



DSLC

Underrated Risk in
Dissolving a Company
in Indonesia

by

Rizky Dwinanto S.H., M.H., M.M.

Business Entity Must Be Dissolved Completely

Determining whether or not to close a business entity that is no longer well-performing might not a priority that must be decided immediately by the business owners or shareholders. However, it should be noted that a business model that is no longer in line with market development can no longer give a good contribution and even tend to inflict unnecessary costs for business owners or shareholders.

In various ways, Business Owners carry out ways to reduce the cost burden arising from companies that are no longer well-performed – from reducing employees to making the company inactive (Dormant). Of course, this decision was taken with all considerations. However, letting a company become a ‘zombie’ by not being completely and legally closed by applicable law and regulations must have risks.

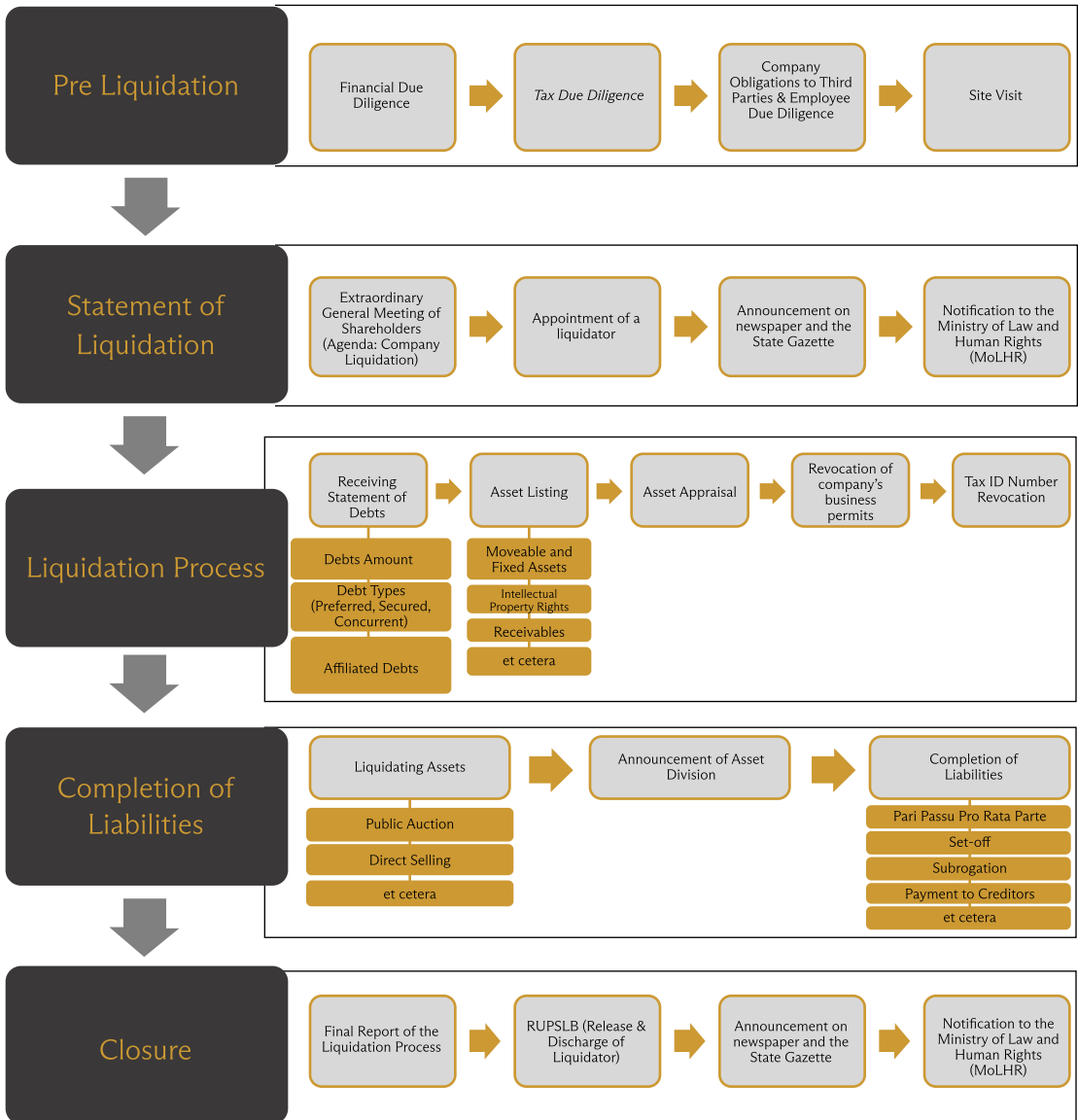
Based on our experience helping the companies in dissolution, more than 80% of Business Owners have chosen ‘Dormant’ for no longer well-performing companies. However, it does not necessarily eliminate all of its obligations, especially tax compliance. Management (Directors & Commissioners) must continue to submit tax reports to avoid undesirable penalties. Not complying with this may even cause several personal implications for individuals from the management level and shareholders. As stated in the provisions of Article 32 paragraph (2) of The General Tax Provisions and Procedures Law (KUP), the management of an entity (both directors and commissioners/shareholders) may be held personally responsible and/or jointly and severally liable for the payment of taxes owed by the taxpayer's company.

Every decision taken has a risk, but a well-measured and well-planned risk mitigation will make the decision produce optimal results. Completely closing a non-performed company is an excellent decision to minimize the potential of more significant losses to the company, management, and shareholders.

As one of the strategies for planning and mapping the potential risks that may arise in the process of closing a Business Entity, here we present an illustration of a Liquidation process, specifically for a Limited Liability Company.

Framework of a Liquidation Process for Limited Liability Company (LLC)

To provide an overview of the process of dissolving a business entity, especially a Limited Liability Company, we present the following illustration:



Description

Pre-Liquidation

Pre-liquidation is the most important phase in determining the success of the liquidation process. In this phase, the main objective is to map out financial risks, company obligations, and legal risks that may arise in the liquidation process. Carefully mapping the problem and implementing the risk mitigation are the most fundamental steps that must be put forward.

Statement of Liquidation

The main objective of this phase is to obtain a legal resolution that the company is in a legal state of liquidation. As a series of these decisions, the liquidator will carry out the principle of publicity by announcing in the daily newspapers and the State Gazette, followed by notification to the Ministry of Law and Human Rights regarding the company's current status.

Liquidation Process

Liquidation process shall be done with due observance of prudence and disclosure principles. This whole process must be carried out carefully and precisely with a solid basis for every decision. Things that need to be emphasized in this phase are the working papers and the recording of all stages.

Completion of Liabilities

Completion of liabilities is carried out carefully under procedures by prioritizing the principles of openness and accountability. The steps of recording, clearing and selling must have valid benchmarks in their implementation and must be conducted openly to create optimal results.

Closure

After finishing the processes, the Liquidator records all activities that have been done in the final report. The report is submitted to the General Meeting of Shareholders or other authorized parties, who will issue a Release and Discharge decision to the Liquidator of all responsibilities during the liquidation process.

The final liquidation process requires the Liquidator to announce in newspapers and State Gazette (BNRI) and further notify the Ministry of Law and Human Rights regarding the end of the company's liquidation process.

Notice

The framework or illustration provided above may be considered a reference in conducting the optimal liquidation of a business entity. In addition to that, the Board of Directors, Commissioners, and Shareholders are obliged to know in detail – from top to bottom – the entire series of liquidation processes to avoid more significant financial loss, either for the company or individuals.

We believe that well-planned and detailed risk mitigation processes will offer a high level of success in each and every project. Hence, decision-makers will be guaranteed convenience in conducting the liquidation of their business entities.

Keep in mind that making sure your non-performed business entity is closed completely and legally is equally important as making sure your well-performed business entity complies with applicable laws and regulations. We encourage you to discuss this matter in detail with your trusted legal consultant.



Direct Business Contact:

Enrico Gobel

Business & Marketing Manager

Phone & WhatsApp: +62815 947 2342

Email: enrico.gobel@dslc.law

Jakarta Head Office

Sona Topas Tower, 10th Floor, No. 1002,

Jl. Jenderal Sudirman, South Jakarta

Phone: +6221 50300810

Surabaya Office

Puncak Kertajaya A1603

Kertajaya Indah Regency, Keputih,

Kec. Sukolilo, Surabaya

Email: info@dslc.law

LinkedIn: DSLC - Dwinanto Strategic Legal Consultant

www.dslc.law