>3</sup>Subhashish Saha, *Stock Exchange Demutualization and Self-Regulation*, Securities and Exchange Board of India Mumbai, Preliminary Draft, September 5, 2015, page 2.

<sup>4</sup>According to Rosenberg: Stock Exchange is "the organization that provides a market for the trading of stocks and bonds".

<sup>5</sup>Arwa M. Morsy, *The Impact of Demutualization on the Performance of Stock Exchanges*, Maastricht School of Management, 2007, p. 7.

<sup>6</sup>Based on Indonesian Law Number 8 of 1995 specifically on article 1 point 13, Capital Market is "the activity of trading and offering securities to the public, the activity of a public company with respect to securities issued, and the activities of securities-related institutions and professions".

<sup>7</sup>C.S.T. Kansil, *Pokok-Pokok Hukum Pasar Modal*, Jakarta, Pustaka Sinar Harapan, 2004,

p. 1

<sup>8</sup>M Paulus Situmorang, *Pengantar Pasar Modal*, Mitra Wacana Media, Jakarta, 2008, p. 4.

<sup>9</sup>"Derivatives" refers to rights that are derived from either debt or equity Securities, such as Options or Warrants."

<sup>10</sup>Article 1 poin 5 of Law Number 8 of 1995 about Indonesian Capital Market.

<sup>11</sup>The structure of Indonesia Stock Exchange is non-profit mutual organization.

<sup>12</sup>Arwa M. Morsy, *Op.Cit.*, p. 8.

<sup>13</sup>For more discussion on ownership issue, see, for example, Report of the Technical Committee of the International Organization of Securities Commissions, "Issues Paper on Exchange Demutualization." 2001 and Jennifer Elliot, "Demutualization of Exchanges – The Regulatory Perspective." 2000, International Monetary Fund Technical Note.

exchange. And as discussed later, although demutualized exchanges will continue to provide many if not most of the same services, they will have different governance structures in which outside shareholders are represented by boards of directors.<sup>15</sup> Demutualization, in the strictest sense, refers to the change in legal status of the exchange from a mutual association with one vote per member and possibly consensus-based decision making, into a company limited by shares, with one vote per share with majority-based decision making<sup>16</sup>.

In the process of Demutualization, The demand for the implementation of good corporate governance is one of the issues to attract the interest of coming investor on capital market in a state<sup>17</sup>. Because the more implementation of the principle of good corporate governance is conducted, it will automatically give good impact for the sustainability of capital market in general and as an indication of good treatment towards shareholders<sup>18</sup>. It is agreed that the important of shareholder's rights to get accurate information and on time. And also became the responsibility of the company to conduct the disclosure

accurately, on time and transparently regarding information on company's performance, ownership, and stakeholder.<sup>19</sup>

Corporate Governance is a set of rules which regulate the relationship between shareholders, managers of the company, creditors, government, officers and the internal stakeholders or its external which related to their rights and obligations or in the other word is a system which regulates and manage the company<sup>20</sup>.

In this Journal, I will be explained whether the structure of Indonesia Stock Exchange nowadays implemented the Good Corporate Governance to create orderly, fair and efficient trading exchange and why is demutualization necessary by Indonesia Stock Exchange to create orderly, fair and efficient trading exchange.

## **B. Main Study**

### **1. The Implementation of Good Corporate Governance in Indonesia Stock Exchange**

- a) The implementation of Good Corporate Governance Principles in Indonesia Stock Exchange:
  - 1) Fairness;

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<sup>14</sup> Reena Aggarwal, *Demutualization and Corporate Governance of Stock Exchanges*, Washington D.C. McDonough School of Business Georgetown University, 2002, p. 6.

<sup>15</sup> Shamsad Akhtar, *Demutualization of Asian Stock Exchanges – Critical Issues and Challenges*, in *DEMUTUALIZATION OF STOCK EXCHANGES: PROBLEMS, SOLUTIONS AND CASE STUDIES*, Asian Development Bank, 2002, p. 4.

<sup>16</sup> Ridwan Khairandy dan Camelia Malik, *Good Corporate Governance Perkembangan Pemikiran dan Implementasinya di Indonesia dalam Perspektif Hukum*, Yogyakarta, Kreasi Total Media, 2007, page 1.

<sup>17</sup> Hamud M. Balfas, *Hukum Pasar Modal Indonesia*, Jakarta:PT Tatanusa, 2007, p. 231.

<sup>18</sup> Ridwan Khairandy, Camelia Malik, *Op.Cit.*, page 2.

<sup>19</sup> See, *Tata Kelola Perusahaan*, Forum for Corporate Governance in Indonesia, jilid I edisi ke-2, 2001, page 3. Whereas according to Robert A.G. Monks and Nell Minow, *Corporate Governance*, edisi kedua, 2001, page 1, stated that “*Corporate Governance is the relationship among various participants in determining the direction and performance of corporations.*”

Since the parties who are able being the shareholder of Indonesia Stock Exchange are only Broker-Dealer. Whereas based on Article 8 of Law Number 8 of 1995 has specifically defined that the one which is able being the shareholder of Stock Exchange is Securities Company which hold business license to conduct the activity as Broker-Dealer. Based on the explanation on article 8, the purpose of Stock Exchange is to provide system and or facility of securities trading and parties which are able to conduct securities trading in Stock Exchange is only Securities Company which are conducting activity as Broker-Dealer, so that the shareholder is limited only to Securities Company which hold business license from OJK as the Broker Dealer.

This type of relationship may lead to a non-favourable situation in the enforcement of membership regulation and the other capital market regulations, in which at the very first place that the role and purpose are to protect the public interest. Due to the nature of the relationship between on the one hand that the securities company is a shareholder of stock exchanges, and on

the other hand he is a member of the stock exchanges, it becomes difficult. This relationship is indeed very possible causes the conflict of interest between these two statuses. Because in one side that the board of exchanges must protect and respect the shareholders, which have great power, but on the other side the board of exchanges also must have the courage to undertake disciplinary action on members which violate the regulations.

Despite of Indonesia Stock Exchange is a limited liability company but the element of membership is existed because there must be a separation of status as in between shareholder and member. Thus in one side that the securities company as the member of stock exchanges and also in other side as the shareholder of the exchanges<sup>21</sup>. Consequently, if the Securities Company is no longer becoming the member of stock exchange because he has no longer fulfil the requirement anymore, therefore that Securities Company is automatically not becoming the shareholder of stock exchange and within three months that Securities Company shall sell his share to another

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<sup>20</sup> See Point II of Regulation III-A about the Membership of Stock Exchanges.

Securities Company which still as the member of exchange<sup>22</sup>.

The provision which regulates on annual budget plan of stock exchange and the use of Stock Exchange's profit shall be arranged in accordance with the provision that determined by OJK and reported to him in order to get approval, Indonesia Stock Exchange is forbidden to distribute dividend toward his shareholders from the profit that have been gained and those profits shall be used for the interest on the development of company, it is set up as the form of limitation on that sense of profit oriented<sup>23</sup>. Automatically, as the consequence of this provision that this will lead to a contradiction between Capital Market Law and the Indonesian Limited Liability Company Law. Whereas based on Article 52 point 1 (a) has been defined that a share gives rights for its shareholders for accepting a dividend.

2) Disclosure;

Indonesia Stock Exchange is non-profit motive, while theoretically, the purpose of common company is for-profit motive. This shall be

clarified and evaluated deeply, on which part that Indonesia Stock Exchange shall be non-profit motive; however the Indonesia Stock Exchange still gain profit from its activities by organizing the securities trading activities. Moreover the function as a marketplace which gives a responsibility to supervise the market mechanism directly, this is difficult for Indonesia Stock Exchange to keep its objectivity, independency and uphold the transparency to public.

The characteristic of Indonesia Stock Exchange as SRO has not answered the question whether that company is actually non-profit motive or not. Because those characteristics cannot be strongly being used to argue that the company is non-profit motive. Speaking of the fact that from the listing fee and transaction fee can be collected profit therefore that stock exchange as SRO's company cannot be said as non-profit motive, based on the Government Regulation Number 45 of 1995 about the Activities in Capital Market has been clearly admitted that the existence of profit within that company<sup>24</sup>.

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<sup>21</sup> Nindyo Pramono, *Menyibak Masa Lalu, Menggapai Masa Depan Pasar Modal Indonesia Menuju Milenium III*, Capital Market Law Journal No.25 vol.11, page 11.

<sup>22</sup> *Ibid*, page 12.

<sup>23</sup> *Ibid*, p.12

Consequently, this answers a question that stock exchange is basically for profit oriented and in accordance with the Indonesian Limited Liability Company Law.

The problems above can be analysed based on the practice whereas there shall be a problem inside, it might be caused by gap interest between the shareholders as the owner of company and the board of company as the agent. Shareholders have an interest in order that their fund which had been invested gives a maximum return. While the board of company has interest toward the incentives gained from the fund management of shareholders<sup>25</sup>. This conflict of interest naturally will happen in the ownership structures consist of two types, which are dispersed ownership towards outside investors and ownership structures with the control on some concentrated ownership (Centralized Ownership)<sup>26</sup>.

When ownership structure of Indonesia Stock Exchange is centralized ownership, this will lead to monopoly control and less in the

maximizing the implementation of good corporate governance principles, because it tends to lead the conflict of interest inside the company moreover the majority of boards of company come from the parties which has direct interest with the organization of stock exchange. Therefore its independency and integrity and also the fiduciary duties of the boards of company are really questionable. When the corporate governance is not well implemented yet by Indonesia Stock Exchange, this will become a barrier for him to run the capital market in Indonesia which is orderly, fair and efficient. And it is even also very difficult to compete with others capital market in the world.

### 3) Accountability;

Concerning on the appointment of directors and commissioners of stock exchange, this kind of appointment is also different with common company. As has been regulated in Regulation Number III.A.3 about the requirement of director candidates and commissioner candidates of stock exchange and

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<sup>24</sup> Antonius Alijoyo dan Subarto Zaini, *Komisaris Independen*, Jakarta, PT Indeks, 2004, page 7.

<sup>25</sup> Indra Surya dan Ivan Yustivandana, *Penerapan Good Corporate Governance: Mengesampingkan Hak-Hak Istimewa Demi*

*Kelangsungan Usaha*, diterbitkan atas kerjasama dengan Lembaga Kajian Pasar Modal dan Keuangan (LPMK) dan Fakultas Hukum Universitas Indonesia, Jakarta: Kencana, 2006, page 3.

BAPEPAM chairman decree Number: Kep-04/PM/1996, 17th of January 1996, had been defined that the name of directors and commissioners candidate can be proposed in one package of director or commissioner candidates by a group of shareholders which have been fulfilled certain requirement based on the total frequency and trading value in the stock exchange.

Beside that functioning as supervisor upon the directors' deed, the board of commissioners also shall be consisted from the representative of several parties which has direct interest with the organization of stock exchange, those are issuer, representative of stock exchange's member, representative of investor and representative of government<sup>27</sup>. This kind of appointment may lead to a conflict of interest between those parties because they may have their own interest at the very first place. Therefore mechanism of appointment shall be evaluated such as the parties may not come from the direct interest with the organization of stock exchange.

The corporate governance structure specifies the roles of

different participants in the organization. It provides a mechanism through which the objectives of the company are set, and for attaining those objectives and monitoring performance. Good Corporate Governance is an important step in building market confidence and encouraging more stable, long-term domestic and international investment flows. The corporation is viewed as an increasingly important driver of wealth creation. To serve this wealth creating function, corporate must operate within a framework that keeps them focused on their objectives and accountable for their actions.

#### 4) Responsibility.

Indonesia Stock Exchange at least has two responsibilities; those are towards its shareholder and towards its stakeholder. On its implementation, the responsibility towards its shareholder is considered well implemented by protecting their interest. But, responsibility towards its stakeholder including the public interest is not fully implemented yet because the performance of Indonesia Stock Exchange on running its function and duty to organize the securities trading activities

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<sup>26</sup> Nindyo Pramono, *Op.Cit.*, page 12.

in Indonesia is still questionable due to its objectivity and independency.

A fact that shall be faced by Indonesia Stock Exchange is there are two interests those are investors' interest and issuers which listed its securities in market. The role of exchange is very important on this condition, therefore each of the board of company and all the parties within the exchange shall uphold their responsibility. The implementation of fiduciary duties are considered less maximum due to the composition of board of company which come from the parties which have direct interest towards the organization of stock exchange.

b) The Essence of Regulatory Role of Indonesia Stock Exchange should be like:

1) Organizing a Market and Setting Its Rules;

Indonesia Stock Exchange predate government agencies as regulators of equity trading markets, in fact, regulating the trading process was the primary goal behind the establishment of an organized stock market. Exchange constituted an attempt by a group of brokers to take control of trading in certain equities so as to offer more streamlined trading conditions through

increased liquidity in exchange for a fee. As a result, setting out rules that define the operation of the market was inherent in the notion of an exchange. The aim of member regulation was to ensure that all market participants would be reliable trading partners. Thus, Indonesia Stock Exchange sought first to establish certain eligibility criteria to maintain a high-quality marketplace.

2) A Public Interest Role for Exchange;

While rulemaking for members, listed companies, and trading processes has been a key feature of an organized marketplace, the central role exchanges play in the economy has lent an important public interest perspective to their regulatory function. The exchange is the main gateway through which corporate issuers access public financing, and thus their interest in maintaining a high-quality marketplace coincides with the public goal of more efficient allocation of resources. The exchange should provide liquid secondary markets, which are a precondition for effective primary markets. In addition, exchange offers others functions that are also beneficial to the wider investing public.

3) Keep Its Independency and Strict on the Purpose.

Stock Exchange as SRO shall keep its independency on running its

function and duties, there shall be no intervention from other parties. Therefore, ensuring that directors and other board of company act in a company's best interest, as opposed to their own self-interest is a must.

## **2. The Necessity of Demutualization Conducted by Indonesia Stock Exchange**

### **a) Reasons and forces that led to demutualization of Indonesia Stock Exchange**

#### **1) Conflict of interests between the existing owners and affiliated parties;**

Driven from article 8 of Law Number 8 of 1995 defined parties which are allowed being shareholders of Indonesia Stock Exchange are members which hold business license as broker dealer whereas this causes some problems presented above. Such quality standard of good corporate governance is not implemented well yet and still questionable.

In the mutual exchange such as Indonesia Stock Exchange, the main problem is the imbalance between members/owners' interest with the investor's interest. Just as stock exchanges become more and more sophisticated, the interests of various member groups began to diverge. This has led to tremendous tensions in the governance and decision-

making of stock exchanges. In some sense, demutualization can be perceived as a solution of conflict of interest by segregating the ownership from the membership and trading rights thus allowing a proper running of the stock exchanges' management. Also by transforming itself into a for-profit investor owned organization, the boards of company of stock exchange are able now to focus on a single group, its owners.

Conflict of interest can be managed in a number of ways, notably by reorganizing the corporate structure of the exchange itself. Many demutualized exchanges have addressed conflicts of interests by dividing their business branch from their regulatory branch. The legislation provides another means by which conflicts of interest can be managed. Therefore, by avoiding this conflict of interest, it will automatically increase the quality of corporate governance in the securities exchange activities especially on the stock exchange organization such as Indonesia Stock Exchange nowadays whereas good corporate governance standard has become a problematic issue.

- 2) Increasing role and competition from the alternative trading systems;

The technological improvements from the last decade offered the possibility of conducting trades using remote connections and thus a number of alternative trading platforms have risen. This fact put a lot of pressure on the traditional stock exchanges in the way that they were pushed to adopt new and more efficient electronic trading systems. One interesting fact is that in Europe where the process of demutualization started much earlier than in the rest regions of the world the weight of the Electronic Communication Networks (ECNs) is still very small and not significant. By following the demutualization path the European stock exchanges were able to gain more operational freedom. The new electronic trading systems which were adopted by stock exchanges allowed them to reduce the importance of regional location in the process of executing trades.

- 3) Mergers between financial exchanges around the world.

Mergers and acquisitions also can be

viewed as a factor that fastened the process of demutualization, because this gives the opportunity for stock exchanges to face the reality of the changes in the capital market environment, enhance available synergies and even to survive. From the most recent merger news, NASDAQ Stock Market declared that it is now in the last stage of a definitive agreement with Philadelphia Stock Exchange concerning the acquisition of the later one<sup>28</sup>.

The present tendencies show that the factors that have supported the demutualization of stock exchanges are going to be important in the future as well. The non-profit organization structure is in many aspects too limited and is frequently driving to decision blocking as competing interests influence the stock exchange. Most of stock exchanges have accepted this and already transformed themselves into for profit corporations.

- b) two types of demutualization that can be chosen by Indonesia Stock Exchange, those are<sup>29</sup>:

- 1) Direct Demutualization, in this model of demutualization, each of SROs which will

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<sup>27</sup> Saadia Altaf, *Demutualization of Stock Exchanges, A Case Research: London Stock Exchange and Hong Kong Stock Exchange*,

Master Degree Project in Economic and Finance, University of Skovde, page 18.

<sup>28</sup> Nindyo Pramono, *Op.Cit.*, page 15.

conduct demutualization each other by conducting public offering of share towards other parties; and

- 2) Holding company, in this model of demutualization, the Stock Exchange organization, and existing SROs will establish the holding company as the majority shareholder of 100% and the SROs will be the sister company which runs the regulatory function of securities exchange activities. Holding company will conduct the public offering or become the public company, while the SROs and or some supporting services organization will be run by sister company.

Subsequently, a three-step process toward demutualization ensued<sup>30</sup>:

- 1) Issuance of private placed stock;
- 2) Conversion into exchange status; and
- 3) Issuance of public stock.

There are three distinct models for the division of regulatory responsibility for securities markets, namely<sup>31</sup>:

- 1) Government-led Model

This model provides central governments with direct channels of influence over securities markets regulation. These jurisdictions reacted to stock exchange demutualization by enhancing the efficiency of government supervision: they reshuffled the organization of their administrative agencies and

increased their already strong regulatory powers.

- 2) Flexibility Model

This model relied heavily on market participants and granted them significant leeway in regulating many aspects of their activity. “For-profit” stock exchanges pose greater challenges for these jurisdictions. In response to demutualization. Flexibility Model countries curtailed the powers of SROs and enhanced oversight by administrative agencies. Yet, administrative agencies in these jurisdictions maintain a regulatory philosophy of cooperation with market participants, and typically issue guidance rather than mandatory rules.

- 3) Cooperation Model

In this model, the regulatory power of stock exchanges extends over most issues, but is exercised under close supervision by government agencies. Instead of substantially limiting self-regulation, governments in the Cooperation Model developed mechanism to insulate stock exchange regulatory activity from the operation of the markets. Thus, under government influence, stock exchanges segregated their regulatory functions in a separate, independently-run subsidiary.

<sup>29</sup> Jaclyn Freeman, *Limiting SRO Immunity to Mitigate Risky Behaviour*, Journal on Telecommunication & High Technology Law, 2014, page 9.

<sup>30</sup> Stavros Gadinis and Howell E. Jackson, *Markets as Regulators: A Survey*, Southern California Law Review, 2007, page 4.

Demutualization is advanced capital market appear to have been driven by business considerations rather than by regulatory concerns, although in cases such as the NASD/Nasdaq, increased security by regulators has resulted in a re-engineering of governance structure that is compatible with the changes necessary to a demutualization. However, in emerging market countries such as in Asia, regulatory concerns may be the impetus for demutualization which seem, more often than not, to be driven by the authorities in an attempt to wrest control of an institution that serves a public role and as regulator from a self-interested group of brokers, the traditional model fails to deliver an appropriate level of regulation or fails to sufficiently develop the capital markets because the exchange is controlled by the interests of the members which may not be the same interests as those of capital market as a whole. Thus, from the explanation above that the need of demutualization conducted by Indonesia Stock Exchange is very urgent due to the current situation happened in Indonesia Capital Market structure and also in the near future.

### **C. Conclusion and Recommendation**

#### **1. Conclusion.**

By some previous explanations, therefore it can be concluded as follow:

1. The purpose of establishment of Indonesia Stock Exchange is to run the securities trading which orderly, fair and efficient. Therefore the basic purpose of stock exchange is

to provide a sense of security and an adequate level of protection for the investor. A fair and efficient performance of a stock exchange is a substantial benefit to the public. The spirit of capital market itself is on the disclosure principle. By the disclosure, people will not only know several activities conducted by certain parties, because there has been information which provided, but by disclosure, it is expected the existence of a public control towards certain activities. The demand for the implementation of good corporate governance is one of the issues to attract the interest of potential investor on capital market in a state. Because the more implementation of the principle of good corporate governance done, it will automatically give the good impact for the life of capital market generally and as the indication of the good treatment towards shareholders. When Good corporate governance is not yet being well implemented by Indonesia Stock Exchange, it will be a significant barrier to run the capital market in Indonesia accordingly to the principle of orderly, fair and efficient.

2. Demutualization can be considered as a solution to increase the quality of corporate governance. Also by transforming itself into a for-profit investor owned organization, the managers of

the stock exchange are able now to focus on a single group, its owners. Therefore the demutualized exchange will have different governance structures in which outside shareholders are represented by boards of directors. Demutualization will only shifting its function to be more focus on its duty as rulemaking and regulatory body during the securities exchange activities. Demutualization is at least perceived to create separating lines between the profit motive of an exchange and its regulatory function, there have been numbers of major changes such as separating the function of SRO to focus on the regulatory function and then making the holding company for profit only thereby avoiding and reducing some of the conflicts of interest issues.

## 2. Recommendation

- a. There should be an amendment of article 8 of Law Number 8 of 1995, whereas the structure of ownership should be changed in order to increase the quality of corporate governance and strengthening the regulatory framework. Thus it will automatically give a positive impact to create orderly, fair, and efficient trading in Indonesia Capital Market.
- b. The demutualization conducted by Indonesia Stock Exchange in the form

of establishing the holding company.

- c. Indonesia Stock Exchange and other SROs shall obey the existing regulations either from the Government or set of regulations which are created by their self as SROs

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### **National Legislation**

Law Number 8 of 1995 about Indonesia Capital Market Law. Amendment of Regulation Number III-A about Exchange Membership by Indonesia Stock Exchange



## PRO NEGOTIUM JUSTITIAE LEGEM

Foreign Investment vs National Development | Urgensi Perlindungan DTLST | Perlindungan Transaksi E-Commerce | Investasi Bank dalam Pasar Modal | Studi Komparasi Pasar Modal Syariah dan Konvensional | Perjanjian Lisensi Hak Cipta di Indonesia | Urgensi Hukum Persaingan Usaha di Indonesia | Bank sebagai Badan Hukum | Ketentuan Hukum bagi Pihak yang Memainkan Kembali Lagu Orang Lain | Demutualisasi Bursa Efek Indonesia

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**Jl. Taman Siswa Nomor 158 Yogyakarta**

contact us : [businesslaw.fhuiu@gmail.com](mailto:businesslaw.fhuiu@gmail.com)