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Article Title

Legal Certainty Concerning Asset Separation and the Limits of Sole Shareholder Liability in Indonesian Single-Member Companies

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ABSTRACT

An Indonesian single-member company enables a micro or small enterprise operator to obtain legal-entity status through incorporation by one person. The concurrent positions of founder, sole shareholder, and director raise questions concerning asset separation, legal capacity, and the basis for imposing personal liability. This study analyzes legal certainty concerning asset separation and the limits of sole shareholder liability under Article 153J of Law Number 40 of 2007 after amendment. This prescriptive normative legal research applies statutory, conceptual, and limited functional comparative approaches. The analysis identifies legal-entity status, distinguishes legal capacities, classifies independent bases of personal liability, separates the elements of each exception, and determines the substantive legal basis and scope of remedies. The findings show that legal personality, asset separation, and limited liability are related but distinct concepts. Legal-entity status separates the company from its sole shareholder but does not automatically transfer all assets previously used by the founder to the company. Sole ownership and concurrent legal capacities do not, by themselves, create personal liability. Each exception under Article 153J section (2) must be assessed according to its elements. Personal obligations arising from an independent basis of liability must be distinguished from the inapplicability of limited-liability protection. This study formulates an eleven-stage analytical framework that connects the clarity of the applicable rule, accurate identification of legal capacity, traceability between elements and supporting facts, and predictability of legal consequences. The framework distinguishes the inapplicability of protection, the substantive legal basis of liability, and the form and scope of legal remedies.

Keywords: *Asset Separation; Legal Certainty; Limited Liability; Single-Member Company; Sole Shareholder.*

INTRODUCTION

Micro, small, and medium enterprises have a strategic position in the Indonesian economy (Sirait et al., 2025). Their number has exceeded 64 million business units, contributing more than 60% of Indonesia's gross domestic product and absorbing almost 97% of its workforce. Their contribution to exports remains approximately 15.7%. Accordingly, empowerment policies continue to focus on increasing production capacity, access to financing, and participation in export markets (Limanseto, 2025). This substantial contribution requires regulation that not only facilitates business establishment but also provides certainty concerning the identity of legal persons, ownership of assets, relations with third parties, and the limits of liability.

A sole proprietorship without legal-entity status does not constitute a legal person separate from its owner. The rights, obligations, assets, and debts arising from its business activities belong to the person conducting those activities. Before the Companies Regulation was amended, a micro or small enterprise operator could obtain asset separation by incorporating a company under general provisions that ordinarily required two or more persons. The amendments to Law Number 40 of 2007 under Law Number 6 of 2023 allow one person who satisfies the criteria for a micro or small enterprise to establish a company with legal-entity status. The regulatory innovation did not introduce asset separation. It established a mechanism through which one person could incorporate a company with legal-entity status (Kusuma, 2022; Putri & Tan, 2022; Fauzi, 2023).

Registration figures demonstrate extensive use of this incorporation mechanism. From the introduction of the single-member company service in October 2021 through 2025, 291,417 single-member companies were registered and 8,760 were dissolved. The Directorate General of General Legal Administration also reported that simplified access to legal-entity status has not always resulted in easier access to financing. Financial institutions continue to express concerns regarding the status, legal capacities, and governance of single-member companies (Humas AHU, 2025). This issue relates to Article 7 section (2) letter g of Government Regulation Number 8 of 2021, which designates one person as the founder, director, and shareholder. Darianto (2022) identifies questions concerning the positions of company organs within this structure, while Jaya (2021) associates the structure with potential conflicts of interest. Although one person holds all three positions, incorporation, the exercise of shareholder rights, management, representation of the company, and acts performed in a personal capacity have different sources of authority and legal consequences.

Asset separation is one consequence of the company's legal personality. Hansmann and Kraakman (2000) explain that organizational law partitions assets into pools available to satisfy the claims of particular groups of creditors. This partitioning includes protecting entity assets from owners' personal creditors and limiting entity creditors' recourse to owners' personal assets. Hardman (2023) treats legal personality as the basis for recognizing the company as a legal person distinct from those who establish or control it. Harris (2020), however, demonstrates that legal personality and limited liability developed as separate corporate attributes. Recognition of the company as a legal person, ownership of company assets, and limited shareholder liability must therefore not be treated as identical concepts.

A single-member company has assets, rights, and obligations that are separate from those of its sole shareholder. A shareholder owns shares as evidence of a capital contribution but does not directly own every account, object, receivable, or right acquired in the company's name. Darodjat and Suwandono (2025) explain asset separateness as a consequence of legal personality within a sole-ownership structure. Riyadi et al. (2024) associate this separateness with limited shareholder liability. Ferran et al. (2023) explain that the corporate form separates the shareholder's financial exposure from claims against the company, but this separation depends on recognizing the company's assets and obligations as those of a distinct entity. Under Indonesian law, the legal basis for limited liability is Article 3 section (1) and Article 153J section (1) of Law Number 40 of 2007, as amended.

The principle of limited liability is subject to the exceptions stipulated in Article 153J section (2) of Law Number 40 of 2007, as amended. The provision establishes four exceptions concerning compliance with legal-entity requirements, use of the company for personal interests in bad faith, shareholder involvement in an unlawful act committed by the company, and the unlawful use of company assets that renders those assets insufficient to satisfy the company's debts. Each exception contains distinct elements. Financial statements may assist in identifying asset separation, but noncompliance with financial-reporting obligations does not constitute an independent exception to limited liability (Siregar et al., 2022; Utama & Rokfa, 2024). Bankruptcy also does not, by itself, expand shareholder liability. Bankruptcy must be distinguished from fault in management, misuse of company assets, personal suretyship, and other bases of liability (Sinaga & Maulisa, 2022; Parapat & Djun'astuti, 2025).

The doctrine of piercing the corporate veil, which permits disregard of separate legal personality to determine liability in a particular case, is relevant to explaining the corrective function applicable to abuse of the corporate form. The doctrine does not create a new basis of liability beyond legislation. Abdurrahman and Pujiyono (2021) emphasize the need to distinguish the position of each company organ. Malau et al. (2024) identify circumstances frequently associated with disregard of separate legal personality. Sugandi et al. (2024) show that application of the doctrine requires contextual analysis and adequate supporting facts. Sastraatmaja et al. (2026) emphasize the need to establish a relationship among control, unlawful conduct, loss, and causation before recourse may be had to the assets of a party controlling the company. This literature demonstrates that sole ownership, complete control, inadequate records, or a single transaction benefiting a personal interest cannot automatically justify personal liability.

Previous studies have examined legal-entity status, changes in the concept of the company, the organ structure of a single-member company, asset separation, corporate governance, bankruptcy, limited liability, and piercing the corporate veil (Abdurrahman & Pujiyono, 2021; Darianto, 2022; Malau et al., 2024; Darodjat & Suwandono, 2025; Parapat & Djun'astuti, 2025). These issues have generally been analyzed separately. There remains no integrated framework that distinguishes the actor's legal capacity, personal obligations arising from an independent legal basis, the governing rule of limited liability, the elements of each exception, the sufficiency of supporting facts, the substantive legal basis of liability, and the scope of legal remedies. Colorado law is used only as a limited functional comparator because C.R.S. § 7-80-107 expressly connects LLC member liability to case law concerning disregard of separate legal personality. This comparison neither equates an Indonesian single-member company with a Colorado LLC nor transfers Colorado elements into Indonesian law.

Against this background, the first objective of this study is to analyze legal certainty concerning asset separation and the limits of sole shareholder liability by treating Article 153J section (1) of Law Number 40 of 2007 after amendment as the governing rule. The second objective is to formulate a staged analytical framework that separately assesses each exception under Article 153J section (2) of the Law. Particular attention is given to letter b and letter d because both provisions directly concern the use of the company and its assets. The novelty of the study lies in an eleven-stage framework based on four dimensions of legal certainty: clarity of the applicable rule, accurate identification of legal capacity, traceability between legal elements and supporting facts, and predictability of legal consequences and the scope of remedies.

METHOD

This normative legal research is prescriptive in nature and aims to formulate legal reasoning concerning asset separation and the limits of sole shareholder liability. The objects of analysis include the company's status as a legal entity, the formation of company assets, the legal capacities of the founder, sole shareholder, and director, the governing rule of limited liability, bases of personal liability, circumstances that negate shareholder protection, and the form and scope of legal remedies.

The study applies statutory, conceptual, and limited functional comparative approaches (Qamar & Rezah, 2020). The statutory approach examines the relationship between general and special provisions, the regulatory hierarchy, and the legal consequences of each provision. The conceptual approach distinguishes legal personality, asset separation, share ownership, limited liability, personal liability, legal certainty, and piercing the corporate veil. The functional comparative approach compares the functions of limited liability and disregard of separate legal personality under Article 153J of Law Number 40 of 2007 after amendment and C.R.S. §§ 7-80-705 and 7-80-107.

Colorado was selected because § 7-80-107 directs courts to apply Colorado corporate case law when determining circumstances that may set aside the limited liability of an LLC member. The provision also restricts reliance on failure to observe formalities as the sole basis of personal liability. In re Phillips and Griffith v. SSC Pueblo Belmont Operating Co. are used as published authorities explaining the applicable inquiry. Love's Oven, LLC v. Walters is used only as a factual illustration because it was not published pursuant to C.A.R. 35(e). The comparison addresses functional equivalence only. An Indonesian single-member company and a Colorado LLC remain different in legal form, normative sources, and institutional structure.

Indonesian primary legal materials include the Civil Code (*Burgerlijk Wetboek voor Indonesië*), Law Number 40 of 2007 and the amendments maintained through Law Number 6 of 2023, Government Regulation Number 8 of 2021, and Regulation of the Minister of Law Number 49 of 2025. Comparative primary legal materials include Colorado Limited Liability Company Act (C.R.S. §§ 7-80-705 and 7-80-107), In re Phillips, Griffith v. SSC Pueblo Belmont Operating Co., and Love's Oven, LLC v. Walters. Secondary legal materials consist of books, scholarly articles, and official government publications concerning legal certainty, legal personality, asset separation, limited liability, corporate governance, creditors' legal positions, bankruptcy, and disregard of separate legal personality.

The literature review is structured but is not presented as a systematic review. A source was included when it directly addressed at least one of five analytical categories: legal-entity status, asset separation, the legal capacity of an organ or actor, an independent basis of personal liability, or an exception to limited liability. The literature was then mapped to identify matters already examined, relationships among those matters that had not been analyzed within an integrated framework, and conceptual grounds for formulating a prescriptive analytical framework. Tertiary legal materials consist of language and legal dictionaries used to ensure terminological accuracy. Legal materials were selected according to relevance, authority, currency, and conformity with the research focus (Sampara & Husen, 2016).

The materials were analyzed qualitatively (Irwansyah, 2020). Grammatical interpretation was used to separate the elements of each provision. Systematic interpretation was used to distinguish the governing rule, exceptions, and independent bases of liability and to relate them to the structure of company law. Teleological interpretation was used to assess the purposes of limited liability and prevention of abuse of the corporate form. The interpretive results were synthesized through six steps: identifying legal-entity status, distinguishing legal capacities, classifying independent bases of personal liability, separating the elements of each exception, assessing the relationship between facts and elements, and determining the substantive legal basis and scope of remedies. This synthesis forms the basis of the eleven-stage framework.

RESULTS AND DISCUSSION

A. Asset Separation and the Distinction among Legal Capacities in an Indonesian Single-Member Company

A sole proprietorship without legal-entity status does not have a legal personality separate from its owner. Obligations arising from its business activities are the owner's obligations because no other legal person enters into those obligations. Establishing a single-member company allows a business operator to change the legal form of the business by creating a legal person that has rights, bears obligations, and acts in its own name. Such establishment does not convert every business operated by one person into a legal entity. A single-member company is an available legal form for micro and small enterprise operators who satisfy the applicable requirements (Darodjat & Suwandono, 2025; Nurhidayati et al., 2026).

Article 1 point 1 of Law Number 40 of 2007 after amendment includes a one-person legal entity that satisfies the criteria for a micro or small enterprise within the definition of a company. Article 153A section (1) of the Law provides the legal basis for establishing a company by one person. Article 6 section (3) of Government Regulation Number 8 of 2021 provides that a single-member company obtains legal-entity status after registration with the Minister and issuance of an electronic certificate of registration. Differences between the instrument used to establish a single-member company and that used to establish a capital-based company do not diminish the single-member company's status as a legal entity. Maria (2023) explains that a company with one shareholder remains separate from that shareholder. Tanuwijaya and Ridwan (2022) demonstrate the importance of electronic documents in determining the establishment, amendment, and continuing validity of the company's legal-entity status.

Legal personality establishes the company as a distinct legal person, while asset separation determines which pool of assets is available to satisfy company obligations and personal obligations. Hansmann and Kraakman (2000) distinguish protection of entity assets from the owners' creditors from protection of owners' assets from entity creditors. This distinction demonstrates that asset separation concerns more than limited shareholder liability. It also protects company assets from claims by a shareholder's personal creditors. The framework therefore reinforces the distinction among legal personality, ownership of assets, and limited liability.

Obtaining legal-entity status does not transfer to the company every asset previously used by the founder. Company assets are formed through capital payments, transfers of rights, or acquisitions resulting from legal acts performed in the company's name. Article 33 of Law Number 40 of 2007 and Article 4 of Government Regulation Number 8 of 2021 require at least 25% of the authorized capital to be issued and fully paid up. The payment must be supported by valid proof. Ownership of assets that are loaned, leased, or merely used in the business continues to be determined by title and the underlying legal relationship.

Fuady (2014) explains that legal personality allows the company to hold its own assets. Wormser (2000) emphasizes that share ownership does not confer direct ownership of each company asset. Asset separation must therefore be determined by capital payment, transfer, acquisition, and evidence of ownership. The use of an asset for business activities or a unilateral accounting entry is insufficient to establish ownership. Asset separation also cannot be inferred solely from the existence of a legal-entity certificate because that certificate determines the status of the entity, not the ownership status of every asset used in the business.

Analyzing asset separation requires accurate identification of the capacity in which a person acts. Article 7 section (2) letter g of Government Regulation Number 8 of 2021 lists the founder concurrently as the director and shareholder in the Statement of Establishment. The founder acts during the process of establishing the legal entity. The sole shareholder owns all shares and exercises the rights attaching to those shares. The director manages and represents the company under Article 1 point 5 and Article 153D of Law Number 40 of 2007, as amended. A director's possession or control of company assets for management purposes does not transfer ownership of those assets to the director. The fact that one person holds several positions does not eliminate differences in the source of authority, the represented party, or the legal consequences associated with each capacity.

Table 1. Distinction among Legal Capacities in an Indonesian Single-Member Company

Legal Capacity	Normative Function	Relationship to Company Assets	Basis of Identification
Founder	Establishes the company and performs legal acts before the company obtains legal-entity status	A contribution of assets requires a provable payment or transfer	Statement of Establishment, timing of the act, proof of payment, assumption of rights and obligations, and legal-entity status
Sole shareholder	Owns the shares and exercises the rights attaching to them	Owns the shares but does not directly own company assets	Shareholder decisions, rights attaching to the shares, legal basis of the transaction, purpose of the act, and party receiving the benefit
Director	Manages and represents the company	Controls company assets for management purposes, not as a personal owner	Management and representative authority, transaction documents, represented party, accounts, and records
Personal capacity	Acts in the person's own name and for personal interests	Bears obligations arising from legal acts or obligations undertaken in a personal capacity	Identity of the party, source of the obligation, accounts, ownership of assets, and recipient of the benefit

Source: Developed from Primary and Secondary Legal Materials.

Concurrent legal capacities are a consequence of the structure of a single-member company and do not establish abuse. Legal acts performed before the company obtains legal-entity status also do not, by themselves, create personal liability. Article 13 of Law Number 40 of 2007 governs the company's assumption, after obtaining legal-entity status, of rights and obligations arising from legal acts performed by a prospective founder. Personal liability must be determined by reference to the actor, timing of the act, bound party, assumption of rights and obligations by the company, source of authority, assets used, and party receiving the benefit. These distinctions determine whether an obligation is attributable to the company, arises from an independent basis of personal liability, or relates to an exception to limited liability.

B. The Governing Rule and Limits of Sole Shareholder Liability

Article 3 section (1) of Law Number 40 of 2007 establishes the general rule that a shareholder is not personally liable for obligations entered into on behalf of the company and is not liable for company losses beyond the value of the shares held. Article 153J section (1) of the Law confirms the same protection for the shareholder of a company that satisfies the criteria for a micro or small enterprise. The provisions establish a consistent relationship between a general rule and a special rule. Article 153J section (1) specifically confirms limited liability within a sole-ownership structure. Dewi (2018) explains that this limitation follows from the company's legal separation from its shareholder.

Legal personality and limited liability do not perform the same function. Legal personality establishes the company as the holder of rights and obligations. Limited liability determines the extent to which a shareholder's personal assets may be reached to satisfy company obligations. Harris (2020) demonstrates that limited liability developed as an attribute distinct from legal personality. Ferran et al. (2023) similarly distinguish company assets available to company creditors from shareholder assets protected from those claims. This distinction is important because the inapplicability of limited liability in a particular case does not automatically terminate the company's status as a legal entity.

The governing rule of limited liability must be applied before an exception is assessed. This order results from a prescriptive interpretation of the relationship between the governing rule and its exceptions. It is not a procedural rule expressly established by Law Number 40 of 2007. The initial assessment must determine the company's legal-entity status, the capacity in which the person acted, the party that entered into the obligation, and the act that caused the loss. Ownership of all shares, control of the business, or the company's failure to perform an obligation cannot replace this assessment. Fuady (2014) explains limited liability as the governing rule. Wormser (2000) rejects disregard of separate legal personality solely based on sole ownership or control.

Shareholder protection against personal liability for obligations entered into in the company's name is not determined solely by the use of the company's name in a contract. The identity of the parties, the actor's legal capacity and authority, performance of the obligation, use of assets, and the rights and obligations arising from the legal relationship must be examined as a whole. An act performed by the director under management and representative authority binds the company even when the director is also its sole shareholder. By contrast, obligations entered into in a personal capacity and obligations arising from suretyship remain binding on the party that undertook them under Article 1338 and Article 1820 of the Civil Code. An unlawful act committed in a personal capacity has its basis of liability in Article 1365 of the Civil Code.

Legal acts performed before the company obtains legal-entity status are assessed under Article 13 of Law Number 40 of 2007. The personal liability of a member of the Board of Directors for fault or negligence in management is assessed under Article 97 of the Law. The obligation to pay for shares is based on Article 33 of Law Number 40 of 2007 and Article 4 of Government Regulation Number 8 of 2021. These legal bases differ from the inapplicability of shareholder protection under Article 153J section (2) of Law Number 40 of 2007 after amendment. Muarif (2024) and Widyaningrum and Bagiastra (2024) support the distinction between liability arising from a management capacity and liability based on share ownership.

Limiting liability to the value of the shares held requires conceptual precision. A share constitutes a right against the company and does not confer direct ownership of company assets. Company losses may reduce the value of the shares without creating an obligation for the shareholder to bear all losses. An obligation to pay for unpaid shares must nevertheless be performed because it arises from the capital-contribution relationship. A creditor under a company obligation ordinarily seeks satisfaction from company assets. A creditor benefiting from personal suretyship or security over specific assets has a different legal basis and object of claim. Sinaga and Maulisa (2022) demonstrate that the debtor's identity, the creditor's legal position, and the object of security determine the scope within which an obligation may be satisfied.

Financial statements assist in identifying assets, obligations, and transactions between the company and the shareholder, but they do not constitute the sole evidence of asset separation. Article 153F of Law Number 40 of 2007, as amended, requires the Board of Directors to prepare financial statements. Article 10 of Government Regulation Number 8 of 2021 regulates their contents and submission. Article 27 of Regulation of the Minister of Law Number 49 of 2025 further regulates electronic submission through the Legal Entity Administration System. Determining ownership status still requires an assessment of accounts, transaction documents, proof of payment, evidence of transfer, and the legal basis for possession or control of assets. Utama and Rokfa (2024) explain financial reporting as a means of transparency and accountability rather than a substitute for substantive examination.

Legal certainty is operationalized in this study through four dimensions. First, the rule governing the act and the actor's capacity must be identifiable. Second, the capacity in which a person acted must be determined according to the source of authority and the represented party. Third, every element of an exception must be connected to traceable supporting facts. Fourth, the legal consequences and scope of remedies must be predictable according to the substantive legal basis and causal link. Radbruch (1950) explains that legal certainty requires identifiable positive law, foreseeable legal consequences, and constraints on subjective assessment. These dimensions are developed in this study into four analytical criteria. Legal certainty accordingly protects shareholders against unsupported expansion of liability while clarifying for creditors the party bound and the assets available to satisfy an obligation.

C. Element-by-Element Assessment of Exceptions to Limited Liability

Article 153J section (2) of Law Number 40 of 2007 after amendment identifies the circumstances in which the protection under section (1) does not apply. Because the provision establishes exceptions, its application must be confined to the elements stipulated in each letter. The exceptions cannot be extended solely based on a general assessment of unfairness. Radbruch (1950) argues that legal consequences must be based on an identifiable rule and legally reviewable reasons. Piercing the corporate veil explains only the corrective function of the exceptions and does not add circumstances beyond those established by legislation (Fuady, 2014; Abdurrahman & Pujiyono, 2021).

The four exceptions have different element structures. A conflict of interest, the use of a single account for company and personal assets, inadequate recordkeeping, a personal benefit, control exercised by the sole shareholder, or bankruptcy constitutes a fact that does not yet establish satisfaction of the elements. Each fact must be connected to the relevant elements of an exception. A combination of indicators cannot substitute for an element that has not been satisfied.

Table 2. Normative Structure of Article 153J of Law Number 40 of 2007 after Amendment

Provision	Principal Elements	Facts Examined	Normative Consequence
Section (1)	Shareholder status, obligation entered into on behalf of the company, company loss, and shares held	Legal-entity status, legal capacity, contract, and performance of the obligation to pay for shares	Limited-liability protection applies
Section (2) letter a	The requirements for the company as a legal entity have not been or are no longer satisfied	Registration, certificate, timing of the act, amendment, dissolution, revocation, and termination of legal-entity status	Applicability of protection is determined according to legal-entity status when the act occurred
Section (2) letter b	Direct or indirect use of the company, personal interest, and bad faith	Purpose, benefit, affiliation, disclosure of interest, fairness of consideration, records, and benefit to the company	Protection does not apply when all elements are satisfied
Section (2) letter c	An unlawful act committed by the company and shareholder involvement	Attribution, instruction, approval, performance, assistance, exercise of control, and causal link	Protection does not apply to the shareholder involved
Section (2) letter d	Unlawful use of company assets that renders the assets insufficient to satisfy company debts	Ownership, transfer of funds, legal basis, reduction in assets, amount of debt, and causation	Protection does not apply when the act, unlawfulness, consequence, and causation are established

Source: Developed from Primary and Secondary Legal Materials.

The assessment under Article 28 section (1) letter a of Law Number 40 of 2007 after amendment requires a distinction between unfulfilled requirements for establishing a legal entity and administrative noncompliance after the company has obtained legal-entity status. Article 6 section (3) of Government Regulation Number 8 of 2021 connects the acquisition of legal-entity status to registration and an electronic certificate. By contrast, failure to submit financial statements occurs after that status has been obtained. Article 12 of Government Regulation Number 8 of 2021 establishes administrative sanctions in the form of a written warning, suspension of access rights to services, or revocation of legal-entity status. Article 28 of Regulation of the Minister of Law Number 49 of 2025 regulates the stages for issuing warnings, suspending access rights to the Legal Entity Administration System, and revoking status when noncompliance continues.

Article 28 section (1) of Regulation of the Minister of Law Number 49 of 2025 refers to Article 19, whereas the financial-reporting obligation is regulated under Article 27. Article 28 section (2) refers to Article 27 section (1). This discrepancy creates uncertainty regarding the normative cross-reference. It does not justify the conclusion that initial noncompliance retroactively eliminates legal-entity status. The relationship between revocation and Article 153J section (2) letter a of Law Number 40 of 2007 after amendment must be determined according to the regulatory hierarchy, stages of sanctions, effective time of revocation, and the position of obligations that have already created rights and duties. Tanuwijaya and Ridwan (2022) analyze the continuing validity of legal-entity status. Their analysis remains relevant to identifying this issue but cannot substitute for Regulation of the Minister of Law Number 49 of 2025.

The elements of Article 153J section (2) letter b of Law Number 40 of 2007 after amendment consist of direct or indirect use of the company, personal interest, and bad faith. The three elements must be assessed together. A personal interest without bad faith does not satisfy all elements. Bad faith that is not manifested through the use of the company also does not satisfy all elements. A conflict of interest requires further examination of the purpose of the transaction, disclosure of personal interest or conflict of interest, fairness of consideration, recordkeeping, benefit to the company, and the manner in which company assets were used, transferred, recorded, or returned (Jaya, 2021; Putri & Tan, 2022).

The validity or unlawfulness of a dividend, reimbursement, director remuneration, loan, or transaction with an affiliate is not determined solely by the transaction's nomenclature. The assessment must determine the source of authority, purpose, consideration, records, and effect on company assets. Muarif (2024) associates good faith and avoidance of conflicts of interest with the obligations of the Board of Directors. The elements of director liability, however, cannot be directly applied as elements of shareholder liability. The same conduct may generate two bases of liability when it is performed in different capacities and satisfies different statutory elements.

The assessment under Article 153J section (2) letter c of Law Number 40 of 2007 after amendment proceeds in two stages. First, the unlawful act must be attributable to the company through the conduct of an organ, representative, or party acting within the authority of a company organ. Second, shareholder involvement must be determined separately. Such involvement may take the form of an instruction, approval, performance, assistance, exercise of controlling authority to instruct or approve the act, or another act causally connected to the unlawful conduct. Mere knowledge or receipt of a benefit after the act is insufficient without conduct demonstrating shareholder involvement.

Nababan and Nurkhaerani (2025) emphasize the need to connect the commingling of assets with the capacity of the Board of Directors, the nature of the act, and the resulting loss. One set of facts may create several bases of liability, depending on the capacity in which the person performed each act. Each basis must be distinguished so that conduct performed as a director is not directly treated as liability arising from shareholder status. This distinction also prevents sole control from substituting for proof of involvement.

The object of the conduct regulated under Article 153J section (2) letter d of Law Number 40 of 2007 after amendment is company assets. The analysis must determine that the funds, objects, receivables, or rights used were company assets. It must then establish that the shareholder used those assets directly or indirectly. The use must be unlawful and must render the company's assets insufficient to satisfy its debts. A causal link between the use of the assets and their insufficiency to satisfy company debts must also be established.

The use of a single account for company and personal assets or a transaction with an affiliated party may constitute an indicator. Such an indicator does not replace the determination of asset ownership, unlawfulness, reduction in company assets, the amount of debt that cannot be satisfied, or causation. Sastraatmaja et al. (2026) support the requirement to connect control with conduct that reduces company assets and causes creditor loss before recourse may be had to the shareholder's personal assets.

When all elements are satisfied, the scope of liability does not automatically encompass all company debts. Article 153J section (2) of Law Number 40 of 2007 after amendment removes the protection under section (1), but does not prescribe one remedy applicable to all exceptions. The substantive legal basis must still be identified by reference to an obligation, an unlawful act, restitution of assets, fault in management, or another relevant basis. The amount of liability must correspond to the loss, value of assets used, unpaid portion of debt caused by the conduct, benefit received, and causal link. This approach prevents unsupported expansion of liability and double recovery.

The functional comparison shows that Indonesian and Colorado law recognize separate legal personality as a basis of limited liability. The two systems, however, use different structures of exceptions. C.R.S. § 7-80-705 limits the liability of members and managers for LLC obligations solely by reason of their status. C.R.S. § 7-80-107(1) refers to Colorado corporate case law when assessing the personal liability of an LLC member. Section 7-80-107(2) provides that failure to observe LLC management formalities does not, by itself, establish personal liability.

In re Phillips establishes three principal stages: an alter ego relationship, use of the entity form to perpetuate a wrong or defeat a rightful claim, and the need to disregard separate legal personality to achieve an equitable result. Griffith v. SSC Pueblo Belmont Operating Co. confirms that this inquiry applies to an LLC under § 7-80-107. Both are published authorities. Love's Oven, LLC v. Walters provides only a factual illustration of the first stage, in which one use of funds for a personal purpose was insufficient to establish the absence of LLC separateness.

Table 3. Functional Comparison of Limited Liability under Indonesian and Colorado Law

Aspect	Article 153J of Law Number 40 of 2007 after Amendment	Colorado Law	Limits of Comparison
Legal form	A single-member company is a form of company available to micro and small enterprises	An LLC is a legal form under Colorado law	Functional equivalence does not establish institutional identity
Governing rule	Section (1) limits shareholder liability	§ 7-80-705 limits the liability of LLC members and managers	Similarity concerns liability based solely on status
Source of exceptions	Section (2) expressly establishes four exceptions	§ 7-80-107 refers to Colorado corporate case law	Colorado factors cannot replace the elements in letters a through letter d
Formalities	Status and noncompliance are assessed under Indonesian regulations	§ 7-80-107(2) rejects formalities as a sole basis of liability	Colorado law does not reduce Indonesian administrative obligations
Method of assessment	Each exception is assessed according to its elements	In re Phillips and Griffith apply a three-stage inquiry	Similarity is limited to an orderly assessment
Consequence	Inapplicability of protection still requires a substantive basis and determination of remedies	Disregard depends on satisfaction of the entire inquiry	Elements and consequences are not transferred between systems

Source: Developed from Primary Legal Materials.

The comparison does not establish new elements under Indonesian law. Its analytical value is limited to two propositions. First, every required stage must be completed before disregard of separate legal personality is ordered. Second, one indicator cannot substitute for the complete inquiry. The analysis of Indonesian law remains governed by Article 153J of Law Number 40 of 2007 after amendment and the bases of liability recognized within the Indonesian legal system.

D. A Staged Analytical Framework for the Personal Liability of a Sole Shareholder

The different structures of the exceptions require an analytical model that distinguishes legal-entity status, legal capacity, conduct, subjective elements, unlawfulness, consequences, and remedies. The following framework is a prescriptive synthesis of primary legal materials, the theory of legal certainty, the concept of asset separation, and the analysis of each exception. It is not intended as a procedural rule and does not determine the allocation of the burden or standard of proof binding on a court.

The eleven stages perform four functions. The first identifies the applicable rule. The second determines legal capacity and the basis of liability. The third assesses each exception according to its elements and supporting facts. The fourth determines the legal consequence and scope of remedies. Each stage has a traceable normative or conceptual basis.

Table 4. Staged Analytical Framework for the Personal Liability of a Sole Shareholder

Stage	Focus of Examination	Normative or Conceptual Basis	Function
1. Legal-entity status	Registration, certificate, dissolution, liquidation, revocation, and termination	Article 153A and Article 153J section (2) letter a; Government Regulation Number 8 of 2021	Determines the existence of the legal person
2. Actor's capacity	Founder, shareholder, director, company representative, or personal capacity	Article 1 point 5, Article 13, Article 97, and Article 153D	Determines authority and represented party
3. Independent basis of liability	Personal obligation, suretyship, unlawful act, pre-incorporation act, fault in management, or payment for shares	Articles 13, 33, and 97 of Law Number 40 of 2007; Articles 1338, 1365, and 1820 of the Civil Code	Separates independent obligations from exceptions
4. Governing rule and exception	Relationship between section (1) and section (2)	Article 153J	Identifies the provision under assessment
5. Objective act or circumstance	Status, use of the company, involvement, or use of company assets	Each letter of Article 153J section (2)	Assesses correspondence between facts and elements
6. Specific elements	Bad faith, personal interest, involvement, or unlawfulness	Article 153J section (2) letter b, letter c, and letter d	Prevents substitution among exceptions
7. Required consequence	Loss and insufficiency of assets to satisfy debt	Article 153J section (2) letter d and relevant substantive law	Distinguishes the structure of consequences
8. Relationship among act, elements, and consequence	Timing, transfer of assets, benefit, change in assets, and causation	Article 1365 of the Civil Code; Article 153J section (2)	Ensures accurate attribution
9. Sufficiency of supporting facts	Documents, accounts, reports, communications, ownership, and possession	Legal certainty; Sugandi et al. (2024); Colorado illustration	Prevents conclusions based on one indicator
10. Substantive basis and remedies	Loss, assets used, benefit, unpaid debt, security, and prior relief	Civil Code; Company Law; Wormser (2000)	Prevents expansion of liability and double recovery
11. Legal certainty	Clarity of rules, capacity, traceability, and predictability	Radbruch (1950) and the study's synthesis	Ensures consistency and foreseeability

Source: Developed from Primary and Secondary Legal Materials.

The first three stages identify the applicable law before Article 153J section (2) of Law Number 40 of 2007 after amendment is assessed. Legal-entity status must be determined according to the time of the act because acquisition of status, conversion of legal form, dissolution, liquidation, revocation, and termination are distinct legal events. The legal capacity of the actor must then be determined for each act. One person may act in several capacities within one set of facts, but the legal consequence of each act must be assessed according to the capacity used when the act occurred.

The third stage determines whether there is a basis of personal liability distinct from Article 153J section (2) of Law Number 40 of 2007 after amendment. This distinction is consistent with Muarif (2024), Widyaningrum and Bagiastra (2024), and Nababan and Nurkhaerani (2025) concerning the relationship between management capacity and personal liability. An exception to limited liability is unnecessary when the obligation arose from the outset in the person's personal capacity. Conversely, status as a director or shareholder cannot impose personal liability without a relevant legal basis.

The fourth through eighth stages are applied separately to each exception in Article 153J section (2) of Law Number 40 of 2007 after amendment. Letter a does not require bad faith. Letter b does not expressly require actual loss. Letter c requires attribution of the unlawful act to the company and shareholder involvement. Letter d requires unlawful use of assets that renders the company's assets insufficient to satisfy its debts. One fact may relate to several exceptions, but the elements of each exception must be assessed separately.

The ninth stage evaluates the sufficiency of supporting facts without aggregating indicators as a substitute for an element. One document may support several elements when its contents are relevant. The number of indicators cannot, however, substitute for an element that has not been satisfied. This requirement is consistent with Sugandi et al. (2024). Love's Oven, LLC v. Walters is used only as an illustration because one payment for a personal purpose did not establish the absence of LLC separateness when other circumstances showed that asset separation was generally maintained.

The tenth stage distinguishes the inapplicability of protection, the substantive legal basis of an obligation, and the form of remedy. The inapplicability of protection means that the limitation under Article 153J section (1) of Law Number 40 of 2007 after amendment cannot be applied to the shareholder in a case satisfying an exception. A payment obligation still requires a substantive legal basis. A remedy must correspond to the loss, assets to be returned, benefit received, the unpaid portion of the debt causally connected to the conduct, or an obligation lawfully imposed in a personal capacity.

The inapplicability of protection does not, by itself, transfer all company debts to the shareholder. Wormser (2000) explains that disregard of separate legal personality applies to determining liability in a particular case and does not terminate legal-entity status for all other legal relationships. This limitation also prevents more than one recovery for the same loss.

The final stage applies the four dimensions of legal certainty. The applicable rule and its hierarchy must be clear. The actor's capacity must be identifiable. The relationship between each element and the supporting facts must be traceable. Legal consequences and remedies must be foreseeable on legally reviewable grounds. This structure restricts expansion of liability based on subjective assessment. It also prevents use of legal-entity protection to avoid liability arising from an established legal basis.

CONCLUSIONS AND SUGGESTIONS

The legal-entity status of an Indonesian single-member company establishes legal separation between the company and its sole shareholder. Legal personality, asset separation, and limited liability are related concepts that perform different functions. Legal personality establishes the company as a legal person. Asset separation identifies the pools of assets available to satisfy company and personal obligations. Limited liability restricts recourse to the shareholder's personal assets for company obligations. Obtaining legal-entity status does not automatically transfer to the company all assets previously used by the founder.

Article 153J section (1) of Law Number 40 of 2007 after amendment is the governing rule protecting a shareholder from personal liability based solely on share ownership. This protection must be distinguished from personal obligations arising from an obligation entered into in a personal capacity, suretyship, a personal unlawful act, a legal act performed before the company obtained legal-entity status and not assumed by the company, fault or negligence in management, and an obligation to pay for shares. The exceptions under Article 153J section (2) must be assessed according to the elements stipulated in each letter. Sole ownership, a conflict of interest, inadequate recordkeeping, bankruptcy, or receipt of a personal benefit is insufficient without satisfaction of all relevant elements.

The eleven-stage framework connects legal-entity status, legal capacity, an independent basis of liability, the governing rule, exceptions, objective conduct, specific elements, consequences, causation, sufficiency of facts, substantive legal basis, remedies, and legal certainty. The framework has traceable normative and conceptual foundations. The inapplicability of protection does not, by itself, transfer all company debts to the shareholder. The basis of the obligation and form of remedy must be determined separately according to the loss, assets used, benefit received, unpaid portion of debt, and causal link.

This study is limited to analysis under positive law and does not assess the consistency with which Article 153J has been applied across Indonesian court decisions. Further research should examine judicial decisions, the parties' legal arguments, judicial assessments of facts, and remedies ordered. The rulemaking authority should correct the inaccurate cross-reference in Article 28 section (1) of

Regulation of the Minister of Law Number 49 of 2025 and clarify the consequences of revoking legal-entity status for obligations that have already created rights and duties. Shareholders and directors should retain evidence of capital payments, ownership, accounts, decisions, transactions, and the capacity in which each party acted so that asset separation remains legally traceable.

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