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Urgency of Legal Reform for Restructuring Non-Legal Entity Companies

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ABSTRACT
This research discusses the urgency of legal reform related to the restructuring of non-legal entity companies, such as trading businesses (UD), partnerships, and commandite partnerships (CV). The study highlights the legal uncertainties faced by these entities, which hinder their ability to adapt to market dynamics, access financial resources, and engage in strategic restructuring actions like mergers, acquisitions, and separations. Using a normative legal research method, this study analyzes existing legislative frameworks, including overlaps between the Micro, Small, and Medium Enterprises Law (UU UMKM) and the Job Creation Law, which create significant challenges for non-legal entities. The findings reveal that the absence of clear legal guidelines for restructuring leads to hesitancy in strategic decision-making and restricts these entities from accessing vital investment opportunities. The research concludes that comprehensive legal reform is essential to provide clear, specific regulations, establish structured partnerships, and create a conducive business environment for non-legal entities. These reforms will empower businesses to innovate, compete, and sustain growth while enhancing their overall market competitiveness.

INTRODUCTION

A company can be defined as a series of actions taken continuously and transparently, with a specific position, aimed at generating profits for itself. A company can also be understood as a location where production activities take place and where all production factors gather. There are companies registered with government agencies and those that are not. Companies registered with the government have official status as business entities (Pratama, 2018). The term "company" first appeared in Article 6 of the Commercial Code (KUH Dagang), which regulates the recording obligation for each individual conducting business. However, the Commercial Code does not provide an authentic explanation regarding the definition of a company. According to Law No. 3 of 1982, a company encompasses business forms (company) and types of businesses (business), where a company is understood as a business entity conducting activities in the economic sector including finance, industry, and trade continuously, regularly, transparently, and with the aim of obtaining profit or gain (winst oogmerk). This business entity can be operated by individuals, partnerships, or legal entities. Thus, a company is an economic activity involving the purchase of goods for resale or leasing with the intent to generate profit and/or gain (Harahap, 2021; Yohana, 2015).

A company is a business entity with a legal form that indicates the legality of the company in conducting economic activities, as formally reflected in its deed of establishment or business permit. The activities carried out must comply with applicable legal provisions, not contrary to public interest and morals, and not conducted in violation of the law (Nathania, 2023). Business activities take place continuously for a specified period outlined in the deed of establishment or business permit. Recognition and validation of business activities are carried out by the government through the deed of establishment, the issuance of business permits, and permits for business locations, ensuring transparency in the company's operations. The primary purpose of a business entity is to obtain profit, which is derived based on legality and regulations outlined in the law. Lastly, companies are required to maintain accurate bookkeeping, including the truth of its contents and the legitimacy of supporting evidence needed (As'ari et al., 2019; Muskibah & Hidayah, 2020).

Companies can be categorized into two types: legal entity businesses, such as Limited Liability Companies (PT), and non-legal entity companies, such as Trading Businesses (UD), Partnerships (firme), and Commandite Partnerships (CV). In conducting their business activities, every company is required to have a business permit marked by the creation of a Deed of Establishment before a Notary, except for UD, which is a sole proprietorship and only needs to be registered with relevant government agencies (Khairandy & Terbatas, 2009). The management of both legal entity and non-legal entity companies is not simple. PTs experiencing a decline in profit and business prospects can restructure, which is a reorganization of the company's structure and scale to improve financial conditions, expand the scale of operations, or clarify business focus. Restructuring can be done through several means, namely Merger, Consolidation, Acquisition, and Company Separation (MKAPP) (Hidayat, 2020; Surya & Suyatma, 2014).

The restructuring process for PTs is regulated by Law No. 40 of 2007 concerning Limited Liability Companies (UUPT), and further explained in Government Regulation No. 27 of 1998 concerning Mergers, Mergers, and Acquisitions of Limited Liability Companies. To carry out restructuring, companies must prepare a draft MKAPP that requires the approval of the General Meeting of Shareholders (RUPS) and is documented in the Minutes of the RUPS Decision, prepared by a Notary in the form of a Notarial Deed (Nurfauzi & Djuanda, 2019). Notaries are obliged to attend and supervise the RUPS decision-making process directly. However, this creates a legal vacuum for non-legal entity companies, including micro and small business actors who also want to restructure when facing declining businesses, as there is currently no specific regulation governing restructuring for non-legal entities. Based on this brief description, this research will discuss the urgency of legal reform on the restructuring of non-legal entity companies, as well as the impact of the absence of regulations regarding restructuring for non-legal entity companies specifically and efforts to create legal certainty regarding the restructuring of non-legal entity companies.

In modern economic systems, the restructuring of companies serves as a fundamental mechanism to adapt to changing market conditions and enhance operational efficiency. While Limited Liability Companies (PT) have a robust legal framework for restructuring, non-legal entity companies such as trading businesses (UD), partnerships, and commandite partnerships (CV) face significant barriers due to the absence of specific regulations. These entities play a crucial role in the Indonesian economy, particularly as micro, small, and medium enterprises (MSMEs), yet their potential remains underutilized due to legal uncertainties that hinder their growth and sustainability.

The challenges faced by non-legal entities are exacerbated by overlapping and contradictory regulations between the Micro, Small, and Medium Enterprises Law (UU UMKM) and the Job Creation Law. This regulatory ambiguity creates confusion among business actors, who struggle to navigate the requirements for strategic actions like restructuring. Without a clear legal framework, non-legal entities face significant risks in decision-making, which stifles their ability to innovate and remain competitive. The lack of access to financial resources further compounds these challenges, as investors and financial institutions are reluctant to engage with entities operating under unclear legal provisions.

Addressing these issues requires a comprehensive legal reform that prioritizes the development of specific regulations for non-legal entity restructuring. By creating a clear and cohesive legal framework, policymakers can provide business actors with the tools and confidence to make strategic decisions. Furthermore, structured partnerships between non-legal entities and legal entities or financial institutions can serve as a catalyst for innovation and growth. These reforms are not only essential for the sustainability of non-legal entities but also for the broader economic development of Indonesia.

Previous studies have explored the dynamics of company restructuring and its impact on business performance. Harahap (2021) analyzed the legal frameworks for Limited Liability Companies (PT), highlighting the importance of restructuring in maintaining competitiveness and financial health. Similarly, Pratama (2018) investigated the influence of restructuring on financial performance in banking, emphasizing the role of clear regulations in enabling strategic decision-making. However, existing research has largely overlooked the unique challenges faced by non-legal entity companies, particularly in the context of regulatory ambiguity and limited access to restructuring mechanisms. This study fills the gap by focusing on the specific legal and operational barriers encountered by non-legal entities in Indonesia.

The restructuring of non-legal entity companies is an urgent issue as these entities form a significant part of Indonesia's MSME sector, which contributes substantially to the national economy. The absence of a clear legal framework for restructuring limits their ability to adapt to market dynamics, thereby threatening their sustainability. As global competition intensifies, the need for legal certainty becomes critical to empower non-legal entities to innovate, grow, and compete effectively.

While substantial research exists on the restructuring of legal entities, limited attention has been given to the challenges faced by non-legal entities. The interplay between regulatory ambiguities, limited access to financing, and the absence of a structured legal framework for non-legal entities remains underexplored. This study addresses this gap by providing a comprehensive analysis of the legal and operational challenges faced by non-legal entities in restructuring processes.

This study is unique in its focus on the legal and regulatory challenges of restructuring non-legal entity companies in Indonesia. By examining overlaps between existing laws and the specific needs of non-legal entities, the research offers a novel perspective on how legal reforms can bridge the gap between regulatory requirements and business needs, ensuring a stable and supportive environment for non-legal entities.

The objective of this research is to analyze the legal barriers faced by non-legal entity companies in restructuring and propose a framework for legal reform that addresses these challenges. The study aims to provide actionable recommendations for policymakers, business actors, and stakeholders to enhance the sustainability and competitiveness of non-legal entities.

This research benefits policymakers by offering insights into the legal reforms needed to support non-legal entities. Business actors will gain a clearer understanding of the restructuring process, while academia will find valuable contributions to the discourse on corporate law and governance. Ultimately, the study promotes the growth and sustainability of non-legal entities, contributing to broader economic development.

The findings underscore the need for legal certainty and structured partnerships to empower non-legal entity companies. By implementing the proposed reforms, policymakers can enhance the business environment, foster innovation, and ensure the long-term sustainability of non-legal entities. These changes will not only benefit individual businesses but also strengthen Indonesia's overall economic resilience.

RESEARCH METHOD

The normative legal research method is the method used in legal studies that focuses on the study of documents and legal norms. This method aims to analyze the applicable legal rules and how these rules are applied or interpreted in a specific regulation. In normative legal research, the primary source used is legislation and other legal literature (Marzuki, 2018). This approach is particularly relevant in researching theoretical and conceptual legal issues, such as the urgency of legal reform for restructuring non-legal entity companies and the impact of the absence of regulations on restructuring for non-legal entity companies and efforts to create legal certainty regarding the restructuring of non-legal entity companies. One of the approaches used in this method is the statutory approach and the conceptual approach. The statutory approach involves examining and analyzing various rules that regulate specific issues, such as the Limited Liability Companies Law (UUPT) and related regulations concerning the restructuring of non-legal entities. Through this approach, researchers can analyze and identify the urgency of legal reform regarding the restructuring of non-legal entity companies as well as the impact of the absence of regulations concerning restructuring for non-legal entity companies specifically, and efforts to create legal certainty in restructuring non-legal entity companies.

RESULTS AND DISCUSSION

Urgency of Legal Reform for Restructuring Non-Legal Entity Companies

Legal entities (rechtspersoon) are entities that can hold rights and obligations to perform legal acts just like individuals, own their assets, and can sue and be sued in court. According to Salim HS, a legal entity consists of a group of people who have specific goals, wealth, rights, obligations, and organization. Meanwhile, Wirjono Projodikoro defines a legal entity as an entity that is considered able to act in law and has rights, obligations, and legal relations with other individuals or entities. In Article 1653 of the Civil Code (KUHPerdata), it is also stipulated that legal entities include associations of persons recognized by law as organizations, both those formed by public authority and those established for purposes not contrary to law or morals. From these explanations, it can be concluded that a legal entity is a legal subject that has existence as an entity and is seen as equal to an individual legal subject (natuurlijke persoon) in terms of having rights and obligations to perform legal acts as a business entity established for specific purposes, as long as it does not conflict with laws and regulations, public order, and morals (Sumarna & Solikin, 2018).

Every company established and operated by entrepreneurs certainly has the primary objective of generating profits. The profits obtained by this company not only serve as a source of state revenue through taxes but also function as a tool to improve the welfare of society. Thus, companies play a strategic role in the economy and development of a nation. To achieve these objectives, business actors need to apply the principles of Good Corporate Governance or good corporate governance, which includes strategies for managing companies effectively and ethically. In addition to implementing these principles, companies can also carry out restructuring as one of the strategies to improve performance, develop new strategies, and gain credibility in the capital market. Types of company restructuring consist of four categories: consolidation, merger, separation, and acquisition (Yunika & Madjid, 2017).

Every company established and operated by entrepreneurs has the primary goal of generating profit, which not only serves as a source of revenue for the state through taxes but also means improving public welfare. Thus, companies play a strategic role in the economy and development of a nation. To achieve these objectives, business actors should apply the principles of Good Corporate Governance (GCG) or good corporate governance, which involves effectively and ethically managing companies, thereby creating transparency and accountability in operations (Riani & Nugraha, 2020). In addition to implementing GCG principles, companies also have the option to undertake restructuring as a strategic measure to enhance performance, develop new strategies, and achieve credibility in the capital market. Company restructuring can be categorized into four main types: consolidation, where two or more companies merge to form a new entity; merger, which involves combining two companies to form a new company with assets and liabilities transferred to the receiving company; separation, where a company separates part of its business to form a new entity or to more clearly focus on a particular market segment; and acquisition, where one company takes over the ownership of shares of another company, granting full control over the acquired company. By implementing various forms of restructuring, companies can adapt to market dynamics, strengthen their competitive position, and enhance their long-term value (Asâ, 2015).

Consolidation occurs when two or more companies merge to form a new company through a merging process, where the merged company will legally cease to exist without undergoing liquidation. The new company resulting from the consolidation will inherit the assets and liabilities of the merged companies. However, the new company must reapply to the Ministry of Law and Human Rights (Kemenkumham) to obtain status as a new legal entity. A merger is a restructuring process involving the combination of two or more companies, where the status of the merged businesses ends legally, and their assets and liabilities transfer to the receiving company. Mergers are often regarded as the simplest and least costly form of restructuring compared to other types. Separation is differentiated into pure separation and non-pure separation. Pure separation occurs when the separation leads to two or more new companies, where all the assets and liabilities of the separating company move to the new entities, and the separating company will cease to exist. Conversely, in non-pure separation (spinoff), only some assets and liabilities are transferred to the new company, while the separating company remains in existence. Acquisition occurs when one company takes control of a portion of the shares of another company, thereby allowing the acquirer to control all aspects of the management of the acquired company. However, acquisitions do not result in a new entity since each company remains operational as legal entities independently.

Then regarding legal entities such as Limited Liability Companies (PT) and cooperatives, they are specifically regulated by Law No. 40 of 2007 concerning Limited Liability Companies (UUPT) and Law No. 25 of 1992 concerning Cooperatives (Cooperative Law). One of the main characteristics of legal entities is the separation of wealth between personal wealth and the wealth of the business entity. This separation aims to prevent personal assets from becoming subject to bankruptcy in case the company goes bankrupt; in this case, only the company's assets will be subject to bankruptcy, unless there is evidence of abuse where company assets are utilized for personal benefit. Conversely, non-legal entity companies, such as trading businesses (UD) and partnerships (CV, firma, maatschap), do not possess specific legal regulations similar to those governing legal entities, but are instead governed by the Civil Code (KUHPerdata) and the Commercial Code (KUHD). The characteristic of non-legal entity companies is the blending of company assets with personal assets, meaning that in cases of bankruptcy, personal property might also be entangled as an object of bankruptcy.

One of the primary characteristics of legal entities is the existence of a division of wealth between personal assets of the owners and the assets of the business entity itself, which serves to protect personal property from the risk of a company's bankruptcy; in this case, only the company's assets will be the object of bankruptcy unless there is evidence of abuse that results in company assets being used for personal interests. In contrast, non-legal entity companies such as trading businesses (UD) and partnerships (CV, firma, maatschap) lack specific legal regulations that govern their operations, thus falling under the realm of the Civil Code (KUHPerdata) and the Commercial Code (KUHD). The distinctive feature of non-legal entity companies is the blurring of asset ownership between the company and private property, resulting in greater risks for the owners; in bankruptcy situations, personal assets of the owners can be regarded as subjects of bankruptcy and may be used to settle the company's debts. This highlights the fundamental differences in legal protection between legal entities and non-legal entities, along with significant implications on the financial responsibility of business actors within each type of company.

In managing their businesses, companies always strive to avoid crises. When business actors realize there is potential for declining business prospects, they will take steps to heal the company, one of which is through restructuring. Restructuring is defined as "a substantial change in the business strategy or financial structure of a poorly performing company." Thus, restructuring can be understood as a reorganization that encompasses business strategy and financial structure to realize the company's vision and mission. It is crucial to distinguish between company restructuring and debt restructuring, where company restructuring focuses on reorganizing the form and scale of the company, while debt restructuring refers to the reorganization of debts recorded on the balance sheet (assets and liabilities) to enhance the company's financial health. Both can be performed separately or simultaneously.

Company restructuring can be conducted through various means, including Merger, Consolidation, Acquisition, and Company Separation (MKAPP), along with other options such as liquidation, bankruptcy, asset revaluation, and reorganization. According to the Explanation of Article 43 paragraph (3) letter c of Law No. 40 of 2007 concerning Limited Liability Companies (UUPT), MKAPP includes mergers, consolidations, acquisitions, or company separations. Provisions regarding MKAPP for Limited Liability Companies are governed under Articles 122 (1), 125 (1), and 135 (1) of UUPT, along with implementing regulations included in Government Regulation No. 27 of 1998. Meanwhile, for cooperatives, MKAPP is governed by the Cooperative Law and the Ministerial Regulation of the State for Cooperatives and SMEs No. 19/Per/M.KUKM/XI/2008 regarding Guidelines for Implementation of Loan Activities by Cooperatives.

Thus, both legal entities and cooperatives have specific legal frameworks in conducting restructuring to enhance efficiency and competitiveness in the market. According to Article 1, number 9 UUPT along with Article 1, number 1 of Government Regulation 27 of 1998, a merger refers to the legal act in which one or more corporations merge into an existing corporation, resulting in the transfer of the corporation's assets and liabilities legally to the receiving corporation, and the merging corporation will dissolve. The merger process is carried out with the approval of the General Meeting of Shareholders (RUPS), documented in the Merger Deed prepared by a notary, and requires validation from the Ministry of Law and Human Rights (Kemenkumham). Consolidation, as described in Article 1, number 10 UUPT along with Article 1, number 2 of Government Regulation 27 of 1998, involves two or more corporations merging to form a new corporation, with each merging corporation legally dissolving, and the assets and liabilities of the merging corporations transferring to the newly formed corporation. The consolidation procedure follows the RUPS provisions and requires a Consolidation Deed prepared by a notary and validation from Kemenkumham.

Acquisition, according to Article 1, number 1 UUPT along with Article 1, number 3 of Government Regulation Number 27 of 1998, refers to the legal act where a legal entity or individual takes over some or all of the shares of a corporation, leading to the transfer of control over the corporation. Acquisition must comply with the provisions in Articles 125 and 128 UUPT, and can occur through two mechanisms: first, through the Corporation's Directors, requiring the approval of the General Meeting of Shareholders documented in an Acquisition Deed; second, through shareholders, also requiring approval for the transfer of share rights to be granted by the Minister of Law and Human Rights.

Separation, as explained in Article 1, number 12 UUPT, is a legal act undertaken by corporations to separate their business operations, resulting in the transfer of all assets and liabilities to two or more corporations, or some being transferred to one corporation. Separation can be classified into two types:

1. Pure Separation (Split Off), where all assets of the company are transferred to two or more new companies resulting from the separation, and the original company (removed).
2. Non-pure Separation (Spin-Off), where only part of the company's assets is transferred to the new company resulting from the separation, while the original company still exists.

For non-legal entity companies, there are no specific regulations governing their operational guidelines; thus, they are regulated under the Civil Code (KUHPerdata) and the Commercial Code (KUHD). A Trading Business (UD) is a form of sole proprietorship run by an entrepreneur with self-owned capital. It is not specifically regulated in law but recognized in practice as a business entity. In a UD, all assets are owned by one person who is fully responsible for all company debts. The establishment of UD does not require a Notarial Deed, since it is a sole proprietorship and needs only to be registered with the appropriate government authorities. Partnerships are regulated under Articles 16 to 35 of the Commercial Code, representing a civil partnership established to conduct business under the joint name of the partners. According to Yahya Harahap, partnership is a collaborative form of agreement among individuals in terms of professions or trading. Every partner in a partnership is jointly responsible for the legal actions carried out by other partners, as described in Article 18 of the Commercial Code. The establishment of a partnership must be done through an Authentic Deed before a notary, which must be registered with the Clerk of the District Court, as specified in Articles 22 and 23 of the Commercial Code.

The Commanditaire Vennootschap (CV) is not clearly regulated in the Civil Code or the Commercial Code but falls under the category of partnerships according to Articles 19 to 21 of the Commercial Code, which consist of limited partners (passive) and general partners (active). According to Article 1618 of the Civil Code, it stipulates that two or more individuals agree to contribute something to the partnership with the intention of sharing the resulting profits. Therefore, the establishment of a CV must be through an Authentic Deed before a notary and registered with the Clerk of the District Court, following the same procedures as partnership establishments. A Civil Partnership (Maatschap), as outlined in Article 1618 of the Civil Code, is accordingly an agreement between two or more individuals committing to contribute and share profits. The elements of civil partnership include a reciprocal agreement, contributions of money, goods, or services, and the intention to share profits among the partners. Based on Articles 1620 to 1623 of the Civil Code, a civil partnership may be categorized into general and special partnerships, with general partnerships involving partners contributing assets with their respective shares, while special partnerships involve agreements to provide specific items or services.

Based on the explanations provided, non-legal entity companies lack specific regulatory frameworks in legislation, including in restructuring. This creates a legal vacuum when Trading Businesses (UD), Commanditaire Vennootschap (CV), Partnerships, or Maatschap strive to restructure through mergers, consolidations, acquisitions, and company separations (MKAPP), as is applicable for Limited Liability Companies (PT). In this case, the Law on Micro, Small, and Medium Enterprises (UU UMKM) and the Job Creation Law provide alternatives for company development targeting MSMEs, including UD, CV, and partnerships, through partnership patterns. This partnership pattern is outlined in Article 26 of the UMKM Law alongside Article 26 of the Job Creation Law, covering various forms such as core-plasma patterns, sub-contracting, franchises, general trade, distribution, agency, supply chains, and other forms of partnerships. In principle, the partnership pattern involves financial contributions, technical support in production and marketing, technological improvements, as well as guidance and training to foster business development. Partnership agreements made by MSMEs must be recorded in written form, as provided in Article 34 of the UMKM Law, which includes detailed aspects concerning business activities, rights and obligations of each party, forms of development, duration, and resolution of disputes. Hence, partnerships can be formalized in informal deeds or official deeds drafted before a notary.

Despite the absence of specific regulations regarding restructuring for non-legal entity companies, these companies can still carry out MKAPP with other non-legal entities. Changes in business forms and ownership of non-legal entity companies can be processed through local governments, particularly the Trade and Industry Office, without the need for validation from the Ministry of Law and Human Rights (Kemenkumham). In this case, Article 153C of the Job Creation Law states that changes in the establishment declaration for Micro and Small Enterprises are set through the RUPS and must be electronically notified to the minister, with technical provisions regulated in yet-to-be-determined governmental regulations. This indicates that changes in the establishment declaration made by non-legal entity companies can have significant legal consequences, as restructuring through MKAPP can be executed with the approval of the RUPS documented in an authentic deed by a notary, and notification of approval sufficient when carried out electronically to the minister, rather than to local governments.

Thus, the legal vacuum concerning the regulation of non-legal entities has resulted in overlapping between the UMKM Law and the Job Creation Law, creating legal uncertainties in the business operations of non-legal entities. Legal certainty, according to Gustav Radbruch, consists of two aspects: legal certainty through the law (legal justice that must bring benefits) and legal certainty within the law (law stated in various legislative regulations). The legal vacuum related to non-legal entities leads to overlaps between the Micro, Small, and Medium Enterprises Law (UU UMKM) and the Job Creation Law, which in turn, creates legal uncertainties in business activities conducted by those entities. This ambiguity has the potential to hinder the capacity of non-legal entities, such as Trading Businesses (UD) and partnerships (CV, firma, maatschap), to operate efficiently and comply with applicable regulations. Legal certainty is critical for maintaining justice and order in business operations, as highlighted by Gustav Radbruch, who stated that legal certainty encompasses two dimensions: first, legal certainty by the law, which emphasizes beneficial legal justice for society; and second, legal certainty within the law, which refers to the existence of clear and detailed laws in various legislative frameworks. Without adequate legal certainty, non-legal entities risk facing challenges in managing their businesses and ensuring compliance.

Impact of the Absence of Regulations on Restructuring for Non-Legal Entities and Efforts to Create Legal Certainty Regarding Restructuring Non-Legal Entities

Non-legal entity companies, such as trading businesses (UD), partnerships, and commandite partnerships (CV), often face significant legal uncertainties, especially concerning restructuring. Unlike legal entities that have clear regulations in the law, non-legal entity companies lack a specific legal framework to regulate their restructuring processes. This ambiguity leads to serious doubts in strategic decision-making by business actors. For instance, when a non-legal entity company considers making structural changes or transferring ownership, they may be unaware of the required legal procedures or conditions, which can lead to inappropriate or even detrimental decisions.

The situation becomes even more complex when non-legal entity companies encounter rapidly changing market conditions or pressing financial challenges. In such circumstances, business actors need to act quickly and decisively, but legal uncertainties can hinder their ability to respond efficiently. They may hesitate to engage in restructuring actions such as acquisitions, mergers, or even liquidations due to concerns over unclear legal implications. This uncertainty not only limits flexibility in decision-making but can also negatively affect the reputation and credibility of the enterprise in the eyes of business partners, investors, and consumers. Additionally, this legal uncertainty influences the access of non-legal entity companies to financial resources. Investors and financial institutions tend to avoid high risks associated with regulatory ambiguities. When non-legal entities cannot demonstrate certainty regarding their structure and management, potential investors may be reluctant to provide the necessary capital or financial support for restructuring. As a result, companies may find themselves forced to endure unfavorable conditions, exacerbating the risk of bankruptcy and hindering their long-term growth.

Limited access to capital is one significant impact of the absence of a clear legal framework for non-legal entity companies, such as trading businesses (UD), partnerships, and commandite partnerships (CV). In business, capital is crucial for development and growth. However, without clear regulations regarding restructuring or company management, investors and financial institutions are often hesitant to extend financial support. They typically seek legal certainty to ensure that their investments will be safe and accountable. Ambiguity regarding the legal structure of non-legal entity companies creates apprehension for investors regarding the potential risks they may encounter. For example, investors may question how ownership structures function in instances of management alterations, bankruptcies, or restructuring. Lacking clear provisions about the rights and obligations of each party, investors feel less secure in committing their funds, thus diminishing the company's prospects for obtaining the necessary financing.

Limited access to capital also affects the ability of non-legal entity companies to innovate and compete in the market. In an era of rapid globalization, companies must adapt to changing market needs and new technologies. However, without adequate financial support, non-legal entity businesses may be unable to invest in developing new products, enhancing service quality, or expanding market reach. This limitation will hamper their competitiveness and could result in the loss of valuable business opportunities. This becomes more urgent when non-legal entity companies face financial crises or challenges. In emergencies, they often require quick financing to maintain operations or undertake restructuring. However, if investors remain uncertain about legal aspects concerning the company, they may delay investment decisions or even withdraw their support. This can leave non-legal entity companies trapped in a cycle of debt that is difficult to recover from, worsening their financial and operational positions.

Regulatory overlaps are a serious issue faced by non-legal entity companies, especially concerning restructuring procedures. Ambiguities around applicable rules and provisions can lead to confusion among business actors. For example, between the Micro, Small, and Medium Enterprises Law (UU UMKM) and the Job Creation Law, provisions can conflict, particularly regarding financing and partnerships. This creates difficulties for business actors to understand which regulations to follow and how to correctly execute procedures in the restructuring process. As a result, entrepreneurs such as trading businesses (UD), partnerships, and commandite partnerships (CV) face uncertainty when making strategic steps to improve or develop their businesses. Without clarity on which regulations to refer to, entrepreneurs may hesitate to implement necessary restructuring plans, potentially getting caught in situations where decisions made risk violating one of the existing regulations, which could lead to sanctions or other legal consequences. This uncertainty generates an unproductive environment for growth and innovation. Regulatory overlaps can exacerbate market uncertainties. Investors, banks, and other financial institutions typically avoid investing in companies operating under unclear legal frameworks. When existing regulations contradict each other, it worsens the perception of risk faced by stakeholders, negatively impacting non-legal entity companies' capacity to attract the necessary investment. Consequently, companies may miss significant opportunities to enhance operational capacity and effectively compete in the market.

The drafting of specific regulations governing the procedures and provisions for restructuring non-legal entity companies is a crucial step that the government must take to create legal certainty and facilitate business development in this sector. Specific regulations will provide clear guidance to business actors, such as trading businesses (UD), partnerships, and CVs, about the steps that must be taken in the restructuring process, including administrative procedures, eligibility criteria, and rights and obligations that must be adhered to. With a clear legal framework, business actors will be more confident in making strategic decisions and find it easier to access financing and investments since investors tend to be more inclined to invest in businesses that have legal certainty. This regulation can help eliminate overlaps with existing regulations such as the UMKM Law and Job Creation Law, thereby creating a more stable and predictable business environment. Therefore, it is important for the government to involve stakeholders, including business actors, in the process of drafting this regulation to ensure that the resulting policies are relevant and acceptable to all parties involved.

Developing a structured partnership model between non-legal entity companies, such as trading businesses (UD), partnerships, and CVs, with legal entities or financial institutions is critical for enhancing the effectiveness of restructuring in this sector. The proposed partnership model must be designed to provide comprehensive legal and financial support for non-legal entity companies, including access to funding, managerial training, and legal guidance in restructuring implementation. In this partnership framework, legal entities or financial institutions can act as mentors, offering strategic and technical advice and aiding in the development of a sustainable business plan that is eligible for investment support. Furthermore, this partnership can also strengthen the bargaining power of non-legal entity companies in the market, as they can combine resources and expertise with their partners, creating a synergy that benefits both parties. With the presence of a structured partnership model, it is expected that non-legal entity companies will be better prepared to face challenges in restructuring processes and improve their competitiveness in the market, leading to sustainable growth.

CONCLUSION

The absence of a clear legal framework for non-legal entity companies, such as Trading Businesses (UD), Commanditaire Vennootschap (CV), and partnerships, has created significant challenges, particularly in restructuring processes and legal protections. The regulatory overlaps between the Micro, Small, and Medium Enterprises Law (UU UMKM) and the Job Creation Law contribute to legal uncertainties, hindering strategic decisions like mergers, acquisitions, or liquidations. This uncertainty limits access to financial resources and innovation opportunities, placing non-legal entity companies at a disadvantage compared to legal entities protected under the Limited Liability Company Law (UU PT) and the Cooperative Law. To address these issues, the government must establish specific regulations that clarify restructuring procedures, provide robust legal protections, and encourage partnerships between non-legal entity companies and legal entities or financial institutions. These efforts, combined with support in the form of financing, training, and market access, will enhance the competitiveness and sustainability of non-legal entity companies, empowering them to adapt to dynamic market conditions while reducing legal risks.

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