

## RECONSTRUCTION OF AUDIT COMMITTEE ARRANGEMENTS IN FRAUD PREVENTION IN LIMITED COMPANIES

I GUSTI AGUNG WISUDAWAN <sup>1</sup>, ZAINAL ASIKIN <sup>2</sup>, KURNIAWAN <sup>3</sup> and  
EDUARDUS BAYO SILI <sup>4</sup>

<sup>1,2,3,4</sup> University of Mataram, Mataram, Indonesia. Email: <sup>1</sup>agung.wisudawan@gmail.com

### Abstract

Obstacles in corporate management are the emergence of fraud. Fraud is a violation of business ethics and the principles of good corporate governance. Article 121 of Law No. 40 of 2007 concerning Limited Liability Companies does not regulate the position of the Audit Committee and the Accountability of the Audit Committee so that this will result in the absence of legal certainty and legal injustice. This study aims to discuss the nature of the regulation of the position of the Audit Committee in a Limited Liability Company, the accountability of the Audit Committee in preventing fraud in a Limited Liability Company, and the model for reconstructing the legal accountability of the Audit Committee in preventing fraud in a Limited Liability Company. This research is a type of legal research normative or doctrinal research by using Philosophical, Statute, Conceptual and Comparative Approaches. The results of this study are the essence of the regulation of the position of the Audit Committee in a Limited Liability Company as a business ethic based on the values of goodness, honesty and integrity, in addition to being a reinforcement in order to make the principle of Good Corporate Governance (GCG) effective. The accountability of the Audit Committee in preventing fraud as regulated in Article 121 paragraph (2) of the 2007 Limited Liability Company Law needs to be emphasized, namely being responsible to the Board of Commissioners and the GMS can request information from the Audit Committee regarding the implementation of its duties and functions if there is suspicion of fraud. The Reconstruction Model of the legal accountability of the Audit Committee in the new Limited Liability Company Law regulates the position of the Audit Committee, namely the objectives, authorities, obligations of the Audit Committee, term of office, requirements to become an Audit Committee, the accountability system of the Audit Committee in a Limited Liability Company, the fraud disclosure system or whistleblowing system and legal protection for reporters (Whistleblowers).

**Keywords:** Limited Liability Company, Reconstruction, Position, Audit Committee.

### INTRODUCTION

The development of corporations in Indonesia is currently experiencing rapid development, the purpose of corporations is not only to gain profit (Profit Oriented) but is directed to maintain its existence in the midst of the current free trade era by implementing the principle of transparency in finance and independence of Limited Liability Company organs so that there are checks and balances between the Board of Commissioners as supervisors and the Board of Directors as managers of Limited Liability Companies.

The Audit Market is also inseparable from corporate developments, especially regarding the Audit Profession and Accountants who have a crucial role because they are the ones who verify the honesty that underlies various transactions. Without trust in the truth of a company's financial condition, investors will certainly hesitate to buy shares of a public company (a company going public) so that an effective market will be difficult to create. Ironically, at this time Auditors or Accountants have ambiguous responsibilities, on the one hand they have to

work for the company that pays them, but on the other hand they have to pay attention to the interests of investors who depend entirely on the truth of their reports.

In addition, the demand for transparency and independence is also very important, because the demand for transparency and independence can be seen from the demand for the company to have more independent Commissioners who will later supervise the actions of the Board of Directors. Problems surrounding the conflict of interest of Independent Commissioners or also their weak position compared to Commissioners who come from "insiders" will make their independence difficult, therefore it needs to be supported by Committees, one of which is the Audit Committee.

**Philosophically** that the existence of a company is not only seen from the aspect of generating profit but is also directed to present financial reports in accordance with the principles of honesty and goodness so that the company has value, namely trust, trust is indeed very important in a company, especially a Limited Liability Company in order to gain attention from its investors and stakeholders. If fraud occurs, it is a serious violation of the values of goodness, honesty, ethics and morals that come out of the purpose of establishing the company, namely for the common welfare such as Investors, shareholders, PT organs and stakeholders. Fraud is also contrary to the principles of good corporate governance, especially those related to transparency, so that it will have implications for decreasing the level of public trust in the corporation and does not guarantee the sustainability of its business, such as bankruptcy or even the threat of liquidation/dissolution of the company.

**Theoretically** that the existence of the Audit Committee in preventing fraud in corporations must be guided by the Principles of Good Corporate Governance. The theory of legal protection for corporations requires strengthening of Good Corporate Governance. However, currently the legal position of the Audit Committee as one of the front guards for early detection of fraud is not regulated as mandatory in Law No. 40 of 2007 concerning Limited Liability Companies, but several regulations such as Article 70 Paragraph (1) of Law No. 19 of 2003 concerning BUMN, several Regulations of the Minister of BUMN and Regulations of the Financial Services Authority state that the Audit Committee is mandatory to be held, therefore this situation will certainly cause legal uncertainty and legal justice.

**Sociologically** that company management should be oriented towards the interests of the community, government, creditors and stakeholders. Law No. 40 of 2007 concerning Limited Liability Companies does not regulate the legal status of the Audit Committee in a Limited Liability Company, meaning that this legal status is not only limited to the Audit Committee being mentioned in the Law but must describe its duties, functions, authorities and scope of legal responsibility. Of course, this weakness will result in reduced trust from the community/public/stakeholders (Consumers, Suppliers and Investors) towards limited liability companies in Indonesia. The assumption that arises is that it is hoped that by regulating the legal status of the Audit Committee in Law No. 40 of 2007 concerning Limited Liability Companies, it will build awareness and a good corporate culture in Indonesia.

**Legally** that the Audit Committee is regulated in Article 121 of Law No. 40 of 2007 concerning Limited Liability Companies which in essence states that:

- (1) In carrying out its supervisory duties as referred to in Article 108, the Board of Commissioners may form a committee, one or more of whose members are members of the Board of Commissioners.
- (2) The committee as referred to in paragraph (1) is responsible to the Board of Commissioners.

Based on Article 121 paragraph (1) above, the word "can" is mentioned. The word "can" means that this Audit Committee is actually not required to exist or in other words is optional or voluntary and not imperative or coercive. This is certainly different from the norm in Article 70 Paragraph (1) of Law No. 19 of 2003 concerning BUMN, Decree of the Minister of BUMN Number 103 of 2003 which was previously also regulated in the Decree of the Minister of BUMN Empowerment No. Kep-133/M-PBUMN/1999 concerning the Establishment of the BUMN Audit Committee, Regulation of the Minister of BUMN No. 12/BUMN/2012 concerning Supporting Organs of the Board of Commissioners/Supervisory Board of BUMN and Regulation of the Minister of BUMN No. 06/2021 concerning Amendments to Regulation of the Minister of BUMN No. 12/2012 concerning Supporting Organs of the Board of Commissioners/Supervisory Board of BUMN and Article 2 of the Regulation of the Financial Services Authority (OJK) No. 55 of 2015 concerning Formation and Implementation Guidelines for the Work of the Audit Committee in Public Companies, which in essence states that Issuers or Public Companies and State-Owned Enterprises are required to have an Audit Committee, this difference in regulation will raise a question as to why Law No. 19 of 2003 concerning State-Owned Enterprises and Regulations under the Law require an Audit Committee while Law No. 40 of 2007 concerning Limited Liability Companies itself does not regulate the words "required" the existence of this Audit Committee instead uses the word "can" which of course will lead to legal uncertainty. In addition, Law No. 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law does not regulate the position of the Audit Committee so that in the future in the revision of the UUPT the position of this Audit Committee must be regulated in detail.

In addition, in the BUMN Law and several BUMN Ministerial Regulations as mentioned above, it is essentially stated that the Audit Committee is an "additional organ", namely the Board of Commissioners/Supervisory Board which functions to assist the Board of Commissioners/Supervisory Board, it is not then interpreted that the Audit Committee is immediately an Additional Organ in a Limited Liability Company but must be interpreted that the Audit Committee is an assistant to the Commissioner Organ in carrying out supervisory duties. If interpreted as a PT organ that is the same as the GMS, Commissioners and Directors, there will be overlapping authority in terms of supervision, namely between the Commissioners and the Audit Committee so that it will not bring legal certainty.

The Board of Commissioners as regulated in Law No. 40 of 2007 concerning Limited Liability Companies in carrying out its work is collectively collegial, meaning working together as a

Work Team so that Article 121 of Law No. 40 of 2007 concerning Limited Liability Companies is interpreted that the Audit Committee is also part of the Board of Commissioners that carries out collective collegial duties. Therefore, its legal accountability in a Limited Liability Company must be synergistic. Reconstruction of norms in Law No. 40 of 2007 concerning Limited Liability Companies, especially those relating to the regulation of the accountability of the Audit Committee, must be carried out to emphasize the line of legal accountability for the benefit of not only shareholders but stakeholders (community/investors) and to increase the independence of the Audit Committee in carrying out its duties such as acting fairly, impartially and objectively in handling a problem and having qualification and competency standards.

Corporate legal institutions must be formed with basic legal values as conveyed by Gustav Radbruch in his book "einführung in die rechtswissenschaften" namely justice, certainty and benefit. (Satjipto Rahardjo, 2012) Thus, the three roles of law in the economic development of a nation can be realized as conveyed by Erman Rajagukguk, namely stability, predictability and verness. (Erman Rajagukguk, 2023) One of the functions of the state according to Wolfgang Friedman is the state as a regulator or regulator. (Gede Atmadja, 2012) Therefore, with the ambiguity of norms in Law No. 40 of 2007, it is hoped that the state will intervene by reconstructing Law No. 40 of 2007 concerning Limited Liability Companies in order to include new norms in its revision related to the regulation of the legal position of the Audit Committee in Limited Liability Companies in Indonesia. This is what made the Author interested in conducting research on the Reconstruction of Audit Committee Arrangements in Preventing Fraud in Limited Liability Companies.

## RESEARCH METHODS

The type of research in writing this research refers to the type of Normative Research. In order to answer the problems in this research, the approaches used include the Philosophical Approach, Statute Approach, Conceptual Approach, Comparative Approach. The types and sources of legal materials used in this research are Primary Legal Materials, Secondary Legal Materials and Tertiary Legal Materials.

The technique of collecting legal materials in this study was obtained through library research. Analysis of legal materials was carried out qualitatively; the method or way of concluding legal materials was carried out deductively.

## DISCUSSION

### 1. The Nature of the Regulation of the Position of the Audit Committee in a Limited Liability Company

Philosophically, values are something that is considered good and bad. Something good and bad comes from human morals that are reflected in human ethics. Values can also mean measures or norms used to measure something. Values in relation to today's business activities are closely related to the company's good name or reputation and the means of decision-making in company management. If the values are applied incorrectly, it will have a negative impact

on the management and good name of the company (company reputation). The basic values of the Audit Committee's position are certainly inseparable from the honesty and goodness that are upheld in human civilization. Values in the business context are often referred to as "Business Ethics". Business Ethics is a set of principles that are full of values that are used as guidelines in carrying out business activities both macro and micro.

Business Ethics are closely related to morality, honesty and integrity. Therefore, good business activities are business activities that are based on good values. In addition, business activities are not only directed at the interests of business actors but more broadly, namely the interests of consumers or society. The interests of business actors do not mean profit alone but are happiness, meaning that business actors can carry out proportional mandates and obligations between personal profit and the interests of society and stakeholders. The regulation regarding the position of the Audit Committee in Limited Liability Companies in Indonesia is based on the growth of moral awareness that is full of good values in order to strengthen Limited Liability Companies so as to ensure the sustainability of Limited Liability Companies in Indonesia. Actually, what is desired in the Regulation regarding the position of the Audit Committee in Limited Liability Companies in Indonesia is to strengthen good corporate governance (Good Corporate Governance), without which Limited Liability Companies in Indonesia will be destroyed and their existence will not be maintained. The urgency of improving the regulatory norms for the position of the Audit Committee in Limited Liability Companies in Indonesia must be carried out immediately to minimize fraud or cheating in Indonesian Limited Liability Companies, because fraud or cheating has harmed the values of goodness and honesty in this life, thereby harming various parties such as shareholders and stakeholders as well as third parties who have a legal relationship with the Limited Liability Company.

Reconstruction of the position of the Audit Committee in preventing fraud in Limited Liability Companies in Indonesia is very necessary so that the values of justice are realized for all parties. The Natural Law view on law and justice seems to be very profound about this because in his opinion it states that justice lies in the essence of law. According to him, law is very identical to justice. In this case, law is justice while injustice is not law. This means that in creating legal norms, the value of justice is the main thing.

Rawls argues that what determines fairness or unfairness is not based on the existence of benefits or no benefits and how much benefit is obtained. However, it is determined by the procedure. As long as the procedure to achieve a result is carried out correctly and no obligations are violated, regardless of the results and whether or not there are benefits, justice can actually be realized. It is said that the procedure has been carried out correctly if there is no discrimination in rights. Everyone is given the same rights (equality) in the process, while the problem of unequal final results is not an assessment. (Arifin Mochtar & Eddy Hiariej, 2021)

Rawls' opinion on justice when associated with this research is that the regulation of the position of the Audit Committee to prevent fraud in Limited Liability Companies in Indonesia is a legal procedure that must be carried out so that no obligations are violated and the party is



harmed in the process of accountability. All parties such as Shareholders and Stakeholders have an obligation to oversee the running of the Limited Liability Company including providing various suggestions and opinions to ensure its sustainability.

The essence of the Audit Committee in the implementation of GCG principles is to assist the Board of Commissioners in carrying out its duties, providing specific and general advice and supervision. General supervision includes ensuring the reliability of financial reports, especially those published, ensuring the effectiveness of internal control over financial reports, ensuring the reliability of business risk control, ensuring compliance with applicable laws and regulations. Meanwhile, special supervision from the Audit Committee is to examine alleged errors in decisions of the Board of Directors' meetings, examining deviations in the implementation of the results of decisions of the Board of Directors, examining documents of the Board of Directors, including Minutes of Meetings of the Board of Directors and Board of Commissioners, asking questions to the Board of Directors and their staff, submitting reports on the implementation of special tasks to members of the Board of Commissioners. Thus, the position of the Audit Committee in the company is mandatory, especially for medium-scale companies and public companies in order to strengthen the corporate legal regime in Indonesia so that in the future its existence and sustainability can be guaranteed amidst the onslaught of the era of globalization and industrialization.

## **2. Audit Committee Accountability in Fraud Prevention in Limited Liability Companies.**

Strengthening The Audit Committee's accountability in ensuring the implementation of the Principles of Good Corporate Governance (GCG) in a Limited Liability Company needs to be supported by the Accounting education qualification standards and the Competency Standards of an Accountant. Therefore, in supporting the strengthening of the Audit Committee's accountability in uncovering fraud in a Limited Liability Company, the Audit Committee in carrying out its duties needs to be guided by the Accounting Audit Norms, which are guidelines used by an Accountant to conduct an examination or audit of a company's financial statements in order to find fraud that occurs. So this Accounting Audit Norm is closely related to the Auditing process in the company, especially those related to financial statements. The stages in conducting an audit consist of Audit Planning, Audit Testing Implementation and Audit Reporting.

If it is associated with the urgency of regulating the legal responsibility of the Audit Committee in a limited company, then responsive legal thinking and progressive law are the foundations, that in a Limited Company it must be immediately revised and a norm model must emerge that is able to strengthen the role and function of the Audit Committee in revealing various frauds in a limited company that can disrupt the stability of GCG implementation and hinder the sustainability of the company.

The urgency of regulation regarding the legal responsibility of the Audit Committee in a limited company cannot be considered partial but must be considered as a whole and comprehensive part of the effort to improve and maximize the functions of organs in a limited company. Maximizing the functions of organs in a limited company does not mean creating a new organ

but expanding the scope of the legal responsibility of the Audit Committee so that there is a balance of information based on the principle of proportionality in a Limited Company.

In addition, the urgency of regulating the accountability of the Audit Committee in a Limited Liability Company is based on a comparison of Audit Committees in several countries such as the United States which has a regulation, namely the Sarbanes Oxley Act. The Sarbanes-Oxley Act (SOX) is a federal law passed in 2002 with bipartisan support from Congress to improve or strengthen audit and public disclosure in response to several accounting scandals in the early 2000s. The Act is named after the bill's sponsors, Senator Paul Sarbanes and Representative Michael Oxley, and is also commonly referred to as SOX.

In enacting SOX, one of Congress's primary goals was to prevent corporate management from interfering with independent financial audits. Sections 302 and 303 of the Sarbanes Oxley Act. The Sarbanes-Oxley Act (SOX) seeks to enhance audit independence through the regulation of internal procedures and management actions. One of the scandals in the United States that became the background to the birth of this rule was the WorldCom scandal and found that the company had overstated its assets by \$11 billion.

In addition, in the UK, the role of the audit committee is very important for good governance. This is regulated in the Corporate Governance Code, namely the Smith Guide to Audit Committees, created by Sir Robert Smith. This matter is an appendix to the UK Corporate Governance Guidelines. The advantage is that the Audit Committee in the UK must have the Competence of an Accountant so that it can carry out its duties properly. Based on this, the UUPT should place the position of the Audit Committee as something that is mandatory, not optional, and the Audit Committee must have adequate qualifications and competence to be optimal in carrying out its duties.

Furthermore, the Audit Committee in Canada, namely Based on the Canada Business Corporations Act (CBCA), the audit committee is mandatory, the audit committee must consist of a minimum of three directors, at least the majority of whom are not officers or employees of the company or its affiliates. (Thomson Reuters, 2024) The advantage is that the Canada Business Corporations Act (CBCA) the position of the Audit Committee is "mandatory" while in Indonesia it is facultative "can" of course this is very contrary to developments in developed countries, therefore the Limited Liability Company Law should regulate the norms of the position of the Audit Committee "mandatory" in limited liability companies, increase its independence and clarify its responsibilities.

The regulation regarding the position of the Audit Committee in a Limited Liability Company as something that is "mandatory" must of course distinguish which cluster is determined by the word "mandatory", then the companies in question are medium-sized companies and public companies that operate in the Capital Market, not for micro and small companies and Sole Proprietorships as referred to in Law No. 20 of 2008 concerning Micro, Small and Medium Enterprises in conjunction with Law No. 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law. This is done with the aim of strengthening the existence of companies in Indonesia.

In addition, in order to guarantee the independence of the Audit Committee, in terms of membership of the Audit Committee, it must come from independent parties who have financial qualifications and competencies and auditors, not from Commissioners, which has been the case so far. There is something interesting in this study in terms of the appointment of the Audit Committee by the Commissioner must obtain approval from the GMS. This is done to minimize certain interests related to the appointment of the Audit Committee.

In addition, the accountability of the Audit Committee in the 2007 Limited Liability Company Law regulates that the Audit Committee is appointed and responsible to the Commissioner, but in the future it needs to be regulated that the GMS can request information from the Audit Committee regarding its supervisory duties and functions, meaning that the information requested by this GMS organ is only to carry out checks and balances on the examination carried out by the Audit Committee.

The most essential task of the Audit Committee is to ensure that...reliability of the Company's financial statements, especially those published, the effectiveness of internal control over financial statements and the reliability of business risk control and the effectiveness of internal control of activities. The authority of the Audit Committee in carrying out its duties is to access documents, issuer or public company information data about employees, funds, assets and company resources as needed.

Communicate directly with employees including directors in carrying out internal audits, management and accountants related to the duties and responsibilities of the audit committee. Involve independent parties outside the Audit Committee as needed to assist in carrying out its duties if necessary and carry out other authorities granted by the Board of Commissioners.

The effectiveness of the Audit Committee's work is determined that the presence of this Audit Committee is to support the creation of a Limited Liability Company environment that supports the implementation of GCG principles and ensures the reliability or quality of the company's finances. The Audit Committee in carrying out its duties must be able to coordinate with Internal Audit in each Unit in the Limited Liability Company so that the company's internal control system is created optimally.

In the future, if there are deviations or fraud in the company involving the company's directors, the Audit Committee can assign the Audit Committee to conduct a special audit or Fraud Audit. In addition, the Audit Committee can ask for assistance from external parties to conduct Investigative Audits or Forensic Audits to reveal fraudulent practices.

### **3. Audit Committee Legal Responsibility Reconstruction Model in Preventing Fraud in Limited Liability Companies**

According to Article 33 of the 1945 Constitution of the Republic of Indonesia has emphasized that the economy is structured as a joint effort based on the principle of family, in addition to the principles of justice, the principle of togetherness, sustainability, environmental awareness and independence. In addition, the Indonesian national economy cannot be separated from the spirit of mutual cooperation and democracy, namely from the people, by the people and for the



people. The word "protect" in the context of the opening of the 1945 Constitution means that the state provides protection for every citizen by creating a rule or norm that regulates the behavior of society in everyday interactions, one of which is in business activities. The urgency of reconstruction in Law No. 40 of 2007, especially regarding the accountability system and the fraud disclosure system by the Audit Committee in preventing fraud or cheating, is very important in order to ensure the sustainability of the company's existence in the global era.

Reconstruction of Law No. 40 of 2007 concerning Limited Liability Companies must be carried out so that the corporate legal regime in Indonesia becomes stronger in facing the era of free economy, globalization, industrialization and the current era of digital economy. Renewal of laws and regulations in the form of reconstruction of Law No. 40 of 2007 concerning Limited Liability Companies needs to be carried out comprehensively by considering the condition of the company, its business activities and its management ethics.

Reconstruction contains the understanding that returning something to its original place, rearranging or re-describing existing materials and re-arranging them as they were or as they originally happened. Reconstruction in the Big Indonesian Dictionary comes from the word "construction" which means development which is then added with the prefix "re" to the word construction to become "reconstruction" which means returning to the original state. (Depdiknas, 1991) According to the Black Law Dictionary. (Garner, 1991) Reconstruction is the act or process of rebuilding, recreating, or reorganizing something, reconstruction here is interpreted as the process of rebuilding or recreating or reorganizing something.

In the context of the reconstruction of the legal responsibility of the Audit Committee in the context of preventing fraud in Limited Liability Companies, it is carried out on the basis of the idea that Article 121 of Law No. 40 of 2007 concerning Limited Liability Companies does not clearly regulate the integrated accountability system and fraud disclosure system in limited liability companies in Indonesia, so that it is necessary to engineer the norms by explaining in detail what has not been regulated in order to guarantee justice, certainty and legal benefits.

Legal reconstruction of the legal responsibility of the Audit Committee in order to prevent fraud in Limited Liability Companies is very urgent to handle all problems that arise in limited liability companies in Indonesia. This is in accordance with the view of the responsive theory. Viewed from the internal interests of the legal system itself, the integrity argument can indeed be understood. But law is not an end in itself, law is a tool for humans and is an instrument to serve human needs. In this sense, the isolation of the legal system from various social institutions around it, actually has a negative impact on the needs of humans themselves.

In relation to the reconstruction of Law No. 40 of 2007 concerning the legal responsibility of the Audit Committee in the context of preventing Fraud in Limited Liability Companies, the responsive legal theory supported by the progressive legal theory is appropriate to be used to realize substantive legal justice for parties related to limited liability companies and overcome various frauds that will befall limited liability companies in order to create a healthy corporate regime.

The urgency of reconstructing the legal responsibility of the Audit Committee in preventing Fraud in Limited Liability Companies is certainly inseparable from the application of the principles of morality and business ethics in Limited Liability Companies. Today's business development is very dynamic along with the era of globalization and the era of digitalization that cannot be avoided, of course this will cause disruption. Disruption can be interpreted as a major change in various fields of life such as Industry, Business and Technology so that various modern innovations emerge that can replace old technologies.

The renewal of the norms of Law No. 40 of 2007 concerning Limited Liability Companies, especially regarding the composition of the Audit Committee, is expected to have more members from outside the company, thereby reducing the occurrence of conflicts of interest in carrying out their duties and authorities. The parties from outside the company referred to are independent parties, namely Independent Parties are parties from outside the Limited Liability Company and have gone through the approval process of the General Meeting of Shareholders (GMS), working to assist the Commissioner in supervising the running of the Limited Liability Company and are responsible to the Board of Commissioners. Independent Parties should have an educational background and expertise in accounting or finance, but it is a good step if this Independent Party has expertise in Forensic Audit.

Disclosure of fraud in Limited Liability Companies in Indonesia also depends on the reliability of the Audit Committee, for example, the Audit Committee approved by the GMS and appointed by the Board of Commissioners should have competence in finance and auditing, including the ability to conduct Forensic Audits. This Forensic Audit capability is proven by mastery of Forensic Accounting. Based on previous research written by Endang Syafitri, Syifa Aghnia, Pupung Purnamasari, 2021 regarding the influence of forensic audits on fraud that occurs in company financial reports, it states that in order to uncover fraud, a forensic accountant needs to have basic knowledge in accounting and auditing. strong, recognition of human and organizational behavior, knowledge and aspects that can trigger or motivate fraud. Based on the background of the case that has been explained previously, and based on several previous studies and facts related to the rampant fraud, it is necessary to conduct further studies regarding the Effectiveness of Fraud Disclosure through forensic audits. (Musrini Muis, 2022)

The reconstruction of Law No. 40 of 2007 concerning Limited Liability Companies is a breath of fresh air that will strengthen the corporate legal regime in providing justice, certainty and legal benefits for the community (investors), especially business actors in Indonesia. The legal norm model offered in this study more completely regulates the position and accountability of the Audit Committee, the composition of the Audit Committee, the Term of Office, including the competencies possessed by the Audit Committee including Forensic Audit capabilities, Duties, authorities of the Audit Committee, the Formation of a Fraud Disclosure System (Whistleblowing System) and Protection for Fraud Reporters (Whistleblowers).

This study aims to emphasize the scope of legal responsibility of the Audit Committee in disclosing fraud in limited liability companies, not to confirm the position of the Audit Committee as one of the PT organs. If its position is confirmed as a PT organ, of course this will result in overlapping authority between the Commissioner as a supervisor and the Audit

Committee. The regulation of the Audit Committee in preventing fraud or cheating in limited liability companies in Indonesia is closely related to the role of law in economic development to create aspects of legal certainty, because it is related to the regulations that govern it. While the aspects of justice and benefit are more inclined towards law enforcement.

This is in line with the gium "honeste vivere, alterum non laedere, suum cuique tribuere" which means that the basic rule of law is to live properly, not to harm others and to give others what is their share. This means that the creation of legal regulations should not harm others and give according to their rights, so by establishing legal regulations on the Audit Committee in detail, it will strengthen Limited Liability Companies in the future.

Collaboration between law and economics is indeed very much needed to strengthen the corporate legal regime in the future. This was further expressed by Thomas S. Ulen who expressed the term Economic Rationality. According to him, economic rationality is that economics can be applied in predicting human behavior towards the validity of a legal rule. (Jhony Ibrahim, 2009) Economic analysis of law is built on the basis of maximum utilization, rationality, stability and distribution. Economic rationality actually wants to analyze the role of law in the economy and vice versa, the main point of emphasis in economic rationality is the greatest happiness as conveyed by Jeremy Bentham, it should be remembered that the beneficial side of the law must not harm legal justice.

Strengthening of Limited Liability Companies as referred to in Law No. 40 of 2007 is part of legal and economic thinking. In the international world, thinking about law and economics has a major place, such as in Austria, Belgium, Denmark, Finland, Denmark, France, Germany, Greece, Spain, Sweden and Portugal, which have begun to pay full attention to the relationship between law and economics. The economic approach to law has given birth to the Economic Approach of Law. The field of study of Law and Economics studies the methods of economics to overcome legal problems that arise in everyday life.

The scope of the study is the use of economic concepts to examine and explain the effects and consequences of the application of certain legal rules, whether the application of the law in question is economically efficient and predicts what kind of law needs to be enacted, which provides the most maximum benefits for society without sacrificing the actual function of law.

Legal regulation of the position of the Audit Committee is very urgent to be carried out, especially in the latest revision of the PT Law in order to strengthen its function, duties and role in early detection of fraud that occurs. So this Audit Committee is a guard or Guardian Power in Limited Liability Companies in Indonesia. If it is not strengthened in terms of regulation, composition and fulfillment of qualifications and competencies, our corporate culture will be fragile and unable to overcome the various dynamics in the development of international trade today. Unification of the perspective or frame of mind of the lawmakers is very necessary in order to produce legal provisions that strengthen the role of the Audit Committee in Limited Liability Companies in Indonesia.

## CONCLUSIONS AND SUGGESTIONS

### 1. Conclusions

- a. The essence of the arrangement of the position of the Audit Committee in a Limited Liability Company is:
  - 1) As a reinforcement of business ethics based on the values of goodness, honesty and integrity within the Limited Liability Company;
  - 2) The ethical moral obligation to maintain and ensure the implementation of good corporate governance (GCG);
  - 3) Increasing corporate value, which is related to the company's reputation through checks and balances;
- b. The Audit Committee's responsibility in preventing fraud in Limited Liability Companies is regulated normatively in Article 121 paragraph (2) of the 2007 Limited Liability Company Law, namely that the Audit Committee is responsible to the Board of Commissioners, but in the future it is also necessary to regulate the norm that the GMS can request information from the Audit Committee regarding the implementation of its supervisory duties and functions if there is suspicion of fraud so that a balance of information is realized through checks and balances. Of course this is done to support the implementation of the Principles of Good Corporate Governance in Limited Liability Companies in Indonesia. In addition, the Audit Committee in carrying out its duties needs to have qualifications and competence in the field of Auditors guided by the Accounting Audit Norms, namely the guidelines used by an Accountant to conduct examinations or audits of the company's financial statements in order to find fraud that occurs, with the competence of this Accounting Audit Norm, the Audit Committee can carry out its duties properly and professionally in order to provide legal protection for both investors and other stakeholders.
- c. The model of reconstruction of the legal responsibility of the Audit Committee in preventing fraud in Limited Liability Companies included in the revision of the Limited Liability Company Law in the future, namely the position of the Audit Committee in a Limited Liability Company as something that is mandatory is no longer optional, in addition to achieving a balance of information so as to minimize the room for fraud, the GMS can request information from the Audit Committee regarding the implementation of its supervisory duties and functions if there is suspicion of fraud. In addition, it also regulates the objectives, authorities, obligations of the Audit Committee, term of office, requirements to become an Audit Committee, the personal responsibility system of the Audit Committee in a Limited Liability Company, the fraud disclosure system or whistleblowing system and legal protection for reporters (Whistleblowers).

### 2. Suggestions

We expect the Government and the House of Representatives to immediately revise Law No. 40 of 2007 concerning Limited Liability Companies, especially regarding the position of the Audit Committee in Limited Liability Companies in Indonesia, which must include the Audit

Committee Code of Ethics to support the implementation of GCG principles. Furthermore, Law No. 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law does not regulate the position of the Audit Committee, so it is recommended that in the new Limited Liability Company Law the position of the Audit Committee needs to be reaffirmed, namely being responsible to the Board of Commissioners and the GMS can also request information from the Audit Committee regarding its supervisory duties and functions if there is any suspicion of fraud in the Limited Liability Company. In addition, the Government and the DPR must focus more on strengthening the corporate legal regime in Indonesia by revising the Limited Liability Company Law, especially adding norms related to the regulation of the position of the Audit Committee which includes the procedure for appointing the Audit Committee, the objectives of the Audit Committee, the authority of the Audit Committee, the obligations of the Audit Committee, the term of office of the Audit Committee, the requirements to become an Audit Committee and also further regulate the accountability system of the Audit Committee in Limited Liability Companies, the fraud disclosure system or whistleblowing system and legal protection for reporters (Whistleblowers).

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