

CHAPTER IV

CONCLUSION AND RECOMMENDATION

A. CONCLUSION

1. The provisions that describe and constitute the legal basis of ETF in Indonesia have not been regulated in detail so that they have not been able to describe the differences between ETF and Mutual Fund. Based on the principle, ETF and Mutual Fund have similarities so that the underlying legal rules are still using the rule of law on Mutual Fund.

The legal relationship among involving parties has not been explained in detail because of the existing OJK Regulations only regulates about general terms and terminology of the relationship. The existing regulations has not specified regulates about what is the legal relationship that exist among involving parties.

2. The negligence made by the Investment Manager, as the manager of the investment unit, can be seen from the actions as well as the consequences arising from the negligence. The loss must be accountable and should be able to give legal interest to the customer as investor in the investment contract.

There is no clear form of sanctions against parties who commit violations in the issuance or ETF transaction. The existing provisions regarding any dispute that arise are only regulated in general regarding administrative sanction. The parameter regarding the sanction imposed in case of negligence caused by investment manager is still unclear.

B. RECOMMENDATION

1. Due to the absence of a legal rule governing ETF in isolation and in detail then the rule of law, the OJK as a regulator must formulate the rule of law to ensure the interests of investors and to reduce the actions that can harm the interests of investors themselves.

2. The Financial Supervisory Agency (OJK) as an institution that has authority over capital market supervision needs to issue regulations or make amendments to the existing regulations by adding clear sanctions. Existing OJK regulation only mention administrative sanction if investment manager does not perform his obligation. The regulation does not specify in detail what kind of administrative sanction, in example : warning, or in the worst case is suspension.

