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LEGAL IMPLICATIONS OF THE APPLICATION OF THE ONE-TIER BOARD SYSTEM ON THE MANAGEMENT ORGANS OF INDIVIDUAL COMPANIES

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Abstract

The implementation of Law Number 6 of 2023 concerning Job Creation offers Micro and Small Enterprises the opportunity to formalize their operations as legal organizations, namely as Individual Companies. Individual Companies have the same legal-entity concept as a Limited Liability Company, with limited liability. The management structure of a sole proprietorship uses a one-tier board system, in which the functions of commissioners and directors are integrated into a single entity. This research aims to explain the application of the one-tier board system in Indonesian sole proprietorships and to analyze its legal consequences for the company's management organs. This includes an examination of the legal entity status, management responsibilities, supervision and accountability, legal relationships with third parties, and financial and tax regulations. The results of the research show that an individual company provides legal entity status and limited liability protection for MSEs through simplified establishment procedures without the obligation of a notarial deed. The application of the one-board tier system optimizes decision-making efficiency. Still, it eliminates the function of internal control (checks and balances) by merging all organs of the company, which can increase legal risk and expose the company to potential liability piercing the corporate veil in the event of bad faith or managerial malpractice.

Keywords*: Legal Implications; One Board Tier System; Implementation; Individual Company.*

INTRODUCTION

The industrial sector is an essential pillar in the Indonesian economy, which includes a variety of business activities carried out by corporations and MSMEs. Most corporates operate in the infrastructure, manufacturing, tourism, fisheries, and digital sectors. In contrast, Micro, Small, and Medium Enterprises (MSMEs) primarily focus on food businesses and the provision of basic goods, including small-scale agriculture and plantations. These businesses must be organized as a business entity, commonly referred to as a company, which serves as a platform for commercial activities. MSEs use a sole proprietorship structure for their commercial activities. Individual companies are exempted from the obligation to obtain a Business Trading License (Ministry of Trade Regulation Number 36 of 2007). The ease of creating a corporate entity is a criterion in evaluating a country's position in providing Ease of Doing Business for businesses (Sinaga & Anita 2018). The policy contained in the Regulation of the Minister of Trade of the Republic of Indonesia has now changed, initially requiring individual companies to obtain a Trade Business License, but now requiring them to register and obtain a business license after the enactment of Law No. 11/2020 concerning JC.

The Job Creation Law, as an "Omnibus Law, significantly impacts

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various existing laws and regulations. (Arief & Ramadani, 2021) The primary purpose of the Create Jobs Act is to encourage society to adopt greater self-reliance and change the way it operates. Thinking from mere consumption to increased productivity (Humaira, 2021). Therefore, the government aims to utilize the potential of its population in the business field. (Tektona & Handoko, 2022) The government aims to support the potential of MSEs through the implementation of the Create Jobs Act. Recognizing the significant impact on national economic growth, the government seeks to provide greater convenience for individuals engaged in MSEs through the omnibus law, the Create Jobs Act. The provision that the Create Jobs Act categorizes legal entities that conduct capital partnerships into two classifications: legal entities established under a business activity agreement with principal capital divided into shares, and individual legal entities that meet MSE standards as referred to in laws and regulations relating to MSEs.

The enactment of the Create Jobs Act allows MSEs to obtain legal status as entities, such as companies. The Create Jobs Act clarifies the concept of an individual company, allowing eligible MSEs to establish a simplified entity with one founder, no notarial deed, no minimum capital requirement, and limited liability to distinguish personal assets from company assets, along with additional simplifications in the Company structure. The regulations regarding this specific company structure are then modified, added, and replaced with some provisions relating to pre- existing companies in the Limited Liability Company Law. Article 109 of UU PT, in conjunction with Article 153A paragraph (1) of the Create Jobs Act, stipulates that a limited liability company can only be established for MSEs. MSEs are categorized according to the company's capital requirements and sales performance, as specified in Government Regulation (GR) No. 7 of 2021 on the Facilitation, Protection, and Empowerment of Cooperatives and MSEs.

An individual company, or One Person Company (OPC), is an entity in which all shares are exclusively controlled by one shareholder from the time of its establishment through its operation, resulting in all shares being owned by one individual or entity. This individual company is different from recognized business entities such as commercial enterprises, trading companies, Sole Proprietorships, Partnerships, or other sole proprietor businesses, which are classified as having unlimited liability for their owners, in contrast to an Individual Company, which has limited liability. In general, a company consists of three organs in its activities, namely the GMS, the Board of Directors, and the Board of Commissioners. A company uses the Two-Tier Board System for its management. A Limited Liability Company using the Two-Tier Board System operates under a two-tier framework. The Board of Directors functions as the managerial entity of the company, in contrast to the Board of Commissioners, which functions as the supervisory body.

Since the emergence of the Individual Company, there have been differences in the composition of its management organs. GR No. 8 of 2021 does not explicitly explain the duties and authorities of the board of commissioners in an Individual Company. Article 153 D paragraph (1) and (2) of Law No. 6 of 2023 outlines the obligations and responsibilities of the Board of Directors, which include managing the MSE company in line with the aims and objectives of the company, based on the limitations regulated by law and/or the company's statement of formation. Furthermore, Article 153E paragraphs (1) and (2) of the Company Law defines Shareholders of MSE companies as individuals and can only establish a limited number of MSEs within one year limited number within a period of one year. However, there is no detailed explanation in the Create Jobs Act provides no detailed explanation of the duties and responsibilities of commissioners.

Under existing regulations, the governance structure for Individual Companies is the One-tier System (OPC). Meanwhile, the company uses the Two-tier Board System outlined in Law No. 40 of 2007. (Ghozali & Wardani, 2023) One Board Tier System is a common practice in common law corporate governance. The common law corporate legal framework only recognizes the Board of Directors and the GMS, excluding the Commissioners. (Ghozali & Wardani, 2023) The One Board Tier System proposed by the Individual Company presents a simplified structure. Simplified by combining the powers of the Board of Commissioners and the Board of Directors into a single entity referred to as the Board of Directors. A One Board Tier System, or one-tier system, is a corporate structure that lacks separate supervisory bodies. The inclusion of Individual Companies in the Create Jobs Act converts to the Two-Tier Board System traditionally used by Limited Liability Companies under Law No. 40/2007. This system delineates the responsibilities of the Board of Commissioners, who oversee and advise, from those of the Board of Directors, who manage the company. This shift introduces a new paradigm: One Tier System.

Indonesia is the latest country to adopt the individual-company structure of the one-tier board system. In this paper, the author wants to know in more depth about how the concept of the implementation of the one board tier system in the company, especially in an individual company in Indonesia, what are the legal implications of the application of the One Board Tier System on the management organs of a particular company (starting from examining related to the implementation of the one board tier system in Indonesia). (Starting from reviewing the legal entity status of an individual company, the responsibility of the management, supervision, and accountability, regulation of relations with third parties, as well as regulations related to finance and tax), and what is the efficiency of the application of the system in an individual company in Indonesia?

METHODOLOGY

The type of research is normative juridical. Analyzing each problem based on applicable laws. Research is conducted to examine library sources or secondary materials. (Harahap & Anwar, 2022). The statutory approach includes a comprehensive review of all regulations related to the content under study.

Data sources are obtained secondarily, from literature reviews, books, and related online articles. (Rakhmawati et al., 2019). Using qualitative methods through library research relevant to the author's topic. The author reviews the literature, analyzes book and regulatory data, and evaluates the available literature.

RESULT AND DISCUSSION

Concept of One Board Tier System Implementation in an Individual Company in Indonesia

According to Handri Raharjo's view, an individual company is an entity operated by a single individual to make a profit. (Raharjo, 2009). The characteristics of individual companies, micro and small enterprises (MSEs) owned by individuals, without initial capital, with a small capitalization, an uncomplicated management structure, limited sales volume, and owners who double as managers (Multazam et al., 2023). Following the recognition of individual companies in the Create Jobs Act, the concept must be explicitly articulated to prevent a broader interpretation. A legal entity company established by Indonesian citizens through a deed of establishment, with capital sourced from segregated assets, and meeting MSE standards.

A company with limited liability, after the presence of a company individual, falls into two categories, each with its own establishment process. Initially, under Article 7, paragraph 1, of the Limited Liability Companies, the company was established by two or more people through a notarial deed. (Isnaeni, 2021). The purpose is to allow for oversight by several individuals, especially regarding the execution and balance in the decision-making process. If the minimum two-person criterion is not met, then the founder or owner of the company is personally liable for all legal proceedings and losses incurred by the company. In addition, a notarial deed is significant because it is a legal instrument to create certainty; binding and comprehensive in nature, it can serve as strong evidence. (Putri & Tan, 2022). Other relevant information regarding the establishment of a limited liability company. This letter of establishment is then registered electronically with the Ministry of Law and Human Rights.

Another consequence of the Ciptaker Law is a different minimum capital requirement for establishing a company. In general, a limited liability company must have an authorized capital amount as stipulated by law. (Harahap, 2009) Business entities wishing to form an Individual Company must comply with many government regulations, including:

(1) For micro enterprises, the minimum capital is Rp. 1,000,000,000 (one billion rupiah), and annual sales proceeds may not exceed Rp. 2,000,000,000 (two billion rupiah);

(2) For small businesses, the capital varies between Rp. 1,000,000,000 (one billion rupiah) to Rp. 5,000,000,000 (five billion rupiah), with annual sales proceeds not exceeding Rp. 2,000,000,000 (two billion rupiah), and a maximum net worth of Rp. 15,000,000,000 (fifteen billion rupiah). Business capital does not include land and buildings related to the place of business (Government Regulation No. 7 of 2021).

Economic factors can change the metric nominal value of business capital and sales revenue. This conclusion acts as a benchmark and framework for individual entrepreneurs in determining the type of company to form. It can serve as a means to assess the company's status. (Pangesti, 2021) The Government Regulation explains the importance of capital and income for MSEs.

A sole proprietorship is a new type of corporate entity that includes a director who also serves as a shareholder. The Create Jobs Act sets out the board of directors' responsibilities in an Individual Company, including operating the company in accordance with its purpose and preparing financial reports. The financial reporting obligation is mandated to enable the government to assess and supervise the company's economic situation and ascertain its commercial status. Unlike the Board of Directors of a Limited Liability Company, the Limited Liability Company Law explicitly describes the responsibilities and powers of directors. This clearly delineates what is permissible. The basic concept of a company is institutionalized, with a minimum of two people serving as directors and commissioners, each with apparent authority. The Limitied Lability Compines Law clearly outlines the duties and powers of the board of commissioners to include general control over the company's management rules as per the AOA, advising the directors in their management responsibilities, providing approval or assistance for specific legal actions, and overseeing the company's operations during emergencies (Manurung, 2016) If the role of the commissioner is abolished, the corporation will lack supervision, resulting in the potential for abuse of authority.

This happened at a time when different organizations were established. The Companies Act and GR No. 8 of 2021 do not contain provisions regarding the company's organizational structure. In the Limited Liability Companies Law, corporate organs are classified into three categories: GMS, Directors, and Commissioners, but in the Ciptaker Law, there are only Directors. This management structure is also called the one-board tier system, referring to the concept of a single board of directors in the company. In this system, the company will have one person who acts as the management, which is legally valid.

Acting as a board, which legally can be used as the primary decision maker in all company operations. This system differs from the PT structure, which requires several members of the board of directors and commissioners.

Changes will inevitably occur as long as the company operates. Article 153C of the Ciptaker Law stipulates that changes to the deed of establishment of MSEs, contained in Article 153, are decided by the GMS and then submitted electronically to the Minister. Article 153C of the Ciptaker Law mandates that the transformation of individual companies is determined by the GMS, which is submitted to the Ministry of Law and Human Rights. Article 13 of PP No. 8/2021 clearly stipulates that the GMS decides the termination of an Individual Company. This creates ambiguity and doubt regarding the type of GMS that exists in a Sole Proprietorship Company. In addition, Article 8 discusses the decision of the shareholders of an Individual Company, which has the same legal status as a GMS.

Changes in the system of corporate legal entities in Indonesia, which initially adhered to the Two-tier system to the One- tier System, have raised many questions about what kind of supervision in a corporate legal entity. An individual and the liability of an individual company if, in the course of a business, there is a bankruptcy or bad faith of the particular company's organ. Limited Liability Companies and sole proprietorships cannot be held liable if there is no governing body. According to the organ or entity theory, legal constructs operate as if real people have agency, which is formed by their governing bodies, such as management and members. As such, corporate legal entities must have necessary mechanisms for effective management.

Declaration of the establishment of a sole proprietorship, which consists of a business owner and a beneficial owner. It is to facilitate business for micro and small business actors, so the simplification of individual company organs is carried out: namely, the business owner or founder in a company with one member automatically acts as a director and concurrently as a commissioner. If the founder also serves as a director, all organs are in the hands of one person. In the one-board tier system, the roles of the board of commissioners and the board of directors are combined into in single container/organ. This container is known as the board of directors. This unification makes the roles of executives and supervisors unclear. (Retmadi, 2019).

Micro and small companies, or individual companies, are formed, financed, and operated by a single person. A separate company has only one organ; decisions made by the Board of Directors on behalf of the company are made from the owner's perspective, and they have the same authority as those of the GMS. Indonesia's one-tier structure allows shareholders to serve as directors concurrently, as mentioned earlier. As a result, the "check and balance" mechanism inherent in a Limited Liability Company or an Individual Company cannot effectively operate as it should. An Individual Company has no internal relationship between its organs.

The supervisory function usually performed by the Board of Commissioners in the management of the company cannot be implemented efficiently in an individual company. Therefore, the shareholders of a sole proprietorship company, who concurrently serve as directors, are responsible for supervising and making all decisions, actions, and agreements on behalf of the company. In these cases, the decision has the same legal authority as the GMS's decision. The Individual Company in Indonesia does not fully adopt the Company law system from this common law country, but also retains the Company law system of in civil law country, namely limited liability. The existence of separation of wealth or limited liability is the most fundamental legal significance of the Company's capacity to become a legal entity. This is stated in the details of Article 153J paragraph (1) "Shareholders of the Company for MSEs are not personally liable for agreements made on behalf of the Company and are not responsible for the Company's losses exceeding the shares owned".

Legal Implications of the Application of the One Board Toer System to the Management Organs of Individual Companies

Meijer explained that a legal entity is an organization that has rights and responsibilities. Although intangible, a legal entity is a juridical reality and not a mere abstraction. According to Logemann, a legal entity signifies a manifestation of rights and obligations. (Mulhadi, 2017) R. Subekti provides an explanation of a legal entity as an organization or partnership that has property, rights, and the ability to act as a human being, who is capable of performing legal acts. The concept of a legal entity as a legal subject includes substantive attributes: a collection of individuals or capital (an organization) capable of taking legal action, managing its assets, having a board, and engaging in or initiating legal proceedings in court.

In addition to the elements mentioned above, the alternative perspective states that an entity qualifies as a legal entity if it meets the formal prerequisites outlined in the applicable regulations or laws, is explicitly articulated in the deed of agreement, requires government participation in its formation, such as the requirement to obtain a determination from the Ministry of Law and Human Rights, is recognized as a legal entity. (Santosa, 2019) Many laws and regulations in Indonesia use the word "legal entity". Government Regulation in Lie of Law No. 19 of 1960 on PN, PT Law, Foundation Law and its revisions, Cooperative Law, and Agrarian Principles Law. Five theories are proposed to build a theoretical basis for legal entities, namely: (Ali, 2005)

1. Fiction Theory

This theory argues that legal entities are merely creations of the state, entities that do not inherently exist but are recognized by humans as legal subjects capable of acting legally like individuals. Under the law, legal entities are treated as individuals. Legal entities cannot take action directly against legally recognized subjects. Instead, individuals acting as intermediaries or representatives take such actions. Therefore, legal entities need representatives or instruments, such as directors or administrators, to act on their behalf.

2. Purposeful Wealth Theory

This viewpoint states that only humans can be considered legal subjects. However, certain assets are not owned by individuals but are designated for specific purposes. Legal entities are assets that are not directly owned and serve a particular purpose. As a result, the assets of a legal entity are considered separate from the individuals who occupy its leadership positions. Legal entities have rights and obligations, including ownership of assets, thereby equalizing their status with that of individuals. As a result, the assets of legal entities are considered legal objects. The wealth of legal entities usually comes from the assets of individuals, which are then transferred to legal entities such as foundations, state-owned enterprises, companies, and cooperatives.

3. Organ Theory

Legal entities are considered tangible entities that play a role in legal interactions, like humans with "Eine Leiblichgeistige Lebensein Heit" (unity of physical and mental life). The legal entity becomes a "Verbandspersonlich Keit," meaning an entity that forms its will through the medium of its organs or instruments, such as its management. This is similar to how humans express their will, either through writing or speech. Decisions made by these organs are considered the legal entity's will. Legal e n t i t i e s are clearly not abstract ideas or subjectless entities. Instead, they are real entities that participate in legal relationships and can make decisions. To exercise its own will with the help of its members and officers. This is comparable to how a normal person has organs, such as the five senses, to interact and express their will.

4. Proprietary Collective Theory

Rudolf von Jhering (1818-1892) was a German scholar following the historical school who introduced this theory. The French Marcel Pleniol and Molengraaff from the Netherlands supported it, and Kranenburg, Paul Scolten, Star Busmann, and Apeldoorn followed suit. All members of a legal entity own property. As such, a legal entity is only a juridical organization; in essence, it is an indistinct organization.

5. Theory of Juridical Reality

E.M. Meijers, a Dutch academic, first introduced this theory, which was later developed by Paul Scholten and has since become a strong doctrine. In Meijers' opinion, legal entities are real and tangible entities, even though they have no discernible form. Far from being abstract ideas, legal entities are facts in the legal world. According to the juridical theory of reality, which Meijers refers to as the "simple theory of reality," the similarities between legal entities and humans only apply within the realm of law. Therefore, legal entities have an actual existence and are equal to humans in the legal context. In other words, this theory holds that the similarity between legal entities and humans is a legal reality. Therefore, the existence of legal entities is determined by law. For example, after fulfilling specific requirements, a cooperative is considered a legal entity and a form of Company.

According to these theories, a legal entity must have assets, objectives, interests, and a regular organization. The Minister must officially approve the articles of association; some laws regulate, and there are also expert opinions that include the requirement that a notarial deed establish another requirement. Aside from formal requirements, such as the use of a notarial deed, civil law does not regulate how to establish a legal entity. Due to the absence of these provisions, Meyers set requirements that then became a legal science doctrine: the separation of wealth, clear objectives, specific interests, and a regular structure. (Abdulkadir, 2006) In a legal entity, the particular purpose serves to support the rights and obligations in pursuit an this goal, which differs from the personal goals of the founders or members. This goal can be commercial or ideal. In a legal context, a legal entity must have its own interests, subjective rights arising from legal events, and be protected by law to make claims and defend its rights against third parties.

Legal entities have a regular organizational structure. For Limited Liability Companies, the governing bodies include the GMS, Board of Directors, and Commissioners. According to Fred B. G Tumbuan, the Board of Directors acts as a representative of the company's interests as a legal entity. The existence of the board of directors depends on the company; without the company, the board of directors would not exist. That is also why directors must serve the company's interests. Directors do not function as representatives of shareholders. The BOD acts as representatives of the corporation in its capacity as a stand-alone person (standi in judicio) or autonomous legal entity. The company has achieved the status of a legal subject and a legal entity. This is due to the separation of the company's assets from the entire company business entity and the existence of management within the company framework. The Limited Liability Companies Law treats the company explicitly as a legal entity. The most critical component of a company's business entity is the organization. The Limited Liability Companies Law further stipulates that the company's organizational structure includes the GMS, the Board of Directors, and the Commissioners. The Board of Directors is generally defined as the entity responsible for exercising managerial authority over the company's assets. To carry out management and supervision of the company's operations in line with the aims and objectives of the company, based on the limits of authority regulated by law and the articles of association (Tan & Woon, 2009).

The Board of Directors, as the management of the company, functions as the "officers" of the company. Its title is the Board of Directors. (Oliver, 1977). Members of the board of directors are not staff or employees. As such, they are not entitled to preference payments if the company is liquidated. The Board of Directors carries out management functions, including day-to-day operations, oversees the implementation of management, supervises and directs the execution of routine tasks, and advances the company's activities in accordance with the goals and objectives outlined in the articles of association. Article 92 paragraph (2) of the Company Law confirms that the management function is delegated to the Board of Directors, who are responsible for every operational activity of the company. The commissioner does not represent the board of directors; instead, they represent the company. The position of commissioner in a company is currently seen as complementary only. Commissioners in the Commercial Law Code framework are facultative, meaning their existence is not guaranteed. Nonetheless, the Limited Liability Companies Law tacitly mentions commissioners as one of the entities in a company. Their responsibilities are considerable, particularly overseeing the directors' performance.

When referring to individual companies, which are also declared as legal entities, there is a difference in that t h e Job Creation Law does not provide an obligation for business actors to use notarial deeds, but only a license from the ministry related to the business. This problem concerns the legal status of the establishment of individual companies, as notarial deeds are crucial to maintaining legal certainty in line with legal objectives. The relevance of the theory of body law in relation to the one-board tier system is significant, as this system requires only one board for the organizational structure. Although legally permissible, implementing this system will affect other legal dimensions, particularly the board's responsibilities and obligations. A one-person board must fully understand the duties and obligations associated with the role. The PT Law mandates that the board of directors is fully responsible for the management of the company and must ensure compliance with relevant regulations. In the event of a loss or violation of the law, the board of directors bears full responsibility, including personal liability to creditors or third parties.

The Board of Commissioners is equally important in a company. This organ is in charge of supervising the management activities carried out by the Board of Directors. Commissioners also have the right to provide advice to the board of directors when necessary. The board of commissioners is expected to act independently and critically, both among themselves and towards the board of directors. Independent means that it is not just a rubber stamp of the board of directors, but is active in considering (reviewing) and criticizing strategic policies taken by the board of directors (Daniri, 2005). If you see in a company that the board of directors doubles as the board of commissioners, especially if one person holds both roles, it will result in a conflict of interest. This conflict of interest arises because the company's management is feared to be constrained, as the same person holds the authority to supervise and manage. In the event of a loss or bankruptcy due to a conflict of interest in the management of the company, the Board of Directors, which concurrently serves as the Board of Commissioners, cannot avoid responsibility. Commissioners cannot avoid full personal responsibility. One challenge in the One Board Tier system is the limited oversight of the board. In the traditional model, supervision is carried out by commissioners, who oversee the board of directors' performance. However, in an individual company with a One Board Tier, in the absence of a supervisory body (such as commissioners), the board is in a position that is more vulnerable to potential abuse of authority. Therefore, it is essential to have an effective external supervision mechanism, for example, through an independent auditor or by disclosing financial statements to third parties.

A conflict of interest in the management of the company is considered an act of bad faith. This, according to Yahya Harahap, is because the act violates the obligations of trust and of obedience to laws and regulations. (Harahap, 2009). The Board of Directors and the Board of Commissioners each have more than one member, but it is still not recommended to hold concurrent positions. The working relationship between the board of directors and the board of commissioners is a check-and-balance arrangement with the ultimate goal of the company's progress and health. The board of commissioners and the board of directors have a joint commitment to carry out their respective duties for the achievement of the company's business sustainability in the long term, which is reflected in:

1. The achievement of consistent and sustainable growth of the company as reflected in the increase in margin ratios such as increased assets, operating income, market share, and market share equity;
2. Implementation of reasonable internal control and risk management;
3. Delivery of optimal profits for shareholders;
4. Protection of stakeholders' interests in a reasonable manner;
5. Implementation of reasonable leadership for the continuity of management in all lines of the company's organization;
6. Consistent implementation of GCG in the Company;
7. Reducing the occurrence of various deviations of business behavior that can harm the Company's business, and at the same time, protect the company in facing the challenges of environmental changes.

Directors and the company do not have only a working relationship; they also have a fiduciary relationship. Within the company, directors are fiduciaries. (Fisher, Wiseman & Anderson 2001). A fiduciary relationship arises when one party acts for another without considering their own interests. The fiduciary principles that apply to boards of directors are as follows: (Chatamarrasjid, 2000)

1. Directors must not do anything in the performance of their duties for personal or third-party interests without the knowledge and approval of the company;
2. Directors must not use their position as a board member to obtain benefits, either for themselves or for third parties, except with the approval of the company;
3. Directors must not misuse the company's assets.

If there are concurrent positions that lead to conflicts of interest, board members should avoid them when managing the company. There is a greater likelihood of a conflict of interest in management. Any management action involving a conflict of interest is considered in bad faith. Because such actions are a violation of the manager's obligation to comply with applicable laws. To avoid conflicts of interest when carrying out the management of the company, members of the board of directors are responsible for:

1. The obligation to avoid using the company's money and assets for personal gain. If members of the board of directors violate this provision and cause harm to the company, they are deemed to have committed an illegal act under Article 1365 of the Civil Code. The relevant member of the board of directors is subject to civil liability and may even be convicted of embezzlement under Article 372 of the Civil Code or fraud under Article 278 of the Civil Code;
2. Using information provided by the company for unauthorized purposes;
3. Not using one's position for personal gain, such as accepting bribes, is considered a breach of fiduciary duty;

4. Not withholding or taking part of the company's profits for personal use. Withholding or taking part of the company's profits for personal use is considered bad faith by the directors concerned, and this action entails a conflict of interest and constitutes a breach of managerial responsibility.
5. Members of the board of directors must not conduct transactions between themselves and the company. Directors are deemed to favor their personal interests over the company's interests.
6. Prohibited from competing with the company. It is prohibited for members of the Board of Directors to compete with the company while serving as managers. An offense that violates this rule is considered a conflict of obligations. They must behave well and be trustworthy, managing the company on the one hand and competing with it on the other. Therefore, the act constitutes a breach of duty and a violation of the responsibilities of supervision and honesty.

Therefore, the breadth of the meaning and elements of good faith in the management of the company, which members of the board of directors must carry out, is that a violation of fiduciary responsibility is considered an Ultra Vires act. However, the agreement or contract made in this case is not legally valid and can be canceled. Therefore, the company or the third party involved can cancel the deal, accompanied by a claim for compensation or for profits taken, and the directors involved are detained. In a single-member individual company, a founder can act as a director who manages the company, as a board of commissioners who supervises the company, or as a shareholder or beneficial owner, as stated in the company's certificate of incorporation. So if the shareholder or beneficial owner also intervenes in the company's legal actions so that it involves personal interests and harms the company, Article 153J regulates as follows:

1. Shareholders of a company for MSEs are not personally liable for agreements made on behalf of the company. They are not liable for the company's losses exceeding the shares they own.
2. Provisions as mentioned in paragraph (1) shall not apply if: The shareholder who is involved in bad faith directly or indirectly utilizes the company for personal interests.

The explanation above shows that in a legal entity, shareholders who deposit capital into an individual company automatically turn all of the company's assets into the company's property. However, in the one-bar tier system of a particular company, there is a high likelihood that the company's management will combine assets, which is very difficult to avoid. This is because individual companies operate on family or economic principles.(Putri & Tan, 2022) In such a situation, managing the company unprofessionally will make it increasingly difficult to limit liability. By utilizing limited liability with third parties, the possibility of fraud increases. As a result, the sole organ owned by an individual company is more likely to be misused unintentionally. Third parties, such as creditors or investors, may perceive that having only one board may increase the risk of uncertainty or less transparent decision-making. Therefore, it is necessary to ensure that relationships with third parties, such as creditors or investors, are clearly set out in contracts and agreements.

Under limited liability, if the company incurs a debt or loss, the debt is paid from the Limited Liability Company's assets. The meaning of "limited" is that there are limitations both from the perspective of liability and from the perspective of the law. Then, what protection can creditors have if the company is a limited liability company? Protection can be given to creditors if, in the course of a business conducted in an Individual Company legal entity, something undesirable happens, such as the Individual Company going bankrupt, while the shareholder who also serves as the Board of Directors flees, while limited liability remains.

As long as a company is running, there is a possibility that its shareholders have bad faith or mix the company's assets with their personal assets. (Maria, 2023). It is undeniable that every individual company shareholder commits unlawful acts; they also act as directors in several endorsements with third parties. Although in essence these two organs have different roles and authorities in managing the company, the third party has the right to hold the sole organ in the individual company liable if the illegal action causes harm to the third party. The existence of limited liability makes the Individual Company have limited liability. This means that there is a separation between the assets of the shareholders and the Company as contained in Article 153J paragraph (1) of the Ciptaker Law, which regulates the liability of Individual Company Shareholders, explains: "shareholders of companies for MSEs are not personally liable for agreements made on behalf of the company and are not liable for losses of the company exceeding the shares they own." However, 153J, paragraph 2 stipulates an exception for limited liability for individual company shareholders, namely:

(1) The provisions referred to in paragraph (1) shall not apply if:
   a. The conditions stipulated in the agreement have been fulfilled
   b. Shareholders who utilize the company for their own interests;
   c. Shareholders who are involved in violations of the law committed by the company; or
   d. Shareholders who unlawfully use the company's assets so that the company's assets are insufficient to pay its debts.

By considering the explanation of the above regulations, it can be understood that there is indeed limited liability in individual companies. However, if there is bad faith in the running of a business activity in a particular company legal entity, the principle of piercing the corporate veil applies, meaning that the responsibility or liability attached to the company that separates the personal assets of the GMS and the company becomes unlimited liability or unlimited liability so that it can be possible to reach the personal assets of the shareholders. This is applied to prevent arbitrary actions taken by shareholders acting as Directors in an Individual Company legal entity and also protects creditors to obtain a sense of security in cooperating with Individual Companies.

From a tax perspective, several provisions in the limited liability company law are amended by Article 109 of the Job Creation Law. Article 2 paragraph (1) of Government Regulation No. 8/2021 defines a company as follows: "A Limited Liability Company, hereinafter referred to as a Company, is a legal entity which constitutes an alliance of capital, established pursuant to an agreement, conducting business activities with authorized capital which is entirely divided into shares and or individual legal entities that meet the criteria of MSEs." It can be concluded that individual companies that apply the One Board Tier System are still obliged to comply with applicable tax obligations, including the obligation to prepare transparent financial reports. The single individual on the board is also responsible for paying business taxes and complying with relevant reporting rules.

Efficiency of One Board Tier System Implementation in Individual Company Management

The government introduced a new entity, the Individual Company for MSMEs. It implemented the one-board tier system to make it easier for small entrepreneurs in establish and manage legal entities. With the roles of the board of commissioners and the board of directors combined into a single organ, the founder or business owner automatically serves as both a director and a commissioner in the company. This is undoubtedly one of the advantages of applying the one-board tier system concept. This provides a more efficient organizational structure because there is no need to form a large number of organs, which would indeed hinder the quick execution of decisions in the company's best interest. Of course, the person who doubles in all these roles is also the one who understands the best business decision-making for the company. Therefore, in America, the concept of a one-tier board system is often used in companies that use the term CEO in their corporate structure. The idea of a one-tier board system in the company, often used in developed countries, is based on its implementation, which offers greater efficiency and reduces complexity in running the company's business.

The CEO is the owner of the company who puts capital into it, but he is also the board of directors and the commissioner in the company's activities. However, the author considers that there are both pluses and minuses in implementing the one-board tier system in Individual Company Management. When talking about the benefits/efficiencies obtained from the implementation of this system, the following are:

1. Decision-making efficiency. With a single board, the decision-making process can be fast and not hampered by differences of opinion among board members.
2. Simplicity. The system. This system reduces organizational complexity, making it suitable for small businesses or individuals who want to run a business more flexibly.

As for the disadvantages of implementing a one-board tier system, namely:

1. Risk of personal responsibility. The existence of a single board means that all decisions and potential risks will be the individual responsibility of the board.
2. Limited supervision. Without a commission as a supervisory board separate from the board of directors (management), there will be a lack of transparency and accountability to third parties.
3. Limited managerial resources. A single board is likely to be incapable of handling all organizational aspects of the company, plus being a supervisor, especially.

CONCLUSIONS

1. The concept of One Board Tier System Implementation in Individual Companies in Indonesia is a legal breakthrough through the job creation law that allows a single individual to establish a specialized legal entity for MSMEs with a simple administrative process without requiring a notarial deed. Entities in a one-tier structure, implementing where the sole owner concurrently serves as a director as well as a shareholder with authority equivalent to the GMS in a Limited Liability Company.
2. The Legal Implication of the Application of the One Board Toer System in the Management Organ of an Individual Company is that an individual company is present as a juridical reality that provides legal entity status for MSME actors with the principle of separation of wealth and limited liability even though it is only established by one person through a simplified administrative process without a notarial deed. The sole owner still doubles as a shareholder, director, and supervisor in one hand, which inherently weakens the checks-and-balances mechanism and increases the risk of conflicts of interest and fraudulent practices. The law continues to impose strict fiduciary and good faith obligations as a sole board member, where violations in the form of mixing personal assets or abuse of authority can trigger the application of the doctrine of piercing the corporate veil, which erases the protection of limited liability into unlimited personal liability.
3. The application of the one-board tier system in the Company Individual offers maximum efficiency for MSMEs through quick decision-making and a simple organizational structure, similar to the CEO leadership model in the United States. However, this operational convenience comes at the cost of high legal risks; the absence of a supervisory board (checks and balances) exposes the company to abuse of authority, limited managerial capacity, and potentially unlimited personal liability in the event of business failure or a violation of the law.

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