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TATA KELOLA PERUSAHAAN PEMEGANG SAHAM TUNGGAL: KONSEP HUKUM DARI UNDANG-UNDANG CIPTA KERJA

SINGLE SHAREHOLDER COMPANY GOVERNANCE: A LEGAL CONCEPT FROM JOB CREATION LAW

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Abstrak

Artikel ini hendak membahas mengenai prinsip tata kelola perusahaan yang baik dan praktik baik seperti apakah yang harus dilakukan perseroan perorangan. Perseroan Perorangan adalah badan hukum yang hanya memiliki satu pemegang saham di dalam perseroan tersebut. Ketentuan tersebut secara legal diakui oleh UU Cipta Kerja. Pada prinsipnya, norma tersebut tidak sesuai dengan konsep badan hukum perseroan terbatas yang terdiri atas saham-saham. Secara praktis, organ di dalam perseroan perorangan tidak akan ideal layaknya perseroan terbatas yang telah eksis selama ini. Atas dasar tersebut, isu yang hendak dibahas dalam artikel ini adalah apakah pengelolaan perseroan perseorangan di Indonesia sesuai dengan prinsip tata kelola perusahaan yang baik? Artikel ini berargumen bahwa diperlukannya sebuah konsep tata kelola yang tepat agar perseroan perorangan tetap dapat menjalankan perusahaannya dengan baik berdasarkan prinsip tata kelola perusahaan yang baik.

Abstract

This article will discuss the principles of good corporate governance and what good practices an individual company should adopt. An Individual Company is a legal entity that has only one shareholder in the company. The Job Creation Law

Keywords: limited liability company; single shareholder company; company governance.

legally recognizes this provision. In principle, the norm is incompatible with the concept of a limited liability company consisting of shares. Practically, the organs in an individual company will not be as ideal as the limited liability companies that have existed so far. On this basis, the issue to be discussed in this article is whether the management of an individual company in Indonesia is in accordance with the principles of good corporate governance. This article argues that an appropriate governance concept is needed so that individual companies can still run well based on good corporate governance principles.

INTRODUCTION

The normative statement on Limited Liability Companies, which was previously stated in Article 1 point 1 of Law No. 40 of 2007 on Limited Liability Companies as follows: "A Limited Liability Company, hereinafter referred to as a Company, is a legal entity which constitutes an alliance of capital, established by agreement, conducting business activities with authorized capital which is entirely divided into shares and fulfils the requirements set forth in this law and its implementing regulations". After the enactment of Law Number 6 of 2023 on the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 on Job Creation into Law, the normative provisions regarding Limited Liability Companies have changed to:

> *Limited Liability Company, hereinafter referred to as the Company, is a legal entity which is a capital alliance, established based on an agreement, conducting business activities with authorized capital which is entirely divided into shares or an individual legal entity that meets the criteria of micro and small enterprises as stipulated in laws and regulations concerning micro and small enterprises*.

Of course, the changes in these provisions have made the concept of Limited Liability Company that has been understood by the public change. Not only are there definitive changes in the written regulations in the law, but also changes in the implementing regulations. The characteristics of a Limited Liability Company which should consist of an alliance of capital, which is associated with 'shares' in a Limited Liability Company are the type of Limited Liability Company which are individual legal entities. This means that it is now possible for only 1 (one) person or a single person to establish a Limited Liability Company (hereinafter in this paper referred to as a Single Shareholder Company).

We agree with the legislative policy that the presence of Single Shareholder Company is to accommodate and advance economic growth, particularly for those who own small and micro businesses. As it's been said before by Salah Mohammed N. Almasabi, etc. al.: "*The idea of one person company was first introduced to enable even an individual to participate in a commercial endeavour with limited responsibility without wasting his time and energy hunting for a partner*".[1] Hence, the conditions in the provisions of Article 1 number 1 of Law No. 40 of 2007, it will be practically more difficult to foster the economic spirit of small and micro enterprises. As Wetria Fauzi said earlier which: "The small and micro enterprises sector is easy and practical to

[1] Salah Mohammed N. Almasabi, Hasani Mohd Ali and Hazlina Shaik Md Noor Alam, 'Single Shareholder Company in Africa, America and Australia: A Comparative Analysis' (2023) 7 (1) Sriwijaya Law Review 47, 50.

be formed, therefore the existence of small and micro enterprises in Indonesia shall create new jobs to absorb the job seekers".[2]

On the other hand, the Single Shareholder Company as a legal entity itself requires adjustments to make sure this legal entity will exist to maintain its characteristics as a legal entity, especially when the legal entity shall carry and bare the duty of a legal entity. It is well known as a legal entity; an entity shall fulfil the provisions of the criteria as a legal entity. At least, based on the theory of organs in legal entities, which states that: "*the body is a juridical construction as if a real human being in legal traffic has its own will formed through its organs, namely the management and its members and so on*".[3] Therefore, a Single Shareholder Company as a legal entity must have organs that could carry out its daily business activities.

Referring to the provisions of Article 1 number 2 of Law Number 6 of 2023, state that: "*The organs of the Company are the General Meeting of Shareholders, the Board of Directors and the Board of Commissioners*". Looking out from this statement, we are saying that there was no difference between the organs of a Limited Liability Company and a Single Shareholder Company. Although the government has specifically regulated Individual Companies through Government Regulation No. 8 of 2021 concerning the Company's Authorized Capital and the Registration of the Establishment, Amendment and Dissolution of Companies that Meet the Criteria for Micro and Small Enterprises, the provisions concerning the organs of Individual Companies are still not regulated in that Government Regulation, except that the Government Regulation mentions the board of directors once and the shareholders several times. The Government Regulation does not mention commissioners at all. From here, we may state that commissioners were not a mandatory organ that should be exist in running the Single Shareholder Company daily business activity.

This kind of concept, is actually in line with the statement from the Minister of Law and Human Rights back then, Yasonna Laoly on 2021 which is, "*This Single Shareholder Company is a one-tier, where the sole shareholder is also the director without the need for commissioners*".[4] According to Laoly's statement above we might also indicate that the Single Shareholder Company does not imply or apply the two-tier system model, but rather the unitary or one-tier board system. This becomes interesting to discuss, especially regarding how governance in a Single Shareholder Company shall be carried out.

In accordance to ensure the company shall works well, it is important for the company to create the good management environment through governance. The governance framework shall acknowledge that the interests of the company were serve by recognizing the interests of stakeholders and their contribution to the long-term success of the company.[5] It is well known that the corporate governance shall

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2 Wetria Fauzi, 'Kajian Yuridis Konsep Perseroan Perorangan Sebagai Badan Hukum Perseroan Terbatas di Indonesia' (2023) 5 (4) UNES Law Review 1772, 1773.

3 Dyah Hapsari Prananingrum, 'Telaah Terhaadp Esensi Subjek Hukum: Manusia dan Badan Hukum' (2014) 8 (1) Refleksi Hukum 73, 88.

4 Aji Prasetyo, 'UU Cipta Kerja Mungkinkan PT Didirikan Tanpa Akta Notaris, ini kata PP INI' (Hukum Online, 23 Februari 2021) <https://www.hukumonline.com/berita/a/uu-cipta-kerja-mungkinkan-pt-didirikan-tanpa-akta-notaris--ini-kata-pp-ini-lt6034656240925/?page=2> accessed 07 Desember 2024.

5 IFC Advisory Services in Indonesia, 'The Indonesia Corporate Governance Manual', (Otoritas Jasa Keuangan, Januari 2014) <https://www.ojk.go.id/Files/box/The-Indonesia-Corporate-Governance-Manual-First-Edition.pdf > accessed 10 Desember 2024>

be carried on the fundamental concept of a good corporate governance principles. On the other hand, we need to understand that the corporate governance is also concerned with finding ways to encourage stakeholders to undertake socially efficient levels of investment in firm-specific human and physical capital.[6]

The good corporate governance were stressing on TARIF principles which stands for: Transparency, Accountability, Responsibility, Independency, and Fairness. Those principles shall be the basic rules for any company ensure the company is well-managed, including the Single Shareholder Company itself. Even though this company own by a single shareholder, the organs of the company have to carry out the managerial functions in the company. As we know, there are 3 (three) organs in a company itself: The General Meeting of Shareholder (RUPS), The board of Director and The board of Commissioners. Each of these organs has their own functions and authorities in the company to make sure the governance inside the company well-managed, even to the Single Shareholder Company.

Based on the explanation above, this paper will discussing the Single Shareholder Company in Indonesia further. The first article of this topic was published in 2021, which have discussed the existence of the Single Shareholder Company as a legal entity in Indonesia. The second article regarding this topic was published in 2023 which concerning of the General Meeting of Shareholder organ position in a Single Shareholder Company. The previous articles became the basis for the Author to see further about the Single Shareholder Company issue, especially about the governance shall be done in a Single Shareholder Company. To fulfil the good corporate governance in a Single Shareholder Company to provide a legal concept related the Single Shareholder Company governance. Therefore, this article is legal research using the conceptual approach to strengthen the good governance principles. Comparative approach is also utilised to give an understanding on the Single Shareholder Company governance in Germany. However, this paper shall give the readers a good concept of governance, especially in a Single Shareholder Company.

DISCUSSION

Legal Concept and Practice of Good Corporate Governance

A Single Shareholder Company shall be determined as a legal entity, since its concept is derived from the Limited Liability Company. The Authors were agree that the difference between these two entities is only regarding the number of shareholders. In some literature, it is said that the concept of a Single Shareholder Company is the corporate model where a private limited company is allowed to have only one shareholder.[7] However, in some countries such as Africa, they use the term of One-Person Company, which defined as a company owned by one person[8], but this definition does not completely right. Therefore, the Authors will use the Single Shareholder Company terminology in this paper. It is also important remember that this issue is based from the single shareholder owner of the company.

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6 *Ibid.*

7 Nagashima Ohno & Tsunematsu, 'NO&T Thailand Legal Update' (Nagashima Ohno & Tsunematsu, October 2020) <https://www.noandt.com/wp-content/uploads/2019/09/thailand_en_no06.pdf > accessed 10 Desember 2024

8 Almasabi, Ali and Alam (n 1) 48.

After the Creation Job Law established in Indonesia on 2020, the concept of Single Shareholder Company itself hasn't been stated differently to Limited Liability Company. A limited liability company consists a concept of a 'company' and has a 'limited liability'. Whereas, this concept of company is referring to the capital of the which comes from shares while the word limited refers to the liability of shareholders which is limited to the nominal value of the shares they own.[9] Limited liability company consists of two words, Company and Limited Liability. Company refers to the capital of a Limited liability company which consists of shares. While the word Limited refers to the responsibility of shareholders which is only limited to the nominal value of the shares they own.[10]

A Limited Liability Company has the concept of a legal entity formed under positive law in Indonesia. A Limited Liability Company performs legal actions in its own name, on the assets it owns, and its liability is separate from the shareholders.[11]

The definition of a Limited Liability Company based on Article 109 point (1) of Law Number 6 of 2023 concerning the Implementation of Regulations in Lieu of Law Number 2 of 2022 regarding Job Creation into Law has a content containing a Limited Liability Company, hereinafter referred to as the Company, is a legal entity which is a capital alliance, established based on an agreement, conducting business activities with authorized capital which is entirely divided into shares or an individual legal entity that meets the criteria for micro and small enterprises as stipulated in laws and regulations concerning micro and small enterprises.[12]

The definition above produces the point that a limited liability company is a legal entity, capital alliance, stands on an agreement, carries out an activity, namely business, and the capital obtained comes from shares. In accordance with Law Number 6 of 2023, there are three organs contained in a Limited Liability Company, namely the General Meeting of Shareholders, the Board of Directors, and the Board of Commissioners. The General Meeting of Shareholders, hereinafter referred to as General Meeting of Shareholders, is an organ of the Company that has authority that cannot be given to the Board of Directors or the Board of Commissioners within the limits set forth in the Law and/or the articles of association.

General Meeting of Shareholders is an organ that has the power to determine the direction and purpose of the company. General Meeting of Shareholders has the right to obtain all kinds of information needed and related to the interests of the company. The authority possessed by the General Meeting of Shareholders is an exclusive authority that is not delegated to other limited liability company organs and which has been stipulated in the Company Law and the Articles of Association. The exclusive authority of the General Meeting of Shareholders stipulated in the Company Law will exist as long as the Company Law has not been amended. Meanwhile, the exclusive authority in the Articles of Association authorized or

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7 H.M.N. Purwosutjipto, *Pengertian Pokok Hukum Dagang Indonesia*, dikutip dari Ridwan Khairandy, *Perseroan Terbatas Doktrin, Peraturan Peraturan Perundang Undangan, dan Yurisprudensi* (Total Media 2009) 1.

8 M. Teguh Pangestu, Nurul Aulia, 'Hukum Perseroan Terbatas Dan Perkembangannya Di Indonesia' (21017) 2 (3) Bussines Law Review 21.

9 Sylvia Putri and David Tan, 'Analisis Yuridis Perseroan Perorangan ditinjau dari Undang-Undang Cipta Kerja dan Undang-Undang Perseroan Terbatas' (2022) 4 (3) UNES Law Review 317, 318.

10 Undang Undang Nomor 6 Tahun 2023 tentang Penerapan Peraturan Pengganti Undang-Undang Nomor 2 Tahun 2022 Tentang Cipta Kerja Menjadi Undang-Undang.

approved by the Minister of Justice can be amended through an amendment to the Articles of Association as long as it does not conflict with the provisions of the Company Law.[13]

The Board of Directors is an organ of the Company that is authorized and fully responsible for the management of the Company for the benefit of the Company, in accordance with the purposes and objectives of the Company and represents the Company, both inside and outside the court in accordance with the provisions of the articles of association. The Board of Directors has the authority to run the company, and set policies and oversee the performance of all organs of Limited Liability Company. The next organ is the Board of Commissioners, which is an organ of the Company that is tasked with conducting general and / or special supervision in accordance with the articles of association and providing advice to the Board of Directors. The Board of Commissioners has the duty to supervise and provide advice to the Board of Directors, ensure compliance with regulations and business ethics, and safeguard the interests of shareholders.

The relationship between organs in a Limited Liability Company is a structured and organized system to ensure the smooth running and success of the company. The relationship between the board of directors and the board of commissioners is one of supervision and advice. The board of commissioners oversees the performance of the board of directors and provides advice to ensure the company runs in accordance with regulations and business ethics. An example of the relationship between the board of directors and the board of commissioners is in the Determination of Business Strategy The board of directors will make a proposal for a new business strategy, such as the development of a new product, acquisition of another company, or expansion into international markets. Then the board of commissioners will analyze the proposal in depth, evaluate the risks and opportunities, and provide input and suggestions to the board of directors. The board of commissioners also ensures that the strategy is in line with the company's vision and mission and the interests of shareholders.

When conducting a major transaction, the board of directors will make a proposal for a major transaction, such as the acquisition of another company, the sale of assets, or a bank loan. The board of commissioners will then analyze the transaction proposal, evaluate the risks and benefits, and ensure that the transaction is profitable for the company. The board of commissioners can also approve or reject the transaction.[14] The relationship between the two must be harmonious and mutually supportive to achieve company goals. Then the relationship between the board of directors and the General Meeting of Shareholders is accountable. The Board of Directors is responsible to the General Meeting of Shareholders for the company's performance and for carrying out the policies set by the General Meeting of Shareholders. Thus, the relationship between Limited Liability Company organs is a system that is interconnected and works together to achieve company goals. Each organ has its own roles and responsibilities, and supports each other to achieve the success of the company.

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11 Ahmad Yani dan Gunawan Widjaja, *Perseroan Terbatas* (Rajawali Pers 2003) 78.

12 Amelia S.K. Dewi, 'Karakteristik Perseroan Perorangan sebagai Perseroan Yang Memenuhi Kriteria Untuk Usaha Mikro dan Kecil' (2022) 5 (1) Yurspruden: Jurnal Fakultas Hukum Universitas Islam Malang 31, 44.

Corporate Governance is a system designed to direct and manage companies professionally based on five principles, namely transparency, accountability, responsibility, independence, and fairness.

According to Sari, Al Musadieq, and Sulistyo in their journal, in principle, there are 5 main principles of Good Corporate Governance which can be defined as follows:[15]

1. Transparency is the openness in a company to carry out the decision-making process and openness to disclose material and relevant information about the company. the application of the principle of transparency is the availability of timely disclosure, clear and comparable information based on the company's financial performance, corporate governance, company ownership. The rights of shareholders, who must be given correct and timely information about the condition of the company. Can provide a role in decision making about fundamental changes to the company and also benefit from the company.
2. Accountability is the clarity of the function, implementation and responsibility of the company's organs so that the management of the company is carried out effectively. Accountability is an effective supervisory system based on a balance of power sharing between the board of commissioners, board of directors, shareholders and auditors. Clarity of function, structure, system, and accountability for the performance of company organs must be arranged appropriately, measurable and in accordance with the interests of stakeholders so that company management runs effectively.
3. Responsibility is conformity in the management of laws and regulations of the company and the principles of sound corporate principles. Conformity in company management to the principles of healthy companies and applicable laws and regulations the company shall be carry out its responsibilities to society and the environment so that business continuity occurs in the long term and is recognized as (Good Corporate Governance).
4. Independence is a situation where the company is managed professionally without conflicts of interest and influence / pressure from any party that is not in accordance with laws and regulations and sound corporate principles. Independence is a condition in which the company is managed professionally and independently and cannot be intervened by management that is not in accordance with applicable rules and regulations and sound corporate principles. To implement the principles of Good Corporate Governance, the company must be managed independently so that each organ of the company does not dominate each other and cannot be intervened by other parties. This principle ensures that each organ of the company carries out its functions and duties in accordance with its articles of association and legislation does not dominate each other and is mutually responsible, so that an effective internal control system is realized and the company can avoid various kinds of problems so that the company's activities can run well and dynamically.
5. Fairness is justice and equality in fulfilling the rights of stakeholders arising based on agreements and laws and regulations. In simple terms, equality or

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13 Arlita R. Bone, et.al, 'Pengaruh Good Corporate Governance Dan Leverage Terhadap Praktik Manajemen Laba' (2019) 16 (2) Akuntabel 238, 239.

fairness is fair and equal treatment in fulfilling the rights of stakeholders arising based on agreements and applicable laws and regulations. Fairness is the equality of treatment from the company to interested parties in accordance with the criteria and proportions that should be. This principle must ensure equal treatment of all related parties, especially minority and foreign shareholders.

A good company cycle implementation commonly known as a Good Corporate Governance. According to Arlita R. Bone, the Good Corporate Governance mechanisms are tools used by management to improve control and transparency of information about company operations so that users (e.g., investors) become more confident about the investment funds they provide.[16] Good Corporate Governance (GCG) is essentially a system of rules, practices, and processes used to direct and control a company, which aims to encourage positive corporate behavior and work culture. It serves as a benchmark of the company's operational and business health, which seeks to enhance shareholder value, protect stakeholder interests, ensure compliance with laws and regulations, and uphold ethical values. Good Corporate Governance (GCG) is a framework that regulates how companies are run professionally, transparently and responsibly. Good Corporate Governance is an important foundation in creating a healthy, sustainable company that is able to maintain the trust of stakeholders. In Indonesia, the implementation of Good Corporate Governance has become mandatory for companies, especially those with public status, as an effort to increase credibility and competitiveness in the global market. Based on the definition that has been given or described above, it can be understood that a good corporate governance system can be used by the management of any company to provide a sense of trust, especially in the daily activities of the company to the aim of creating a good, healthy and reliable managerial system. The legal concept of GCG is built on a strong regulatory and institutional framework. This framework, established by government bodies through laws, regulations, and court decisions, sets standards of corporate conduct. Key components of this legal foundation include:[17]

1. Corporate Law, provides the basic structure or best legal foundation for corporate governance practices, regulating the formation, operation, and dissolution of companies, as well as the rights of shareholders and the responsibilities of directors. in carrying this out, corporate law is indispensable.
2. Securities Regulations, for publicly traded companies, these regulations ensure transparency and fairness in capital markets by mandating disclosure requirements, financial reporting, and prohibiting insider trading, thereby protecting investor interests
3. Corporate Governance Codes, many jurisdictions develop these codes, which offer recommendations and principles of best practice for companies. While often not legally binding, compliance is strongly encouraged and expected by

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14 *Ibid.*

15 Indepth Research Institute, 'Understanding Legal framework for effective corporate governance', (Indepth Research Institute, May 2023) <https://indepthresearch.org/blog/understanding-legal-framework-for-effective-corporate-governance/> accessed 07 Desember 2024.

regulators and stakeholders, who typically operate on a "comply or explain" basis.

4. Other Laws, Employment and labor laws, as well as anti-corruption and bribery laws, also play an important role in ensuring ethical behavior, fair treatment of employees, and preventing illicit activities within the organization.

In Indonesia, the Financial Services Authority issued a corporate governance roadmap, making GCG a key measure of corporate performance alongside financial measures. Legal and policy frameworks are closely intertwined - legal frameworks provide regulatory direction and guidance, and policy frameworks will ensure compliance is up and running internally and encourage ethically-oriented behavior. As per the above explanation of practical principles, these principles are summarized in global standards such as the G20/OECD Principles of Corporate Governance, which advocate for an effective legal framework, protection of shareholder rights, transparency, recognition of the role of stakeholders, comprehensive disclosure, and strong board responsibility. Practical implementation of GCG involves establishing internal rules, controls, and policies that encourage ethical behavior and enable companies to achieve their goals while complying with regulatory expectations. By applying these principles, companies can enhance their credibility, foster trust, and lay the foundation for sustainable long-term success.

Good Corporate Governance is the key to a company's success and sustainability in the face of modern business challenges. By consistently applying the principles of transparency, accountability, responsibility, independence and fairness, companies can build a strong reputation, increase investor confidence and create long-term value. Good Corporate Governance is not just about the company's compliance with regulations, but also part of the culture and commitment that must be internalized and maintained by all elements of the company, which is basically done to achieve healthy and sustainable company performance.

However, the objective not only contains the best interest mission of the company, but also to create a credible financial market infrastructure to realize an orderly, fair and efficient market. In addition, this governance should also be accessible to all stakeholders through innovative products and services. Good governance can also be used to maintain a good relationship between the company and various stakeholders in the company, such as good relationships between shareholders, investors, employees, directors, and even the government. Thus, frictions or problems that can cause significant damage related to the best interests of the company can be prevented or minimized.

Companies Managerial Systems: A Two-Tier Board System and One-Tier Board System

Based from the concept of legal entity, the organ theory is constructing the position of legal entity equally like human whereas, human is the natural legal subject. The legal entity has a legal subject means they have the capacity to carry out the right and obligation under law. Therefore, as a legal subject, it is understandable that legal entity has their legal duty to fulfill their obligation under law – it is also known as the legal responsibility.

To create a legal entity to be equal like human, a legal entity also has bodies to run their daily activity. According to Ayu Kholifah and Shelly Kurniawan, it is known that: "The organic theory views the presence of a legal entity as a similar person to a person who can act through its organ"[18]. Based on Indonesia legal form, there are several private legal entities such as: Foundation (*Yayasan)*, Cooperative (*Koperasi)* and Limited Liability Company or LLC (*Perseroan Terbatas atau PT).* Each of these private legal entities has their own characteristics; philosophically, their main purpose in the legal entity, even their organ. Furthermore, this article shall explain mainly about Limited Liability Company.

Ideally, in Indonesia it is known that there are 3 (three) main organs on any Limited Liability Company. As stipulated in Article 1 point 2 in Article 109 of the Fifth Section on Limited Liability Companies of Law Number 6 of 2023 on the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 on Job Creation into Law, those organs are namely known as: 1) the General Meeting of Shareholders, 2) Board of Commissioners and 3) Board of Directors.

It has been stated at the beginning of this article, that the Law Number 6 of 2023 on the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 on Job Creation Law has a single norm regarding Limited Liability Company, even though this norm categorizing into two kinds: the Limited Liability Company which consists of more than one shareholder and a Limited Liability Company which only has a single shareholder (Single Shareholder Company). Although the norm makes two categories of Limited Liability Company, however Job Creation Law does not make any differentiation or distinction the organs in Limited Liability Company and Single Shareholder Company. Moreover, the same statement regarding the organs of company also appears on the Government Regulation Number 8 of 2021 concerning as the implementing regulation of the Individual Companies. The provision on this regulation does not give any distinction between organs on a Limited Liability Company and Single Shareholder Company.

The ideal best practice that has been recognized in Indonesia was actually distinguishing the position between the managerial function and the supervisory function in the organs of a Limited Liability Company. Where the managerial function in a Limited Liability Company is held by the Board of Directors, which has a role as stated in Article 1 point 5 in Article 109 of the Fifth Section on Limited Liability Companies of Law Number 6 of 2023 on the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 on Job Creation into Law, namely: "*The organ authorized and fully responsible for the Management of the Company for the benefit of the Company, in accordance with the purposes and objectives of the Company and representing the Company both inside and outside the court in accordance with the provisions of the articles of association*".

Meanwhile, the supervisory function is held by another organ known as the Board of Commissioners. Referring to the provisions contained in Article 1 point 6 in Article 109 of the Fifth Section on Limited Liability Companies of Law Number 6 of 2023 on the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022

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16 Ayu Kholifah and Shelly Kurniawan, 'One-Person Limited Liability Company: Considering Company's Organ Governance of the Indonesian Legal Entities For Micro and Small Enterprises' (2024) 9 (1) Diponegoro Law Review 1, 6.

on Job Creation into Law: "*The Board of Commissioners is a corporate organ tasked with conducting general and/or special supervision in accordance with the articles of association and advising the board of directors*".

Fundamentally there are two different organs who are responsible to run the Limited Liability Company daily business in Indonesia, which are: Board of Directors and Board of Commissioners. Based on the regulation, Indonesia's Limited Liability Company managerial system is applying the two-tier board model system. This kind of model is known as a model which distinguishes the role of managerial and supervisor for daily business. This concept is in line with the state from Leni Susanti and Sulaeman Rahman Nidar, based on their article: "*The model two-tier board system or a two-board system firmly separating the board membership, the board of commissioners are superintendent and the board as a corporate executive*".[19]. The conception of the two-tier board system stems from countries that adhere to the continental European legal tradition or civil law.

It appears that the organs' position in the Single Shareholder Company is slightly different from the Limited Liability Company which has been known to the public. It is understandable that the Single Shareholder Company has only one shareholder hence, all the authority of the General Meeting of Shareholders organ, which should be determined in a forum to determine direction and policy, cannot be well executed because the share is being controlled by only a single person. Apart from that, this practice also makes a concurrent position whereas the shareholder also take place as director.

Considering the statement made by Yasonna Laoly back in 2021, that the sole shareholder also doubles as a director without a commissioner. It clearly provides an understanding that the existence of a board of commissioners is not an organ that must exist in a Single Shareholder Company. The concept of a two-tier board system adopted by Indonesia has been transformed into a one-tier board system or unitary system model. In fact, the one-tier board system is commonly used in countries with Anglo-Saxon or common law legal traditions. It is said that one-tier board or single-tier board structure according to the United States corporate law and United Kingdom corporate governance code, there is no distinction between the role and the position of the executive and the non-executive directors[20]. Therefore, it is clear, that in this one-tier board system model there is only one organ that is responsible for managerial functions and supervisory functions. The shareholders, on the other hand, remain independent. In the conception of good governance, each organ has its own role and function to carry out checks and balances, in order to be accountable to stakeholders. Each of these managerial systems has its own advantages and disadvantages.

The of two-tier board system model that has been used in Indonesia has the advantage that there is a separation of functions and is easy to control. Control is not purely backward-oriented but requires an open discussion between the supervisory board and the management board and also their close and trustful

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17 Leni Susanti and Sulaeman Rahman Nidar, 'Corporate Board and Firm Value: Perspective Two-Tier Board System in Indonesia' (2016) 5 (5) International Journal of Scientific & Technology Research 300.

18 Gillmore Doppia, Corporate Governance Structure: A Comparison Between the one-tier and two-tier board structure (Tesis, Erasmus University Rotterdam 2017) 10.

cooperation[21]. Therefore, the principles of good corporate governance based on the principles of transparency, accountability, responsibility, independency and fairness, can be more easily implemented. On the other hand, the one-tier board system is there to emphasize the power that leads the company is *'the board'* itself. They do not differentiate between managerial and supervisory functions, because in essence it is the board of directors that leads the company. In addition, decision-making in a one-tier board system is relatively faster. This is because the Board of Directors does not need the consideration of the Board of Commissioners to make decisions like a two-tier board system.

The Construction of Good Corporate Governance In Single Shareholder Companies

This section aims to explore the practical level of how the good corporate governance should be implemented in a Single Shareholder Company. Based on the concept of Single Shareholder Companies which was first introduced by Germany through *Gesellschaft mit Beschrankter Haftung* (GmbH) in 1892.[22] The fundamental difference between the concept of a Single Shareholder Company in Indonesia and Germany is related to the organs of the company.[23] In Germany, the organs of a Single Shareholder Company consist of a general meeting of shareholders, the board of directors, and the board of commissioners—even though the board of commissioners in this legal entity model is optional, based on Job Creation Law.

However, practically the Single Shareholder Company in Germany requires the appointment of a board of directors for the management of a Single Shareholder Company, although it may eventually be possible for the board of directors to serve concurrently as the board of commissioners. The Germany law, stated that, if the company has number of employees is less than 500 employees, the company is not required to have a board of commissioners in their organs. But, if the company has more than 500 employees, it is mandatory to have a board of commissioners that is separate from the board of directors. Therefore, we may understand that shareholders cannot be singularly involved in the management of a Single Shareholder Company.

In France, regulations concerning single shareholder companies are known as *Entreprise Unipersonnelle à Responsabilité Limitée* (EURL) and *Société par Actions Simplifiée Unipersonnelle* (SASU). Both of these legal entities are designed to provide flexibility for sole owners, while ensuring a minimum governance structure. The Netherlands, through the Besloten Vennootschap (BV) instrument, also allows the establishment of companies with only one shareholder. The 2012 Dutch corporate law reform further simplified the requirements for establishing a BV, including the removal of the minimum capital requirement. Meanwhile, in Indonesia the shareholders are also the board of directors and there is no board of commissioners in a Single Shareholder Company. The Job Creation Law does not mention or

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19 Carsten Jungmann, 'The Dualism of One-Tier and Two-Tier Board Systems in Europe' [2009] Dusseldorf Law School 9.

20 Timothy W. Guinnane, 'Creating a New Legal Form: The GmbH' (2020) (1070) Economic Growth Center Discussion Papers 2.

21 Keavin Frizky Maria, 'Perseroan Perorangan dan Pertanggungjawabannya terhadap Pihak Ketiga: Perbandingan Jerman dan Indonesia' (2023) 2 (1) Lex Prudentium 57, 70.

regulate the position of the board of commissioners in a Single Shareholder Company. On the other hand, the organ of general meeting of shareholders in the context of a Single Shareholder Company is better known as 'shareholders' because the ideal existence of a general meeting of shareholders is a meeting forum, while in a Single Shareholder Company it is possible to have only 1 shareholder.[24] However, shareholders in a Single Shareholder Company still have the same legal power as the general meeting of shareholders in a general company.[25]

Based on the fundamental differences in terms of organs between Germany and Indonesia, the author argues that shareholders should not be able to hold concurrent positions as board of directors because there will tend to be abuse of power and lack of check and balances, so that good corporate governance cannot be achieved. The ideal one-tier system concept is that in addition to shareholders, there must also be board of directors and a board of commissioners. Reflecting on the concept of a one-tier system implemented in a Single Shareholder Company in Indonesia that combines the functions of shareholders and board of directors makes the check and balance system unable to run properly. Therefore, in order to actualize good corporate governance and carry out the check and balance system, the implementation of a Single Shareholder Company should separate the functions and roles of the shareholders and the board of directors, which means that shareholders cannot concurrently hold as board of directors.[26]

In relation to the independence of directors and commissioners who receive salaries or remuneration from shareholders, this is indeed relevant. However, it is necessary to distinguish between reasonable financial relationships within the corporate system and structural conflicts of interest resulting from dual positions. Under the principles of good corporate governance, the provision of salaries or remuneration to directors and commissioners is a legitimate mechanism, as managerial and supervisory functions should indeed be compensated by the corporation owned by shareholders. This mechanism does not necessarily eliminate independence, as long as the determination of remuneration is carried out transparently, based on the articles of association, and through the authorized corporate body.

In order to establish a good corporate governance, the author recommending that there shall be a legal framework that regulates the duties and authorities of shareholders and board of directors (who concurrently hold as the board of commissioners). This becomes an urgency considering that the absence of clarity of duties and authorities of organs in a Single Shareholder Company will make good corporate governance cannot be realized. Generally, the role of shareholders and board of directors in a Single Shareholder Company is similar to that of a limited liability company. The role of shareholders in a Single Shareholder Company is as a party that makes decisions in the implementation of business activities.

The board of directors plays a role in carrying out the management of business activities for the benefit of the company in accordance with the aims and objectives

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24 Abigail Prasetyo, 'Kedudukan Organ Rapat Umum Pemegang Saham (RUPS) dalam Badan Hukum Perseroan Perorangan' (2023) 6 (3) Jurist- Diction 385, 404.

25 *Ibid.*

22 Setijati Sekarasih, et.al, 'Pergeseran Paradigma Pendirian Perseroan Terbatas dalam Undang-Undang Cipta Kerja' (2023) 8 (2) Jurnal Ius Constituendum 207, 218.

of the establishment of the Single Shareholder Company. In this case, the board of directors is obliged to manage the Single Shareholder Company in good faith as well as full of responsibility. Concretely, the form of management of a Single Shareholder Company carried out by the board of directors is stated in Article 153F paragraph (1) of the Job Creation Law which emphasizes that the board of directors in a Single Shareholder Company must prepare a financial report. The provision is further regulated in Regulation of the Government No. 8 of 2021 on Company Authorized Capital and Registration of Establishment, Change, and Dissolution of Company that Meets the Criteria for Micro-and Small Businesses (PP 8/2021). The obligation of the board of directors to make and report financial statements is used as a database of Single Shareholder Company's profiles and a basis for consideration in determining the criteria for Single Shareholder Company.[27]

In Article Regulation of the Government No. 8 of 2021, it is affirmed that a financial report made by the Board of Directors on Single Shareholder Company must be reported to the Minister by filling the form of submission of financial statement electronically no later than 6 (six) months after the end of current accounting period. The Minister follows up the financial report with issues of evidence of receipt of financial statements electronically. The realization of good corporate governance in order to maintain government and public trust in the management of a Single Shareholder Company is reaffirmed by the existence of administrative penalties for a Single Shareholder Company that does not submit a financial report. It is not uncommon for the public to doubt the business management of micro, small, and medium enterprises, the majority of which do not have good financial management and the profits received are used for personal interests.[28] Hence, the Government through the Minister plays a role in anticipating the public's doubts. At the same time, the relationship between the board of directors and the Minister reflects the principle of checks and balances because the financial report of a Single Shareholder Company are reported to a party outside the Single Shareholder Company, namely the Minister, so as to minimize the occurrence of conflict of interest.[29]

The board of commissioners in a Single Shareholder Company plays a very important role which is as a supervisor of the policy and management of the business activities. However, in a Single Shareholder Company, the role of the board of commissioners may be duplicated by the board of directors, which means that the management of supervision functions are under the same person. Therefore, to achieve good corporate governance in the course of a Single Shareholder Company, the board of directors is obliged to be open about the condition of the Single Shareholder Company, carry out the principle of good faith, and be filled with a sense of responsibility. In the context of a Single Shareholder Company, the supervisory

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23 Imanstian Chairandy Siregar, et.al, 'Tanggung Jawab dan Tata Kelola Perseroan Perorangan sebagai Badan Hukum Baru di Indonesia' (2022) 1 (1) Locus Journal of Academic Literature Review 26, 33.

24 Febri Jaya, 'Potensi Konflik Kepentingan dalam Pendirian Badan Hukum Perorangan Pasca Revisi Undang-Undang Perseroan Terbatas dalam Omnibus Law' (2021) 21 (2) Kosmik Hukum 115, 122.

25 Ariefio Pranata Utama and Afida Ainur Rekfa, 'Pelaporan Keuangan PT Perorangan sebagai Wujud Tata Kelola Perusahaan yang Baik' (2024) 29 (1) Perspektif 54, 57.

function under the control of the board of directors is carried out by running business activities strategically and assisting shareholders in making decisions

Thereby, it can be concluded that even though in a Single Shareholder Company it is possible to be established by only 1 shareholder, the appointment of the board of directors must still be carried out in order to achieve good corporate governance and maintain checks and balances. As a solution, the author proposes the establishment of regulations related to the duties and responsibilities of organs in a Single Shareholder Company that reflect good corporate governance. The existence of detailed and comprehensive arrangements will support the implementation of good corporate governance in the course of Single Shareholder Company.

CONCLUSION

According to our brief discussion above, we may conclude that the Single Shareholder Company does implying the model of unitary board or a one-tier board system. As we stated, from the Law No. 6 of 2023 did not given any provision regarding the organs inside the Single Shareholder Company. Therefore, to make sure the Single Shareholder Company will keep the business activity runs, they need to provide their governance through the good corporate governance principles.

Based on our discussion, we also conclude that the existence of board of commissioners is not a mandatory according to the one-tier board system. Since, there is only one shareholder to make decisions and also this shareholder may also represent the company to the third party, it may risk a conflict of interest to the company in the future. The conflict of interest refers to situations where the single shareholder, who also represents the company, may put personal interests above the company's interests. For instance, the shareholder could engage in self-dealing transactions with affiliated parties or misuse company assets, which without independent oversight may harm the company and its stakeholders. Therefore, we are recommending for a Single Shareholder Company owners to have an independent commissioner. In order to keep the good governance in a company, it will make give confidence and more safety value to the company and the stakeholders.

REFERENCE

Books

Khairandy, Ridwan, *Perseroan Terbatas Doktrin, Peraturan Peraturan Perundang Undangan, dan Yurisprudensi* (Total Media 2009).

Yani A dan Widjaja G, *Perseroan Terbatas* (Rajawali Pers 2003).

Journals

Almasabi SMN, Ali HM and Alam HSM, 'Single Shareholder Company in Africa, America and Australia: A Comparative Analysis' (2023) 7 (1) Sriwijaya Law Review.

Bone AR, et.al, 'Pengaruh Good Corporate Governance Dan Leverage Terhadap Praktik Manajemen Laba' (2019) 16(2) Akuntabel.

Dewi ASK, 'Karakteristik Perseroan Perorangan sebagai Perseroan Yang Memenuhi Kriteria Untuk Usaha Mikro dan Kecil' (2022) 5 (1) Yurspruden: Jurnal Fakultas Hukum Universitas Islam Malang.

Fauzi, W, 'Kajian Yuridis Konsep Perseroan Perorangan Sebagai Badan Hukum Perseroan Terbatas di Indonesia' (2023) 5 (4) UNES Law Review.

Guinnane TW, 'Creating a New Legal Form: The GmbH' (2020) (1070) Economic Growth Center Discussion Papers.

Jaya F, 'Potensi Konflik Kepentingan dalam Pendirian Badan Hukum Perorangan Pasca Revisi Undang-Undang Perseroan Terbatas dalam Omnibus Law' (2021) 21 (2) Kosmik Hukum.

Jungmann C, 'The Dualism of One-Tier and Two-Tier Board Systems in Europe' [2009] Dusseldorf Law School.

Kholifah A and Kurniawan S, 'One-Person Limited Liability Company: Considering Company's Organ Governance of the Indonesian Legal Entities For Micro and Small Enterprises' (2024) 9 (1) Diponegoro Law Review.

Maria KF, 'Perseroan Perorangan dan Pertanggungjawabannya terhadap Pihak Ketiga: Perbandingan Jerman dan Indonesia' (2023) 2 (1) Lez Prudentium.

Pangestu MT, Nurul Aulia, 'Hukum Perseroan Terbatas Dan Perkembangannya Di Indonesia' (21017) 2 (3) Bussines Law Review 21.

Prananingrum DH, 'Telaah Terhaadp Esensi Subjek Hukum: Manusia dan Badan Hukum' (2014) 8 (1) Refleksi Hukum.

Prasetyo A, 'Kedudukan Organ Rapat Umum Pemegang Saham (RUPS) dalam Badan Hukum Perseroan Perorangan' (2023) 6 (3) Jurist- Diction.

Putri S and Tan D, 'Analisis Yuridis Perseroan Perorangan ditinjau dari Undang-Undang Cipta Kerja dan Undang-Undang Perseroan Terbatas' (2022) 4 (3) UNES Law Review.

Sekarasih S, et.al, 'Pergeseran Paradigma Pendirian Perseroan Terbatas dalam Undang-Undang Cipta Kerja' (2023) 8 (2) Jurnal Ius Constituendum.

Siregar IC, Imanstian Chairandy, et,al, 'Tanggung Jawab dan Tata Kelola Perseroan Perorangan sebagai Badan Hukum Baru di Indonesia' (2022) 1 (1) Locus Journal of Academic Literature Review.

Susanti L and Nidar SR, 'Corporate Board and Firm Value: Perspective Two-Tier Board System in Indonesia' (2016) 5 (5) International Journal of Scientific & Technology Research.

Utama AP and Rekfa AA, 'Pelaporan Keuangan PT Perorangan sebagai Wujud Tata Kelola Perusahaan yang Baik' (2024) 29 (1) Perspektif.

Thesis

Gillmore Doppia, 'Corporate Governance Structure: A Comparison Between the one-tier and two-tier board structure' (Tesis, Erasmus University Rotterdam 2017).

Website

Aji Prasetyo, 'UU Cipta Kerja Mungkinkan PT Didirikan Tanpa Akta Notaris, ini kata PP INI' (Hukum Online, 23 Februari 2021) <https://www.hukumonline.com/berita/a/uu-cipta-kerja-mungkinkan-pt-

didirikan-tanpa-akta-notaris--ini-kata-pp-ini-lt6034656240925/?page=2> accessed 07 Desember 2024.

IFC Advisory Services in Indonesia, 'The Indonesia Corporate Governance Manual', (Otoritas Jasa Keuangan, Januari 2014) < https://www.ojk.go.id/Files/box/The-Indonesia-Corporate-Governance-Manual-First-Edition.pdf > accessed 10 Desember 2024.

Nagashima Ohno & Tsunematsu, 'NO&T Thailand Legal Update' (Nagashima Ohno & Tsunematsu, October 2020) <https://www.noandt.com/wp-content/uploads/2019/09/thailand_en_no06.pdf > accessed 10 Desember 2024.

Indepth Research Institute, 'Understanding Legal framework for effective corporate governance', (Indepth Research Institute, May 2023) <https://indepthresearch.org/blog/understanding-legal-framework-for-effective-corporate-governance/> accessed 07 Desember 2024.

Laws

Law No. 40 of 2007 on Limited Liability Companies

Law Number 6 of 2023 on the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 on Job Creation into Law