Indonesian Corporate Law

BUSINESS LAW

Dosen:
Andri Budi Santosa
Andri.budi37@gmail.com
Objective of the course

- To get the understanding the Indonesian Corporate Law and its comparison to other legal system
- In light of good corporate governance spirit how is the check and balances among the corporate organs is regulated?
- What are the Boards duties and liabilities?
Agenda

1. Understanding a corporation:
   a. What is a company?
   b. Character of a corporation
   c. Establishing a corporation
   d. Other legal corporate form
   e. Merger and acquisition

2. Duties and liabilities of corporate organs:
   a. Corporate governance structure
   b. Right and obligation of shareholders / General Meeting of Shareholders (GMoS).
   c. Duties and liabilities of Board of Commissaries (Supervisory Board)
   d. Duties and liabilities of Board of Directors (Management Board)
   e. Some doctrines in corporate law
   f. Duties of supporting organs
WHAT IS A COMPANY
What is a Company

Business idea & Business entity

OTHER'S PRODUCT  →  ARRANGEMENT

BUSINESS IDEA  →  COMPANY

OWN PRODUCT  →  PROTECTION

Nature of business → making money
Nature of law → rights and obligation

What is a Company?

Legal Environment of a Company

Law of Corporation
- UU 40/2007 Corporate Law
- UU 3/1982 Company Registration Law
- UU 8/1997 Corporate Documentation Law
- UU 19/2003 SOE
- UU 25/2007 Investment Law
- UU 8/1995 Capital Market

Business & Private Law
- UU 13/2003 Labor Law
- UU 8/1999 Consumer Protection Law
- UU 5/1999 Anti Monopoly Law
- Civil Law (Contract, Tort, etc)
- Specific industrial law, such as Banking Law, Telecommunication Law, Oil & Gas Law, Insurance Law etc.

Public & Criminal Law
- UU 28/1999 Clean Government Law
- UU 31/1999 and UU 20/2001 Anti Corruption Law
- UU 1/1946 and UU 73/1958 Penal Code Law
- UU 15/2002 jo 5/2003 Anti Money Laundering Law
- UU No.23/1997 Environment Protection Law
What is a Company

Legal Environment of a Company

- TOP MANAGEMENT
  All aspects of legal environment

- PRODUCTION & TRANSPORTATION
  - Contract, Environmental Law, Product Liability, International Law

- MARKETING & SALES
  - Contract, Consumer Protection Law, Business Torts, Antitrust Law, International Law

- RESEARCH & DEVELOPMENT
  - Intellectual Property Right, Product Liability, Environmental Law, Contract

- FINANCE & ACCOUNTING
  - Contract, Securities Law, Credit Regulation, International Law

- HUMAN RESOURCES
  - Contract, Labor Law, Immigration Law, Safety & Health Regulation

SCHEMATIC DIAGRAM OF INDONESIAN BUSINESS ENTITY (COMPANY)

- Business Entity
  - With Legal personality
    - Limited Liability Company / Corporation (Perseroan Terbatas)
      - Closed Company (PT Tertutup)
        - State Owned Company (PT BUMN / BUMD)
      - Publicly Listed Company (PT Tbk.)
    - Co-operative (Koperasi)
    - Foundation (Yayasan)
    - Primary Co-operative (Koperasi Primair)
    - Secondary Co-operative (Koperasi Sekunder)
  - Without Legal Personality
    - Sole Proprietorship (Perusahaan Perorangan)
    - Partnership (Persekutuan Perdata)
    - Firm (Firma)
    - Limited Partnership (CV / Perseroan Komanditer)
CHARACTERS OF A CORPORATION
Characters of a Corporation

The research shows that there is common structure of basic legal characteristics among the business corporation across the different national jurisdiction with different legal system. These basic legal characteristics are:

1. Legal personality
2. Limited liability
3. Transferable shares
4. Delegated management
5. Shared ownership
Legal personality

The law provides corporation a status as a legal person or artificial person, which definition is:

“Our entity, such as a corporation, created by law and given certain legal rights and duties of a human being; a being real or imaginary, who for the purpose of the legal reasoning is treated more or less as a human being”

Black’s Law Dictionary

(In Indonesia: Indonesian Corporate Law UU No.40/2007)

What does it mean?
Legal personality

• The existence of the corporation is not dependent on the owner or investor at any one time. A corporation has continuity of life. Its existence is regulated by the law (article 6);

• As a legal personality, a corporation has:
  – Its own property right, separated from the shareholders (assets separation). The firm is free to use its own assets and pledge to creditors → limited liability.
  – Its own legal standing capacity. In legal term, the shareholders are not involved in the business of the firm. It has the capacity to make a contract by his own → separation between management and ownership; delegated management
Legal personality

- A corporation as business entity, by rule of law, is protected by:
  - Liquidation protection, that is, individual owner/shareholder cannot withdraw their share of assets at will. Shareholders must pay in full all their value of shares; it is a debt to the firm.
  - The priority rule, that grants to creditors of the firm as security for the firm’s debts, a claim on the firm’s assets that is prior to the claims of shareholders. The shareholders are the last/residual claimants.
Limited liability

- It is a direct result of the assets partitioning, by which the corporation get the status as legal personality.
- The creditors are limited to making claim against the assets that there are the property of the firm itself, and have no further claim against the personal assets of the shareholders (or managers).
- This limited liability is not extended whenever a tort takes place; i.e. negligence behavior that cause a third party is injured, or in compliance to the existing law → piercing the corporate veil doctrine.
Transferable shares

- Transferability of shares permit the firm to conduct the business uninterruptedly, as the identity of shares owners changed e.g. PT Astra International; PT HM Sampoerna, etc.
- Transferability does not mean freely tradable. There is certain legislation which regulate freely tradable shares in public (capital market law).
- Every jurisdiction has their own restriction on the controlling the mechanism of transferability of shares, may it in close company or public company
Delegated management

- A corporation is an artificial person, that’s why it needs a natural person to conduct business and to represent its legal standing capacity. The firm delegates its authority and management to the “board”.

- The structure, mechanism and the delegated power are regulated differently by the company law in every jurisdiction, but in general there is two kind board system:
  - One-tier board system, mainly in Common Law countries (USA, UK, Malaysia, Singapore, Australia, etc.)
  - Two-tiers board system, mainly in Civil Law countries (Germany, Holland, Japan, Indonesia, etc.)
Delegated management

One-tier board system

1. General Meeting of Shareholders
2. Board of Directors
3. Corporate Officers

Two-tiers board system

1. General Meeting of Shareholders
2. Supervisory Board (Komisaris)
3. Management Board (Direksi)

In Indonesia pursuant to the Company Law no. 40/2007,

In USA pursuant to the Model Business Corporation Act 1984
Delegated management

One-tier board system (USA)
- The shareholders elect the board members. The board is led by Chairman.
- The board appoint the CEO and CEO appoint another COs (Corp. Officers). The officers is led by President or Chief Executive Officer (CEO).
- The Chairman and the President/CEO could be the same person. Member of the board could also become corporate officer.

Two-tiers board system (RI)
- The shareholders elect the members of the supervisory board and the management board.
- The supervisory board is led by Komisaris Utama and the management board is led by Managing Director/Direktur Utama.
- Double membership between the supervisory board and the management board is prohibited.
Delegated management

One-tier board system (USA)

Directors’ role:”..all corporate powers shall be exercised by or under the authority of, and the business affairs of the corporation shall be managed under the direction of its board of directors”
The corporate officers administer the day-to-day affairs of the corporation subject to the direction and control of the board of directors

Two-tiers board system (RI)

- The supervisory board’s role is to supervise and to advise the management board in exercising their duties.
- The management board’s role is managing day-to-day company activities and has the power to represent the company in legal matter as set forth by company bylaw/article of association
Delegated management

One-tier board system (USA)

- The CEO is generally viewed to be the individual ultimately in charge of the management of the business; he is often, but not always, the chairman of the board.
- He is also an officer authorized by the board of directors to prescribe the duties of other officers, and also elect the other officers.

Two-tiers board system (RI)

- The managing director is only “coordinator” of other directors.
- The duty of other director is prescribed by the shareholders or decided among the directors themselves.
- The managing director is “primus inter pares” (first among the equal) compare to the other member of the board, and not comparable to authority of a CEO.
Shared ownership

• There is two key elements in the ownership, that is, the right to control the firm and the right to receive the firm’s net earning.
• The right to control (voting right) consist of:
  – The right to decide the scope of the business of the firm (*intra vires doctrine*)
  – The right to elect and to remove the board of directors
  – The right to approve major transactions
• The right to receive the firm’s net earning is tied to their investment of capital into the firm
OTHER BUSINESS ACTIVITIES - ULTRA VIRES

BUSINESS ACTIVITIES AS STIPULATED IN ARTICLE OF ASSOCIATION (INTRA VIRES)
Shared ownership

- According Indonesian Company Law, the shareholders have the right to protect their interest through following two legal action, individual action and derivative action, that is:
  - **Individual action**, every shareholders have the right to raise a lawsuit against the firm if the firm’s behavior injured him / cause loss to him (article 61).
  - **Individual action**, every shareholders have the right to demand the firm to purchase his share, if he disagree with the firm action, although it is decided in GMoS. Such an action could be occurred in changes article of association, merger, acquisition, etc. (article 62)
Shared ownership

- Derivative action consist of:
  - Minimum 10% of the shareholders (by number of shares) has the right to raise a lawsuit against the board if their behavior or act cause harm or injured the firm (article 97-(6) against BoD and 114-(6) against BoC);
  - Minimum 10% of the shareholders can raise a request to the court to conduct an investigation to the board for an indictment of misconduct or tort by the board (article 138-(3)).
Shared ownership

Derivative action:

Min. 10% of shares ➔ On behalf of the company ➔ Raise a lawsuit or request for investigation ➔ Board of Directors and/or Board of Commissaries
OTHER LEGAL CORPORATE FORM
Legal Form of Corporation

CORPORATE LAW UU NO.40/2007

SOE LAW UU NO.19/2003

PUBLIC COMPANY LAW UU NO.40/2007
Legal Subjects in Indonesia

- Person as an Individual / Sole Proprietorship
- Partnership (Persekutuan Perdata)
- Firma
- Partnership of Komanditer (CV)
- Limited Incorporated (Perseroan Terbatas / PT)
- Cooperative (Koperasi)
- Foundation (Yayasan)
- Pension Fund (Dana Pensiun)
- State Owned Enterprises (BUMN)
  Perusahaan Jawatan (Perjan), Perusahaan Umum (Perum), Perusahaan Persero (Persero), Perusahaan Daerah (Perda)
- The State and its organs
A Person

Article 1 of Indonesian Civil Code (CC):
• To enjoy the civil rights is not dependent to the political rights.
• The child, who is inside the womb of a woman, shall be deemed as already born, also if the interest of such child so required
• There is no penalty whatsoever that may cause the loss of civil rights, or the loss of any citizenship rights.

Article 330:
Minors are persons who have not reached the full age of twenty-one and have not entered into marriage before.
Sole Proprietorship

- “One person partnership”
- The owner carries on the business as an individual
- He/she is liable for all the debts of the proprietorship
- Reports the gain and losses from the proprietorship directly on his/her own personal income tax return
Partnership (*Persekutuan Perdata*)

- Two or more persons
- Carry on the business in a Partnership
- They are liable for all the debts of the Partnership (jointly and severally)
- The partnership reports the gain and losses separated from their personal income tax returns

Indonesia tax system allows the Business Unit has different Tax ID from the person who owned it.
Firma

• An association of two or more persons (article 1618 KUH-Perdata / Civil Code)
• To carry on as co-owners a business profit (article 16 KUHD / Commercial Code)
• Using one name as a joint name or Firma (article 16 KUHD / Commercial Code)
• Personal liabilities for all (article 18 KUHD / Commercial Code)
Partnership of *Komanditer (CV)*

- A partnership consists of 2 type of partners:
  a. Complementary Partners, who actively do the business
  b. Silent Partners (*Komanditer* Partner), who are not involved in the operation of the business
- Both, these 2 types of partners have to pay for their share for equity
- The making of a partnership of CV is just the same with that of Firma.
- Only a Complementary Partner can act on behalf of the partnership making transactions to third parties. A Complementary Partner is liable in full for his/her conducts (article 19:1 *KUHD*).
- Silent/ *Komanditer* Partners are only liable up to his/her shares for equity. Unless a Silent/ *Komanditer* Partners involves in doing the business with others, then he/she will be liable in full for his/her conducts, jointly and severally.
Limited Liability Company

*Perseroan Terbatas – UU 40/2007*

- Private Company
- Public Company
Business Organization

- General Meeting of Shareholders
- Board of Commissioners
- Board of Directors
- Officers/Employees
Cooperation (Koperasi)

- Article 33:1 UUD
- UU No.25/1992 – The Cooperation
- In front of the law, a cooperation is a legal entity.
- Several persons together in society as members with the same economic interest, with a purpose to enhance their social wealth, through cooperation that owned / financed / managed collectively by all members.
- Once there was a new UU No.17/2012 – Perkooperasian, but it has been nullified by a Constitution Court Decision (Kep.MK 28 May 2014) with reasoning that this new law was conflicting with Indonesia Constitution UUD’45.
Foundation (Yayasan)

- UU No. 16/2001, amended with UU No. 28/2004 – Yayasan
- A legal entity with assets separated from the founder and used to achieve certain goals in social life, religious, and humanity. And has no member (article 1:1)
- The making of Yayasan: notarial deed in Bahasa Indonesia, approved by The Ministry of Justice & Human Rights.
- Non profit oriented.
- Consists of Pembina (to advise, to approve), Pengurus (to manage), and Pengawas (to control, to supervise)
- Yayasan may not distribute the gain of its activities to Pembina, Pengurus, and Pengawas.
State Owned Enterprises (BUMN)

- Perusahaan Perum
- Perusahaan Persero
- Perusahaan Daerah
Perusahaan Perum

- UU No.19/1960 jo. UU No.9/1969
- PP No.13/1998
- Owned 100% by State
- Not divided into shares
- Assets separated from the State
- Mostly for Public Service & Goods Procurements
- Founded by PP
Perusahaan Persero

- UU No. 9/1969
- UU No.40/2007 (Limited Liability Company)
- Minimum shares 51% owned by the State
- Direct equity placement
- Assets separated from the State, approved by PP
- Procurement for high quality goods & services
Perusahaan Daerah

- UU no. 5 Tahun 1962, UU No. 5 /1974 (article 1.e)
- Founded with Local Govt Regulation
- Assets separated from assets of Daerah
- Shares divided into preferred shares and common shares.
- Preferred shares only for Daerah
- Common shares owned by Daerah, other persons or company.
- Shares issued by name.
- The priority rights holds by Governor or Bupati
One does not have to make contracts or enter into transactions personally. The law allows a person to transact business through someone else.

Principal – Agent

The granting of a power of attorney is an agreement by which a person gives powers to another person, who accepts it, to perform on his behalf (article 1792 CC).

The granting of power is terminated: by revocation of the power by the authorizer; by notification to discontinue the power by the authorizer; by the death of the authorizer. (article 1813 CC)
Dispute Settlement

• Out of Court Settlement
  Alternative Dispute Resolutions → Negotiation Bipartite, Mediation, Conciliation, and Arbitration.

• Court Settlement
Public Company

- It has to comply with Indonesian Company Law (UU no.40/2007) and also Capital Market Law (UU no. 8/1995).

- Some additional covenants are:
  - Minimum paid up capital Rp. 3,000,000,000.-
  - Number of shareholders minimum 300 person
  - There are additional corporate supporting organ to be established, such as Internal audit (SPI - Satuan Pengawas Intern), Audit Committee, Corporate Secretary and other committee
State Owned Enterprise (SOE - BUMN)

- It has to comply with Indonesian Company Law (UU no.40/2007) and also SOE Law (UU no. 19/2003).
- Some additional covenants are:
  - It allows single shareholders that is the state or minimum state’s share is 51%. In case a SOE is wholly owned by the state, the designated Minister can act as GMoS.
  - There are additional corporate supporting organ to be established, such as Internal audit (SPI - Satuan Pengawas Intern), Audit Committee, Corporate Secretary and other committee.
MERGER
AND ACQUISITION
Merger, Acquisition and Separation

- Merger in Indonesian Company Law consists of:
  - A company merge into another company (*penggabungan*);
  - Two or more companies merge into a newly established company (*peleburan*);
- Acquisition is a purchase of the existing or to be issued shares of an existing company by an individual or a legal entity from the shareholders or Board (in case of shares to be issued);
- Separation is a corporate action to split the existing legal entity into two different legal entities or spinning off a part of the corporation.
1. Company PT A merge to PT B (*penggabungan*)

- **Before**
  - PT A
  - PT B

- **After**
  - PT B

*Merger*
2. Companies PT A and PT B both merge into a new company PT C (*peleburan*)

*Before*

- PT A
- PT B

*After*

- PT C
1. Acquisition can be performed by corporation, other legal person or individual;
2. The objective of acquisition is to regain control over the targeted company, by having majority of shares ownership.

Shareholders
A -> 30%
B -> 30%
C -> 40%

X acquired the shares owned by B and C

Shareholders
X -> 70%
A -> 30%

PT. PQR

PT. PQR
Merger and Acquisition

- Both merger and acquisition require and approval of General Meeting of Shareholders of both companies;
- The existing company after merger is liable for all rights, duties and liabilities of the merged company/companies;
- The new shareholder of the acquired company can exercise his right in pursuant to the acquisition agreement and the company law.
Company Separation

1. Pure separation

- **Before**
  - PT A

- **After**
  - PT B
  - PT C
Company Separation (New Law)

2. Quasi separation

- Before
  - PT A

- After
  - PT A
  - PT B
CORPORATE GOVERNANCE STRUCTURE
Corporate Governance Structure

- Corporate organs under Indonesian Company Law no. 40/2007 are:
  - General Meeting of Shareholders (RUPS – Rapat Umum Pemegang Saham)
  - Supervisory Board – Board of Commissaries (Dewan Komisaris)
  - Management Board – Board of Directors (Direksi)
- The Indonesian Corporate Law introduced an obligation to perform corporate social responsibility for corporation, whose business is in natural resources sector.
Corporate Governance Structure

- Supporting organs of State Owned Enterprise (SOE) according Law no. 19/2003 and Bapepam’s (Capital Market Authorities) rule:
  - Internal Audit (Banks, SOEs)
  - Corporate Secretary (SOEs, Public Companies)
  - Committees (all corporation); Audit Committee is mandatory for SOEs and Public Companies
DUTIES AND LIABILITIES OF CORPORATE ORGAN
General Meeting of Shareholders (GMoS)

The role of GMoS /RUPS:

- GMoS has all power, which according to the law is not delegated to the Supervisory Board (Dewan Komisaris) and Management Board (Direksi);
- GMoS has the right to demand all information regarding corporate affairs from Direksi and Komisaris, which is already scheduled in the meeting’s agenda;
- GMoS can only have an additional and unscheduled agenda only if all shareholders agree to have an additional agenda and decision is taken unanimously;
- GMoS consists of ‘Yearly’ GMoS and ‘Other’ (Extra Ordinary) GMoS;
- Using teleconference for GMoS is acknowledged
General Meeting of Shareholders (GMoS)

The right / authority of GMoS /RUPS :

- To elect and to remove Direksi and Dewan Komisaris;
- To amend article of association;
- To prescribe the duty of each member of Direksi and Dewan Komisaris;
- To approve or disapprove upon Direksi’s request to put all or a part of the company assets as collateral for a loan;
- To approve or disapprove fundamental changes not in the regular course of business such as merger, acquisition, dissolution, bankruptcy, etc.
Supervisory Board – Board of Commissaries

The role of Supervisory Board are:

- to perform general supervision or special supervision on how the management board run and operate the company;
- to advise to the management board on how to run the company

Please note that the supervisory board is a collective body and make decision collectively only and not as individual member of the board.
Supervisory Board – Board of Commissaries

Duties of Supervisory Board:

a. Statutory duties:
   • To verify the annual report prepared by Directors and signed it as an agreement;
   • If there is a breach of article association done by Directors or one of the director, commissaries can temporarily terminate the Director involved and then within 30 days invites GMoS to decide upon this termination;
   • To supervise and give advise to the directors
   • If regulated in article of association:
     ✓ other management or legal action as required by article of association or GMoS
Supervisory Board – Board of Commissaries

Duties of Supervisory Board:

b. Fiduciary duties:

• Duty of care and diligence; he should exercise his power responsibly and with good faith and with the care of an ordinary prudent person, for the best interest of the company.

• Duty of loyalty; he shall report all shares owned by he himself and other family members, may it is the shares of the company or any other company. He should put the company’s interest ahead of his own interest or family’s or group’s interest, if there is any conflict of interest arises.
Liabilities of Supervisory Board:

a. Private law liabilities:

- *Internal liability:*
  - If due to Dewan Komisaris negligence in exercising their duties the company suffer losses, shareholders with minimum number of shares equal to 10% can sue the Komisaris in a derivative action;
  - If bankruptcy due to Dewan Komisaris’ negligence, they have to be personally responsible, to their own assets; this include to Komisaris, who hold the office 5 years prior the bankruptcy;
  - If due to Komisaris’ decision some shareholder feels that he is treated unfair, he can raise a lawsuit against the Komisaris
Supervisory Board – Board of Commissaries

Liabilities of Supervisory Board:

a. Private law liabilities:

- **External liability:**
  
  ✓ If somebody suffers losses due to wrong calculation reported in Annual Report, which is approved by Commissaries, they are liable as a group.

  ✓ Komisaris is liable if there is a clear negligence on his side, such as violation of legal lending limit in a bank. In the regulation (PBI – Peraturan Bank Indonesia) it is clearly stipulated that a major credit is granted only with the consent of Komisaris.
Supervisory Board – Board of Commissaries

Liabilities of Supervisory Board:
b. Criminal law liabilities:

- *In case of bankruptcy:*
  - Violating article 398 of KUHP (Indonesian Criminal Law), which has maximum sentence of imprison for 1 year 4 months
  - Violating article 399 of KUHP, which has maximum sentence of imprison for 7 years
Management Board – Board of Directors

The role of Management Board:

- Is to manage and administer company’s business and affairs including its resources and operation to achieve the company goals;
- to represent the company’s interest at the court as well as outside

The management board is capable to make decision and running their role collectively, as well as individually.

General provision of Directors’ duties are prescribed in the article of association
Management Board – Board of Directors

Duties of Management Board:

a. Statutory duties:

- To register the company;
- To administer the list of shareholders, and special list of all shares ownership by directors and commissaries and their family members;
- To prepare annual report and to organize the general meeting of shareholders (ordinary and extra ordinary);
- To request the approval from GMoS for important business acts or fundamental changes of the business, such as putting company’s resources as collateral, merger, acquisition, issuing new shares, filing for bankruptcy, etc.
Management Board – Board of Directors

Duties of Management Board:

b. Fiduciary duties:

- *Duty of care and diligence*; he should exercise his power responsibly and with good faith and with the care of an ordinary prudent person, for the best interest of the company. This duty among other consists of:
  - Preparing the company’s annual business plan and strategic plan;
  - Managing company’s resources effectively and efficiently;
  - Developing proper human capital;
  - Managing company’s risk and its countermeasures;
  - Monitoring the achievement of company performance, etc.
Management Board – Board of Directors

Liabilities of Management Board:
b. Criminal law liabilities:

- *In case of corporate crimes:* Directors and the person in charge or the violator are personally liable for the violation of the law
  - Anti Narcotic Law (UU no. 9/1976)
  - Environmental Law (UU no.32/2009)
  - Tax Law (UU no.16/2000)
  - Anti Corruption Law (UU no. 20/2001)
  - Etc.
Some Doctrines in Corporate Law

Piercing the Corporate Veil:

- The lifting of *limited liability* of the corporation and the burden will be shifted to either shareholder, or Management Board, or Supervisory Board;

- The burden shifted to shareholders in case of:
  - Incomplete formalities as legal entity;
  - The shareholders with bad intention using the corporate property for personal usage;
  - The shareholders involved in a tort conducted by the corporation;
  - The shareholders used the corporate asset, which caused the corporation cannot pay its debt;
  - If the number of shareholders becomes less than two;
  - The shareholder did not pay in full his/her portion of shares
Some Doctrines in Corporate Law

Piercing the Corporate Veil:

• The burden is shifted to Directors, in case of:
  ✓ Fail to perform his/her fiduciary duty and duty of care;
  ✓ Misrepresentation of Annual Report, especially in the calculation of profit and loss, which caused harm to other parties;
  ✓ Bankruptcy due to misconducts or incapability in performing their duty

• The burden is shifted to Commissaries, in case of:
  ✓ Fail to perform their supervisory duties;
  ✓ In case of Misrepresentation of Annual Report, especially in the calculation of profit and loss occurred, and caused harm to other parties, both Directors and Commissaries are liable collectively;
Some Doctrines in Corporate Law

Ultra Vires Act

OTHER BUSINESS ACTIVITIES - ULTRA VIRES

BUSINESS ACTIVITIES AS STIPULATED IN ARTICLE OF ASSOCIATION (INTRA VIRES)
Case Study

PT Kawanua Perkasa is a joint venture of PT Kawanua Construction in Manado, North of Sulawesi, who owned 40% of the shares and PT Perkasa Jaya Construction, a Jakarta based construction company who owned 60% shares of the company. There are 3 members in the Board of Directors and 2 members in the Board of Commissaries.

PT Kawanua Perkasa just won the Rp 1,2 trillion tender of new airport in Manado. Just few days after the tender winner notification by PT Angkasa Pura II, the project owner, they called PT Kawanua Perkasa to submit an additional cost for putting a risk management plan into their works. This was not foreseen before, and only known after the banks syndication, who provide loan for the construction demand risk management should be put into the project construction. Due to this request, PT Angkasa Pura II asked PT Kawanua to submit the additional cost.