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Problems of Notary Responsibility for Compliance with Company Capital

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Abstract. *The practice of establishing a Limited Liability Company in reality still shows a discrepancy between the authorized capital and the issued and paid-up capital as stated in the deed of establishment. This condition has the potential to give rise to legal issues related to the validity of the deed and the responsibility of the Notary as a public official authorized to make authentic deeds. This study aims to analyze the responsibility of the Notary in the process of establishing a Limited Liability Company if there is a capital discrepancy, examine its legal implications for the validity of the deed, and identify forms of legal protection for the parties and third parties. This study uses a normative legal method with a statutory, conceptual, and case approach. Legal materials were obtained through literature studies and analyzed qualitatively using deductive reasoning. The results of the study indicate that the Notary is professionally, ethically, and legally responsible for ensuring the formal accuracy of the capital data in the deed, even though the material obligation to deposit lies with the shareholder. Capital discrepancies can cause administrative defects and open up the possibility of civil and ethical liability if negligence is proven. This study concludes that strict implementation of the principle of prudence by Notaries is the key to ensuring legal certainty and protection in the establishment of Limited Liability Companies.*

Keywords: *Authorized; Capital; Notary; Responsibilities.*

1. Introduction

The guarantee of legal protection as stipulated in Article 28 of the 1945 Constitution of the Republic of Indonesia affirms that the state is obliged to protect the constitutional rights of citizens through the administration of government based on law. The principle of the rule of law requires that every action of state administrators, including public officials, have a clear legal basis, be carried out according to established procedures, and be legally accountable.[1] [2]The constitution not only functions as a basic norm for the administration of the state, but also as an instrument for limiting power to prevent arbitrary actions that could potentially harm the rights of citizens.[3].

The principle of the rule of law places legal certainty as one of the main objectives in organizing social, national and state life.[4]Legal certainty can only be achieved if every legal act is carried out based on clear legal norms, carried out by authorized officials, and stated in the form of evidence that has valid evidentiary power.[5]The need for valid and strong evidence is becoming increasingly important as the complexity of legal relations in society increases, especially in the civil and economic fields.[6].

A notary is a public official with a strategic role in ensuring legal certainty and protection for the public. As a public official, a notary is authorized by law to draw up authentic deeds concerning various legal acts, agreements, and determinations as desired by the parties or required by statutory regulations.[7] [8]This authority is not only administrative in nature, but also carries a large legal responsibility because the deed made by a notary has perfect evidentiary power.[9].

The authority of a Notary is normatively regulated in Article 15 paragraph (1) of Law Number 30 of 2004 concerning the Position of Notary as amended by Law Number 2 of 2014. This provision confirms that a Notary has the authority to make authentic deeds, guarantee the certainty of the date of the deed's creation, store the deed, and provide a grosse, copy and extract of the deed as long as the

[1] Anthony Robert Phangestu Abady and Mella Ismelina Farma Rahayu, 'Legal Counseling on Making Deeds by Notaries Based on Law Number 2 of 2014 Concerning the Position of Notaries', Journal On Education 5, No. 2 (2023): 4248–58, Https://Doi.Org/10.31004 /Joe.V5i2.1 087.

[2] Indonesia, 'Constitution of the Republic of Indonesia of 1945', 1945.

[3] Nikson Gans Lalu, 'Law and Power in the Perspective of Pancasila Legal Philosophy', To-Ra Law Journal: Law to Regulate and Protect Society 11, No. 1 (2025): 1–17, Https://Doi.Org/10.55809/Tora.V11i1.395.

[4] Fadly Andrianto, 'Legal Certainty in Legal Politics in Indonesia', Administrative Law and Governance Journal 3, No. 1 (2020): 114–23, Https://Doi.Org/10.14710/Alj.V3i1.114-123.

[5] Yuyun Sri Wahyuni, 'Legitimacy of Power in Max Weber's Perspective on Contemporary Government', Journal Transformation of Mandalika 6, No. 12 (2025): 592–98, Https://Doi.Org/ 10.36312/Jtm.V6i8.5706.

[6] Diva Rayhan Reydoza Et Al., 'Legal Analysis of Notary's Responsibility for Deed of Establishment of Limited Liability Company with False Data', Terang: Journal of Social, Political and Legal Studies 2, No. 1 (2025): 159–67, Https://Doi.Org/10.62383/Terang.V2i1.836.

[7] Abiandri Fikri Akbar and Akhmad Budi Cahyono, 'The Role and Responsibilities of Notaries in Making Deeds of Agreement in Foreign Languages Based on Article 1338 of the Civil Code and the Notary Law', Palar | Pakuan Law Review 7, No. 2 (2021): 234–51, Https://Doi.Org/10.33751/Palar.V7i2.4098.

[8] Putu Inten Andhita Dewi and I Wayan Novy Purwanto, 'The Role of Notaries in the Establishment of Limited Liability Companies Post-Job Creation Law', Acta Comitas 6, No. 03 (2021): 549, Https://Doi.Org/10.24843/Ac.2021.V06.I03.P7.

[9] Abady And Rahayu, 'Legal Counseling on Making Deeds by Notaries Based on Law Number 2 of 2014 Concerning the Position of Notaries'.

creation of the deed is not assigned or excluded from other officials.[10] [11]This regulation shows that Notaries have a central position in civil law traffic in Indonesia.

The performance of a notary's duties is not solely limited to the exercise of formal authority as stipulated in law, but also encompasses a social function. This social function is reflected in the notary's role as a mediator between the parties' legal interests, providing legal explanations, and ensuring that legal acts outlined in the deed are carried out consciously, voluntarily, and in accordance with statutory provisions.[12] [13] [14]. The moral and professional responsibility of a notary is very important considering that the deed they create will be used as evidence for a long period of time.

An authentic deed drawn up by a notary has binding and complete evidentiary force as stipulated in Article 1847 of the Civil Code. This provision states that an authentic deed provides complete evidence of what is contained therein for the parties, their heirs, or any party who receives rights from them.[15]. The evidentiary power places authentic deeds as the main evidence in resolving civil disputes, including disputes related to business activities and legal entities.[16].

A notary's obligation in drafting an authentic deed is not limited to the formal recording of the parties' statements. A notary is obligated to ensure that the parties understand the contents of the deed, that their wishes are correctly reflected, and that the legal acts outlined do not conflict with law, public order, or morality.[17]. These obligations are carried out, among other things, through reading deeds, providing legal explanations, and providing access to information related

[10] Indonesia, 'Law Number 30 of 2004 Concerning the Position of Notary. State Gazette of the Republic of Indonesia 2004 Number 117.', 2004.
[11] Chriselda Febriany Kartika Buana and Paramita Prananingtyas, 'Legal Review of the Establishment of a Sole Proprietorship Limited Liability Company by Micro and Small Enterprises Based on Law No. 11 of 2020 Concerning Job Creation', Al-Manhaj: Journal of Islamic Law and Social Institutions 5, No. 2 (2023): 1335–42, Https://Doi.Org/10.37680/Almanhaj.V5i2.3084.
[12] Dewi Masitah Et Al., The Urgency of a Notarial Deed Regarding the Legality of Establishing a Sole Proprietorship After Law Number 6 of 2023 Concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 Concerning Job Creation Becomes Law, 2023.
[13] Akbar and Cahyono, 'The Role and Responsibilities of Notaries in Making Deeds of Agreement in Foreign Languages Based on Article 1338 of the Civil Code and the Law on the Position of Notaries'.
[14] Andhita Dewi and Novy Purwanto, "The Role of Notaries in the Establishment of Limited Liability Companies After the Job Creation Law."
[15] Indonesia, 'Civil Code (Burgerlijk Wetboek). Staatsblad 1847 No. 23', 1847.
[16] Dewi Oktavia and Irene Svinarky, 'Legal Analysis of the Position of Capital Deposit Statement Letter as a Substitute for Capital Deposit Evidence in the Establishment of Limited Liability Companies in Indonesia', Jurnal Ide Hukum 3, No. 01 (2021): 59–70, Https://Doi.Org/10.31849/Jgh.V3i01.7504.
[17] Oktavia and Svinarky, 'Legal Analysis of the Position of Capital Deposit Statement Letter as a Substitute for Proof of Capital Deposit in the Establishment of Limited Liability Companies in Indonesia'.

to relevant laws and regulations.[18] [19] [20].

One type of authentic deed that has an important role in economic life is the deed of establishment of a Limited Liability Company.[21]. Limited Liability Company is the most widely used form of business entity in business practices in Indonesia because it limits the liability of shareholders.[22]The presence of a Limited Liability Company is not only a means for large-scale business actors, but is also used by micro, small, and medium business actors in carrying out their business activities.[23] [24].

Law Number 40 of 2007 concerning Limited Liability Companies defines a Limited Liability Company as a legal entity which is a capital association, established based on an agreement, carrying out business activities with authorized capital which is entirely divided into shares, and fulfilling the requirements stipulated in the law and its implementing regulations.[25]This definition confirms that the establishment of a Limited Liability Company has the characteristics of a civil legal act that originates from an agreement.

The establishment of a Limited Liability Company as a legal entity requires the fulfillment of certain stages and procedures which are strictly regulated in statutory regulations.[26]The procedure includes the preparation of a deed of establishment by a notary, legalization of the legal entity by the Minister of Law and Human Rights, and fulfillment of various permits and business administration

[18] Dian Putri Pratama and Bambang Eko Turisno, 'Changes in the Regulations for the Establishment of Limited Liability Companies After the Enactment of the Job Creation Law', Notarius 16, No. 3 (2023): 1561–76, https://doi.org/10.14710/nts.v16i3.41266.
[19] Buana and Prananingtyas, 'Legal Review of the Establishment of a Sole Proprietorship Limited Liability Company by Micro, Small, and Medium Enterprises Based on Law No. 11 of 2020 Concerning Job Creation'.
[20] Masitah Et Al., The Urgency of a Notarial Deed Regarding the Legality of Establishing a Sole Proprietorship After Law Number 6 of 2023 Concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 Concerning Job Creation Becomes Law, 2023.
[21] Masitah Et Al., The Urgency of a Notarial Deed Regarding the Legality of Establishing a Sole Proprietorship After Law Number 6 of 2023 Concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 Concerning Job Creation Becomes Law, 2023.
[22] Pratama and Turisno, "Changes to the Regulations for the Establishment of Limited Liability Companies Following the Enactment of the Job Creation Law."
[23] Buana and Prananingtyas, 'Legal Review of the Establishment of a Sole Proprietorship Limited Liability Company by Micro, Small, and Medium Enterprises Based on Law No. 11 of 2020 Concerning Job Creation'.
[24] Andhita Dewi and Novy Purwanto, "The Role of Notaries in the Establishment of Limited Liability Companies After the Job Creation Law."
[25] Indonesia, 'Law Number 40 of 2007 Concerning Limited Liability Companies. State Gazette of the Republic of Indonesia 2007 Number 106', 2007.
[26] Astuti Yudhika Putri and Budi Santoso, 'Deviations in the Implementation of Law Number 40 of 2007 in the Establishment of Limited Liability Companies', Al-Manhaj: Journal of Islamic Law and Social Institutions 5, No. 1 (2023): 681–86, Https://Doi.Org/10.37680/Almanhaj.V5i1.2560.

requirements.[27]The validity of the establishment of a Limited Liability Company is highly dependent on the accuracy of the data and information contained in the deed of establishment.[28].

Authorized capital, issued capital and paid-in capital are essential elements in establishing a Limited Liability Company.[29]. The Limited Liability Company Law stipulates that the authorized capital of a company consists of the entire nominal value of the shares. The provisions of Article 32 paragraph (1) of the Limited Liability Company Law stipulate the minimum amount of authorized capital, while Article 33 paragraph (1) stipulates that the issued capital must be fully paid up upon the company's establishment. This regulation aims to guarantee the seriousness of the founders and protect the interests of third parties.

The establishment of a Limited Liability Company is contractual and consensual because it arises from an agreement between the founders.[30]. The provisions of Article 7 paragraph (1) of the Limited Liability Company Law require that the establishment of a company be carried out by at least two people with a notarial deed made in Indonesian. Establishment based on this agreement results in the validity of the agreement as regulated in Article 1320 of the Civil Code.

The deed of establishment of a Limited Liability Company contains the articles of association and other information relating to the identity of the founders, the company's organs, and the capital structure. Article 8 paragraph (2) of the Limited Liability Company Law explicitly regulates the minimum information that must be included in the deed of establishment, including the names of shareholders, the number of shares, and the nominal value of the shares issued and paid up. The truth and accuracy of this data are the main prerequisites for the legal entity's approval by the Minister of Law and Human Rights.[31].

The role of a notary in establishing a limited liability company extends beyond drafting the deed of incorporation. The notary also acts as the founders' attorney in submitting applications for legal entity approval through the Legal Entity

[27] Ghansham Anand Et Al., 'Implementation of the Principle of Prudence by Notaries in Exercising Their Authority Based on the Notary Law and the Notary Code of Ethics', State of Law: Building Law for Justice and Welfare 15, No. 2 (2025), Https://Doi.Org/ 10.22212/Jnh.V15i2.4399.
[28] Abady And Rahayu, 'Legal Counseling on Making Deeds by Notaries Based on Law Number 2 of 2014 Concerning the Position of Notaries'.
[29] Rizky Amalia and Anang Sulistyono, 'Legal Review of Company Shares Whose Authorized Capital Comes from Joint Assets Reviewed from Law Number 40 of 2007 Concerning Limited Liability Companies', Journal of Law and Notary 6, No. 3 (2023): 1510–23, Https://Doi.Org/10.33474/Hukeno.V6i3.17843.
[30] Razhez Akbar Wildan Utama and Budi Santoso, 'Legal Analysis of Directors' Responsibility for Bankruptcy of Limited Liability Companies According to Law Number 40 of 2007', Notarius 15, no. 2 (2022): 1002–11, https://doi.org/10.14710/nts.v15i2.37014.
[31] Utama And Santoso, 'Legal Analysis of the Directors' Responsibility for Bankruptcy of Limited Liability Companies According to Law Number 40 of 2007'.

Administration System.[32]The electronic system places the Notary as the party responsible for the accuracy of the data submitted to the ministry.[33]. This responsibility gives rise to legal consequences if there is a discrepancy between the data submitted and the actual situation.

An authentic deed that fails to meet formal and material requirements has the potential to lose its authenticity. Such a deed can be degraded to a private deed or even annulled by court decision if it is proven to be legally flawed.[34]. The burden of proof regarding the inauthenticity of the deed rests with the party denying the deed, while the judge has the authority to assess and determine the evidentiary strength of the deed.

In the practice of establishing a Limited Liability Company, problems are often found in the form of a discrepancy between the capital stated in the deed of establishment and the capital actually paid in by the shareholders.[35] [36] [37]This issue demonstrates a gap between normative provisions and actual practice. This capital mismatch has the potential to cause losses for the company, other shareholders, and well-intentioned third parties.[38].

Based on field interviews and the deed of establishment documents obtained by researchers in Wakatobi, it was discovered that the paid-in capital stated in the deed had not been actually submitted by the shareholders. This finding indicates a discrepancy between the formal description of the deed and the actual capital realization, thus raising questions regarding the validity of the deed of establishment and the notary's responsibilities. This is in line with corporate law literature that emphasizes the importance of capital verification by a notary in establishing a PT, as well as the legal consequences that arise if the capital does not comply with those stipulated in the UUPT and corporate law practices.[39] [40].

The phenomenon of capital mismatch in the establishment of a Limited Liability Company indicates a potential violation of the provisions of Article 33 paragraph (1) of the Limited Liability Company Law. This provision requires that the invested

[32] Adolf Berle And Gardiner Means, The Modern Corporation And Private Property (Macmillan, 1932).
[33] Alan Dignam And John Lowry, Company Law (Oxford University Press, 2015).
[34] Habib Adjie, Building the Indonesian Notary Law Ecosystem (Bintang Semesta Media, 2021).
[35] Diva Rayhan Reydoza Et Al., 'Legal Analysis of Notary's Contribution to the Deed of Establishment of a Limited Liability Company with False Data'.
[36] Putri and Santoso, 'Deviations in the Implementation of Law Number 40 of 2007 in the Establishment of Limited Liability Companies'.
[37] Rizky Amalia and Sulistyono, 'Legal Review of Company Shares Whose Authorized Capital Comes from Joint Assets Reviewed from Law Number 40 of 2007 Concerning Limited Liability Companies'.
[38] Anand Et Al., 'Implementation of the Principle of Prudence by Notaries in Exercising Their Authority Based on the Notary Law and the Notary Code of Ethics'.
[39] Ragil Surya Prakasa Et Al., Analysis of the Responsibilities of Directors in Limited Liability Companies and the Perspective of Corporate Law, 5, No. 2 (2024).
[40] Harahap, MY, Should Proof of PT Capital Deposit Be Shown to a Notary?, 2023, https://Www.Hukumonline.Com/Klinik/A/Haruskah-Bukti-Penyetoran-Modal-Pt-Diperlihatkan-Ke-Notaris-Lt5409790f5a320/?

capital be fully paid up at the time of the company's establishment. Failure to comply with this provision impacts the validity of the deed of establishment and can have legal implications for the Notary as the official authorized to draw up the deed.[41] [42].

This research has novelty because this research does not only discuss the general responsibility of notaries in making authentic deeds, but specifically analyzes the limits of notary responsibility regarding discrepancies between authorized capital and capital actually paid in the establishment of a Limited Liability Company. This research places the provisions of Article 33 paragraph (1) of the Limited Liability Company Law in direct relationship with the authority of notaries based on the Notary Position Law, so this research tests whether notaries are only formally responsible for the statements of the founders or also bear the obligation of material verification of the realization of capital deposits.

This research also offers novelty because it integrates a normative approach with empirical findings regarding the practice of capital mismatch in the field, particularly in Wakatobi. This research goes beyond a doctrinal analysis of the evidentiary power of authentic deeds, but also examines the potential degradation of the deed's authenticity if the capital data contained does not align with the factual conditions. Thus, this research broadens the discourse on notary due diligence in electronic-based legal entity administration systems and provides a more proportional construction of liability boundaries.

This research is important because the practice of capital mismatch in the establishment of a Limited Liability Company has the potential to cause losses for the company, other shareholders, and third parties in good faith, and can create legal uncertainty in the flow of business activities. The unclear limits of a notary's responsibility regarding the material accuracy of capital deposits also have the potential to give rise to civil disputes, administrative liability, and even ethical and criminal implications if there is an element of error or negligence. Therefore, this research is needed to provide conceptual clarity regarding the scope of a notary's responsibilities so that the implementation of the notary's office remains in line with the principles of legal certainty and legal protection in the establishment of a legal entity.

2. Research Methods

This study uses a normative legal research method with a doctrinal approach that places law as a norm that is analyzed systematically to answer the problem of notary responsibility in the establishment of a Limited Liability Company related

[41] Adrian Sutedi, Smart Book on Limited Liability Company Law (Achieve Hope of Success, 2015).

[42] Made Pramanaditya Widiada and Desak Putu Dewi Kasih, 'Resolution of Normative Conflicts Related to the Regulation of Minimum Authorized Capital for Establishing Limited Liability Companies in Indonesia', Kertha Semaya: Journal of Legal Science 10, No. 3 (2022): 540, Https://Doi.Org/10.24843/Ks.2022.V10.I03.P05.

to the discrepancy between authorized capital and paid-up capital. This study applies a statutory approach to examine the legal provisions governing the position of notary and company, a case approach to examine the judge's considerations in relevant decisions, and a conceptual approach to analyze the doctrines and legal principles that develop in the literature. This study uses primary legal materials in the form of laws and regulations, secondary legal materials in the form of books, journals, and expert opinions, and tertiary legal materials as conceptual support. This study collects all legal materials through literature studies and analyzes them qualitatively with a deductive method, namely drawing conclusions from general norms to concrete problems in order to build logical, systematic, and consistent legal arguments.

3. Results and Discussion

3.1. Notary Responsibilities in Establishing a Limited Liability Company

Limited Liability Companies do not arise naturally, but rather are legal constructs whose existence is entirely determined by compliance with legal procedures and norms established by the state. In this context, Notaries play a strategic role as public officials who bridge the private desires of the founders with public recognition by the state.[43]. When there is a discrepancy between the authorized capital and the issued and paid-up capital as stated in the deed of establishment, the legal issue no longer stops at administrative errors, but rather directly touches on the aspect of the Notary's job responsibilities.

1) The Position of a Notary as a Public Official in the Establishment of a Limited Liability Company

In the Indonesian legal system, a notary is positioned as a public official with attributive authority to create authentic deeds. This position is affirmed in Article 1 number 1 of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary, which states that "A notary is a public official authorized to create authentic deeds and has other authorities as referred to in this Law or based on other laws." This formulation shows that a notary does not merely function as an independent profession, but as a legal organ that carries out state functions in the field of civil law.

The position of a Notary as a public official has legal implications that every official action carried out not only has an impact on the legal relationship between the parties, but is also related to the interests of the state in maintaining legal order and legal certainty.[44]. The deed of establishment of a Limited Liability Company is

[43] Basyarudin Basyarudin, 'The Evolution and Significance of Notarial Law in Modern Legal Systems', Law and Business 4, no. 1 (2024): 39–44, https://doi.org/10.2478/law-2024-0002.
[44] carissa dianputri and rasji rasji, 'responsibilities of a notary public violating the code of ethics based on decision number 501/pdt/2020/pt.dki and decision number 294 k/tun/2021', eduvest - journal of universal studies 4, no. 8 (2024): 6746–56, https://doi.org/ 10.59188/eduvest.v4i8.1701.

not an ordinary private document, but rather a public-private legal instrument which is the basis for state recognition of the birth of a legal entity.[45] [46]. Therefore, a Notary in the establishment of a Limited Liability Company cannot be positioned solely as the author of the will of the founders, but rather as an official who carries out the function of controlling legality.[47].

Habib Adjie emphasized that a notary is a public official with a private law function, meaning that he carries out civil law functions with the consequence of public accountability. This position demands higher professional standards than other legal professions, as notarial deeds have complete evidentiary force and serve as the basis for the emergence of legal rights and obligations.[48]. In the context of establishing a Limited Liability Company, this function becomes increasingly important because the deed of establishment is a constitutive requirement for the birth of a legal entity as stated in Article 7 paragraph (1) of Law Number 40 of 2007 concerning Limited Liability Companies.

Notaries also act as an extension of the state in ensuring that every legal entity that is born has met the minimum legal standards stipulated by statutory regulations.[49]This position makes the Notary the first line of defense in the legal protection system for third parties, especially creditors and business partners who will have relations with the Limited Liability Company.[50]. Mismatches in capital data listed in the deed of establishment directly have the potential to mislead third parties and damage public trust in the corporate legal system.[51].

The principle of prudence and professionalism is inherently attached to the position of a Notary as a public official. This principle is not only ethical, but also normative, as emphasized in Article 16 paragraph (1) letter a of the Notary Law, which requires Notaries to act honestly, carefully, independently, and impartially.

[45] hadi and palenewen, 'responsibilities of notaries in making company deeds of limited liability companies for communities in jayapura city'.
[46] Hably And Djajaputra, 'The Authority of Notaries in Making Deeds (Example of Supreme Court Decision Case Number').
[47] Dewi Masitah Et Al., The Urgency of a Notarial Deed Regarding the Legality of Establishing a Sole Proprietorship After Law Number 6 of 2023 Concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 Concerning Job Creation Becomes Law, 2023.
[48] Habib Adjie, Building the Indonesian Notary Law Ecosystem.
[49] Dianputri and Rasji, 'Responsibilities of a Notary Public Violating the Code of Ethics Based on Decision Number 501/Pdt/2020/Pt.Dki And Decision Number 294 K/Tun/2021'.
[50] Ruth Deta Louisa and Mohammad Fajri Mekka Putra, 'Establishment of a Sole Proprietorship Without a Notarial Deed Under the Job Creation Law', Jurnal Ius Constituendum 8, no. 2 (2023): 185–206, https://doi.org/10.26623/jic.v8i2.6722.
[51] Ayu Cahya Widianingrum and Siti Malikhatun Badriyah, 'The Role and Responsibilities of Notaries in the Settlement of Civil Disputes in Indonesia Through Notarial Deeds', Khatulistiwa: Journal of Education and Social Humanities 5, no. 3 (2025): 127–39, https://doi.org/10.55606/khatulistiwa.v5i3.6593.

This obligation is the legal basis for assessing the Notary's responsibility if negligence occurs in carrying out his/her position that results in legal losses.[52].

2) Scope of Authority and Obligations of Notaries in Making Deeds of Establishment of Limited Liability Companies

The authority of a Notary to draft a deed of establishment of a Limited Liability Company is derived from Article 15 of the Notary Law. This article states that a Notary is authorized to draft authentic deeds concerning all acts, agreements, and provisions required by law or desired by the parties to be stated in an authentic deed. This authority is exclusive and cannot be exercised by any party other than a Notary.

In the context of establishing a Limited Liability Company, this authority is reinforced by the Limited Liability Company Law, which expressly requires that the company's establishment be conducted through a notarial deed. The deed of establishment must contain the articles of association and other information required by law, including provisions regarding authorized capital, issued capital, and paid-up capital.[53]This provision places the Notary as a central actor in ensuring that the formal requirements for establishing a company are met.

The Notary's obligations do not stop at expressing the wishes of the founders in a deed. Article 16 paragraph (1) letter m of the Notary Position Law requires the Notary to read the deed in front of the audience and witnesses and explain the contents of the deed[54]. The obligation to explain the contents of the deed means that the Notary must ensure that the founders understand the legal consequences of each provision included, including provisions regarding the company's capital structure.[55].

The notary's obligation to ensure that the founders' statements comply with statutory provisions cannot be interpreted narrowly as a mere administrative obligation. The notary's authority is active and contains an element of due care.[56]. Habib Adjie stated that public officials who are given the authority to make

[52] Albeth Albeth and Gunawan Djajaputra, 'Ethics and the Role of Notaries in Issuing Inheritance Deeds (Example Case of Notary A in 2018)', Adigama Law Journal 2, no. 2 (2019): 928, https://doi.org/10.24912/adigama.v2i2.6696.
[53] Indonesia, 'Law Number 40 of 2007 Concerning Limited Liability Companies. State Gazette of the Republic of Indonesia 2007 Number 106'.
[54] Indonesia, 'Law Number 2 of 2014 Concerning Amendments to Law Number 30 of 2004 Concerning the Position of Notary. State Gazette of the Republic of Indonesia 2014 Number 3', 2014.
[55] Eka Ratna Putri Et Al., 'Legal Protection and the Role of Notary Staff as Witnesses in Deeds', Majelis: Jurnal Hukum Indonesia 2, No. 2 (2025): 126–33, Https://Doi.Org/10.62383 /Majelis.V2i2.675.
[56] Riani Talitha Nazhiif Soemadji Et Al., 'The Role of Notaries in the Legality of Sole Shareholder Companies for National Economic Development', Palar | Pakuan Law Review 7, No. 2 (2021): 355–72, https://Doi.Org/10.33751/Palar.V7i2.4218.

authentic deeds must act actively in ensuring that the deeds they make do not conflict with the law, public order, and morality.[57].

In establishing a Limited Liability Company, capital is an essential element that determines the company's legitimacy and credibility. Article 33 of the Limited Liability Company Law stipulates that at least 25% of the authorized capital must be subscribed and fully paid up. Notaries have a legal obligation to ensure that this provision is properly reflected in the deed of establishment. This obligation cannot be reduced to simply accepting a unilateral statement from the founders without rational verification.[58].

The scope of a Notary's authority also includes submitting applications for legal entity certification through the Legal Entity Administration System. The Notary's involvement in this process demonstrates that the Notary's responsibility extends beyond signing the deed and extends to its approval by the Minister of Law and Human Rights.[59]This position further emphasizes that the Notary's authority is integral and continuous throughout the entire process of establishing a Limited Liability Company.

3) The Concept of Formal Truth and Its Limitations in Notarial Practice

The doctrine of formal truth is a fundamental concept in notarial practice. Formal truth refers to the truth based on statements and documents submitted by the parties to the notary.[60]. In principle, a notary is not required to investigate the material truth of every fact stated by the parties appearing, because this is outside the function of the notary's office.[61].

However, the doctrine of formal truth cannot be understood in an absolute or mechanical manner. Formal truth has clear boundaries, especially when the statements contained in the deed relate to essential elements that determine the validity of a legal act.[62]In the context of establishing a Limited Liability Company,

[57] Habib Adjie, Building the Indonesian Notary Law Ecosystem.
[58] Cokorda Istri Ratih Dwiyanti Pemayun and I. Made Sarjana, 'Notary's Responsibility Regarding Legal Smuggling in the Case of Nominee Agreements', Acta Comitas 6, no. 01 (2021): 142, https://doi.org/10.24843/AC.2021.v06.i01.p12.
[59] Moses Nathanael et al., 'Legal Consequences of Authentic Deed with False Identity Against Notary', Journal of Law, Politics and Humanities 4, no. 6 (2024): 2576–83, https://doi.org /10.38035/jlph.v4i6.838.
[60] Romauli Et Al., Civil Liability of Notaries for Defective Sale and Purchase Agreements.
[61] Agus Kurniawan, 'Police Authority to Summon Notaries to Obtain Information and Clarification Regarding Criminal Cases', Indonesian Journal of Criminal Law 1, No. 2 (2019): 89–99, Https://Doi.Org/10.31960/Ijocl.V1i2.245.
[62] Muhammad Kamran Et Al., 'Notary's Responsibility In The Exercise Of Authority As An Authentic Deed Official', Journal Of Law And Sustainable Development 12, No. 4 (2024): E3342, https://Doi.Org/10.55908/Sdgs.V12i4.3342.

information regarding authorized capital and paid-in capital is not just an ordinary fact, but a normative element that is directly regulated by law.[63].

Peter Mahmud Marzuki emphasized that formal truth does not relieve a notary from the obligation of caution.[64]. Notaries must still use professional judgment to assess whether the parties' statements are rationally and normatively acceptable. Declarative capital statements have serious legal consequences because they form the basis for state recognition of the company's financial structure.[65].

The discrepancy between authorized capital and paid-in capital often occurs due to the practice of establishing a company which is only oriented towards fulfilling administrative formalities.[66] This practice has the potential to reduce the notary's function to a mere administrative intermediary, which contradicts the essence of the notary's role as a public official. Formal truth cannot be used as justification for a notary to ignore their duty of care when there are indications of impropriety in the founders' statements.

The limits of formal accuracy are becoming increasingly relevant in the context of modernizing electronic legal entity certification systems. The Legal Entity Administration System operates based on data input by Notaries. Incorrect or inconsistent capital data input will directly impact the validity of legal entity certification.[67]This situation places notaries as the primary filter in maintaining the accuracy and veracity of legal data entering the state system.

4) Analysis of Notary's Responsibility for Mismatch between Authorized Capital and Paid-in Capital

When the deed of establishment of a Limited Liability Company contains capital information that does not comply with the provisions of the Limited Liability Company Law, questions arise regarding the form and extent of the Notary's liability. This liability must be analyzed by distinguishing between the Notary's professional errors and the substantive errors of the founders.[68].

[63] Louisa And Putra, 'Establishment of a Sole Proprietorship Without a Notarial Deed Based on the Job Creation Law'.
[64] Peter Mahmud Marzuki, Legal Theory (Prenada Media, 2020).
[65] Yu. M. Zhornokui, 'Problems of modern corporate legislation and prospects for its development', Law and Safety 96, no. 1 (2025): 40–52, https://doi.org/10.32631/pb.2025.1.04.
[66] Bryan Yoppi Triatama et al., 'Legal Protection for Shareholders in the Liquidation Process of Limited Liability Companies (Case Study: Decision of the Central Jakarta District Court Number: 76/Pdt.P/2021/Pn Jkt.Pst)', Journal of Social, Political and Humanities Research Cluster 2, no. 2 (2023): 158–77, https://doi.org/10.55606/jurrish.v2i2.1277.
[67] Erlangga Dana Arta Et Al., 'Normative Review Of The Dissolution Of Limited Companies Proposed By Shareholders', Alauddin Law Development Journal 6, No. 2 (2024): 365–74, https://Doi.Org/10.24252/Aldev.V6i2.47885.
[68] Arisaputra, 'Notary's Obligations to Maintain Confidentiality of Deeds in Relation to Notary's Right to Refuse'.

A notary's liability may arise if a capital discrepancy arises from negligence in carrying out his/her official duties. This negligence may include failure to provide adequate explanations to the founders, a lack of care in disclosing capital information, or disregard for the normative provisions governing the company's capital structure.[69]. In such conditions, the Notary can be qualified as committing a breach of office.

The Notary Law provides the basis for administrative, civil, and ethical liability for negligent notaries. Article 16 of the Notary Law serves as the primary parameter for assessing whether a notary has properly performed their duties. Professional negligence that results in losses for the parties or a third party can constitute the basis for a civil suit for damages.

The relationship between the Notary's responsibilities and the practice of ratification through the Legal Entity Administration System shows that the Notary cannot escape the legal consequences that arise after ratification.[70]. The ratification of a legal entity by the Minister of Law and Human Rights does not remove the Notary's responsibility for formal accuracy and care in making deeds.[71]. Ratification is administrative in nature and does not rule out the possibility of legal defects in the deed of establishment.

Limitations on the responsibilities of Notaries must still be taken into account to prevent over-criminalization of the position of Notary.[72]. The notary is not responsible for material lies of the founders that cannot be detected rationally at all.[73]. The Notary's liability lies in the failure to exercise reasonable professional standards of care.[74] [75] [76]This analysis shows that the Notary's responsibility is inherent in the entire process of establishing and ratifying a Limited Liability Company, and does not stop at merely making the deed.

[69] Annas Et Al., 'Sanctions for notaries for breach of position and code of ethics conduct in the exercise of the authority'.
[70] Arief Budiono et al., 'Legal Protection for Notaries in Making Authentic Deeds in Indonesia', Journal of Judicial Review 25, no. 1 (2023): 111–24, https://doi.org/10.37253/jjr.v25i1. 7612.
[71] Ministry of Law and Human Rights of the Republic of Indonesia, 'Regulation of the Minister of Law and Human Rights Number 4 of 2014 Concerning Procedures for Submitting Applications for Legal Entity Approval and Approval of Amendments to Articles of Association and Submission of Notification of Amendments to Articles of Association and Amendments to Limited Liability Company Data.', 2014.
[72] SI Strong, Notarial Practice: Law and Procedures (LexisNexis, 2018).
[73] Anindita and Priyono, 'Problems and Responsibilities of the Notary Profession to the Community to Achieve Legal Certainty'.
[74] Dianputri And Rasji, 'Responsibilities of a notary public violating the code of ethics based on decision number 501/pdt/2020/pt.dki and decision number 294 k/tun/2021'.
[75] Arisaputra, 'Notary's Obligations to Maintain Confidentiality of Deeds in Relation to Notary's Right to Refuse'.
[76] Billy Fadlan and Lina Jamilah, Duties and Authorities of the DKP (Central Honorary Council) in Enforcing Notary Ethics, Dehasen Multimedia Journal, 4, No. 3 (2025); https://doi.org/10.37676/mude.v4i3.8624 .

3.2. Legal Implications of Capital Mismatch in the Deed of Establishment of a Limited Liability Company

The discussion of the legal implications of the discrepancy between authorized and paid-in capital in the deed of establishment of a Limited Liability Company occupies a strategic position in this research because it touches on the core legitimacy of the company's legal entity. The issue of capital cannot be reduced to a technical administrative issue, but rather is a fundamental element that determines the validity of corporate legal norms as a whole.[77]When the deed of establishment contains capital data that does not comply with the provisions of the law, the legal consequences will not only impact the internal aspects of the company, but will also have broad implications for the interests of the public, creditors, and third parties who interact with the company.[78].

The provisions regarding capital in the Limited Liability Company Law are designed as a preventive legal protection mechanism.[79]Capital is not just a nominal figure stated in the articles of association, but rather a representation of the company's economic capacity to carry out business activities and fulfill its legal obligations.[80]. The discrepancy between authorized capital and paid-in capital creates a problematic legal situation because it places the company in a position that appears to fulfill legal requirements, even though it substantively contains normative defects.

Normative provisions regarding authorized capital and paid-in capital are expressly stipulated in Law Number 40 of 2007 concerning Limited Liability Companies. Article 31 of the Limited Liability Companies Law stipulates that a company's authorized capital consists of the total nominal value of its shares. This provision demonstrates that authorized capital serves as a normative framework that establishes the maximum limit on a company's ability to issue shares. Article 32 of the Limited Liability Companies Law further stipulates that a company's authorized capital must be at least a certain amount determined by government regulation, unless otherwise stipulated by law. This regulation reflects the intention of the legislators to ensure that every company has a reasonable minimum capital base.

Article 33 of the Limited Liability Company Law is crucial because it directly regulates the relationship between authorized capital and paid-up capital. This provision states that "at least 25% of the authorized capital as referred to in Article 32 must be subscribed and fully paid up." The phrase "must" in this provision

[77] Subekti, Commercial Law (Intermasa, 2010).
[78] Raymond Wacks, Comparative Company Law (Cambridge University Press, 2017).
[79] Lidya Puspita and Ariawan Gunadi, 'Legal Protection of Minority Shareholders Interests in Merger Actions', Awang Long Law Review 7, No. 2 (2025), https://Doi.Org/10.56301/Awl.V7i2.1572.
[80] Adam Samborski, 'Board Members' Responsibility in a limited liability company. the perspective of Corporate Governance', Zeszyty Naukowe Wyższej Szkoły Humanitas Zarządzanie 21, No. 2 (2020): 47–57, https://Doi.Org/10.5604/01.3001.0014.2821.

indicates the imperative nature of the norm, which leaves no room for discretion. Paid-up capital cannot be understood as a mere formality, but rather as a legal requirement that determines the validity of a company's establishment.

The rationality of capital regulation in corporate law is closely related to the principles of creditor protection and public trust.[81]. Paid-in capital serves as a minimum guarantee for third parties that the company has the economic capacity to fulfill its legal obligations.[82]This concept is known in corporate law doctrine as the capital maintenance doctrine, which positions capital as a structural protection instrument against the risk of misuse of the legal entity form.[83]. When the paid-in capital is not actually realized, then the principle of protection becomes a normative illusion.[84] [85].

In the practice of establishing a Limited Liability Company through the Legal Entity Administration System (SABH) operated by the Directorate General of General Legal Administration of the Ministry of Law and Human Rights of the Republic of Indonesia, the submission of capital data (including the capital that should be paid in) is very dependent on the information entered by the Notary in the deed of establishment that is uploaded electronically, because the SABH system itself is an administrative tool and not an automatic verification mechanism for the actual realization of capital.[86] [87] [88]This procedure demonstrates that initial capital verification is often formal and relies on information provided by a notary, the public official responsible for data accuracy. Capital inconsistencies at this stage

[81] dr. winny wiriani, sh, m.kn., m.ba, 'director's accountability in a limited liability company in relation to carrying out his duties and authorities', international journal of social science and human research 08, no. 04 (2025), https://doi.org/10.47191/ijsshr/v8-i4-24.

[82] risti saka et al., 'juridical review of good corporate governance principle in law number 40 of 2007 concerning limited liability company', paper presented at proceedings of the 2nd multidisciplinary international conference, mic 2022, 12 november 2022, semarang, central java, indonesia, proceedings of the 2nd multidisciplinary international conference, mic 2022, 12 november 2022, semarang, central java, indonesia, 2023, https://doi.org/10.4108/eai.12-11-2022.2327288.

[83] zhornokui, 'problems of modern corporate legislation and prospects for its development'.

[84] Oktavia and Svinarky, 'Legal Analysis of the Position of Capital Deposit Statement Letter as a Substitute for Proof of Capital Deposit in the Establishment of Limited Liability Companies in Indonesia'.

[85] Rizky Amalia and Sulistyono, 'Legal Review of Company Shares Whose Authorized Capital Comes from Joint Assets Reviewed from Law Number 40 of 2007 Concerning Limited Liability Companies'.

[86] Ministry of Law and Human Rights of the Republic of Indonesia, 'Regulation of the Minister of Law and Human Rights Number 21 of 2021 concerning Requirements and Procedures for Registration of the Establishment, Changes, and Dissolution of Limited Liability Company Legal Entities.'

[87] Ministry of Law and Human Rights of the Republic of Indonesia, Directorate General of General Legal Administration, Limited Liability Company Online Services: Establishment, Data Entry, and Application Through Notary, 2026, Https://Www.Ahu.Go.Id/Perseroan-Terbatas.

[88] Hello Jpn, 'Guidelines for Application for Legalization of Limited Liability Company Legal Entity Through Sabh: Deed, Proof of Capital Deposit, and Data Verification', Ministry of Law and Human Rights, 2025, Https://Halojpn.Kejaksaan.Go.Id/Publik/D/Permohonan/2025.

have the potential to create a legal entity that is administratively legitimate but normatively fragile.

The deed of establishment of a Limited Liability Company has a constitutive function in establishing the status of a legal entity. The deed of establishment is not merely written evidence, but rather a legal instrument that gives birth to a new legal subject. This function is emphasized in Article 7 paragraph (4) of the Limited Liability Company Law, which states that a company obtains legal entity status after the deed of establishment is ratified by the Minister of Law and Human Rights. The relationship between the deed of establishment and ratification shows that the deed of establishment is the normative foundation of the company's existence.[89].

Approval by the Minister of Law and Human Rights is often perceived as an absolute guarantee of a company's legitimacy. This perception requires critical examination, as approval is essentially administrative and declarative. Approval is granted based on submitted data and information, without substantive examination of the actual realization of capital.[90]This condition creates a gap between administrative legitimacy and normative legitimacy.

The doctrine of administrative law emphasizes that administrative decisions do not necessarily rule out the possibility of legal defects in the basis for their issuance.[91]. The Minister's approval of a legal entity does not eliminate the potential for normative defects in the deed of establishment if the statutory requirements are not met. This perspective aligns with Utrecht's view that administrative decisions can lose legitimacy if they conflict with higher legal norms.[92].

The discrepancy between the capital in the deed of establishment raises fundamental questions about its validity. Notarial deeds, in principle, have full evidentiary force, as stipulated in Article 1868 of the Civil Code. This force depends on the fulfillment of the formal and material requirements for the deed's creation. When the contents of the deed contradict the imperative provisions of the law, the deed is potentially subject to a loss of legal force.

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[89] Anton Sujarwo Dunggio Et Al., Notary's Responsibility for Inheritance Certificates Without Including One of the Heirs in the Perspective of Civil Law, 2, No. 2 (2025): https://doi.org/10.62383/progres.v2i2.1455..

[90] hans lukita and ariawan gunadi, the role of the notary supervisory council in addressing civil law violations committed by notaries, awang long law review 7, no. 2 (2025): https://doi.org/10.56301/awl.v7i2.1576.

[91] arviana et al., 'legal implications of the position of the defendant notary in a law-suit to cancel a deed of bequest as the deed of parties'.

[92] Bedner, B. and Oomen, B, 'Real Legal Certainty and Its Relevance: Essays in Honor of Jan Michiel Otto', Law, Governance and Development Research 820 (2018), https://hdl.handle.net/1887/66819.

Degradation of an authentic deed can occur in several ways. A deed can be declared null and void if the violation of the law is fundamental and affects the essential requirements for establishing a company.[93]. A deed can also be qualified as being revocable if the violation relates to certain interests that require a judge's assessment.[94]. Another possibility is that the deed remains formally valid, but gives rise to further legal consequences in the form of civil or administrative liability.[95].

Assessing the validity of a deed in the event of a capital discrepancy cannot be done mechanically. The judge has a central role in assessing the evidentiary strength of the deed based on the concrete context of the case.[96]. The doctrine of judicial independence in assessing evidence allows judges to assess whether capital incompatibility constitutes a violation that damages the essence of the company's establishment or is simply an administrative error that can be corrected.[97].

The theory of legal certainty and protection of third-party interests is relevant in this analysis. Legal certainty requires that the public be able to rely on the existence of every authorized company.[98] [99]Third-party protection requires that good-faith parties are not harmed by internal corporate defects. The tension between these two principles creates a complex analytical landscape in determining the legal consequences of capital mismatch.

The legal implications of capital mismatch not only impact the validity of the deed, but also the position of the founders and the company's organs. Shareholders in principle enjoy limited liability protection as stipulated in Article 3 paragraph (1) of the Limited Liability Companies Law. This protection is conditional and depends on the fulfillment of legal provisions, including the realization of paid-in capital.

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[93] Roselli Anjelina Lumbansiatar et al., 'The Role of Notaries in Determining the Rights and Responsibilities of Heirs in the Perspective of Islamic Law', Mandub: Journal of Politics, Social, Law and Humanities 1, no. 4 (2023): 234–43, https://doi.org/10.59059/mandub.v1i4.639.
[94] Yetniwati Yetniwati et al., 'Legal Protection for Notaries Receiving Protocols: Forms and Limitations', Undang: Jurnal Hukum 4, no. 1 (2021): 213–44, https://doi.org/10.22437/ujh.4.1.213-244.
[95] Ahmad Yani and Taupiq Qurrahman, 'The Authority of the Honorary Council of the Indonesian Notary Association in Imposing Sanctions for Violation of the Notary's Code of Ethics', Veteran Law Review 4, no. 1 (2021): 1, https://doi.org/10.35586/velrev.v4i1.2696.
[96] Albeth and Djajaputra, 'Ethics and the Role of Notaries in Issuing Inheritance Deeds (Example Case of Notary A in 2018)'.
[97] Rini Widiastuty et al., The Authority of A Notary to Legalize Letters Under Hand from The Perspective of Islamic Law and National Law, no. 1 (2025).
[98] Andrianto, 'Legal Certainty in Legal Politics in Indonesia'.
[99] Chendra Et Al., 'Legal Certainty in Legal Actions Over Joint Property in the Purchase and Guarantee of Land Rights'.

When the paid-in capital does not comply with the provisions of the law, the principle of limited liability has the potential to be violated.[100]The doctrine of piercing the corporate veil allows for the imposition of personal liability on shareholders if the corporation is used as a means to avoid legal obligations.[101]. Fictitious capital is a strong indicator of the abuse of legal entity form.[102].

The Board of Directors, as the body responsible for managing the company, also faces serious legal implications. The Board of Directors has a fiduciary duty to run the company in good faith and with full responsibility, as stipulated in Article 97 of the Limited Liability Company Law. Managing a company with unrealistic capital can be classified as a breach of fiduciary duty, particularly if such actions result in losses for the company or third parties.

The commissioners, as a supervisory body, are also not exempt from legal implications. Failure to supervise the company's capital structure can result in liability if there is evidence of negligence in carrying out their supervisory function.[103]. Capital structure is a fundamental aspect that should be a primary concern in corporate supervision.

To clarify the relationship between normative provisions and their legal implications, the following analytical table is presented which illustrates the relationship between capital mismatch and its legal consequences.

Table The Relationship between Capital Provisions in the Limited Liability Company Law and its Legal Implications

Legal Provisions	**Substance of Capital Regulation**	**Nature of Norms**	**Legal Implications if Not Fulfilled**
Article 31 of Law No. 40 of 2007 concerning Limited Liability Companies	Authorized capital consists of the total nominal	Imperative	The company's capital structure is unclear and has the potential to mislead third parties.

[100] WI Airlangga et al., 'Limitation of Notary Obligation in Monitoring the Fairness of Limited Liability Company Service User Transactions', Law and Safety 97, no. 2 (2025): 162–72, https://doi.org/10.32631/pb.2025.2.13.

[101] Agus Supriyanto Supriyanto and Adi Sulistyono, 'Analysis of the Principle of Notary Independence in Notarial Deed Making in Review of the Notary Position Law and the Notary Professional Code of Ethics', International Journal of Educational Research & Social Sciences 5, no. 3 (2024): 536–40, https://doi.org/10.51601/ijersc.v5i3.836.

[102] Leonardo Dias Menezes et al., 'Blockchain and Smart Contract Architecture for Notary Services under Civil Law: A Brazilian Experience', International Journal of Information Security 22, no. 4 (2023): 869–80, https://doi.org/10.1007/s10207-023-00673-3.

[103] Shania Puttie Syabilla and Arman Nefi, 'Notary's Responsibility for Notification of Changes to Company Data to the Minister and Submission of Related Documents to the Applicant (A Study of PT Ade Resky Sejahtera)', Palar | Pakuan Law Review 7, No. 2 (2021): 451–72, https://Doi.Org/10.33751/Palar.V7i2.4356.

	value of shares		
Article 32 of Law No. 40 of 2007 concerning Limited Liability Companies	Determination of the minimum amount of authorized capital	Relative imperative	The establishment of a company has the potential to conflict with the objectives of establishing a legal entity.
Article 33 of Law No. 40 of 2007 concerning Limited Liability Companies	At least 25% of the authorized capital must be placed and fully paid up.	Absolute imperative	The deed of establishment has the potential to be normatively flawed and opens up room for cancellation or legal liability.

Table 1 shows that the capital provisions in the Limited Liability Company Law are imperative, particularly regarding paid-up capital. Article 33 emphasizes that capital realization is a legal requirement for establishing a company, not merely an administrative requirement. A discrepancy between authorized and paid-up capital causes the deed of establishment to lose its normative legitimacy, even if it has been administratively approved by the Minister of Law and Human Rights. This situation emphasizes that administrative approval is not always synonymous with substantive legal validity.

Table Implications of Capital Mismatch on the Position of Parties in a Limited Liability Company

Legal Subject	**Normal Legal Status**	**Implications of Capital Mismatch**	**Legal basis**
Shareholders	Limited liability up to the value of the shares	Potential for piercing the corporate veil	Article 3 paragraph (1) of the PT Law
Board of Directors	The company's management body	Potential personal liability due to negligence or bad faith	Article 97 of the Limited Liability Company Law
Commissioner	Company supervisory body	Responsibility for negligence of supervision	Article 114 of the Limited Liability Company Law
limited liability company	Independent legal subjects	The legitimacy of legal entities is questioned normatively	Article 7 paragraph (4) of the PT Law

Table shows that capital mismatch not only impacts the validity of the deed of establishment but also shifts the legal framework of the parties within the company. Shareholders potentially lose the protection of the principle of limited liability. Directors can be held personally liable if they run the company with unrealistic capital. Commissioners face the risk of liability if proven negligent in carrying out their oversight function regarding the company's capital structure. The company, as a legal entity, is in a vulnerable position because its legitimacy is questioned.

The discrepancy between the capital in the deed of establishment of a Limited Liability Company also needs to be understood as a form of distortion of the normative function of company law which is designed to create order in economic activities.[104]. Corporate law not only validates the will of the founders, but also builds a framework of trust that allows other parties to interact with the company in a safe and measured manner.[105]The capital stated in the deed of establishment serves as an initial representation of the company's ability to be responsible for the obligations it undertakes.[106]. When the information does not reflect the actual conditions, the law loses its role as a means of honest and reliable communication in civil traffic.[107].

These dimensions demonstrate that the regulation of paid-in capital in the Limited Liability Company Law contains a public interest that cannot be ignored. Capital is not only relevant to the internal relationship between the company and its shareholders, but also serves as an external protection tool for creditors, business partners, and other parties who rely on available legal data for their decisions. Inappropriate capital disclosure creates information asymmetry that is structurally detrimental to third parties. This situation contradicts the principles of good faith and transparency that underpin modern civil law.

This situation also impacts the effectiveness of the state's oversight mechanism for corporate legal entities. The Legal Entity Administration System is designed to facilitate the validation of corporate entities based on data declared by a notary and based on statements from the founders.[108]. When the capital data entered is inaccurate, the approval process loses its selective ability to ensure substantive compliance with corporate law norms.[109]This situation demonstrates the

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[104] Dinda Putri Sugiarto, 'The Role of Notaries in Translating Deeds for Applicants Who Do Not Master Indonesian', JIHAD: Journal of Legal and Administrative Sciences 7, no. 2 (2025), https://doi.org/10.36312/jihad.v7i2.8759.

[105] Muhammad Zaky Ridho Subakti and Siti Anisah, The Role of Notaries in Preventing Delays in Company Notification to the Business Competition Supervisory Commission, 2, No. 1 (2022).

[106] ratih mega puspa sari et al., 'the role of notaries in civil agreements legality and validity of deeds', jurnal hukum dan keadilan 2, no. 3 (2025): 13–27, https://doi.org/10.6194 2/jhk.v2i3.321.

[107] state university of infrastructure and technology and kr dobkina, 'the role of the notary in civil judiciary (xviii–xix century)', juridical scientific and electronic journal 5 (2019): 18–21, https://doi.org/10.32782/2524-0374/2019-5/2.

[108] Hello Jpn, 'Guide to Applying for Legal Entity Approval of Limited Liability Companies Through Sabh: Deed, Proof of Capital Deposit, and Data Verification'.

[109] Darasati Damarani Sudomo Et Al., 'Notary's Responsibility in Making Deeds Outside His Work Area Related to Legal Consequences of Violations of the Notary Law and the Notary Code of Ethics.',

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limitations of the administrative approach in ensuring the legal quality of business entities, while also confirming that approval by the Minister of Law and Human Rights does not always reflect the substantial fulfillment of all legal prerequisites.

This analysis leads to the understanding that the validity of a deed of incorporation cannot be viewed solely as a formal matter. Notarial deeds are part of a broader network of legal relationships, linking the interests of the founders, the state, and society. Capital mismatches have a ripple effect that impacts the legitimacy of the legal entity, public trust, and the stability of the legal relationships established by the company. Companies founded on an unrealistic capital structure present a systemic risk to the legal entity's function as an instrument of certainty and fairness in economic activity.

A discrepancy in the capital in the deed of establishment of a Limited Liability Company is a fundamental and systemic legal issue. A deed of establishment containing such discrepancies creates a legal entity that is normatively flawed, even if it has obtained administrative approval.[110] [111] [112]This condition demonstrates the importance of critical analysis of the relationship between capital norms, the validity of deeds, and the legitimacy of legal entities in Indonesian corporate law.

3.3. Legal Protection for Deeds of Establishment of Limited Liability Companies

Legal protection for parties and third parties in the context of a Limited Liability Company's deed of establishment containing capital discrepancies is a crucial issue in corporate and notarial law. The deed of establishment is not merely an administrative document, but rather a legal instrument that creates a relationship of trust between the company, the state, and the public. When the deed contains capital information that does not comply with statutory provisions, the legal risk is borne not only by the founders but also extends to third parties acting in good faith. Legal protection in this context must be understood as a systemic effort to maintain a balance of interests, ensure legal certainty, and uphold the principle of justice in civil law.

1) Legal Interests of the Parties and Third Parties in the Deed of Establishment of a Limited Liability Company

Sentri: Scientific Research Journal 2, No. 12 (2023): 5251–60, Https://Doi.Org/10.55681/Sentri.V2i12.1908.

[110] state university of infrastructure and technology and dobkina, 'the role of the notary in civil judiciary (xviii–xix century)'.

[111] melita trisnawati and suteki suteki, 'legal protection for notaries receiving protocols in the event of violations of notarial deeds by notaries providing protocols who have deceased', notarius 12, no. 1 (2019): 23, https://doi.org/10.14710/nts.v12i1.23760.

[112] master of law warmadewa university et al., 'legal implications of civil partnerships for notaries', international journal of multidisciplinary research and analysis 08, no. 06 (2025), https://doi.org/10.47191/ijmra/v8-i06-54.

The legal interests of the founders and shareholders in the deed of establishment of a Limited Liability Company are directly related to the recognition of legal entity status and limitation of liability.[113]The deed of establishment serves as the normative basis for founders to obtain protection in the form of separating personal assets from the company's assets. Mismatching the capital in the deed of establishment has the potential to undermine the foundation of this protection, as limitations on liability are only valid if the company is established and operated in accordance with statutory provisions.[114]This situation places the founders in a vulnerable legal position if it is later proven that the stated capital was never paid in as required.

The legal interests of shareholders are also tied to the accuracy of the capital data stated in the deed of incorporation. Paid-in capital determines the proportion of share ownership, voting rights, and profit distribution within the company.[115]The discrepancy between stated and actual capital creates structural inequity among shareholders, particularly those who have fully fulfilled their capital contribution obligations. This situation demonstrates the need for legal protection not only for external parties but also for internal parties within the company acting in good faith.

Third-party legal interests are most vulnerable in cases of capital mismatch. Creditors, business partners, and investors base their legal decisions on officially available data, including the deed of establishment and information in the Legal Entity Administration System.[116]The capital stated in the deed of establishment serves as an initial indicator of the company's solvency and capacity to meet its obligations.[117]When such information is inaccurate, third parties face disproportionate legal risks without having access to verify its material truth.

Trust in authentic deeds is a fundamental principle in civil law. Notarial deeds are treated as evidence that has perfect evidentiary power as stated in Article 1870 of the Civil Code which states that "an authentic deed provides perfect evidence between the parties and their heirs or persons who receive rights from them regarding what is contained therein." This trust will lose its meaning if the deed of establishment systematically contains information that does not comply with capital norms.

[113] petr tomášek, 'shareholders' power in managing the company's business in private limited companies – the case of czechia in an international context', auc iuridica 71, no. 2 (2025): 153–67, https://doi.org/10.14712/23366478.2025.396.
[114] saka et al., 'juridical review of good corporate governance principle in law number 40 of 2007 concerning limited liability company'.
[115] indonesia, 'law number 25 of 2007 concerning investment. state gazette of the republic of indonesia 2007 number 67.', 2007.
[116] mardiasmo, regional financial management (andi, 2017).
[117] mardiasmo, accountability & transparency in public administration (andi, 2018).

Legal risks for third parties acting in good faith include the potential for non-fulfillment of obligations, financial loss, and uncertainty regarding the responsible party.[118]. Third parties often face difficulties in penetrating the veil of legal entity if the company does not have real capital as stated.[119]This situation shows that capital mismatch is not merely an administrative violation, but a threat to the integrity of the corporate legal system.

Table Legal Interests of the Parties and Legal Risks Due to Capital Mismatch in the Deed of Establishment of a Limited Liability Company

Legal Subject	Legal Interest Basis	Form of Dependence on the Deed of Establishment	Legal Risks Due to Capital Mismatch	Relevance of Legal Protection
Company Founder	Status as a legal entity founder and initial shareholder	Deed of establishment as the basis for the birth of rights and obligations	Potential personal liability for corporate obligations	Protection of the founder's good faith
Shareholders	Share ownership rights and economic rights	Capital statement determines the proportion of ownership	Loss of limited liability protection	Guarantee of certainty of rights and limits of responsibility
Board of Directors	Authority to manage the company	Deed as the basis for legitimacy of action	Personal liability for the management of fictitious capital	Protection from disproportionate legal burdens
Commissioner	Corporate oversight function	Capital structure determines the scope of supervision	Potential to be held accountable	Protection of supervisory functions

[118] penelope reed and jonathan rickford, company law and corporate finance (routledge, 2016).
[119] University Of Novi Sad, Technical Faculty " Et Al., 'Legal Status of Limited Liability Company - Comparative Overview', Međunarodna Naučna Konferencija Izazovi I Otvorena Pitanja Uslužnog Prava - Tom2, 2024, 565–79, https://Doi.Org/10.46793/Xxmajsko2.565l.

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Creditors	The right to collect based on the company's ability	Capital as an indicator of solvency	Losses due to unreal capital	Protection of public trust
Business Partners	Certainty of contractual legal relationships	Deed as proof of the company's existence	Risk of default due to insufficient capital	Protection of good faith transactions

Table 3 shows that a discrepancy in the capital in the deed of establishment of a Limited Liability Company creates cross-subject legal implications. Each party involved in the establishment and in its legal relationship with the company has a different dependence on the accuracy of the capital data. This dependence creates a spectrum of legal risks that cannot be viewed uniformly but must be analyzed based on the legal position of each subject.

Founders and shareholders consider the deed of incorporation to be the basis for legitimizing the formation of a legal entity and limiting liability. Capital mismatches have the potential to obscure the separation of corporate and personal assets, thus opening up the possibility of personal liability if the company is proven to have failed to meet the normative requirements for incorporation.[120]This risk demonstrates that legal protection for founders and shareholders in good faith cannot be separated from the correct capital structure from the initial stages of establishment.

The directors and commissioners are in a position that depends on the capital structure as the basis for managing and supervising the company.[121]. Inappropriate capital data creates disproportionate legal risks because liability may be imposed not due to mismanagement but rather due to normative defects that have existed since the company was founded. Legal protection for company organs is relevant to ensure that responsibility is not structurally transferred due to failures at the founding stage.[122].

Creditors and business partners are the most vulnerable parties because they rely entirely on trust in authentic deeds and official company information. Capital mismatches create the illusion of solvency, which can mislead legal and economic decision-making.[123] [124]This condition confirms that the deed of establishment

[120] Prayoga and Handayani Ridwan, 'The Position of Notaries as a Supporting Profession for the Capital Market in Indonesia'.
[121] paul davies and sarah worthington, gower and davies' principles of modern company law.
[122] ayu cahya widianingrum and siti malikhatun badriyah, 'the role and responsibilities of notaries in resolving civil disputes in indonesia through notarial deeds'.
[123] mark bovens, public accountability: a framework for the analysis and assessment of accountability arrangements in governance.
[124] kh.m. markovych, 'moral and ethical objectives of notaries' activity', juridical scientific and electronic journal, no. 10 (2023): 112–14, https://doi.org/10.32782/2524-0374/2023-10/25.

functions as a public document that has external impact, so that legal protection for third parties acting in good faith is a systemic requirement in corporate law.

2) Forms of Legal Protection through Civil Mechanisms

Legal protection through civil mechanisms is the primary means for parties and third parties to obtain redress for losses arising from capital discrepancies in the deed of establishment of a Limited Liability Company. Civil lawsuits against notaries can be filed based on the construction of unlawful acts as regulated in Article 1365 of the Civil Code which states that "every unlawful act that causes harm to another person requires the person whose fault causes the loss to compensate for the loss." This provision opens up space for notary accountability if there is evidence of error or negligence in carrying out their official duties.

The element of error in this context does not have to be interpreted as intentional. Professional negligence resulting in the issuance of a deed with an incorrect capital statement can fulfill the element of an unlawful act if the notary ignores the obligation of care.[125]This obligation is inherent in the position of notary as a public official tasked with ensuring certainty and order in civil law. Proving the element of error requires an analysis of the professional standards that should be met in notarial practice.[126].

The elements of loss in a civil lawsuit can include material or immaterial losses. Third parties who suffer financial losses due to the company's failure to fulfill its obligations can file a claim for compensation by demonstrating a causal relationship between the capital discrepancy in the deed of incorporation and the losses suffered. Causality is a crucial element in confirming that the losses are not solely due to business risks but stem from normative flaws in the company's founding.

Liability for compensation serves as a corrective legal protection instrument. The theory of corrective justice holds that the party causing the loss is obligated to restore the disturbed balance. Applying this theory to the notarial context positions notaries as legal entities who can be held accountable if proven negligent in carrying out their authority and obligations. This mechanism also provides a normative signal regarding the importance of accountability in the notarial profession.

Legal protection through civil law can also be directed to founders or shareholders who fail to contribute capital as stated in the deed. The principle of limited liability cannot be used as a shield if the company is established in bad faith. The doctrine of piercing the corporate veil in corporate law allows for the penetrating of the

[125] Supriyanto and Sulistyono, 'Analysis of the Principle of Notary Independence in Notarial Deed Making in Review of the Notary Position Law and the Notary Professional Code of Ethics'.
[126] Dianputri and Rasji, 'Responsibilities of a Notary Public Violating the Code of Ethics Based on Decision Number 501/Pdt/2020/Pt.Dki and decision Number 294 K/Tun/2021'.

legal entity veil to impose personal liability on parties who abuse the corporate form.

Table Civil Law Protection Mechanism for Deeds of Establishment of Limited Liability Companies Containing Capital Discrepancies

Civil Law Instruments	**Normative Basis**	**Subjects That Can Be Sued**	**Elements that Must Be Proven**	**Objectives of Legal Protection**
Unlawful Act Lawsuit	Article 1365 of the Civil Code	Notary Public	Unlawful acts, errors, losses, causal relationships	Recovery of losses to the injured party
Breach of Contract Lawsuit	Article 1239 of the Civil Code	Founder or company	Failure to fulfill the performance as per the agreement	Protection of contractual certainty
Claim for Compensation	Article 1246 of the Civil Code	Negligent party	Real and quantifiable loss	Proportional restitution of losses
Personal Liability Lawsuit	Article 3 paragraph (2) of the Limited Liability Company Law	Shareholders or directors	Corporate abuse, bad faith	Protection of creditors and third parties
Cancellation of Deed	The doctrine of defective will and civil provisions	The parties to the deed	Normative defects or substantial errors	Restoration of legal legitimacy

Table maps the civil law protection mechanisms in response to losses arising from capital discrepancies in the deed of establishment of a Limited Liability Company. Each civil law instrument has different characteristics and protection objectives, depending on the subject of the loss and the type of violation that occurred. This structure demonstrates that civil law provides adaptive protection to the complexity of corporate legal relationships.

Lawsuits for unlawful acts occupy a central position in the context of notary liability. This instrument allows the injured party to claim compensation if professional negligence in the drafting of a deed can be proven.[127]. The focus of

[127] Putu Putri Nugraha and I Nyoman Bagiastra, 'Legal Protection of Notary Employees as Witnesses of Authentic Deeds in Judicial Processes Related to Confidentiality of Authentic Deeds', Kertha

protection is not directed at punishment, but rather at recovering losses arising from violations of the duty of professional care.[128].

Lawsuits for breach of contract and claims for damages provide protection for the certainty of contractual relationships.[129]. Capital mismatches that result in failure to fulfill performance shift the problem from the administrative realm to the civil realm.[130] [131]This instrument emphasizes that legal protection is not only related to the formal legitimacy of the company, but also to the realization of promised contractual obligations.

Personal liability lawsuits and deed cancellations serve as corrective mechanisms against abuses of the corporate form. These instruments are exceptional in that they allow for the breach of the limited liability principle if bad faith or fundamental normative defects are proven.[132] [133]. The protection function in this context is directed at restoring legal legitimacy and preventing the misuse of legal entities as a means of avoiding responsibility.

3) Legal Protection through Administrative Mechanisms and Notary Ethics

Legal protection is not only realized through civil mechanisms, but also through administrative mechanisms and the ethics of the notary's office.[134]The notary oversight system in Indonesia is designed to maintain the quality of deeds and the integrity of the profession. The Notary Supervisory Board has the authority to investigate alleged violations committed by notaries in carrying out their duties.[135]This supervisory function is both preventive and repressive.[136].

Law No. 30 of 2004 concerning the Position of Notary Public, as amended by Law No. 2 of 2014, provides the legal basis for imposing administrative sanctions on notaries. Article 85 of the Notary Public Law regulates the types of administrative sanctions, including written warnings, temporary dismissal, and dishonorable

Semaya: Journal of Legal Science 10, No. 7 (2022): 1540, Https://Doi.Org/10.24843/Ks.2022.V10.I07.P06.
[128] Eka Ratna Putri Et Al., 'Legal Protection and the Role of Notary Staff as Witnesses in Deeds'.
[129] Arisaputra, 'Notary's Obligations to Maintain Confidentiality of Deeds in Relation to Notary's Right to Refuse'.
[130] Ayu Cahya Widianingrum and Siti Malikhatun Badriyah, 'The Role and Responsibilities of Notaries in Resolving Civil Disputes in Indonesia Through Notarial Deeds'.
[131] Pemayun And Sarjana, 'Notary's Responsibility Regarding Legal Smuggling in the Case of Nominee Agreements'.
[132] University Of Novi Sad, Technical Faculty "Et Al., 'Legal Status Of Limited Liability Company - Comparative Overview'.
[133] Jurić And Braut Filipović, 'Limited Liability Companies In Croatia'.
[134] Shira Thani and Nabhani Yustisi, State Administrative Law Reform in Realizing Good Governance and Legal Certainty in Indonesia, 5, no. 2 (2025), https://doi.org/ 10.56128/jkih.v5i2.531.
[135] Fadlan and Jamilah, Duties and Authorities of the DKP (Central Honorary Council) in Enforcing Notary Ethics.
[136] Indonesian Notary Association, 'Notary Code of Ethics of the Indonesian Notary Association', Indonesian Notary Association., 2015.

discharge. This provision emphasizes that violations of official obligations have real and tiered legal consequences.

Ethical sanctions also play an important role in legal protection. The Notary Code of Ethics established by professional organizations regulates the standards of behavior that notaries must adhere to.[137]. Violations of the code of ethics can result in moral and professional sanctions that impact reputation and public trust.[138]This ethical function complements administrative sanctions by emphasizing the moral dimension and professional integrity.

Legal protection through administrative and ethical mechanisms has a strong preventive character.[139] [140]Effective oversight encourages notaries to apply the principle of prudence from the beginning of the deed-making process. This system aims to prevent the recurrence of deeds containing inaccurate information, particularly regarding the capitalization of Limited Liability Companies. Prevention has strategic value because it protects the interests of the wider community before losses occur.[141].

Accountability of public office is the principle that inspires this oversight mechanism.[142]. Notaries, as public officials, carry out some of the state's functions in the field of civil law. Any deviation in the exercise of their official authority has implications for public trust in the state.[143]. Administrative and ethical mechanisms serve to maintain this legitimacy through consistent enforcement of professional standards.

Table Administrative and Ethical Legal Protection Mechanisms for Limited Liability Company Deeds of Establishment Containing Capital Inconsistencies

Supervisory Mechanism	Legal basis	Authorized Institution	Form of Action	Objectives of Legal Protection

[137] Markovych, 'Moral And Ethical Objectives Of Notaries' Activity'.
[138] Markovych, 'Moral And Ethical Objectives Of Notaries' Activity'.
[139] Bebi Annisa Et Al., Critical Study of the Role of State Administrative Law in Enforcing Administrative Decisions, 3, No. 1 (2025), Https://Journal.Tirtapustaka.Com/ Index.Php/ Ijolares.
[140] Muh Tabran Et Al., 'Professional Ethics And Notary Responsibilities Review Of Law Number 2 Of 2014 And The Notary Code Of Ethics Of 2015', Indonesian Journal Of Entrepreneurship And Startups 1, No. 2 (2023): 127–36, https://Doi.Org/10.55927/Ijes.V1i2.4751.
[141] Tia Sanitra Gumilang, 'Notary's Responsibility and Legal Consequences of Ratification of Limited Liability Company Establishment Through Legal Entity Administration System', Jurnal Lex Renaissance 4, No. 1 (2019), Https://Doi.Org/10.20885/Jlr.Vol4.Iss1.Art8.
[142] Mustaqim Mustaqim and Agus Satory, 'Legal Protection of Minority Shareholders in Closed Limited Liability Companies and Justice Based on Pancasila', SASI 25, no. 2 (2019): 199, https://doi.org/10.47268/sasi.v25i2.222.
[143] Thani and Yustisi, State Administrative Law Reform in Realizing Good Governance and Legal Certainty in Indonesia.

Administrative Audit	Law Number 30 of 2004 in conjunction with Law Number 2 of 2014 concerning the Position of Notary	Notary Supervisory Board	Examination of notary deeds and protocols	Ensure notary compliance with the provisions of the position
Administrative Sanctions	Article 85 of the Notary Law	Regional and Central Supervisory Board	Written warning, temporary suspension, permanent suspension	Prevention of repeat violations
Enforcement of the Code of Ethics	Code of Ethics for Notaries of the Indonesian Notaries Association	Notary Honorary Council	Ethical warnings, recommendations for organizational sanctions	Maintaining the dignity and integrity of the profession
Job Development	Article 67 of the Notary Law	Minister of Law and Human Rights	Ongoing coaching and supervision	Protection of the quality of authentic deeds
Multi-level Supervision	Regulation of the Minister of Law and Human Rights concerning the Supervisory Board	MPD, MPW, MPP	Tiered evaluation	Ensuring accountability of public office

Table illustrates that legal protection against capital discrepancies in the deed of establishment of a Limited Liability Company relies not only on civil mechanisms but is also supported by a system of administrative oversight and the ethics of notaries. This system is designed to maintain the quality of authentic deeds and the integrity of notaries as public officials.

Administrative audits by the Notary Supervisory Board serve to ensure that notaries have carried out their official duties and authorities in accordance with the Notary Law. The focus of oversight is directed at compliance with standards of prudence, accuracy, and professionalism, rather than on assessing the material truth of the parties' statements. Mismatched capital is positioned as an early indicator of potential misconduct that requires administrative evaluation.

Administrative sanctions have multiple corrective and preventive functions. Sanctions are not intended solely as punishment, but rather as an indirect protection mechanism for the parties and the legal community.[144]. Enforcing sanctions ensures that violations of official obligations do not go unpunished, while also encouraging improvements in the quality of notarial practice.

Enforcement of the code of ethics complements administrative oversight with moral and professional dimensions.[145]The code of ethics holds notaries to standards of conduct that go beyond formal normative compliance. Mismatches in the deed of establishment may reflect a failure to maintain professional integrity, thus enforcing ethics serves to protect public trust in authentic deeds.

Multi-level guidance and supervision demonstrate that notaries are part of a public accountability system. Legal protection in this context is preventative in nature, aiming to prevent the recurrence of practices that could potentially harm the parties and third parties.[146] [147]. A multi-layered oversight structure ensures that assessments of violations are conducted objectively and proportionally.

4) The Relevance of the Principles of Legal Certainty and Justice in Legal Protection

Legal protection for parties and third parties must be placed within an integrated framework between the principles of legal certainty and justice. Legal certainty requires that the capital norms in the Limited Liability Company Law be applied consistently and predictably.[148]. Deeds of incorporation containing inconsistencies in capital undermine legal predictability and create uncertainty for the public. Legal protection serves to restore this certainty through clear accountability mechanisms.[149].

The principle of justice requires proportional treatment of all legal subjects involved.[150]. A third party acting in good faith should not be held responsible for the negligence or mistakes of another party. Legal protection must be able to distinguish between parties who comply with and parties who deviate from

[144] Jurist Firdaus Muhammad and Budi Santoso, 'Implementation of Sanctions and Supervision of the Notary's Code of Ethics by the Honorary Council', Notarius 16, no. 2 (2023): 601–12, https://doi.org/10.14710/nts.v16i2.40913.
[145] Annisa et al., Critical Study of the Role of State Administrative Law in Enforcing Administrative Decisions.
[146] Mustaqim and Satory, 'Legal Protection of Minority Shareholders in Closed Limited Liability Companies and Justice Based on Pancasila'.
[147] John Rawls, Political Liberalism (Columbia University Press, 1993).
[148] Rendy Claudio Krisna Iroth Et Al., 'Comparison of Legal Regulations Related to Ponzi Schemes: Indonesian and United States Perspectives on Investor Protection', Journal of Law, Politics and Social Sciences 4, No. 1 (2025): 62–83, Https://Doi.Org/10.55606/Jhpis.V4i1.4826.
[149] Imam Saputra Et Al., 'Legal Aspects of Mechanical Structure Failure Engineering Analysis and Legal Responsibility'.
[150] Michael Sandel Et Al., Justice: What's The Right Thing To Do? (New York, 2009).

norms.[151] [152]This approach prevents structural injustices that could undermine confidence in the corporate legal system.

The balance between legal certainty and justice also relates to the limits of a notary's responsibilities. A notary's responsibilities cannot be disproportionately expanded to the point of making them absolutely responsible for all statements made by the founders. Proportional legal interpretation is necessary to ensure that legal protection remains in line with the functions and limits of the notary's office.[153]The precautionary principle is the meeting point between the interests of protecting society and protecting the notary profession.

The integration of these two principles confirms that legal protection must be preventive and repressive in a balanced manner.[154]Prevention is realized through supervision, coaching, and enforcement of professional standards.[155]Enforcement is implemented through civil and administrative mechanisms when violations have occurred. This balance ensures that the law is not merely reactive to harm, but also proactive in maintaining the quality of the legal system.

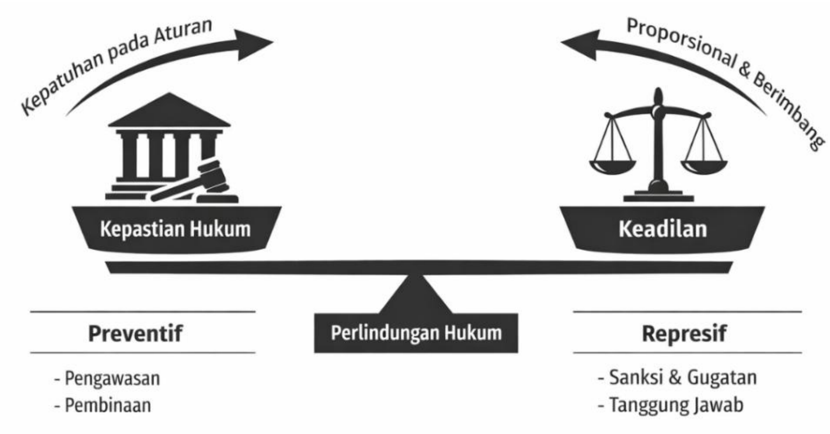

Figure The Relevance of the Principles of Legal Certainty and Justice in Legal Protection

Legal protection for parties and third parties in the context of a Limited Liability Company's deed of establishment containing a capital mismatch ultimately

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[151] Tomášek, 'Shareholders' Power In Managing The Company's Business In Private Limited Companies – The Case Of Czechia In An International Context'.
[152] Bryan Yoppi Triatama Et Al., 'Legal Protection for Shareholders in the Liquidation Process of Limited Liability Companies (Case Study').
[153] Nadia Mileni Habibah Et Al., 'Force Majeure And Notary Responsibility: The Case Of The Destruction Of Deed Minutes', Iblam Law Review 4, No. 1 (2024): 71–80, https://Doi.Org/10.52249/Ilr.V4i1.241.
[154] Moses Nathanael Et Al., 'Legal Consequences Of Authentic Deed With False Identity Against Notary'.
[155] Muh Tabran Et Al., 'Professional Ethics And Notary Responsibilities Review Of Law Number 2 Of 2014 And The Notary Code Of Ethics Of 2015'.

demonstrates that an authentic deed cannot be positioned solely as a stand-alone administrative product. The deed of establishment is a legal instrument that shapes legal expectations, economic trust, and subsequent legal relations between the company and its external environment. The capital mismatch contained therein has the potential to cause distortion of public trust in the company's legal system, especially when the deed is used as a basis for decision-making by a third party acting in good faith. This condition places legal protection as a structural necessity in maintaining the legitimacy of the notarial deed as evidence with perfect evidentiary force.

Effective legal protection in this situation is also inseparable from the existence of corrective mechanisms within the civil law system. Civil lawsuits against notaries, founders, or company organs are not merely repressive means of recovering losses, but also instruments for controlling legal behavior. This mechanism serves to maintain prudent standards in notarial practice and encourage founders to be honest and responsible in fulfilling capital obligations. This corrective function demonstrates that civil law is not solely oriented toward compensation, but also toward establishing more orderly and integrated governance.

The administrative and ethical aspects of the notary profession also play a crucial role in strengthening legal protection systematically. Supervision by the Notary Supervisory Board should not be understood merely as a means of imposing sanctions, but rather as part of a quality control mechanism for authentic deeds. Consistent guidance and supervision create higher professional standards and minimize the potential for negligence that could have far-reaching impacts on the parties.[156]This dimension shows that legal protection is not always realized through the judicial process, but also through accountable and sustainable institutional governance.[157] [158] [159].

The integration of the principles of legal certainty and justice in legal protection provides a more balanced normative framework. Legal certainty ensures that parties can predict the legal consequences of a deed, while justice ensures that the application of norms does not disregard the interests of the injured party. The tension between these two principles should not be viewed as contradictory, but rather as a complementary, dialectical relationship. A proportional interpretation

[156] I Wayan Mutra Et Al., 'Analysis of the validity of notarial deeds in the context of notary practice outside the scope of their official territory', notariil journal of notarial affairs 10, no. 1 (2025): 14–17, https://doi.org/10.22225/jn.10.1.2025.14-17.

[157] May Butcher, Deeds, Wills and Powers of Attorneys (Sweet & Maxwell, 2014).

[158] Hari Suriadi, 'Realizing Good Governance in Indonesia: A Theoretical Study of Principles, Challenges and Implementation Strategies', Journal of Social Sciences, Economics and Education 1, no. 1 (2025).

[159] Randy Kuswanto, 'Corporate Governance and Financial Performance: Evaluation Based on Gender Diversity and Oversight Structure', Paradox Journal 8, no. 5 (2025), https://doi.org/10.57178/paradoks.v8i3.1500.

of the law allows for third-party protection without blurring the boundaries of notary responsibility as a public official operating within the formal realm of truth.

4. Conclusion

The notary's responsibility in establishing a Limited Liability Company is not limited to fulfilling the formal aspects of deed preparation, but also includes a professional obligation to ensure compliance with the capital norms stated in the deed of establishment. A mismatch between authorized and paid-up capital implies a normative flaw that can affect the legitimacy of the legal entity, legal certainty for the parties, and protection of third parties even though the company has obtained administrative approval. Therefore, legal protection for the deed of establishment must be realized through civil liability mechanisms, administrative supervision, and enforcement of the code of ethics to maintain the validity of the authentic deed and public trust in the company's legal system.

This study recommends that notaries enhance their prudential principles and professional verification of capital requirements for company establishment to minimize legal risks and maintain the integrity of the deed. Policymakers need to strengthen oversight norms and mechanisms so that the ratification process is not merely administrative but also able to prevent potential normative defects from the initial stage. Further research is recommended to examine the relationship between digitalization of company administration and notary accountability in preventing capital mismatches.

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