

Legal Aspects Of Prospectus Errors For Capital Market Public Companies In Indonesia

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Abstract:For companies that will increase their business and obtain additional capital can make various efforts, including through bank loans. But it does not rule out the possibility of buying and selling shares (securities) in the Capital Market by making a public offering to both individuals and institutions (companies), by involving the community as investors, of course, the company that sold the shares was a Closed Company changed its status to a Public Company (open) as stipulated in Law No. 40 of 2007 concerning Limited Liability Companies (UUPT) and Law No. 8 of 1995 concerning Capital Market (UUPM). For a closed company that sells shares to the public through a public offering in the Capital Market, it must first provide a document called Prospectus as information about the general description which is used as a guideline for investors to be more interested in buying shares offered, so that the prospectus can be said as a determinant instrument for the issuer (company) so that the investor is willing to buy it, because the prospectus is a determinant, the issuer must provide the right prospectus about the company's information because if there is a mistake the prospectus intentionally carried out by the issuer could be detrimental to investors and other parties, which can raise the legal aspect of the error of the prospectus, including the aspect of civil law because it has harmed others, criminal law aspects because it is considered to have committed fraud and administrative aspects of law because Bapepam as the regulator, supervisor and supervisor in the Capital Market can carry out administrative actions against public companies that have made a mistake in the prospectus in the Capital Market.

Keywords:legal aspects; prospectus errors; public companies; capital markets

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I. INTRODUCTION

In Indonesia The capital market is one of the means or sources of funds for public companies that plan to increase their finances through public offerings, the capital market as a place that is no less important than banks, only the difference between banks other than where to save money is also a place to borrow money, while the market capital is only solely as a place to buy and sell shares for public companies and investors (individuals / institutions) whose purpose is to get financial benefits or to get money. For issuers as owners of companies (limited liability companies) that will develop their businesses certainly require large capital, and the capital can be obtained by selling shares to the public so that companies that are from a closed company status become public companies by way of public offerings through the capital market, as well for the community, both individuals and institutions (investors) who want to make a profit, of course, take advantage of the momentum, with knowledge of documents from the issuer in the form of a prospectus that is considered profitable, investors will certainly buy shares offered by the issuer. If the prospectus that is made by the issuer correctly can certainly provide benefits for the parties who transact shares in the Capital Market, but what if the prospectus contains incorrect information, this can not only harm investors as buyers of shares, but also eliminate trust the public will be aware of Article Capital so that it can simultaneously harm the Capital Market Supervisory Agency (*Bapepam*) as the regulator, supervisor and supervisor of the Capital Market. The number of parties who feel aggrieved over the mistakes of this prospectus creates a broad legal aspect, not only civil law aspects because it starts from the relationship of the sale and purchase of shares (civil), apparently related to other legal aspects, namely criminal law aspects because there is an element of fraud, and not less important is the relationship of administrative law because the issuer's actions which intentionally made a mistake in the prospectus can be revoked by *Bapepam*, this is what makes the writer interested in this paper.

II. REVIEW OF LITERATURE

2.1 Linkages of Public Companies with Prospectuses

Public companies in the Capital Market are companies that are legal entities in the form of a company, whether the company comes from government property consisting of State-Owned Enterprises (BUMN) and Regionally-

Owned Enterprises (BUMD) or are private companies consisting of National Private Enterprises, Foreign Private Enterprises or joint ventures, the difference between *persero* and other companies, considering that the company has characteristics that are different from companies that are not companies, and as for the characteristics of the company are:

a. The shareholders of the company are not personally responsible for the agreements made on behalf of the company.

b. The shareholder is not responsible for the loss of the company in excess of the value of the shares he has taken and does not cover his personal assets.

This means that the company has its own assets that cannot be mixed up with the personal assets of the shareholders, or in other words a company is an independent legal entity which, if broken down, has the following characteristics:

a. As an association of capital.

b. The company's wealth and debt are separate from the wealth and debt of shareholders.

c. The responsibility of shareholders is limited to those deposited.

d. The separation of functions between shareholders and management / Directors.

e. Has a commissioner who functions as a supervisor.

f. The highest power is at the General Meeting of Shareholders (GMS).

If this is the case, then talking about matters relating to public companies means we are talking about a company *company* from a limited liability company (PT) which refers to Law Number 40 of 2007 concerning Limited Liability Companies (UUPT) and Law Number 8 In 1995 concerning Capital Market (UUPM), considering that things related to the company of a public company or public company are regulated by both laws in addition to other laws in general, this can be seen from the use of that in that Law Number 40 of 2007 uses the term Public company with the term Public Company or known as "*Tbk*" behind the company name. Whereas the term for an open company in Act No. 8 of 1995 uses a term with a Public Company. A public company or better known as an open company is not a company that is formed immediately without a process, even though initially this company was a regular or closed limited liability company as regulated in Law No. 40 of 2007, before a company was a public company. Basically, a company is a closed legal entity that seeks to develop its company through a public offering in the Capital Market, provided that the public offering must be an issuer domiciled in Indonesia. so it can be said that companies that have made public offerings are called public companies or public companies.

This means that the shares that were originally owned by certain parties have been turned into shares owned by the community, because of this public company as investors who are shareholders. So the term Public Company or a public company against a Limited Company may be said to have no difference, even though both terms are used by both Laws, because in the view of this Law the term open company has its own criteria according to the Law Number 1 of 1995, as well as the term public company also has special criteria according to Law Number 8 of 1995. As for the regulation regarding the open company has been arranged in such a way according to Law No. 40 of 2007 concerning Limited Liability Companies and Law No. 8 of 1995 concerning Capital Market, even if compared to the prevailing regulations in the Company Law with the Capital Market Law on Public Companies, the applicable regulation in the Capital Market is more stringent and more detailed, this is because the regulation on public companies applies UUPM, while the UUPT only if it is not regulated by the Capital Market Law on public companies, so it can also be said that the Capital Market Law is *LexSpecialis* while the UUPT is *LexGeneralis*. A company must be able to become a public company through the mechanism that the company first conducts a public offering in the Capital Market, because in principle if a company is going to improve and develop its company, then what is usually done by the company is how to increase the company's funds, and for fulfilling these funding needs requires an effort to find additional money (fresh money) as an alternative business development, for that there are sometimes steps taken by the company to increase the funds, including credit loans through banks, or mergers to company partners, or selling company assets and so on, this can indeed be done but the impact is not good for the company.

Another alternative that can be done in finding additional capital is to find other parties who want to invest in companies that need the funds, namely by selling part of the company's shares in the form of securities to the public or investors through the capital market, this is what is called with a public offering (go public). So those who can make public offerings are only issuers domiciled in Indonesia through the capital market, therefore people outside the issuer or issuer domiciled abroad cannot make a public offering in the Capital Market. As is the case, this public offering activity is one way to raise public funds through the capital market, and it is said that through the capital market, parties or issuers who intend to raise funds through this public offering are obliged to first submit a registration statement to *Bapepam*. The public offering can only be made after the registration statement is declared effective. While the registration statement is only effective for a

period of 45 days after the complete receipt of the registration statement by *Bapepam*. So to be more complete for a company that will raise funds through a public offering in the Capital Market must prepare the following:

- a. The management of the company determines in advance the plan to seek funds through Go Public.
- b. The Go Public Plan is requested for approval from shareholders and amendments to the Articles of Association in the GMS.
- c. Issuers are looking for Supporting Professionals and Supporting Institutions to help prepare documents.
- d. Preparing the complete documentation of emissions.
- e. Preliminary contracts with the stock exchange where the securities will be listed.
- f. Signing of emission agreements.
- g. Specifically for debt or other securities offering that are of a debt nature, it must first obtain a rating from the Securities Rating Agency.
- h. Submitting a registration statement along with other documents to Bapepam, which means other documents here are one of the company's full Prospectus, and at the same time conducting limited exposure in *Bapepam*.

When viewed from the description above it can be interpreted that a public company is a public company that has gone through a public offering in the Capital Market that has submitted a statement of registration to Bapepam, other than that according to Article 1 point 22 of the Capital Market Law states to be a public company, the company has as many shareholders 300 (three hundred) shareholders and have paid up capital of at least Rp. 3,000,000,000 (three billion rupiah). So with the fulfillment of the above conditions, the company which was originally a closed company will change its status to an open public company, so that it can be said that the requirements for public companies are:

- a. Issuers domiciled in Indonesia.
- b. Shareholders of at least 300 people.
- c. Full paid up capital of at least Rp. 3,000,000,000 (three billion rupiah).
- d. After being audited, obtained for two consecutive years.
- e. The financial statements have been examined by public accountants for the last two consecutive years with unqualified statements for the last year.
- f. For banks, they must fulfill the criteria as a healthy bank and meet capital adequacy in accordance with Bank Indonesia regulations.

Linkages for public companies with prospectuses where public companies that will conduct public offerings in the capital market must go through the process of submitting a submission statement to *Bapepam*. In submitting an application to *Bapepam*, the company that goes public must also complete all matters relating to the documents in the public offering which will be examined by *Bapepam*. The Prospectus is one of the main documents in the framework of the public offering, although in the framework of this public offering there are still other documents that must be completed by the issuer as a public company, because *Bapepam* as the Capital Market Supervisory Agency will examine the completeness of the documents. submitted by a public company that will conduct a public offering, and as for the completeness are:

- a. Introduction to the Registration Statement.
- b. Prospectus.
- c. Emission Schedule Plan.
- d. Financial Reports.
- e. Legal Audit.
- f. Legal Opinion.
- g. Underwriting Agreement and so on

In the Prospectus contains important information relating to the company, therefore the information contained therein must contain matters that truly describe the state of the Issuer concerned, so that the information or information made can be used as a basis for determining investment decisions by investors. A Prospectus must include all material details and facts regarding the public offering of the issuer, which can affect the investor's decision which we call the investor, which is known or deserved to be known by the Issuer or Managing Underwriter (if any). The prospectus must be made in such a way that it is clear and communicative, the facts and the most important considerations must be summarized and disclosed at the beginning of the prospectus. The order of submission of facts in the Prospectus is determined by the relevance of the fact to a particular problem, not the order as stated. The correct prospectus is a sign that the issuer has carried out the principle of openness in the Capital Market, moreover the principle of openness is very important and may be said that the principle of openness is a core issue in the capital market which is also the soul of the Capital Market itself. It is rather different from a Capital Market company with a banking, in banking the

principle of bank secrecy is absolutely carried out and this is certainly very different from the capital market which contains the principle of openness, but that does not mean only the prospectus can be applied in this disclosure principle, because basically the implementation this openness principle in the Capital Market will be carried out in 3 stages.

a. Openness at the time of making a public offering (primary market level), which is preceded by the submission of a registration statement for a public company to *Bapepam* by submitting important documents, and one of the documents is the Prospectus.

b. Disclosure after the Issuer records and trades its securities in the stock exchange (secondary market level) in this case the Issuer is obliged to submit financial statements on a regular basis continuously to *Bapepam* and the Exchange.

c. Openness due to important events and the report must be delivered in a timely manner (time disclosure).

As is generally the case that most companies that grow in Indonesia are companies that consist of stock growers who have a familial relationship, so that sometimes if a company will go public, this culture of openness will be difficult to implement, therefore the obligation to apply the disclosure principle is to avoid the behavior of public companies that come from family companies that have always been defensive and not informative towards all material facts, so with the existence of this disclosure principle, investors who will invest their capital in companies that will go public feel that they will not be harmed. Moreover, this openness principle serves to maintain public confidence in the market, to create an efficient market mechanism and to prevent fraud. Once the importance of this openness principle is to protect investors, so that the regulation regarding the disclosure principle needs to be clarified, with the existence of this disclosure principle to information, it is anticipated that investors may not obtain methyl factual information or inequality of information submitted to the public. This anticipation can be done by the existence of a mandatory disclosure system for companies that conduct public offerings to convey information to the public regarding the state of their business, both in terms of finance, production management and other matters related to their business activities. So information provided by issuers or public companies is information that actually contains material facts. Whereas regarding material facts Article 1 point 7 of the UUPM states that: "Information or material facts are important and relevant information or facts about events, events, or facts that can affect the price of securities on the stock exchange and or the decisions of investors, prospective investors, or other parties with an interest in such information or facts."

Whereas in the decision of the chairman of *Bapepam* Number: Kep-86 / PM / 1996 and regulation Number X.K1 states: Information or material facts that are expected to affect investors' investment effects or decisions, among others, are as follows:

- a. Business merger, share purchase, business consolidation, or joint venture formation.
- b. Stock split or share dividend distribution.
- c. Income from extraordinary dividends.
- d. Acquisition or loss of important contracts.
- e. Important new products or inventions.
- f. Changes in control or important changes in management.
- g. Announcement of repurchase or payment of debt securities.
- h. Additional sales of securities to the public or limited material amounts.
- i. Purchase or loss of sale of material assets.
- j. Relatively important labor disputes.
- k. Lawsuits that are important to the company, and or the Director and Commissioner of the company.
- l. Submission of bids for purchase of securities of other companies.
- m. Replacement of the accountant who audits the company.
- n. Trustee replacement.
- o. Changes in the company's fiscal year.

Violations of the transparency principle include misleading statements that can occur with Misrepresentation or statements by making omission from a material fact, both in the documents at the time of the public offering and in stock trading. Information that may affect the effects as stated in the Decree of the Chairman of *Bapepam* above must also apply to the Prospectus of a company when the public offering will be in the capital market, while in relation to the implementation stages of this public offering there are three types of Prospectus, namely:

1. Preliminary / redhering prospectus issued in the framework of the initial offer (book building). The initial Prospectus is a written document that contains all information in the Prospectus submitted to *Bapepam* as part of

the Registration Statement, but this initial Prospectus cannot be informed of the nominal price, amount and bid price of the Securities, no Underwriter, no level bond interest rates, or matters relating to bid requirements that cannot yet be determined, but are initial information for investors. This initial prospectus is made at the time of the initial bid (book building), and for the issuer with the aim of knowing the interest of prospective investors / buyers of the effects offered and or the estimated price of the securities.

2. Concise Prospectus (advertisement) is a series of written information related to a public offering with the aim that the other party buys securities and may be said that the Abridged Prospectus is an advertisement to attract investors who will buy securities. This Issuer Prospectus must be announced by the issuer at least in 2 (two) newspapers after the Registration Statement has been submitted to *Bapepam* and not after the effectiveness of the Registration Statement, so the information in this Brief Prospectus is only an estimate, not final.

3. Complete Prospectus (print), namely any information relating to a public offering with the aim that the other party buys securities, and in the full Prospectus it must contain all material details and facts regarding the public offering and the issuer, and this prospectus must be made clear and communicative, then the most important facts and considerations must be summarized and disclosed at the beginning of the prospectus, and those responsible parties are also listed in this Full Prospectus, which is clear in the Full Prospectus is the investor's reference to buy effects on companies that go public.

So the Prospectus is made must really describe the actual state of the issuer, not merely engineering because the Prospectus must be made to contain correct information about material facts. Prospectus that describes or contains correct information about material facts is very important for investors, because according to Edward G. *Eisert* stated that the Prospectus aims to provide important information about the company that registers the Provision of Information which thus helps investors in making a decision to buy shares which is offered. Prospectus that is made correctly directly or indirectly can be beneficial for the issuer itself, because the openness made in the Prospectus is a symbol of honesty towards the issuer, then the public will assume the company has been managed properly, it can be said anything in this aspect of life if it starts from honesty, then life will be good in the future. Therefore the Prospectus that is made based on honesty will not harm both the issuer and investor, so the Prospectus function is vital for investors because the Prospectus provides sufficient knowledge and can be used as a consideration in making a decision to buy an effect, then the form and content of the prospectus when Submission to investors requires sufficient arrangements so that it can be useful as a way to protect investors from fraudulent sales. So that it can also be said that the Prospectus made incorrect is one form of fraud in the Capital Market conducted by public companies and fraud is a violation of the principle of disclosure. Apart from the Prospectus functions proposed by David L. *Ratner* and Thomas Lee Hazen above, the Prospectus also functions, among others:

a. Prospectus is a fact which means that the Prospectus is a means or tool that can be used by investors as a consideration in conducting a securities transaction considering that this Prospectus is an objective expression of the condition of the issuer at the time of the public offering, especially in the Prospectus also the issuer and the underwriter will be responsible for all contents contained in the Prospectus, so that it can be seen from the facts that it becomes the right means for investors.

b. Prospectus is a formal document in a public offering, meaning that considering that the Prospectus is an effective means of disclosing the condition of the issuer at the time of the Prospectus is made, the issuer must be obliged to disclose the conditions of the company that are closely related to investment decision making. also statements about the truth about matters stated in the Prospectus, for example, the company does not have legal issues with other parties other than those disclosed in the prospectus.

Then in the Prospectus also must be mentioned about the company's projection, meaning that the company can give promises of its commitment to continue to improve the company in the future, for example dividend distribution, or payment of bonds in accordance with the time, etc., other than that the company must also notify to prospective investors against business risks, for example, to the risk of lack of professional management or the presence of business competition with other companies or including the risk of illiquid shares in stocks.

c. Prospectus is a means of selling securities meaning that without the Prospectus prospective investors will not get the opportunity to conduct transactions, thus it can be said that the Prospectus is a media tool that communicates between sellers and buyers of securities that contain information to invest, not vice versa which can be misleading and harmful investor. Therefore, although the Prospectus is a means for issuers and investors to sell and sell securities in the capital market, it does not mean that investors no longer pay attention to the matters contained in the Prospectus, so that investors avoid losses due to Prospectus errors, then there are some important parts prospective investors need to be considered, namely:

1. Issuer's Business Field.
2. Number of Shares Offered.
3. Nominal Value and Bid Price.
4. Company Brief History.
5. Goal Goals (Plan for Use of Funds).

6. Business Activities and Prospects.
7. Business Risk.
8. Dividend Policy.
9. Corporate financial performance.
10. Company Agents.

This is in line with what is stated in the explanation of article 78 paragraph (3) of the Capital Market Law which states that a Prospectus can at least contain:

- a. Description of public offering.
- b. Purpose and use of public offering funds.
- c. Analysis and discussion of activities and finance.
- d. Business risk.
- e. Financial data.
- f. Legal information.
- g. Information about ordering securities and purchases
- h. Information about the articles of association.

After potential investors pay close attention to the matters listed in the Prospectus, the issuer as a Prospectus provider must be responsible for the incorrect Prospectus, unless the investor is not aware of the truth, but still buying the offered securities means the investor is ready to take the worst risk (risk assumption).

III. DISCUSSION

As already mentioned that for companies that have gone public through a public offering in the Capital Market must provide a Prospectus as a public offering document, which contains information which is material facts are relevant important information or facts regarding events, events or facts that may affect price of securities on the exchange and / or the decision of investors or other parties with an interest in the intended information or material facts. The application of the principle of openness to the prospectus is something that cannot be bargained anymore, because the openness function here is in addition to maintaining public trust in the market and can also create an efficient market mechanism and prevent fraud, all of which are capable of protecting investors and keeping public trust in the Capital Market itself as executor rather than buying and selling securities. Since the investor will buy and the issuer that will sell securities through this Capital Market, then the investor's desire to buy securities is based on the contents of the Prospectus made by the issuer, then the realization of the sale and purchase of this securities applies to the general buying and selling law as regulated in Article 1457 of the Civil Code. Article 1457 of the Civil Code states: Buying and selling is an agreement with which one party binds itself to endorse a material and the other party to pay the promised price based on the formula given by article 1457 of the Civil Code, it can be interpreted that buying and selling is a form of agreement that gives birth to rights and obligations that are born of an obligation or commitment to provide something which in this case is realized in the form of submission of material offered by the *penjual* which is of course in this is the issuer that sells securities to investors, then the transfer of money by the buyer to the sale, the purchase in this case with the investor.

Buying and selling always has two sides of civil law, namely the material law and the engagement, said the material law is because buying and selling gives birth to the rights of both parties on a bill that is in the form of material submission on one party and payment of the sale price to the other party, whereas from the side of the engagement buying and selling is a form of agreement that gives rise to obligations in the form of material delivery that is sold by the seller and delivery to the buyer to the seller. As previously mentioned that the capital market or stock exchange is the place where trading of securities occurs, and if this is associated with the implementation of buying and selling in the Capital Market, then what is meant by material in this case is certainly the effect of buying and selling, for investors who buy securities certainly cannot be separated from the company's prospectus as a reference *investor* in buying securities, because investors will not buy securities if they know that the prospectus made by *Emeten* or the company contains incorrect information.

There are two important obligations of the issuer or company that will selling securities in the Capital Market, First apart from the delivery of securities to the seller and the two issuers are obliged to also provide complete and accurate information in the Prospectus. It is said to be complete if the information submitted is complete, nothing is left behind or hidden, disguised, or does not convey anything on the material fact, while it is said to be accurate if the information conveyed contains truth and accuracy. So with the existence of this complete and accurate information based on the principle of openness in the capital market, it is anticipated that there is a possibility for investors not to obtain information or material facts or inequality of information for investors due to information that is not conveyed and information may also occur. Those that are not yet available to the public have been submitted to certain people, so that anticipation can be made with a mandatory disclosure system for companies that conduct public offerings to convey information to the public regarding the state of their business, both in terms of finance, production management and other matters related to its business

activities. Remembering buying and selling is a form of agreement, while the agreement is one of the sources of engagement as stated in article 1233 of the Civil Code which says that each engagement is born, either because of an agreement, either because of the law, so it can be said that the source of the agreement is treaties and laws, then in article 1234 the Civil Code confirms that each engagement is:

- To give something
- To do something and or
- To not do something

Both to give something and to do something and not to do something is an obligation that must be carried out, while the obligation can be said to be an achievement. Then whoever does not carry out the obligations as specified according to article 1234 of the Civil Code is considered not carry out achievements or defaults.

What is meant by default is:

- a. Do not do what he is willing to do.
- b. Carry out what he promised, but not as promised.
- c. Do what is promised, but it's too late.
- d. Do something that according to the agreement should not be done.

Every person who does not fulfill their obligations or does not fulfill their obligations accordingly and the obligation is not fulfilled because there is an element of error in their consequences will cause harm to others. Considering the principle of transparency, especially in the case of the making of a Prospectus as an issuer's bidding document, of course the obligation for the issuer to disclose material facts contained in the Prospectus. Securities sale and purchase in the Capital Market is related to Article 1234 of the Civil Code, the issuer or company has an obligation to give something (fair), namely the issuer is obliged to submit securities that have been purchased by investors according to the amount paid and is an agreement between the issuer and the investor.

While the obligation to do something is to remember that the Prospectus is a series of buying and selling that cannot be separated from each other, so the issuer is obliged to provide correct and non-misleading information as specified in the Capital Market Law, so that the information is not solely to attract investors (window dressing) only, whereas to not do something implies that the issuer does not violate the provisions in the capital market. So the obligation to give something, do something and not do something for the issuer in the capital market, especially against the Prospectus that is done may be said to be an achievement that must be implemented, namely the existence of an error in the Prospectus. The issuer is deemed to have defaulted and everyone who does not have a birth will be due to - legal consequences, especially losses for investors. So that lawsuits can be made for him. It was reaffirmed that the objective regulation of the capital market includes three things: First is the protection of investors, the second ensures that there is a fair, efficient and transparent market (ensuring that the market is fair, efficient and transparent) and the third reduces systemic risk (the reduction of systemic), which ultimately has implications for the interests of protecting investors from practices or activities that can harm their economic interests and their rights both as shareholders and public investors. So the violation of the disclosure principle, especially the existence of errors in the Prospectus conducted by the issuer will cause public or investor distrust, even though the Prospectus is the obligation of the issuer to do something as stipulated in article 1234 of the Civil Code.

The investors who buy securities in this case in the form of shares based on the existence of a Prospectus error, of course the result is not only to investors who experience losses. Likewise, the public's distrust of the capital market has resulted in large numbers of people running away from their capital or withdrawing their capital (*capital flight*) and their influence can certainly destroy the capital market, something like this has happened in the United States. Prospectus errors made by issuers that can cause losses to the capital market, of course *Bapepam* as the Agency that has the highest authority to regulate, maintain and supervise the implementation of capital markets can carry out and provide administrative sanctions to parties who make Prospectus errors. *Bapepam* can impose administrative measures on an issue that has made a mistake in the prospectus as stipulated in Article 102 of the Capital Market Law, in the form of:

- a. Written warning.
- b. Fines.
- c. Limitation of business activities.
- d. Freezing business activities.
- e. Revocation of business licenses.
- f. Cancellation of approval, and
- g. Cancellation of registration.

While the imposition of criminal sanctions can also be imposed on the issuer which of course can be demanded by investors or parties who feel aggrieved by referring to Article 378 of the Criminal Code concerning Fraud, it's just that the threat of punishment for this article is very mild, namely a maximum of 4 years in prison, while

for criminal acts of Capital Market Fraud according to Article 90 of the Capital Market Law can be subject to a sentence of 10 years imprisonment, so that the threat of punishment for fraud through the error of this prospectus must apply Article 90 of the Capital Market Law as a provision of *lexspecialis*.

IV. CONCLUSION

In an effort to increase the business capital of the company from a closed company to a public company, various ways are carried out by a company either by means of loans through banks or other important ways, namely the sale of shares (securities) through public offerings in the Capital Market this not only can benefit the company as an issuer, but also for the community (investors). The sale and purchase of shares conducted through a public offering in Article capital sometimes does not always produce good results considering that there is still a possibility for a rogue public company that conducts the sale and purchase of shares by using a document (prospectus) is incorrect (error prospectus), so that information is misleading this can be detrimental to investors (individuals / institutions) and for *Bapepam* (Capital Market Supervisory Agency) itself, which losses can also eliminate public confidence (public), thus the legal implications that arise are also very broad due to errors in the prospectus carried out by public companies will be related to civil, criminal and state administrative law. Thus, for issuers, legal actions can be taken either based on demands from investors or from *Bapepam* itself.

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