

The Role of a Notary in the Establishment and Registration of a Limited Liability Company after the New AHU Online and Risk-Based OSS Systems Come into force

Iswar Danianto^{*)} & Bambang Tri Bawono^{**)}

^{*)}Faculty of Law, Universitas Islam Sultan Agung (UNISSULA), E-mail: Iswar_danianto@yahoo.com

^{**)}Faculty of Law, Universitas Islam Sultan Agung (UNISSULA), E-mail: bambang@unissula.ac.id

Abstract. *This study aims to analyze proles, obstacles that arise and solutions that can be carried out as well as legal responsibilities of Notaries in the establishment and registration of Limited Liability Companies after the implementation of the new system AHU Online and Risk-Based OSS. This study uses an empirical juridical approach. The data used are primary and secondary data which are analyzed using descriptive qualitative methods. Based on the results of the study it was concluded that: 1)The notary still has a role in the establishment and legalization of the capital partnership company due to statutory orders. But for individual companies, nthe notary is not obliged to register it unless the notary is authorized by the client, then the notary becomes civilly responsible for this power of attorney. Notaries also do not have an absolute role in registering business licenses for companies according to Government Regulation Number 5 of 2021. However, notaries are often given the power to work on business licensing registration on Risk-Based OSS, so the notary is also liable civilly for this power of attorney. 2)Obstacles faced by a notary in the process of establishing and registering a limited liability company consist of internal constraints, namely constraints on the weak quality of human resources including the notary concerned. Notaries must continue to study, coordinate with various competent parties and attend legal seminars. then kexternal obstacles, namely obstacles that arise from the client, the AHU Online system and OSS as well as from other parties that are the cause. 3) The responsibility of a notary in the event of an error in the establishment and registration of a limited liability company is based on an error. Notaries can be held liable in civil, criminal, as well as based on the UUJN and the Code of Ethics on the deed he made. Meanwhile, the responsibility of a notary as a recipient of power of attorney in carrying out responsibilities which are essentially not his authority is a form of civil liability, not as a notary who is normative by referring to the provisions of Article 1365 of the Civil Code.*

Keywords: Company; Online; Submissions.

1. Introduction

Regulations regarding limited liability companies in Indonesia have undergone several changes to adapt to international business developments and apply Ease of Doing Business (EoDB). The latest regulations regarding limited liability companies are regulated in Law Number 11 of 2020 concerning Job Creation (Job Creation Law).¹In the Job Creation Law, there are several provisions regarding limited liability companies which have been amended from Law Number 40 of 2007 concerning Limited Liability Companies (UUPT), starting from the status of a company legal entity, the waiver of the obligation for a PT to be founded by two or more people, the amount of authorized capital. The Job Creation Law classifies the types of companies into 2 types, namely capital partnership companies and individual companies that meet the criteria for Micro and Small Enterprises.²

The establishment of a fixed capital partnership company must be stated in a notarial deed drawn up in Indonesian in accordance with Article 7 paragraph 1 of the Company Law. Whereas in Article 109 number 5 of the Job Creation Law 10 articles are inserted between articles 153 and 154 of the Company Law, where article 153A paragraph (2) states that the establishment of a company for micro and small businesses is carried out based on a statement of establishment made in Indonesian. So the establishment of an individual company does not need to use a notarial deed. The next procedure for establishing a company after the establishment deed or statement of establishment is made, must be registered electronically through the SABH (Legal Entity Administration System) on the AHU Online page to obtain an electronic legal entity registration certificate from the Minister of Law and Human Rights.³

The government continues to be committed to improving digital platform functions to support ease of doing business, especially in the procedures for establishing and registering a limited liability company. Additions to AHU Online are made individual company electronic registration menu. Then the systems for checking, ordering names and company registration which were previously separate have been combined in one procedure. Then the Business licensing system OSS version 1.1. which has been used so far has also been refined with the Risk-Based OSS system which will become effective on August 9, 2021. Previously, Business Licensing was not really centralized and there was no

¹Andriyani, Susie. and Maerani, Ira Alia. (2020). "Online Single Submission Institution Existence in Land Technical Considerations". in the Journal of Sultan Agung Notary Law Review, Vol. 2, No. 4. Pg. 467 <http://jurnal.unissula.ac.id/index.php/SANLaR/article/view/12922> accessed December 12, 2022.

²Radith Prawira Adriadi, et.al. (2021). "Changes in Arrangements for the Establishment of Limited Liability Companies in Law Number 40 of 2007 After the Promulgation of Law Number 11 of 2020". in Indonesian Notary Journal, No. 3, Vol. 2. p. 78. [accessed December 12, 2022.](#)

³Atina, Sitti Thali'ah. et. al. (2022). "Dualism of the Legal Establishment of a Limited Liability Company After the Job Creation Law Comes into force". in the USM Law Review Journal, Vol. 5, No. 2. p. 468. [urls.https://journals.usm.ac.id/index.php/julr/article/view/4989](https://journals.usm.ac.id/index.php/julr/article/view/4989) accessed December 12, 2022.

licensing standard, so the Risk-Based OSS has been centralized, based on Standard Procedures and Criteria Norms and permits already based on the level of risk and the scale of business activities. This is also part of the government's efforts to facilitate business licensing and create an integrated licensing service model that is fast and inexpensive and provides certainty.⁴

The development of the limited liability company regulations, when associated with the authority and role of the Notary, then there are several problems. It is not uncommon for notaries to get clients related to the establishment of individual companies, even though the government is reducing the role of notaries for the establishment of individual companies with the aim of providing ease of doing business to small and medium enterprises because the costs associated with notaries are considered "expensive" when it comes to authentic deeds. Another obstacle is the registration of business licenses with the Risk-Based OSS system, including access rights constraints, the Standard Classification of Business Fields (KBLI) which is not included in the Risk-Based OSS, difficulties for business actors in understanding the business registration menu on Risk-Based OSS,⁵In fact, the registration of business licenses is the obligation of business actors, not the obligation of a Notary.

The fact is that it is the Notary who often takes care of the registration of business licenses, because if the business actor/client takes care of the establishment of a limited liability company to him, the Notary usually agrees to handle all matters relating to the establishment and registration of a limited liability company. So, even though there is no direct role of a Notary in certain legal issues, the Notary remains the first place for the community to consult because he is considered a position of trust who understands the law and can provide solutions to problems/obstacles in legal interactions/actions in society.

2. Research Methods

The approach method used in the preparation of this research is an empirical juridical approach. The empirical juridical approach emphasizes research aimed at obtaining legal knowledge empirically by examining the object directly. The specification of the research used is analytical descriptive, namely to describe the results of the research with data that is as complete and as detailed as possible. Types and sources of data used in this study are primary data and secondary data. The method of collecting data in this study is using interviews,

⁴Andriyani, Susie. and Alia Maerani, Ira. (2021). "The Existence of A Single Submission Online Institution in Land Technical Considerations". in the Journal of Sultan Agung Notary Law Review, Vol. 3, No. 2. Pg. 392. url<http://jurnal.unissula.ac.id/index.php/SANLaR/article/view/15735> accessed December 12, 2022.

⁵Assegaf, Muhammad Iqbal Fitra. et. al. (2019). "Implementation of Online Single Submission in the Context of Accelerating Business Licensing at the Central Java Investment and One-Stop Service Office (DPMPTSP). in Diponegoro Law Journal, Vol. 8, No. 2. p. 1336. <https://ejournal3.undip.ac.id/index.php/dlr/article/view/24582> accessed December 12, 2022.

document studies and library materials. The data that has been obtained is then analyzed through a qualitative analysis approach.

3. Results and Discussion

3.1. The Role of a Notary in the Establishment and Registration of a Limited Liability Company After the New AHU Online and Risk-Based OSS Systems Come into force

Notaries have an important role in society. The community considers that a Notary has public authority, extension services, or advice giving. The role of a Notary is to provide guarantees of certainty, order and legal protection for people who carry out legal actions in the field of civil law through authentic deeds drawn up by and/or before them.⁶ The role of the notary is emphasized in UUJN in the considering section letter b which reads: "that in order to guarantee certainty, order and legal protection, authentic written evidence is needed concerning actions, agreements, stipulations and legal events made before and by authorized officials."⁷ The essential characteristics that must be possessed are impartiality and independence.

Notary is a position to which the role and authority is given directly by the state in which there is management authority in the form of delegating some areas of state management, namely in the case of making a Notary deed as authentic evidence that community legal actions have been carried out. The authority that is directly granted by the state through laws is attribution authority, which is a new or original authority, and does not come from another institution, for example the Ministry of Law and Human Rights.⁸

After the promulgation of the Job Creation Law which changed several provisions in the Company Law, one of them introduced a new form of legal entity, namely the Individual Company which is specifically for MSEs with the aim of forming it, namely to facilitate the development of micro and small businesses by being able to form a legal entity with only 1 (one) founders or shareholders.⁹

Notaries still have an important role in the establishment and registration of a Capital Partnership Company after the enactment of the Job Creation Law, the New AHU Online System and the Risk-Based Online Single Submission (OSS). In accessing the Legal Entity Administration System (SABH) AHU Online is required

⁶Nastain, Muhammad. and Setyawati, (2020). "Legal Study of Making an Electronic Notary Deed". in the Journal of Sultan Agung Notary Law Review, Vol. 2, No. 2. p. 71. url<http://jurnal.unissula.ac.id/index.php/SANLaR/article/view/11418> accessed December 12, 2022.

⁷Bachruddin, et.al. (2019). Notary Law: Building a Just Indonesian Notary System. Bandung: Refika Aditama. matter. 13.

⁸Sulhan, et.al. (2020). Profession of Notary and Land Deed Making Officer. Jakarta: Media Discourse Partners. matter. 7.

⁹Love, Putu Dewi urged. et. al. (2022). "Individual Companies After the Job Creation Law: A Change in the Paradigm of Limited Liability Companies as Capital Associations". In the Law Arena Journal, Vol. 15, No. 1. p. 34. url<https://arena.hukum.ub.ac.id/index.php/arena/article/view/1460> accessed December 11, 2022.

to use an authentic deed, so this is where the role of the Notary becomes very important. If this client wants to register and legalize a limited liability company, this can only be done by a Notary who already has a username/user ID recorded in the AHU Online system.

The role of a notary in establishing a capital partnership company if the formal and material requirements have been fulfilled are as follows:

a. After the prospective limited liability company founder client fills out the capital partnership company establishment form, the notary checks the company name and/or its abbreviation on the AHU Online page on the limited liability company AHU menu. Since August 17, 2021 access to name checks has not been ordered separately in advance and is no longer subject to PNBP fees (free). Previously, ordering company name vouchers and registration of company validation were each subject to PNBP fees, but now the procedures are combined into one.

b. The notary prepares the minutes of the deed of establishment / articles of association of the company attached with a statement of appointment of management, power of attorney for shareholders and management, statement of beneficial owners, statement of domicile, statement of capital deposit.

c. The notary reads the deed of establishment of the capital partnership company and signs the deed by the parties, witness and notary concerned as a manifestation of the application of Article 16 paragraph (1) point m, Article 40 paragraph (1) and Article 44 paragraph (1) UUJN.

d. After the signing of the deed is completed, the deed number is immediately given, the minutes and documents are tidied up, and a review is made if there are sentences that need to be reviewed. Then issue a copy of the deed of incorporation signed by a notary and a scanned copy of the deed to be uploaded later when registering the company on AHU Online.

e. The notary accesses the AHU Online page to register the establishment of the company. The notary orders vouchers. After the PNBP payment is complete, the notary fills out the Company Establishment Form with data according to the company to be registered. After the request for company registration is approved by the Menkumham, proof of electronic registration can be printed and signed by a notary. Then upload proof of capital deposit statement then print the NPWP number which is issued automatically on AHU Online.

f. The notary then issues State Gazette certificates by accessing the page <https://beritanegara.co.id>. The notary pays PNBP, fills in company data along with uploading the deed of establishment and proof of validation from AHU Online. State Gazette certificates can be downloaded and physical printouts of state gazettes will be sent to the company's address

Unlike the capital partnership company, the establishment of an individual company that meets the UMK criteria does not require a notary deed based on the mandate of the Job Creation Law and its implementing regulations. The

government has provided convenience in the establishment of individual companies. Ease of terms for establishing a company is based on Article 109 point 5 of the Job Creation Law which contains new Article 153A paragraph (2) of the Company Law, whereby the establishment of an individual company is simply carried out by making a statement of establishment in the Indonesian language which contains aims and objectives, business activities, authorized capital, and other information relating to the establishment of the Company which is registered electronically with Menkumham.¹⁰

The criteria for Micro and Small Enterprises according to Article 87 of the Job Creation Law which amends Article 6 of Law Number 20 of 2008 concerning Micro, Small and Medium Enterprises, are business capital, turnover, annual sales results, net worth indicators, investment value, incentives and disincentives, local content, application of environmentally friendly technology, or the number of workers according to the criteria of each business sector.¹¹

Article 35 paragraph (3) Government Regulation Number 7 of 2021 regulates business capital criteria consist of:¹²

- a. Micro businesses have business capital of up to a maximum of IDR 1,000,000,000.00 (one billion rupiah) excluding land and buildings for business premises;
- b. Small businesses have business capital of more than IDR 1,000,000,000.00 (one billion rupiah) up to a maximum of IDR 5,000,000,000.00 (five billion rupiah) excluding land and buildings for business premises; And
- c. Small businesses have business capital of more than IDR 5,000,000,000.00 (five billion rupiahs) up to a maximum of IDR 10,000,000,000.00 (ten billion rupiahs) excluding land and buildings for business premises;

¹⁰Farhad, Lubben, and Mayasari, I Dewa Ayu Dwi. (2022). "Legal Certainty for the Establishment of an Individual Company Without a Notarial Deed Based on the Job Creation Law". in *Acta Comitatus Journal*, Vol. 7, No. 1, p. 138. [url:https://ojs.unud.ac.id/index.php/ActaComitatus/article/view/73107](https://ojs.unud.ac.id/index.php/ActaComitatus/article/view/73107) accessed on 03 January 2023.

¹¹Kurniawan, Yusuf. and Sugiyanto. (2022). "Implementation of the Job Creation Law for MSME Actors during the Covid-19 Pandemic Case Study in the City of Yogyakarta". in the *Journal of Innovation Research and Knowledge*, Vol. 2, No. 3, p. 693. [url:https://www.bajangjournal.com/index.php/JIRK/article/view/3125](https://www.bajangjournal.com/index.php/JIRK/article/view/3125) accessed on 03 January 2023.

¹²Pangesti, Shinta. (2021). "Strengthening Micro and Small Business Individual Limited Liability Company Regulations in Supporting Economic Recovery During the Covid-19 Pandemic". in the *Rechtsvinding Journal*, No. 1, Vol. 10, p. 122. [url:https://rechtsvinding.bphn.go.id/ejournal/index.php/jrv/article/view/650](https://rechtsvinding.bphn.go.id/ejournal/index.php/jrv/article/view/650) accessed on 03 January 2023.

Registration for the establishment of an individual company can be carried out independently by the founder of the company. Several notaries advised clients who came to him to arrange the establishment and validation of individual company companies to continue to manage them independently without going through a notary in order to comply with the mandate of the Job Creation Law. But in reality, the client still entrusts this matter to the notary, because the notary is considered capable and able to complete the work. The notary will have a role in the establishment and registration of an individual company if a client authorizes the work to him. The role/authority of a notary in the establishment of an individual company is not a statutory mandate but a civil responsibility for the trust given to him by clients.

The role of a notary in the registration of the establishment of an individual company after the formal and technical requirements have been fulfilled is explained as follows:

- a. After the prospective limited liability company founder client fills out the individual company establishment form, the notary checks the company name and/or its abbreviation on the AHU Online page on the limited liability company AHU menu.
- b. The notary accesses the AHU Online page to register the establishment of the company. The notary orders vouchers. After the PNPB payment is complete, the notary accesses the individual company registration menu and fills out the Company Establishment Form with the data according to the company to be registered. After the request for company registration has been approved by the Menkumham, proof of electronic registration can be printed and downloaded.
- c. Press the Download Statement Letter and Download Certificate button.

Registration for business licenses through OSS RBA is carried out after proof of registration and validation of the limited liability company is issued from AHU Online. However, the responsibility for registering these business licenses lies with the business owner in accordance with article 4 of Government Regulation Number 5 of 2021 concerning Implementation of Risk-Based Business Licensing. So that in essence the notary has no responsibility in registering the business license of the company concerned. However, because generally clients also entrust the notary to take care of all documents until a company is really ready to be used, the notary gets power of attorney from the client so that he is responsible for taking care of the business license of the client's company concerned.¹³

¹³Munalar, Sri Siti. et.al. (2020). "The Role of a Notary in the Management of Limited Liability Company Business Permits Based on Government Regulation Number 24 of 2018 concerning Electronically Integrated Business Licensing Services". in the Senantias Proceedings Journal, Vol.

When the founders of the company have determined what type of business to run, the notary must adjust it to the scale of the business and the level of business risk and the amount of capital planned to be deposited. If the notary draws up a deed of incorporation for a company whose type of business does not match the amount of business capital, the OSS system will reject it when registering for a license because it does not meet the minimum requirements for the amount of authorized capital for the business concerned.

Technical procedures and the role of a notary in the registration of limited liability company licenses, both capital partnership companies and individual companies (example: Low Risk MSME Companies) are generally explained as follows:

- a. Notaries who already have login access rights on the page <https://oss.go.id/>, by entering the username, password and captcha code listed available.
- b. The notary clicks on the Business Licensing menu then selects New Application which will adjust to the type of business entity to be registered. The notary completes the business actor's data and validates the completeness of the business entity's data.
- c. The notary completes business data, detailed business data and product/service data
- d. Notary completes business data (import activity, BPJS and WLKP) and examines the List of Business Activities;
- e. The Notary examines and completes the Environmental Approval Documents for certain business fields;
- f. The notary checks the Independent Statement and checks the draft Business Licensing;
- g. Business Permits can be issued (downloaded and stored);

Government Regulation Number 5 of 2021 explains the types of RBA OSS output documents based on the level of business risk, namely:

- a. Low Risk Business Licensing is an NIB which is also valid as the Indonesian National Standard (SNI) and Halal Certificate for Small and Medium Enterprises and does not require verification or approval from Ministries/Institutions/Regional Governments. NIB is a replacement permit for Company Registration Certificate, Import Identification Number and customs access right which also has the same function, which is the basis for a permit for

the establishment of a limited liability company that will carry out its business activities.¹⁴

b. Low Medium Risk Business Permits are NIB and SS (Standard Certificates) which are automatically verified

c. Medium High Risk Business Permits are NIB and SS (Standard Certificates) which require verification from Ministries/Institutions/Local Governments.

d. High Risk Business Permits are NIB and Permits that must obtain approval from Ministries/Institutions/Local Governments and SS (Standard Certificate) if needed. This high-risk business permit requires verification from ministries/agencies/regional governments.

3.2. Obstacles faced by Notaries in the process of establishing and registering a Limited Liability Company after the implementation of the new AHU Online system and Risk-Based Online Single Submission (OSS) and efforts that can be made to overcome the obstacles that arise

Notaries in carrying out their authority and responsibilities in establishing, registering a Limited Liability Company on AHU Online and OSS RBA often experience obstacles and problems that can hinder the completion of the work. In general, the problems encountered by the Notary consist of internal and external constraints. The notary's internal constraints are the constraints of human resources (HR) who do the work, including the notary concerned.

The main obstacle faced by notaries is the lack of understanding/knowledge of notaries and their employees in entering data both at AHU Online and at OSS so that the data entered has the potential to be wrong and can harm the client. Examples of obstacles faced by a notary are as follows:

1. The notary does not understand/mistakes in determining the amount of authorized capital required in establishing a company with the number and type of business whose capital has been determined according to the OSS RBA rules.
2. The notary made a mistake in determining the line of business the client wanted with the appropriate KBLI 2020 data and mistakenly determined what type of business can be combined with other types of business and businesses that cannot be combined (single purpose) in the 2020 KBLI.
3. Notaries and/or employees are not careful in entering company data, management data and business data in AHU Online and OSS so that it has the potential to produce output that is not in accordance with the actual situation or not in accordance with the wishes of the client.

¹⁴Crisandyna, Made Karina Thalia, et. al. 2020, "Licensing Aspects in Establishing a Limited Liability Company with the Online Single Submission System", in Journal of Legal Interpretation, Vol. 1, No. 1. Pg. 121.
[urls.https://www.ejournal.warmadewa.ac.id/index.php/juinhum/article/view/2197](https://www.ejournal.warmadewa.ac.id/index.php/juinhum/article/view/2197) accessed on 03 January 2023.

The solution to the problems/obstacles above is that Notaries and/or their employees always have to update their knowledge, especially the latest rules regarding AHU Online and OSS RBA through independent learning and attending seminars both online and offline organized by Regional Administrators, Executives Region and the Central Board of Association of Land Deed Makers (IPPAT) and the Association of Indonesian Notaries. Notaries can also coordinate with other fellow notaries who have sufficient knowledge and experience for things that are prone to errors and can cause problems in the future.

External problems/obstacles experienced by a notary are obstacles that arise not from the notary but from the client, the AHU Online system and/or OSS as well as from other parties that may be the cause, including the following:

1. The AHU Online and OSS systems experience errors or are under repair/maintenance. The notary must wait until the AHU Online and OSS RBA systems have finished maintenance or the notary registers when the system is not accessed by many users, for example at night. Some of the consequences of the AHU and/or OSS system being error or repair:¹⁵
 - a. Company/business data not found;
 - b. The latest notary data does not appear in the system;
 - c. Company data does not appear in the OSS system even though the Ministerial Decree has been issued;

The solution to this problem is that the notary can refresh the error page or wait until the page can be accessed normally again.

2. Communication with the AHU Online Call Center and OSS tends to be considered difficult and long. Like it or not, the notary has to wait until the complaint is responded to/answered by the AHU Online and OSS Call Center considering that every day there will be many complaints faced and maybe the number of Call Center employees is limited. Or the notary can ask/coordinate with other notaries who might have a solution to the problems they are facing.
3. Personal data/documents provided by the client/applicant are still wrong or have not been updated, such as the data on the KTP and KK that do not match the Dukcapil data, director data, NPWP, KBLI Code and Business Purposes and Objectives according to the 2020 KBLI. Notaries must apply the precautionary principle in processing client data/documents. Notaries and/or employees must

¹⁵Amir, Syarah Syam. et. al. (2022). "The Implications That Arise in the Ease of Issuing Business Permits Based on Government Regulation Number 5 of 2021 concerning Risk-Based Business Licensing". In the Journal of Thought and Research in the Social Sciences, Law and Teaching, Vol. 17, No. 1. Pg. 20. url<https://ojs.unm.ac.id/supremasi/article/view/31731> accessed on 09 January 2023.

be careful in processing client data and documents so that company data on AHU Online can be in sync with data on OSS RBA.

4. Other problems, such as the business actor has not received a username and password from OSS, do of the companies that have been swapped, The email registered by the company with the Resident Identification Number (NIK) of the main director of the company was entered incorrectly, the KBLI code for business actors was not published in the NIB even though the application had been completed and entered in the OSS.¹⁶ Constraints like this must coordinate with BPKM to improve the data.

3.3. Responsibilities of a Notary in the event of an error in the establishment and registration of a Limited Liability Company after the implementation of the new AHU Online and Risk-Based OSS systems

The law has given authority to notaries especially to make authentic deeds. From that authority, the duties of a notary are divided into:¹⁷

1. Carry out statutory duties, namely making authentic deeds.
2. Carry out tasks outside statutory duties. This is another Notary activity besides making authentic deeds. For example, managing the registration of a limited liability company, arranging business licenses and others. Carrying out tasks outside of statutory duties is not required for a Notary.

Accountability is a form of responsibility carried out by someone to the party who has been harmed. OP Simorangkir argues that, responsibility is the obligation to bear or be responsible for everything that is a task, with everything seen from the good or bad actions, then responsibility is being responsible for the consequences of the bad actions one has committed. Meanwhile, the responsibilities according to the Civil Code explain several responsibilities, including:¹⁸

1. Accountability with elements of error (the presence of elements of intent and negligence);
2. Liability with an element of error, especially an element of negligence;
3. Absolute liability or no fault.

The responsibility of a notary begins at the time of drawing up the deed of incorporation of a Limited Liability Company before a Notary which contains data and information such as the formulation of the company's aims and objectives, data on the prospective founders and management of the company. This responsibility continues if the notary is also asked to register the company's

¹⁶Erlina, Maria Resta., and Wahyu Krisnanto. (2022), "The Role of Legal Principles in Realizing the Purpose of Business Licensing Through Online Single Submission Arrangements" in the Journal of Binamulia Hukum, Vol. 11, No. 1. matter. 100. url <https://fh-unkris.com/journal/index.php/binamulia/article/view/676> accessed on 09 January 2023

¹⁷Budiono, Herlien. (2018). Collection of Civil Law Writings in the Notary Sector: Book Three. Jakarta: Citra Aditya Bakti. matter. 148.

¹⁸Fuady, Munir. (2005). Unlawful Actions: A Contemporary Approach. Bandung: Citra Aditya Bakti. p.3.

business license through the OSS RBA. Of course, the notary must understand what data and information is needed, such as the KBLI code according to the type of business in the company's articles of association, authorized capital, issued capital, paid-up capital and other company data. Therefore, notaries are required to be careful and be as thorough as possible regarding matters contained in the deed of establishment, company registration on AHU Online and company business licensing registration on the OSS RBA.

A notary has a form of responsibility to be able to account for all his actions if he makes a mistake in carrying out his duties and authorities as an official who has the authority to make an authentic deed. The responsibilities carried out by the Notary are the following:¹⁹

1. Responsibility in civil form for the material truth of the deed he made;
2. Responsibility in the form of a crime against the deed he made;
3. The notary's responsibility based on the UUJN for the deed he made;
4. The responsibility of a notary is based on a notary's code of ethics.

The responsibility of a notary that is no less important is moral responsibility. That a Notary must obey and be loyal to the Republic of Indonesia and the Constitution, respect all carrying out his office honestly, thoroughly and impartially, strictly comply with all regulations for the position of Notary who is currently in force or will exist, keep the contents of the deed confidential in accordance with provisions of laws and regulations, never give or promise anything to anyone. So that in this moral responsibility, the Notary is responsible to society.²⁰

1. Civil notary responsibility for the deed he made

Accountability for someone's actions is usually practically meaningless if that person commits actions that are not permitted by law and most of these actions are acts contained in the Civil Code which are called acts against the law. An unlawful act in a broad sense if the act:²¹

- a. Violating the rights of others.
- b. Contrary to the legal obligations of the offender.
- c. Contrary to good decency.
- d. Contrary to decency in paying attention to the interests of self and others in the association of everyday life.

¹⁹Suryawan, I Gede Agus Yudi. et. al. (2020). "Responsibility of Notaries Using the Services of the Directorate General of AHU Online in terms of Registration of Deeds and Legalization of Legal Entities". in the Journal of Notary Law Acta Comitatus Udayana University, Vol. 5, No. 3. Pg. 501. [url\\$https://ojs.unud.ac.id/index.php/ActaComitatus/article/view/63767](https://ojs.unud.ac.id/index.php/ActaComitatus/article/view/63767) accessed on 09 January 2023.

²⁰Sinaga, Lidia Margaret. et. al. (2021). "Responsibilities of Notaries and Notary Employees in Maintaining the Confidentiality of Deeds". in Journal of Humanities Social Vision, Vol. 2, No. 2. Pg. 162. [url\\$https://ejournal.uhn.ac.id/index.php/humaniora/article/view/408](https://ejournal.uhn.ac.id/index.php/humaniora/article/view/408) accessed on 09 January 2023.

²¹Munir Fuady, Op. Cit, p. 4.

Responsibilities owned by a Notary adheres to the principle of responsibility based on mistakes, in matter making deed authentic, Notary Public have a responsibility in a manner civil to truth material on deed that he made, that is deed Which he made No contrary with regulation legislation Which apply. Is there any error or violation Which intentional by Notary Public. On the contrary if element error or violation That happen from party facing, then if the Notary has implemented authority in accordance regulations, notary concerned can not requested accountability Because Notary Public only record What delivered by para party For poured to in deed. Information False Which given by the parties is become not quite enough answer each party.²²

The notary's civil liability for the deeds he made, it can be said that the deed made by a notary is related to civil matters, namely regarding an agreement made by two or more parties even though it is possible to make it unilaterally (its nature only strengthens). Except for the contents of the deed, every action committed by a Notary can be held accountable if there is a violation committed and the act causes harm to the parties. The notary must be responsible for the material correctness of a deed if the legal advice given turns out to be wrong at a later date.

A notary as an official who makes an authentic deed, if an error occurs either intentionally or due to negligence causes another person (as a result of the deed he made) to suffer losses, it means that the notary has committed an unlawful act. If an error committed by a Notary can be proven, then the Notary may be subject to sanctions stipulated by Article 84 UUJN which is the reason for the party who suffers a loss to demand reimbursement of costs, compensation and interest from the Notary. Compensation on the basis of unlawful acts in civil law is regulated in Article 1365 of the Civil Code, which stipulates: "Every unlawful act that brings harm to another person obliges the person who because of his mistake to issue a loss to another person, obliges the person who because of his mistake to issue a loss That, compensate for the loss. Article 41 UUJN also determines the existence of civil sanctions, if a Notary commits an unlawful act or violates Article 38, Article 39 and Article 40 UUJN, the Notary's deed will only have evidence as a private deed. As a result of such a Notary deed, it can be an excuse for the party who suffers a loss to demand fees, compensation and interest from the Notary.

2. The notary's criminal responsibility for the deed he made

A criminal act is an act that is prohibited by a rule of law, if a violation of this prohibition will be followed by sanctions in the form of certain crimes. In carrying

²²Ardiansyah, Erlan. et. al. (2022). "Limitation of Liability of a Notary Against Authentic Deeds Made". In the Recital Review Journal, Vol. 4, No. 2. Pg. 438. url<https://online-journal.unja.ac.id/RR/article/view/18867> accessed on 09 January 2023.

out his position as a notary, the crime in question is a crime committed by a notary in his capacity as a public official authorized to make authentic deeds mandated by UUN, not in the personal or individual capacity of the notary as a legal subject. A notary can be involved in criminal liability if he fulfills elements that are prohibited by law. Notary conviction is carried out within the limits of:²³

- a. The notary commits intentionally and is aware of the physical, formal and substantive nature of the deed, and plans to hand over the deed to another notary or by the notary together with the parties involved in the deed to commit a crime.
- b. legal action before a notary or carried out by a notary, if measured according to the UUJN does not meet the UUJN.
- c. the behavior of the notary is not in accordance with the Notary Supervisory Board which is given authority to the notary to assess the behavior of the notary. If these limits are violated and fulfill the elements of intentional (*dolus*) or negligence (*culpa*) and there is no reason for forgiveness, the notary may be subject to criminal sanctions.

3. Responsibilities of a Notary under the Notary Position Regulations and the Notary Office Act (UUJN)

Based on Article 91 UUJN which is the closing article, it firmly revokes and declares that the previous regulations regarding the Notary's position are invalid, so that the current reference for the implementation of the Notary's position is the Notary's Office Law which regulates the Notary's profession externally and the Notary's code of ethics which regulate the Notary profession internally. The responsibilities of a Notary in carrying out his/her official duties based on the Law on Notary Office, are required to make a deed properly and correctly. This means that the deed made fulfills the will of the law and the requests of interested parties because of their position. Notaries are also required to produce quality deeds that are in accordance with the rule of law and the will of interested parties in the true sense, not making it up. The notary must explain to each interested party the truth of the contents and procedures of the deed he made. In making a deed, a notary is required to be careful so that the deed he makes does not cause problems in the future and uses the precautionary principle in acting. UUJN regulates that if a Notary commits a serious violation of his obligations and prohibitions, he will be dishonorably discharged as stipulated in Article 12 UUJN and if a Notary is sentenced to 5 (five) years or more in prison or has been proven to have committed a criminal act, then the Notary will be dishonorably discharged by the minister as stipulated in Article 13 UUJN.

²³Mitha Irza Noor El Islam, et. al, (2021), "Responsibility of a Notary for the Deed He Made is Reviewed Under Criminal Law". In the Notary Journal. No. 2.Vol. 14. p. 901. [urlhttps://ejournal.undip.ac.id/index.php/notarius/article/view/43780](https://ejournal.undip.ac.id/index.php/notarius/article/view/43780) accessed on 09 January 2023.

The notary must be fully responsible for the limited liability company registration process because the notary is considered to understand and understand and agree to the provisions set by the Directorate General of AHU which are contained in the form of an electronic statement in the process of its establishment. The notary is fully responsible for the data entered and the notary is ready to accept all forms of sanctions if the notary is proven to have violated statutory provisions. Notary accountability can be requested if in carrying out his position it causes harm to the rights of interested parties.²⁴The notary will correct the error at the expense of the private notary while continuing to cooperate with the applicant. If in the process of repair/change requires data from the applicant, then it is made by a Notary and the applicant who signs it. If an error/error occurs such as data incompatibility, then the error cannot be corrected by the Notary, the procedure that must be followed is that the Notary must submit a letter of request for data correction to the Directorate General of AHU, Ministry of Law and Human Rights and to the Investment Coordinating Board (BPKM) as OSS managing and organizing institutions.

Basically, notaries do not have full authority in registering business licenses with OSS, because the OSS system can be accessed by anyone who wants to register business permits for business entities/legal entities such as limited liability companies. However, the notary as the official who makes the deed of establishment of a legal entity will be more effective if it directly registers the legal entity into the OSS system. In practice, notaries already have access to SABH to register a limited liability company because only notaries can access the system using an account owned by a notary. A company that has been registered in the AHU database will be accommodated in the system and synchronized via OSS. This of course will benefit the client/applicant,

In running the OSS system, a notary is defined as an applicant, in this case the recipient of the power of attorney from the founder or partners of the business entity. The position of a Notary in the registration of a company with OSS is not as an authorized official but as an ordinary legal subject who is considered capable of carrying out legal actions. So that if there is a loss caused by the recipient of the power of attorney, in this case the Notary is negligent or careless, causing a loss to the company, then the provisions regarding the sanction of the code of ethics governing the implementation of his duties as a notary cannot be imposed, especially with regard to data entry or recording or registration at OSS. So that the form of accountability that can be given by a Notary as the recipient of the power of attorney,

²⁴Gumilang, Tia Sanitra (2019), "Notary Responsibilities and Legal Consequences of Legalizing the Establishment of a Limited Liability Company through the Legal Entity Administration System". In *Lex Renaissance Journal*. Vol. 4. No. 1. p. 154. url<https://journal.uii.ac.id/Lex-Renaissance/article/view/14892> accessed on 09 January 2023.

A claim for compensation based on the reason for an unlawful act can only be said to be an unlawful act, if it fulfills 4 (four) elements, namely the existence of an unlawful act, a loss, an error and There is a causal relationship between the loss and the unlawful act.²⁵If the four elements above can be proven in court and it turns out that the loss is proven to have arisen as a result of an error or mistake caused by the recipient of the power of attorney, then the person concerned can be held accountable as an ordinary legal subject and not as a Notary, so that a code of ethics sanction cannot be imposed by a notary. It is different if what is at issue is a deed made by a notary, then the person concerned can be sanctioned by a notary's code of ethics.

4. Conclusion

The notary has a role in the establishment of a capital partnership company because of the attribution authority given to his position, namely in making the deed of the articles of association of a capital partnership company and carrying out registration and validation of a capital partnership company on SABH AHU Online. However, for individual companies, a notary basically does not have an absolute role in its establishment because individual companies are not required to use a notarial deed, but only use an electronic statement of incorporation from AHU Online. However, if the notary is authorized by the client/applicant, the notary becomes civilly responsible for registering the individual company concerned electronically via SABH AHU Online. Notaries also do not have an absolute role and authority in the registration of company business licenses,

5. References

Journals:

Adriadi, Radith Prawira, et.al. (2021). "Perubahan Pengaturan Pendirian Perseroan Terbatas Dalam Undang-Undang Nomor 40 Tahun 2007 Pasca Diundangkannya Undang-Undang Nomor 11 tahun 2020". in *Jurnal Indonesian Notary*, No. 3, Vol. 2. p. 78. [accessed on 12 December 2022.](#)

Amir, Syarah Syam, et. al. (2022). "Implikasi yang Timbul Dalam Kemudahan Penerbitan Perizinan Berusaha Berdasarkan Peraturan Pemerintah Nomor 5 Tahun 2021 tentang Perizinan Berusaha Berbasis Risiko", in *Jurnal Pemikiran dan Penelitian Ilmu-Ilmu Sosial, Hukum dan Pengajarannya*, Vol. 17 No. 1, p. 20. url <https://ojs.unm.ac.id/supremasi/article/view/31731> [accessed on 09 January 2023.](#)

²⁵Sari, Indah, (2020), "Unlawful Acts (PMH) in Criminal Law and Civil Law". in the Scientific Journal of Aerospace Law, Vol. 11, no. 1. p. 55. url <https://journal.universitassuryadarma.ac.id/index.php/jihd/article/view/651> [accessed on 09 January 2023.](#)

- Andriyani, Susi. dan Alia Maerani, Ira. (2020), "Online Single Submission Institution Existency in Land Technical Considerations". in Jurnal *Sultan Agung Notary Law Review*, Vol. 2, No. 4. p. 467. url <http://jurnal.unissula.ac.id/index.php/SANLaR/article/view/12922> accessed on 12 December 2022.
- Andriyani, Susi. dan Alia Maerani, Ira. (2021). "The Existence of A Single Submission Online Institution in Land Technical Considerations". in Jurnal *Sultan Agung Notary Law Review*, Vol. 3, No. 2. p. 392. url <http://jurnal.unissula.ac.id/index.php/SANLaR/article/view/15735> accessed on 12 December 2022.
- Ardiansyah, Erlan. et. al. (2022). "Batasan Tanggungjawab Notaris Terhadap Akta Autentik yang Dibuatnya". In Jurnal *Recital Review*, Vol. 4, No. 2. p. 438. url <https://online-journal.unja.ac.id/RR/article/view/18867> accessed on 09 January 2023.
- Assegaf, Muhammad Iqbal Fitra. et. al. (2019). "Pelaksanaan *Online Single Submission* dalam Rangka Percepatan Perizinan Berusaha di Dinas Penanaman Modal dan Pelayanan Terpadu Satu Pintu (DPMPTSP) Jawa Tengah", dalam *Diponegoro Law Jurnal*, Vol. 8, No. 2, p. 1336 url <https://ejournal3.undip.ac.id/index.php/dlr/article/view/24582> accessed on 12 December 2022.
- Atina, Sitti Thali'ah. et. al. (2022). "Dualisme Hukum Pendirian Perseroan Terbatas Pasca Berlakunya Undang-Undang Cipta Kerja". in Jurnal *USM Law Review*, Vol. 5, No. 2. p. 468. url. <https://journals.usm.ac.id/index.php/julr/article/view/4989> accessed on 12 December 2022.
- Crisandyna, Made Karina Thalia, et. al. (2020), "Aspek Perizinan Dalam Pendirian Perseroan Terbatas dengan Sistem Online Single Submission", in Jurnal *Interpretasi Hukum*, Vol. 1, No. 1. p. 121. url. <https://www.ejournal.warmadewa.ac.id/index.php/juinhum/article/view/2197> accessed on 3 January 2023.
- Erlina, Maria Resta., dan Wahyu Krisnanto. (2022), "Peranan Asas Hukum dalam Mewujudkan Tujuan Perizinan Berusaha Melalui Pengaturan Online Single Submission" in Jurnal *Binamulia Hukum*, Vol. 11, No.1. p. 100. url <https://fh-unkris.com/journal/index.php/binamulia/article/view/676> accessed on 9 January 2023.
- Farhad, Lubbena, dan Mayasari, I Dewa Ayu Dwi. (2022). "Kepastian Hukum Pendirian Perseroan Perseorangan Tanpa Akta Notariil Berdasarkan

- Undang-Undang Cipta Kerja”. in Jurnal *Acta Comitatus*, Vol. 7, No. 1, p. 138. url <https://ojs.unud.ac.id/index.php/ActaComitatus/article/view/73107> accessed on 3 January 2023.
- Gumilang, Tia Sanitra (2019), “Pertanggungjawaban Notaris dan Akibat Hukum Pengesahan Pendirian Perseroan Terbatas melalui Sistem Administrasi Badan Hukum”. In Jurnal *Lex Renaissance*. Vol. 4. No. 1. p. 154. url <https://journal.uui.ac.id/Lex-Renaissance/article/view/14892> accessed on 9 January 2023.
- Islam, Mitha Irza Noor El, et. al, (2021). “Tanggungjawab Notaris atas Akta yang Dibuatnya Ditinjau Berdasarkan Hukum Pidana”. in Jurnal *Notarius*, No. 2, Vol. 14. p. 901. url <https://ejournal.undip.ac.id/index.php/notarius/article/view/43780> accessed on 9 January 2023.
- Kasih, Desak Putu Dewi. et. al. (2022). “Perseroan Perorangan Pasca UU Cipta Kerja: Perubahan Paradigma Perseroan Terbatas Sebagai Asosiasi Modal”. In Jurnal *Arena Hukum*, Vol. 15, No. 1. p. 34. url <https://arenahukum.ub.ac.id/index.php/arena/article/view/1460> accessed on 11 December 2022.
- Kurniawan, Yusuf. dan Sugiyanto. (2022). “Implementasi Undang-Undang Cipta Kerja Bagi Pelaku UMKM di Masa Pandemi Covid-19 Studi Kasus di Kota Yogyakarta”. dalam *Journal of Innovation Research and Knowledge*, Vol. 2, No. 3, p. 693. url <https://www.bajangjournal.com/index.php/JIRK/article/view/3125> accessed on 3 January 2023.
- Munalar, Sri Siti, et.al. (2020). “Peran Notaris Dalam Pengurusan Izin Usaha Perseroan Terbatas Berdasarkan Peraturan Pemerintah Nomor 24 Tahun 2018 tentang Pelayanan Perizinan Berusaha Terintegrasi Secara Elektronik”, in Jurnal *Prosiding Senantias*, Vol. 1, No. 1, p. 130. url <http://openjournal.unpam.ac.id/index.php/Senan/article/view/8246/0> accessed on 3 January 2023.
- Nastain, Muhammad dan Setyawati. (2020). “Legal Study of Making an Electronic Notary Deed”, in Jurnal *Sultan Agung Notary Law Review*, Vol. 2, No. 2, p. 71. url <http://jurnal.unissula.ac.id/index.php/SANLaR/article/view/11418> accessed on 12 December 2022.
- Pangesti, Shinta. 2021. “Penguatan Regulasi Perseroan Terbatas Perorangan Usaha Mikro dan Kecil dalam Mendukung Pemulihan Ekonomi Masa Pandemi Covid-19”. in Jurnal *Rechtsvinding*, No. 1, Vol. 10. p. 122. url

<https://rechtsvinding.bphn.go.id/ejournal/index.php/jrv/article/view/650>
accessed on 3 January 2023.

Sari, Indah, (2020), "Perbuatan Melawan Hukum (PMH) dalam Hukum Pidana dan Hukum Perdata". in *Jurnal Ilmiah Hukum Dirgantara*, Vol. 11, No. 1. p. 55. url
<https://journal.universitassuryadarma.ac.id/index.php/jihd/article/view/651> accessed on 3 January 2023.

Sinaga, Lidia Margaret. et. al. (2021). "Tanggung Jawab Notaris dan Pegawai Notaris dalam Menjaga Kerahasiaan Akta". in *Jurnal Visi Sosial Humaniora*, Vol. 2, No. 2. p. 162. url
<https://ejournal.uhn.ac.id/index.php/humaniora/article/view/408>
accessed on 9 January 2023.

Suryawan, I Gede Agus Yudi et. al. 2020. "Tanggung Jawab Notaris Menggunakan Layanan Ditjen AHU Online dalam hal Pendaftaran Akta dan Pengesahan Badan Hukum", in *Jurnal Hukum Kenotariatan Acta Comitatus Universitas Udayana*, Vol. 5 No. 3, p. 501. url
<https://ojs.unud.ac.id/index.php/ActaComitatus/article/view/63767>
accessed on 9 January 2023.

Books:

Adjie, Habib, (2009), *Hukum Notaris Indonesia (Tafsir Tematik Terhadap Undang-Undang Nomor 30 Tahun 2004 Tentang Jabatan Notaris)*, Cetakan Kedua, Bandung: Refika Aditama.

Bachruddin, et.al. (2019). *Hukum Kenotariatan: Membangun Sistem Kenotariatan Indonesia Berkeadilan*, Bandung: Refika Aditama.

Barakatullah, Abdul Halim, (2018), *Hukum Perseroan Indonesia*, Jakarta : Nusamedia.

Herlien Budiono. (2018). *Kumpulan Tulisan Hukum Perdata di Bidang Kenotariatan: Buku Ketiga*, Jakarta: Citra Aditya Bakti.

Megantara, Aldwin Rahadian, (2021), *Catatan Kritis Omnibus Law UU Cipta Kerja Dalam Sudut Pandang Hukum Administrasi Pemerintahan*, Sleman: Deepublish.

Munir Fuady. (2005). *Perbuatan Melawan Hukum: Pendekatan Kontemporer*. Bandung: Citra Aditya Bakti.

Sulhan, et.al. (2020). *Profesi Notaris dan Pejabat Pembuat Akta Tanah*, Jakarta: Mitra Wacana Media.