

**UNDEFINED AUTHORIZE CAPITAL IN COMPANY ESTABLISHMENT
ACCORDING GOVERNMENT REGULATION NUMBER 29 YEAR 2016 RELATED
OF “EASY OF DOING BUSINESS” IN INDONESIA**

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ABSTRACT

To expedite the development process and economic growth through investment, the Government has taken steps to increase of business in Indonesia. In consideration of the above-mentioned points, it is necessary to change the authorized capital of a Limited Liability Company into an amount left to the discretion of the founders of a Limited Liability Company by agreement, on condition that the founders of a Limited Liability Company have net assets within the criteria for micro, small, and medium business. The government policy to give founders of a Limited Liability Company discretion to set the amount of authorized capital aims to increase investment as regulate by Government Regulation Number 29 of 2016. According hierarchy of law, government regulation lower than act, so the substance og government regulation can not contradictive with the substance of the act. This study will be analyze about the different of those regulation with Normative method. The major issue are finding answer about question “how about binding strength of government regulation number 29 of 2016 compare the act number 40 of 2007” and “how about legality of Company who establish according government regulation number 29 of 2016. Finally, we have conclusion that substance about authorize capital of regulation number 29 or 2016 is not conflict with act number 40 of 2007. We can look that as a discretion who made government to support the programe of “eazy of doing business” in Indonesia. Looking from hierarky of those regulation, although regulation number 29 or 2016 up down than act number 40 of 2007, that can make special rules as not conflict.

Keywords: Authorize Capital, Limited liability Companies, Business, Law.

1. Introduction

To reduce unpredictable situation in business, limited liability company can be a solution. In limited liability company, the share holders separate some capital to build the business. According to Article 32 of Act Number 40 year 2007 Concerning Limited Liability Companies, regarding authorised capital, regulated that :

- (1) authorised capital shall be at least IDR 50,000,000 (fifty million Rupiah).
- (2) Statutes regulating certain business activities may determine a minimum amount for Companies' authorised capital which is greater than the provision for authorised capital contemplated in paragraph (1).
- (3) Changes in the amount of authorised capital contemplated in paragraph (1) must be stipulated by Government Regulation.

Refer to the regulation above, authorised capital shall be at least IDR 50,000,000 (fifty million Rupiah). For special company, legal regulation can determinate minimum authorised capital more than IDR 50,000,000 (fifty million Rupiah). For the replacement must be stipulated by Government Regulation.

Following that investment policies must always embrace people's economics that involves the development of micro, small, and medium business, and cooperatives, so Investment has become a part of the management of national economy and is positioned to improve the development and growth of the national economy, Indonesia government release a Government Regulation Number 29 Of 2016 concerning change In Authorized Capital Of limited Liability Companies.

According to Government Regulation Number 29 Of 2016 concerning change In Authorized Capital Of limited Liability Companies, regulated that undifinited an authorized capital.

In consideration of the above-mentioned points, it is necessary to change the authorized capital of a Limited Liability Company into an amount left to the discretion of the founders of a Limited Liability Company by agreement, on condition that the founders of a Limited Liability Company have net assets within the criteria for micro, small, and medium business.

The government policy to give founders of a Limited Liability Company discretion to set the amount of authorized capital aims to increase investment as regulate by Government Regulation Number 29 of 2016. According hierarchy of law, government regulation lower than act, so the substance og government regulation can not contradictive with the substance of the act.

This study will be analyze about the different of those regulation with Normative method.

2. Major Issues

This paper written for discuss of major issues that :

- (1) how about binding strength of government regulation number 29 of 2016 compare the act number 40 of 2007 regarding to legality of Company who establish with authorized capital less than least IDR 50,000,000(fifty million rupiah)?
- (2) What is the meaning of legal proof of The capital subscribed?

3. Purpose of The Study

The Purpose of The Study are to find the answer of major issues that :

- (1) how about binding strength of government regulation number 7 or 2016 compare the act number 40 of 2007 regarding to legality of Company who establish with authorized capital less than least IDR 50,000,000(fifty million rupiah)
- (2) What is the meaning of legal proof of The capital subscribed

4. Method

This papers uses normative juridical method, with the starting point of the policy of government to reduce authorized capital from legal rule that defined less than least IDR 50,000,000(fifty million rupiah) became undefined authorized capital for micro, small, andmedium business according of Government Regulation Number 7 of 2016.

The approach that is used in this study research is conceptual approach, to understand the concepts of regulation about authorized capital, as well as deal with the concept authorized capitalas voluntary and mandatory norm. Legal materials used are all the rules relating to authorized capital regarding establish a private

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company. The Materials are then analyzed descriptively with the deduction method. With this technique, researchers analyze the rules, doctrines and theories about authorized capital regarding establish a private company, then pulled more specifically on the implementation model of authorized capital regarding establish a private company.

5. Discussion

In order to accelerate the process of development and economic growth through capital investment, the government has taken the steps to attract domestic and foreign investors who will invest in Indonesia by making a policy through the provision of facilities and convenience for investors. Efforts to increase planting to capital through provision of facilities for investors is still low even tend to be counter-productive.

These include marked by numerous regulations that encumber even more circles businesses including lead investor in Indonesia's competitiveness decline. To ensure a conducive investment climate, the government has enacted the Law Number 40 Year 2007 regarding Limited liability company which came into force on August 16, 2007.

However, in practice there is a substance that is quite difficult to implement and difficult the business world, especially to novice entrepreneurs. Therefore, it is necessary to make adjustments regulations with the development needs of the community. Such adjustments are intended to provide ease of doing business, and better ensure the business world in order to change the investment the amount of basic capital felt still burdensome for budding entrepreneurs.

Conditions ease of doing business in the form of changes to the authorized capital stock Limited originally specified at least IDR 50,000,000.00 (fifty million rupiah) be submitted entirely on the agreement of the founders of limited liability companies. Submission of determining the amount of capital

the Company Limited to the founder of the Limited Liability intended as an attempt Government to respect freedom of contract that gives hope broadest freedom for the public to have an agreement on establishing a Limited Liability Company based provisions in civil law.

Government policy in giving freedom to the founders of Limited Liability Company determining the amount of the authorized capital, but aims to provide ease of doing business for the entrepreneurs start their business in order also to increase investment, which in turn will encourage the growth of micro, small and medium enterprises.

6. conclusion.

As has been explained before, although government regulation number 7 of 2016 regulated special conditions regarding to authorized capital IDR 50,000,000 (fifty million rupiah), that means legal and not contradictory with Law Of The Republic Of Indonesia Number 40 Of 2007 Concerning Limited Liability Companies. That special condition just apply for micro, small, and medium business and can be excuse condition.

According Article 32 of Act Number 40 year 2007 Concerning Limited Liability Companies, the changes in the amount of authorised capital must be stipulated by Government Regulation. So, when government regulation number 7 of 2016 not determinate minimum authorized capital its constitute legal as delegation mandate from the act.

the meaning of legal proof of The capital subscribed are include many document that proofing about the payment of capital share from shareholders

Reference

- Regulation Of The Government Of the Republic Of Indonesia Number 7 Of 2016 concerning change In Authorized Capital Of limited Liability Companies
- Law Of The Republic Of Indonesia Number 40 Of 2007 Concerning Limited Liability Companies