Emerging Digital Microfinance as Providers of Capital for MSEs in the Form of Individual Limited Liability Companies

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ABSTRACT
The establishment of an individual limited liability company raises many polemics and contains legal problems, namely the establishment of an individual company in the form of a limited liability company established without a notarial deed and without authorization as a legal entity and its juridical implications for applying for capital assistance. The purpose of this research is to analyze the legal status of an individual company in the form of a limited liability company established without a notarial deed and the juridical implications of applying for capital to financial institutions as a third party. The type of research in this article uses economic analysis of law. The results show that the absence of a notarial deed in the establishment of an individual limited liability company is very weak in terms of proving its establishment so that arrangements are needed regarding the establishment of digital microfinance institutions as intermediary institutions for MSEs in the form of Individual Companies.

Keywords: Digital Microfinance, MSEs, Individual Limited Liability Companies.

1. INTRODUCTION

The existence of a limited liability company as a form of business entity in everyday life can no longer be ignored. It is no exaggeration to say that the presence of a limited liability company as a means of conducting economic activities has become a non-negotiable necessity. Business practices carried out by business actors are no longer separated from the presence of a limited liability company, whether on a micro, small, medium, or large scale, which is the most common model today, due to the limitation of responsibility therein, supported by Agus[1]

In 2020, the latest legislation relating to the establishment of limited liability companies was enacted, namely Law Number 11 of 2020 concerning Job Creation (hereinafter written "Job Creation Law") which applies the *omnibus law-making technique*, supported by A Law-Making [2] to the law. President Joko Widodo revealed in his speech when this Law was enacted, that the Job Creation Law aims to realize the spirit of business and investment by simplifying or simplifying procedures for Micro, Small and Medium Enterprises or MSEs who want to establish a company, supported by Tulus [3]

The Job Creation Law has been the subject of much public controversy, supported by BBC Indonesia. [4] Opposition to the draft law surfaced because it was considered to be more favorable to big business and foreign investment. The government is considered to only pursue an increase in the *Ease of Doing Business (EoDB*) ranking, supported by Matthew [5] One of the proposed forms of ease of *doing business* is in the form of regulating variations in the form of Limited Liability Companies (hereinafter written "PT") that are in accordance with the character of MSEs Related to the status of the company, several provisions in Law Number 40 Year 2007 on Limited Liability Company (hereinafter written as "UUPT"), Adhy [6] are also amended in the Job Creation Law. Article 7 Paragraph (7) of the UUPT is amended so that the obligation for a company to be established by 2 (two) or more persons based on an agreement in the form of a notarial deed, is exempted for companies that meet the criteria for MSEs. Based on Article 153A of the Job Creation Law, a company that meets the criteria for MSEs can be established by 1 (one) person, and its establishment is sufficient based on a statement of establishment made in Indonesian.

This is different from the general condition where the establishment of a company, supported by Munawar [7] one of the principles of the company is established based on a notarial deed. Although with the argument of ease of doing business to empower MSEs in Indonesia, supported by UGM Paper [8] the ease of establishing a company for MSEs as regulated by the Job Creation Law is questionable how the legal certainty of the regulation of

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individual PTs as well as its effectiveness and usefulness in creating jobs and improving the welfare of the community which cannot be separated from the philosophy of the Job Creation Law itself, supported by Yasonna Laoly [9]. As stated by Yasonna, the establishment of a legal entity without the need for a notarial deed is one of a number of advantages in an individual company. This legal entity also does not need to wait a long time for legalization. Legal entity status is obtained after registering the statement of establishment electronically and obtaining proof of registration. In addition, business actors are also exempted from the obligation to announce in the Supplement to the State Gazette as a form of bureaucratic simplification, supported by Job Creation [10].

The establishment of the draft law on job creation is prepared with philosophical considerations to realize the national development and the development of the full human development of Indonesia based on Pancasila and the 1945 Constitution of the Republic of Indonesia. Efforts to create jobs through increased investment and the facilitation and protection of MSMEs must be followed by policies to improve the quality of human resources so that workers (job seekers) can compete in the formations required by the world of work or enterprises. The establishment of the draft job creation law, which contains various solution policies needed by the Indonesian people, the business world, and the government of Indonesia. Efforts to create jobs are broadly carried out through (a) encouraging increased investment in Indonesia; and (b) developing the MSE sector through research and innovation support so that MSEs can develop and be able to compete in the business world. Then the establishment of an individual company in the legislation is not followed by ease in terms of capital. Banking institutions with the principle of prudence have not been able to 'secure' the provision of capital to small micro businesses in the form of individual companies. For this reason, a conceptualization of the regulation of the establishment of digital microfinance institutions is needed.

2. RESEARCH METHODS

This article uses the legal research method. This method is used to analyze legislation and legal views. This research examines and analyzes various laws and regulations in analyzing the legal status of the establishment of MSEs in the form of individual companies and the conceptualization of digital microfinance institutions as an alternative funding. The research is conducted with a statute approach, which is a legal study through applicable positive legal regulations, both in the form of laws and decisions of competent institutions in the field of banking, laws and regulations in the field of other financial institutions. Herni Widanarti [11] the second approach is an analytical approach to analyze the understanding of legal principles and legal meaning. Legal materials in the form of primary and secondary legal materials are analyzed using teleological interpretation techniques, which is an appropriate method for interpreting a rule based on the objectives to be achieved and the rationale and rational explanation. In addition, systematic interpretation relates one rule to another based on the underlying principle, supported by Veronica [12].

3. RESULTS AND DISCUSSION

3.1. Legal Status of MSE Establishment in the Form of Individual Company Legal Entity

Trading companies are the most widely recognized form of individual companies found in society. Service companies are companies engaged in the business of using services with tools that aim to obtain compensation in the form of money. Service companies are individual companies that rank second in the community, after trading companies. Industrial companies are companies engaged in the business of making or producing/producing goods for profit or profit. An individual company is established by an entrepreneur who has enough capital to do business. In a sole proprietorship company, the entrepreneur is also the head of the company. If the capital is small he works alone. If the capital is large and the business is quite extensive, the entrepreneur employs several assistant entrepreneurs, supported by Heidji Rachman [13]

In relation to the liability of a trading business as an individual company, it is limited to the field of Civil Law related to the losses suffered by the creditors of a Trading Business (UD). Likewise, in the legal relationship between a Trading Business (UD) and its creditors. When a Trading Business (UD) in its business operations experiences bankruptcy, for example, then it must be responsible. As emphasized by Veronica Komalawati, in general everyone must be responsible (*aansprakelijke*) for all his actions. according to Dewa [14] The same thing was also stated by Heidji Rachman Ranupandojo Irawan and Sukanto Reksohadiprojo that the company must not only be responsible for its owners, namely, providing profits, but also must be responsible to its customers (consumers and *leveransir*), to its employees. The investors, and their creditors, the community, the government, and

other companies. According to Hendri [15]. The principle of responsibility of a Trade Enterprise as stated above is based on the views of scholars who base it on the legal relationship of the parties and on business ethics. Meanwhile, based on existing legal regulations, the responsibility of a Trading Business to its creditors can also be based on the provisions of Article 1131 of the Civil Code. Referring to this article, the responsibility of the Trading Business is full and unlimited to the creditors, supported by Tri [16].

Entrepreneurs who establish UD are personally and fully responsible for business risks to the company's creditors. The personal liability for all company commitments involves all assets (property rights) of the entrepreneur. There is no separation between personal assets and company assets. If it is based on the provisions of article 1131 of the Civil Code, then all the property of the debtor, both movable and immovable, both existing and new ones will exist in the future, become dependents for all individual obligations, supported by Tri [16]. So it can be concluded that the liability of a trading business in the form of an individual company is full and unlimited, meaning that UD's responsibility involves the assets of the owner. If UD's assets are insufficient to fulfill its obligations to creditors, the shortfall will be taken from UD's personal assets. If we look at the definition between an individual company and an individual company, the characteristics are almost the same Reviewing The Differences between PT, CV and Capital Partnership [17], what distinguishes the two lies in the status of the legal entity, an individual company is a legal entity, while an individual company is an unincorporated business entity. [18]The liability of an Individual PT is the same as an ordinary PT, which is only limited to the capital paid up by shareholders in the company. Whereas ordinary non-incorporated business entities, such as CVs, do not have a separation of assets, so that liability can extend to the personal assets of the allies or founders. According to A'an [18] this is emphasized in Article 153J paragraph (1) of the Job Creation Law, Fifth Section of Limited Liability Companies, which states that shareholders of Individual PTs are not personally liable for more than the shares owned, supported by Law No. 8 [19]

Prior to the enactment of the Job Creation Law, the 2007 UUPT recognized the existence of a Sole Shareholder Company, which will be referred to as PPST based on the rules in Article 7 paragraph (7) which excludes the requirement for the establishment of a PT by at least 2 (two) or more persons. The establishment of a Company other than a Perseroan under the provisions of Article 7 paragraph (7) of the 2007 Company Law requires the founders to partner and share their shareholding with other parties as a logical consequence of the principle of capital partnership and the principle of agreement. In practice, not every founder of the Company wants to cooperate with other parties but is bound by the requirements in the Company Law. In practice, to avoid the provisions of the Company Law, a company is established which formally complies with the principle of capital alliance and the principle of agreement but its essence is PPST. According to Anner Mangatur [20] noted several companies whose establishment and shareholding provisions are in accordance with the Company Law but whose essence is PPST, namely:

a. PT Bumihutani Lestari which based on the notarial deed of the latest amendment to the articles of association shows there are only 2 (two) limited liability companies, namely PT Bumi Langgeng Perdanatrada has 125,300,061 (one hundred twenty-five million three hundred thousand sixty-one) shares worth Rp.125,300,061,000 (one hundred twenty-five billion three hundred million sixty-one thousand) and PT Pranabumi Pratama as much as 1 (one) share worth Rp.1000 (one thousand rupiah).
b. PT Maspion Industrial Estate which based on the latest amendment to the articles of association has 2 (two) shareholders, namely PT Bumi Maspion owning 1,099,999 (one million ninety nine thousand nine hundred ninety nine) shares with an aggregate value of Rp.1,099,999,000 (one billion ninety nine million nine hundred ninety nine thousand rupiah) and PT Maspion Investindo with ownership of only 1 (one) share.
c. PT Kaliwangi Chasasi Dharma Putra was established on October 27, 1999 in Jakarta by Ir. Mohammad Gamai Sugiarto and Dra. Ekawati Praharti. After the company obtained legal entity status, the 2 (two) founders married without making a marriage agreement to separate their assets. The company runs its business until now and the only shareholder is the husband and wife.

There are only 2 (two) types of PPST that are clearly regulated in the Company Law, which will be explained below, namely for companies whose shares are owned by the state and companies that manage stock exchanges, clearing and guarantee institutions, depository and settlement institutions, and other institutions in accordance with the Capital Market Law, and outside of these two types of companies, they must comply with the

rules of Article 7 paragraph (1) of this Company Law, supported by Coordinating Ministry for Economic Affairs of the Republic of Indonesia [21]

In practice, because it is hindered by the provisions of Article 7 paragraph (1) of the Company Law, there are *de facto* PPSTs, companies that fall into this category include the companies described in points a and b above. This type of PPST in fact has more than 1 (one) shareholder, but 1 (one) of the shareholders exists only to fulfill the formality of establishing a Company in accordance with the Company Law. The person who becomes a shareholder is usually the wife, child, or closest relative with a relatively small number of shares because according to its purpose, it is important to fulfill the establishment requirements with 2 (two) or more people, supported by Anner Mangatur [20]

The first PPST based on Article 7 paragraph (7) of the Company Law is Persero whose shares are wholly owned by the state. The Explanation of Article 7 paragraph (7) of the Company Law states that the Persero whose shares are wholly owned by the state does not apply the principle of capital partnership and the principle of agreement due to the special status and characteristics of the Persero. Furthermore, Article 7 paragraph (7) of the Company Law states that what is meant by Persero is a state-owned enterprise in the form of a Company whose capital is divided into shares as regulated in Law Number 19 Year 2003 on State-Owned Enterprises (hereinafter referred to as the SOE Law). Based on Article 1 point 2 of the BUMN Law, a persero is a State-Owned Enterprise in the form of a PT whose capital is divided into shares, all or at least 51% (fifty-one percent) of whose shares are owned by the State of the Republic of Indonesia whose main objective is to pursue profits.

The second PPST based on Article 7 paragraph (7) of the Company Law is the Company that manages the stock exchange, clearing and guarantee institution, depository and settlement institution, and other institutions as regulated by the Capital Market Law [21] Based on the Capital Market Law, the Company as referred to in Article 7 paragraph (7) of the Company Law is as follows:

"Stock Exchange" means a party that organizes and provides systems and/or facilities to bring together the sale and purchase offers of Securities of other Parties with the aim of trading Securities between them (Article 1 point 4 of the Capital Market Law). Clearing and guarantee institution is a Party that organizes clearing and guarantee services for the settlement of Exchange Transactions (Article 1 point 9 of the Capital Market Law). Depository and settlement institution is a Party that organizes central Custodian activities for Custodian Banks, Securities Companies, and other Parties (Article 1 point 10 of the Capital Market Law). Other institutions as stipulated in the Capital Market Law, such as Custodian, Underwriter, Broker-Dealer, Securities Company, and so forth." Based on Article 1 point 16 [22]

According to the explanation of Article 7 paragraph (7) of the Company Law, the Company as referred to in the Capital Market Law is exempted from the principle of capital partnership and the principle of agreement due to its special status and characteristics. These companies have a special position as capital market supporting institutions with specific functions also to support activities in the capital market.

Micro and small businesses themselves do have some shortcomings that are felt to make these businesses not very developed but have great potential because in their management, owners are more focused and actively involved in their development, have higher motivation and flexibility, and the short bureaucracy in micro and small businesses, including micro and small businesses have limited capital which has an impact on the limited raw materials, machinery or other supplies in micro and small businesses, staffing problems due to not being able to pay large salaries, there is no good administrative system in micro and small businesses, supported by Tri [16]

The government has also issued previous policies to help develop these micro and small enterprises, including the government issuing capital assistance policies to expand the special credit climate with conditions that are not burdensome for MSEs, protection of certain types of businesses, especially traditional businesses that are businesses of the weak economic class, partnership development, training for MSEs both in aspects of entrepreneurship, management, administration and knowledge and skills in business development, supported by Tri [16]

Future government policies need to be more conducive to the growth and development of MSEs. The government needs to increase its role in empowering MSEs in addition to developing mutually beneficial business

partnerships between large entrepreneurs and small entrepreneurs, and improving the quality of its Human Resources. Soejardono [22] One of the substances regulated in the Job Creation Law is the facilitation, protection, and empowerment of MSMEs. The government hopes that through the Job Creation Law, MSMEs can continue to develop and be competitive, based on Guideline for Individual Company Registration[23]

From the explanation above, it can be seen that the Government is trying to improve all regulations that can support the development of micro and small businesses, especially with the issuance of the Job Creation Law, the Government hopes that micro and small businesses can be made easier in terms of capital and establishment as a legal entity in the form of a Limited Liability Company as outlined in Article 109 of the Job Creation Law in *conjunction* with Article 1 paragraph (1) of the Company Law, Limited Liability 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 individual Legal Entities that meet the criteria for Micro and Small Enterprises as stipulated in laws and regulations concerning Micro and Small Enterprises.

The legal requirement for the establishment of a company in Article 7 paragraph (4) of the 2007 Company Law is that the Company obtains the status of a legal entity on the date of issuance of the Ministerial Decree regarding the ratification of the Company's legal entity. This is explained in Article 7 paragraph (4) UUPT 2007. From this provision, it can be concluded that a PT is validly established if it has received authorization from the government, in this case the Minister of Law and Human Rights of the Republic of Indonesia. Here we can see how the government plays a role in giving the status of a PT business entity into a legal entity. The existence of government intervention in this case is none other than as an effort of supervision and prevention, as stated by R. Soekardono, the importance of ratification (*bewilliging*) which also contains the meaning of approval (*stemming*), as an act of supervision by the government. Thus, the act of ratification of the deed of establishment of a PT business entity, shows that the Minister of Law and Human Rights of the Republic of Indonesia has carefully examined the contents of the deed of establishment of PT, in the sense that the regulations regarding PT have been heeded, supported by Ridwan [24]

In line with the opinion of the trade law figures above, Rudhy Prasetya, suggested that the establishment of a PT requires government intervention in this case the Minister in charge of law to check the appropriateness of the articles of association of a PT. This action is a *preventive measure*. After the articles of association are examined by the Minister, if they are in accordance with the laws and regulations, then they are published through the Supplement to the State Gazette of the Republic of Indonesia (TBNRI). This is important, as the articles of association are not only binding on shareholders but also on third parties. With the announcement of the ADPT through the official media, in this case TBNRI, it is considered that everyone already knows about the existence of the PT in the legal and business traffic. According to Hendri [15] The purpose of the establishment of PT is announced in TBNRI so that the public knows that the PT is legally valid and can carry out business activities in accordance with the purpose and objectives of the PT. According to Hendri [15] Although juridically formal PT has obtained the status of a legal entity, the directors must not be negligent in performing their duties, namely registering the deed of establishment of the PT in the register provided for it, precisely regulated in Article 29 UUPT. Law Number 3 of 1982 concerning Compulsory Company Registration. Article 2 states: "The company register aims to record information materials made correctly from a company and is an official source of information for all interested parties regarding the identity, data and other information about companies listed in the company register in order to ensure business certainty". In addition, it should also be noted that with the enactment of Law Number 11 of 2020 concerning Job Creation, the Law on Compulsory Company Registration is revoked and declared invalid.

Researchers found that there are individual companies that have been registered but not recorded as having been announced. If we examine the contents of Article 29 related to the company register, especially Paragraph (2) Letters c to f, it states that the company register is the procedure for registering company data based on what has been stated in the company's deed of establishment which is made authentically before a Notary. Meanwhile, in the procedure of establishing an individual company, it does not require a deed of establishment made by a Notary, but only based on the Statement of Establishment filled out *online* by the founder. Furthermore, the company data that must be registered related to Article 29 paragraph (2) letter g which mentions the complete data of the company's organs, namely shareholders, members of the Board of Directors, and members of the Board of Commissioners, then in the establishment statement letter there is no mention of the term company organ contained in the Company Law, in the establishment statement letter only fills in complete data related to the data of business owners and beneficial owners, supported by Satrio [25]

Article 30 of the UUPT related to the announcement, states that the documents announced by the Minister in the Supplement to the State Gazette of the Republic of Indonesia are the deed of establishment and the Minister's

Decree as evidence that the company has been authorized as a legal entity by the Minister of Law and Human Rights of the Republic of Indonesia, which is not following the establishment of an individual company which is only with a statement of establishment and the document used as evidence of having obtained the status of a legal entity is in the form of a certificate of proof of registration, where the two documents are different. So if all provisions related to the company must be subject to the 2007 UUPT, Article 29 and Article 30 of the UUPT are not following the procedure for establishing an individual company.

3.2. Conceptualization of the Establishment of Digital Financial Institutions as Intermediary Institutions for MSEs with Individual Company Legal Entities

A legal relationship is a relationship that is regulated and recognized by law which will eventually lead to certain legal consequences. According to Mariam [26] Such a legal relationship can be interpreted as an obligation. The obligation itself can be divided into two types based on its source, namely agreements and laws. According to Setiawan [27] An agreement is an agreement made by the parties who make the agreement. The parties agree to give something, do something or not do something. This agreement will give birth to rights and obligations between the parties. In an agreement there are several rights and obligations owned by the parties, so that in an agreement can give birth to many obligations. According to Setiawan [27] The second source of obligation is law. In the agreement, the will of the parties is aimed or considered to be aimed at the legal consequences they want, or it can be said that the birth of the obligation is due to the will of the parties. Meanwhile, the obligation born from the law is the will of the lawmaker. According to Setiawan [27] Unlike the obligation arising from an agreement, this obligation can be born between one party and another, without the people concerned wanting it.... or without taking into account their will. One example is the obligation of children towards their parents mentioned in Article 321 of the Civil Code which reads "Every child is obliged to provide for his parents and his blood relatives in the lineup if they are poor'.

Obligations arising from the law are still divided into agreements arising from the law alone and due to laws and human actions. According to Setiawan [27] Obligations arising from laws and human actions are not against the law *(rechtmatig*) and against the law (*onrechtmatig*). An obligation arising from an unlawful act arises when a person commits an unlawful act that causes harm to another person. The legal relationship that exists in this engagement creates an obligation for the party who committed the unlawful act to compensate the injured party. The parties in the engagement consist of 2 (two) subjects, namely: (supported by Akbar [28]

a. The party who is entitled to something is called the creditor.
b. The party who is obliged to do something is called the debtor.

In this creditor-debtor relationship, in general, the debtor is not only obliged to fulfill the performance (*schuld*), but also must have a guarantee (*haftung*) as regulated in Articles 1131 and 1132 of the Civil Code. *Schuld* is the debtor's debt to the creditor. Meanwhile, what is meant by *haftung* is the property owned by the debtor which is pledged to be accounted for / reserved for the repayment of the debtor's debt. Thus *schuld* and *haftung* always exist on the debtor's side, however, there are exceptions related to this *schuld* and *haftung,* namely *schuld* without haftung*, schuld* with limited haftung, and haftung with schuld on others. Legal entities in conducting legal actions with third parties must be represented by the management of the company. The legal entity here discussed is a Limited Liability Company, where the supreme power is in the hands of the GMS, and in daily operations is led by the Board of Directors (if more than one) or Director if only led by one person. According to Lukman [29] The Board of Directors as one of the organs of PT has the duty and authority in carrying out the company's business activities and representing the company's legal actions both within the company and outside the company as stipulated in Article 97 of the Company Law. The Board of Directors is responsible for the management of the Company in good faith and full responsibility. Each member of the Board of Directors is fully personally liable for the Company's losses if he/she is guilty or negligent in carrying out his/her duties, supported by Lukman [29]

If an organ in an individual company is unclear in the sense that the founder doubles as a beneficial owner or shareholder, director, and commissioner, then third parties in conducting legal relations with an individual company will be confused when a conflict occurs, and how to carry out the company's responsibilities. Whether the individual company that makes the agreement acts as a director, commissioner, or even a shareholder. When concurrently holding all of these positions, the responsibility that separates the company's assets from personal assets will be erased. Individual companies according to the Job Creation Law may be established with the condition

that they must meet the criteria for Micro and Small Enterprises. Micro enterprises themselves based on Article 1 Number 1 of the Law of the Republic of Indonesia Number 20 of 2008 concerning Micro, Small, and Medium Enterprises (hereinafter referred to as the UMKM Law) are productive businesses owned by individuals and/or individual business entities that meet the criteria for Micro Enterprises as stipulated in this Law, while small businesses are independent productive economic businesses, carried out by individuals or business entities that are not subsidiaries or branches of companies that are owned, controlled, or part of either directly or indirectly from Medium Enterprises or Large Enterprises that meet the criteria for Small Enterprises as referred to in this Law.

The criteria for Micro Enterprises are as follows:

a. has a net worth of at most Rp50,000,000.00 (fifty million rupiahs) excluding land and building of the place of business; or
b. has annual sales revenue of at most Rp300,000,000.00 (three hundred million rupiahs).

The criteria for a Small Business are as follows:

a. has a net worth of more than Rp50,000,000.00 (fifty million rupiah) up to a maximum of Rp500,000,000.00 (five hundred million rupiah) excluding land and building of the place of business; or
b. has annual sales revenue of more than Rp300,000,000.00 (three hundred million rupiah) up to a maximum of Rp2,500,000,000.00 (two billion five hundred million rupiah).

According to the above rules, there is no mention of what services micro and small businesses specialize in, so the author will explain the legal relationship between Individual Companies with Micro and Small Business criteria with third parties in general business activities based on the principle of making agreements, namely the principle of freedom of contract regulated in Article 1338 of the Civil Code. According to Arus Akbar Silondae and Andi Fariana, a business is a trading business or a commercial enterprise, profession, or trade established to make a profit. A business is created by *entrepreneurs* who place their money in a certain ratio to promote certain businesses with the motive to get a large profit. Titik Triwulan Tutik [30] Abdurrachman, a business law expert, argues that what is meant by business is an affair or activity of trade, industry, or finance associated with the production or exchange of goods or services. Meanwhile, according to Friedman, what is meant by business is placing money from *entrepreneurs*, in certain risks with certain businesses with the motive to get profit, supported by Soejono [31]

Before the development of commercial law, especially those governing companies, which eventually gave birth to corporate law, business was narrowly defined, but later, as stipulated in Article 1 letter d of Law Number 1 of 1987 concerning Chambers of Commerce and Industry (KADIN Law), business is not limited to trade only, but includes all activities of any kind in the economic environment. Therefore, the business can include three fields of enterprises: State enterprises (BUMN), Cooperative enterprises, and Private enterprises. As for business activities in general, 3 business fields can be distinguished, namely:

a. Business in the sense of trading activities (*commerce)*, namely: all buying and selling activities carried out by people and entities, both domestically and abroad or between countries to make a profit. Examples in this business field include manufacturers (factories), dealers, agents, wholesalers, and shops.
b. Business in the sense of industrial activity (*industry*), namely the activity of producing or producing goods whose value is more useful than their origin. Examples in this field of business include the forestry industry, plantations, mining, stone quarrying, building, bridges, food factories, clothing, crafts, and machinery factories.
c. Business in the sense of *service* activities, namely activities that provide services carried out by both people and entities. Examples in this field of business include hospitality services, consultants, insurance, tourism, lawyers (lawyers), appraisers (appraisal), and accountants.

In business practice, the source of the contract includes two aspects based on Article 1338 paragraph (1) of the Civil Code, supported by Soejono [32]

a. The contractual aspect itself, which is the main source of law, where each party is bound to abide by the contract it has agreed to (contracts made are enforced the same as laws).
b. The aspect of freedom of contract, where the parties are free to make and determine the contents of the contract they agree upon.

While the sources of business law in general (sources of statutory law), are:

a. Private Law (KUHPerdata);
b. Commercial Law (KUHDagang);
c. Public Law (Economic Crimes/Criminal Law);
d. Legislation outside the Civil Code, Criminal Code, Commercial Code.

A legal subject is anything that can have rights and obligations under the law or any supporter of rights and obligations under the law. A legal subject can also be understood as any being authorized to have, acquire, and exercise its rights and obligations in legal traffic.

Meanwhile, the classification of legal subjects can be divided into two, consisting of humans or *naturlijke person* and legal entities or *rechtspersoon*, supported by Soejono [32]

a. Human/Person (*naturlijke person)*

Every human being, both citizens and foreigners are subjects of law from the time they are born until they die. Humans as subjects of law have rights and are able to exercise their rights and are guaranteed by applicable law. According to Soejono [32] Every human being (*natuurlijke persoon*) in accordance with the law is considered capable of acting as a legal subject unless the law states that he is not capable.

The conditions of legal capacity include:

1) A person who is an adult (18 years old, according to Law No. 1/1974)
2) A person who is under 18 years old but has been married
3) A person who is not serving the law
4) Be of sound mind and spirit.

The conditions for legal incapacity include:

1) A person who is not an adult
2) Memory pain
3) Less intelligent
4) Persons under guardianship.

Thus it can be concluded that since the issuance of Law No. 30 of 2004 concerning UUJN, every person who is 18 years old or married is considered an adult, and has the right to act as a legal subject. Unless the law determines otherwise, as explained above, supported by Soejono [32]

b. Legal Entity (*rechtspersoon)*

Legal entities are bodies of associations of people (*person*) created by law. Or it can also be understood as an association or organization that is established and can act as a legal subject, for example, it can own wealth, enter into business contracts and so on. Meanwhile, actions that can cause legal consequences, namely, a person's actions based on a legal provision that can cause legal relations, namely the consequences arising from legal relations, supported by Djaja [33]

Legal entities as legal subjects can act legally (perform legal acts) like humans. Thus, legal entities as bearers of rights and soulless can do as bearers of human rights such as being able to make contracts and have wealth that is completely independent of the wealth of its members, therefore legal entities can act with the intermediary of their administrators, supported by Djaja [33]

Based on the explanation above, it can be concluded that the definition of a legal entity as a legal subject includes the following, namely (supported by Djaja) [33]

1) Association of people (organization);
2) Can perform legal acts (*rechtshandeling*) in legal relationships (*rechtsbetrekking*);
3) Has its own property;
4) Has a board;
5) Have rights and obligations;
6) Can be sued or sued before the Court.

Guided by the principle of freedom of contract (*concensual*), the parties are free to make any contract, both existing and unregulated, as long as the contract does not conflict with the law, public order, and decency. Consequently, if there is a dispute, the contents of the contract made and signed will be the main reference in deciding the dispute resolution, based on article 1 point 16 [22]

A good contract should provide security and benefit each party. In order for a contract to be safe and profitable for both parties, there are several things that must be considered before signing a contract, namely: first, understand the main conditions for the validity of a contract; second, the substance of the articles regulated in it is clear and concrete; third, follow the procedures/stages in preparing the contract. When viewed from its form, a contract is a series of words containing promises or undertakings that are spoken or put in writing by the parties to the contract. The contract contains the rights and obligations of the parties who make it. Executing a contract means properly carrying out what is an obligation towards whom the contract is made. Therefore, executing a contract is essentially doing something for the benefit of others, namely the party entitled to the execution of the contract, based on article 1 point 16 [22]

If the contract is one-sided, then the obligation to carry out the contract is only on one party, while the other party only has rights. However, if the contract is two-faced, then the obligation to perform the contract is on both parties so that both parties reciprocally each have rights and obligations that face each other. Looking at the type of things promised to be done, the performance in the contract is divided into three types, namely: First, a contract to give or deliver an item; Second, a contract to do something; Third, a contract not to do something. However, if the debtor does not carry out his obligations as an achievement, then he is said to be in a state of default, supported by Ali [34]

In the law or articles of association as well as in the bylaws of a legal entity, it is usually designated who can act legally (perform legal acts) for the legal entity, supported by Asshiddiqie[35]

This legal entity acts of course with the mediation of people, because a legal entity is only a notion (*begrip*), which always acts with people. Article 1654 of the Civil Code determines that all legal entities (*zedelijke lichamen*) are as legitimate as thugs / particleers are authorized to perform civil acts. So, legal entities in general are authorized to perform legal acts.

According to Article 1655 of the Civil Code: administrators (*de bestuurders*) who act for legal entities. This article specifies that: "the administrators of an association is simply about it has not been regulated otherwise in the letter of establishmentyya, agreement - agreement and reglemen-reglemennya, authorized to act on behalf of the association binding association to third parties and vice versa, as well as acting before the Judge, both as a plaintiff and as a defendant.

So the administrators of the legal entity are authorized to act on behalf (*in name*) of the body, meaning that the representatives of the legal entity are acting for the body. The basis of the authority to represent it is because the representative of this legal entity is an organization (equipment) of the legal entity. Orgaan according to Plato is a person or group of people whose duties in the legal entity is *essentialia* of the organization. Its place is determined by the articles of association. In the Company, the organ intended to represent the legal entity is the board of directors, as confirmed in Article 98 of the Company Law.

In the relationship between the organization/management of *a* legal entity that represents the legal entity, Paul Scholten argues, that representation in a legal entity is included in the class of *aanstelling / appointment,* but what determines the extent of the authority represented is the articles of association / statutair, not by the general meeting, nor the person who appointed it. Also, the appointment of the board by the general meeting is not lastgeving (granting power/encumbrance). So although the board is under the general meeting, the general meeting can not order the board of directors, because the extent and authority to represent it is determined by the articles of association. Representation is the responsibility of a person's legal actions to another person than the person who acted, to act within the limits of authority given by and on behalf of the principal, supported by Ali [34]

Article 1796 of the Civil Code regulates the act of management (*daden van beheerst*) only, not about the act of control (*daden van beschikken*), because *beschikken* is about the transfer of rights, control and so on. But because the representation in the legal entity is not lastgeving, then Article 1795 and Article 1796 of the Civil Code does not apply to legal entities, supported by Ali [34]

If the articles of association do not stipulate otherwise, then the management of the legal entity is not only authorized to perform acts of management, but can also perform acts of control: selling, mortgaging. There is also no obstacle for the management of the legal entity to buy objects from the association itself, because the

management of the legal entity is different from lastgeving, because if *lastgeving* according to the provisions in Article 1470 of the Civil Code- for *lasthebber is* not allowed to buy goods that are assigned to him to be sold by *his lasgever*, supported by Asshiddiqie [35]

In the discussion above, the representation of a legal entity is said to be different from volmacht, which is not explicit, but must be stated in the statute. Organs are included in representation by appointment, but what determines the extent of the organization's authority is determined in its articles of association, supported by Ali[34]

The appointment of the management as an organization in a legal entity is the general meeting (*aandeelhouders vergadering*). The meeting itself is one of the representatives of the legal entity, so even though the management is under the general meeting, the management cannot be ordered by the general meeting. However, in *lastgeving a* person under the burden can be ordered by the *non-lastgeving*, then Article 1795 onwards of the Civil Code does not apply to the representative of a legal entity.

In general, some articles of *lastmentving* cannot be applied to legal entities, but due to civil law and analogical interpretation, if there are no articles on the subject, they can be used analogically to legal entities. All acts of a representative of a legal entity are binding as if they were acts of the legal entity itself.

Organs in legal entities bind legal entities only within the limits specified in their articles of association or legal entities are bound when the organization acts within the limits specified by its articles of association. Organs in legal acts that are not authorized (*onbevoegd*), then the legal entity is not bound, nor is it binding even if the third party is in good faith, not protected. It is all against civil legal entities, supported by Ali [34]

The issue of unlawful acts committed by legal entities is an issue that needs to be known and is very important for legal entities. That a legal entity is liable (*aansprakelijkheid*), meaning that it can be sued for the unlawful acts committed by its organization as an organization (*als zodenig door de orgaan*). Because if a director of an organization commits an act, then he can act as an organization, and can also be a private, where the legal entity is not bound. If the organization/director of the legal entity acts in private/personally, then the legal entity is not bound. This is settled jurisprudence, which cannot be found in the law. However, this was not the case in the past. Previously, regarding this liability, there was a lot of disagreement, especially between scholars who adhered to the theory of contract fiction, and scholars who adhered to the organ theory.

Regarding this liability, according to the *Juridische Realiteit* theory of legal entities (Paul Scholten and Meyers), this matter of liability (*aansprakelijkheid) is based on the* opinion that everything done by the management *in its function* (*in functie*) can be accounted for against the legal entity itself, supported by Ali [34]

In doing so, there is certainly the possibility of committing *onrechtmatige daad*. To be accountable for the onrechtmatige daad of the legal entity does not actually make sense because the legal entity does not order or mandate the organ to perform other legal acts. This is based on *Jurische Realiteit*, which states that all actions of the representative/organ are accountable to the legal entity. So it also includes *onrechmatige* daad that can be accounted for (*kenworden gerekend*) on legal entities. will be even broader, is every defense of a right and faithful implementation of a right by the organization/management as an organization can be accounted for *on a legal entity* because in doing so resulting in *onrechtmatige daad to do* not for his rights, but for the legal entity.

An organ is considered to act as an organ representing the company is when the organ acts still in the formal atmosphere of its authority, supported by Ali[34] and if an act can still be said to exist within the formal environment of its authority, Paul Scholten, if the act can be seen as a *taaks / ambtsvervulling*.

For unlawful acts, it can occur when the organ (as a representative of the legal entity) performs a legal act, as well as as a result of the maintenance of a right and the exercise of a right by the organ as an organ. Then if an *onrechtmatige daad* arises, the one responsible is the legal entity, because he acts for the legal entity as *taaksvervulling / ambtsvervulling*. This is general in the scope of legal entities, but the rules related to this must still see the principles and provisions in the rules of PT in the Company Law. [33] The stages of establishing an individual PT, namely after filling in the Statement of Establishment by the founder electronically, the founder can print proof of establishment in the form of a certificate of proof as an example that has been described in the previous point. This is different from the procedure stipulated in UUPT 2007 before the enactment of the Job

Creation Law, which is that after the notary uploads all the required documents in the General Legal Administration (AHU *online)*, the Minister will issue a Decree on the Ratification of the Company's Legal Entity. Furthermore, the deed of establishment of a PT that has been legalized by the Minister of Law and Human Rights of the Republic of Indonesia, is recorded in the Company Register and announced in the State Gazette of the Republic of Indonesia.

The legal product produced after the registration of an individual company is a registration certificate. Furthermore, if there is an amendment to the company's statement of establishment, then after the statement of amendment of the individual company is submitted to the Minister electronically, a certificate of amendment will be obtained. The resulting *output* looks different when we compare it with the Minister's decision regarding the ratification of the company's legal status based on Article 7 paragraph (4) of the Company Law. It is unfortunate that the wording of the provisions of Article 7 paragraph (4) of the Company Law has been changed by Article 109 of the Job Creation Law to: "the company obtains legal entity status after being registered with the Minister and obtaining proof of registration". This change seems to accommodate companies established by 2 (two) or more people, as well as companies for micro and small businesses. However, the non-mention of the Minister's decision regarding the ratification of the company's legal entity does not mean that this provision is deleted, but it makes the remaining articles in the UUPT, especially Article 8, Article 9 and Article 10, lose their basic foundation.

Exposure of the comparison of legal products produced in the registration of PTs, whether established by 2 (two) or more people or individuals who meet the criteria of micro and small businesses, it is very possible that there will be a lawsuit over these legal products. The Ministerial Decree regarding the ratification of a company's legal entity can be the object of a state administrative case considering that the Ministerial Decree is a State Administrative Decree. Article 1 point 9 of Law Number 51 of 2009 concerning the Second Amendment to Law Number 5 of 1986 concerning State Administrative Courts stipulates that a State Administrative Decree is a written decision issued by a state administrative body or official that contains state administrative legal actions based on applicable laws and regulations, is concrete, individual and final and has legal consequences for a person or civil legal entity. However, whether the proof of registration of an individual company in the form of a registration certificate can also be classified as a state administrative object or not, further study is needed, which the author will describe as follows:

In Article 1 point 2 of Law Number 12/2011 on the Formation of Legislation, the definition of legislation is: "Legislation is a written regulation that contains legal norms that are binding in general and is formed or stipulated by state institutions or authorized officials through procedures stipulated in the Legislation." Article 8 paragraph (1) of Law No. 12/2011, which states: "Types of Legislation other than as referred to in Article 7 paragraph (1) include regulations stipulated by the People's Consultative Assembly, the House of Representatives, the Regional Representatives Council, the Supreme Court, the Constitutional Court, the Supreme Audit Agency, the Judicial Commission, Bank Indonesia, Ministers, agencies, institutions, or commissions of the same level established by Law or Government by order of Law, Provincial Regional House of Representatives, Governors, Regency/City Regional House of Representatives, Regents/Mayors, Village Heads or equivalent."

Meanwhile, regarding the use of the terms "decision" and "regulation", according to Jimly Asshiddiqie, the state as an organization of general power can make three kinds of decisions that are legally binding for legal subjects related to these decisions: Namely decisions that are general and abstract (*general and abstract*) are usually *regulating* (*regeling)*, while those that are individual and concrete can be decisions that are or contain administrative determinations (*beschikking*) or decisions in the form of '*verdicts*' of judges which are commonly referred to as decisions, supported by Asshiddiqie[35] Therefore, according to Jimly, there are three forms of decision-making activities that can be distinguished by the use of the terms "regulation", "decision/decree" and "determination", according to Jimly these terms should only be used for: (supported by Asshiddiqie)[35]

1) The term "regulation" is used to refer to the results of regulatory activities that produce regulations (*regels*).
2) The term "decision" or "decree" is used to refer to the result of administrative decision-making (*beschikkings*).
3) The term "determination" is used to refer to a judgment or trial that results in a *verdict*.

Regarding the difference between decisions (*beschikking*) and regulations (*regeling)* mentioned by Jimly Asshiddiqie, decisions (*beschikking) are* always individual and *concrete*, while regulations (*regeling) are* always general and *abstract*. What is meant is *general and abstract*, namely its applicability is addressed to anyone who is subject to the formulation of general principles. According to Asshiddiqie[35] When viewed in its characteristics, the certificate of proof of registration has the nature of a regulation that stipulates (*beschikking*) because it is *individual and concrete*, related to granting the status of a company's legal entity. The object of dispute in the State Administrative Court (PTUN) is a written determination that gives rise to a legal effect due to actions taken by the

government and provides losses or potential losses to the public. A certificate of proof of registration is a legal product issued by the Directorate General of General Legal Administration. Historically, it is an institution under the auspices of the Ministry of Law and Human Rights.

History of AHU Directorates-General at the beginning of the implementation of the tasks of the United Development Cabinet in the first year of President Gus Dur's administration (Period 1999-2004) in the cabinet structure established, the organizational name of the Department of Justice was changed to the Department of Law and Legislation, following Presidential Decree Number 136 of 1999 concerning Position, Duties, Functions, Organizational Structure and Work Procedures of the Department. The organizational name of the Department of Law and Legislation was taken from and or previously used as the name of one of the echelon I units in the Ministry of Justice, namely the Directorate General of Law and Legislation. This resulted in the determination of goals, vision, mission, strategic plan, work program and implementation that will be determined later. Therefore, there was a comprehensive development and expansion of organization and work procedures at the level of echelon I, II, III, and IV work units. With the same nomenclature between the Department and its units, the nomenclature of the Directorate General of Law and Legislation must be changed.

On April 5, 2000, the Minister of Law and Legislation issued the Minister of Law and Legislation Decree Number M.03-PR.07.10 of 1999 concerning the Organization and Working Procedures of the Department of Law and Legislation. With this Ministerial Decree, the Directorate of Law and Legislation was expanded into 2 (two) new Directorates-General, namely the Directorate General of Legislation and the Directorate General of General Legal Administration at the echelon I unit level. This is intended to support the position and role of the Department of Law and Legislation as a law center and to improve legal services to the public, because the workload of the Directorate General of Law and Legislation, both substantive and technical, is very complex and varied. The Directorate General of General Legal Administration will only handle and carry out tasks and functions of a service nature. Meanwhile, the Directorate General of Legislation will handle and carry out tasks in the field of drafting laws and regulations. So it can be said that the Directorate General of General Legal Administration under the auspices of the Ministry of Law and Human Rights of the Republic of Indonesia is a state administrative official. State Administrative Bodies or Officials are Bodies or Officials that carry out government affairs based on applicable laws and regulations. It can be concluded, then, that the characteristics of the Certificate of proof of registration fall into the governing rules (*beschikking*) and are legal products issued by state administrative officials in this case the Directorate General of General Legal Administration, but in the naming there is inconsistency and loss of foundation from the relevant articles, namely article 8, article 9, and article 10 of Law Number 40 of 2007 concerning Limited Liability Companies.

3. CONCLUSION

The legal status of an individual company in the form of a limited liability company established by micro and small enterprises against the legal requirements for obtaining the status of a limited liability company has not been fulfilled by the individual company, and in terms of proof of the letter of establishment cannot be equated with the deed of establishment made by a notary. The conceptualization of digital microfinance institutions adopts the establishment of digital banks or neo-banks in the form of limited liability companies or digital cooperatives.

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