

Blockchain-Based Limited Liability Companies A New Tool or a False Innovation

A Comparative Analytical Study

Mohamed Ali Ahmed Mohamed El-Erian

Assistant Professor of Commercial and Maritime Law, Faculty of Law - Abu Dhabi University

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Abstract

If limited liability companies were widely spread in the 1990s, limited liability companies based on blockchain technology have witnessed tremendous growth in the past two years due to digital globalization. These companies adopt decentralized autonomous organizations, known as DAOs, which operate on the blockchain platform through smart contracts and decentralization of control. Despite the many advantages of these companies, they face many legal challenges and regulatory risks. What increases the importance of this study is that the laws of commercial companies in the countries of Iraq (Kurdistan Region) and the United Arab Emirates do not include any regulatory rules in this regard, which raises the question of what are these newly created companies? What are the similarities and differences between them and traditional companies? What are their legal provisions? Should they be adopted within the legislative system or not? In other words, are the decentralized autonomous organizations that belong to these companies capable of displacing traditional organizational structures? In this study, we will highlight to what extent limited liability companies based on blockchain technology can be considered a new form of commercial companies or whether it is just a false idea confined to a narrow scope.

Keyword: Companies - Limited Liability - Blockchain - Smart Contracts - Autonomous Organizations - Decentralization.

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Email: mohamed.mohamed@adu.ac.ae

1- Introduction

If limited liability companies were widely spread at the end of the nineteenth century (Brunson, 2023, P. 618), limited liability companies based on blockchain technology have witnessed tremendous growth in the past two years due to digital globalization, which may change the concept of institutional organization and stakeholder responsibility in the twenties of the twenty-first century (Gilbert, 2022).

It is noted that these companies - as their name indicates - operate on the blockchain platform, and are governed by their own operating agreement integrated with the smart contract system (Benzbir et al., 2024, p. 2), and are managed by decentralized autonomous organizations known as DAOs, which adopt this type of newly created companies (Lafarre et al., 2023, p. 2), and an example of this is the companies (Uniswap, (BitDAO), whose capital is represented in millions or hundreds of millions of dollars that they earn from smart contracts controlled by token holders.

1-1- The importance of the study:

The continued development of technologies in the field of Web3, and the rise of blockchain technology in the field of financial transactions, have led to the emergence of a new era of digital currencies (Shan, 2024, P. 87), in addition to the creation of innovative organizational structures such as decentralized autonomous organizations, which are valued at billions of dollars and owned by hundreds of thousands of governance token holders (Błaszczuk, 2024, P. 109).

Hence, the importance of this study emerges in light of the increasing spread of these companies in many countries of the world. In application of the above, the state of Vermont in

the United States of America took the first step in 2018 in regulating what is called a limited liability company that relies on blockchain technology. After that, it began regulating decentralized autonomous organizations that manage these companies starting in 2021.

1-2-Research problem of the study:

Despite the many advantages of limited liability companies based on blockchain technology, which may attract entrepreneurs and capital investment as an early driver in this field. However, it is certain that they face many legal challenges and major commercial risks imposed by the ongoing legal and regulatory uncertainty.

By reviewing the laws of commercial companies in both the State of Iraq (Kurdistan Region) and the United Arab Emirates - just like most countries in the world - it was found that they do not include regulatory rules in this regard, which means that there is a legislative gap in this regard, and thus raises many legal questions, the most important of which are: What is meant by these newly created companies? What are the similarities and differences between them and traditional companies? What are their legal provisions? Should they be adopted within the legislative system or not? In other words, the question arises about whether this newly created type of companies is capable of displacing the traditional organizational structures of companies, and how, and to what extent?

In the end, the fundamental question remains about the extent to which limited liability companies based on blockchain technology can be considered a new form of commercial companies, or whether the matter is nothing more than a false idea confined to a narrow scope.

1-3-Study Methodology:

The study relied on two research methods: The first is the analytical method, which is based on analyzing the nature of a limited liability company based on blockchain technology and the challenges it faces. The second is the comparative method, which is based on comparing the legislative provisions regulating this type of company in several legal systems, in an attempt to adapt them to overcome the difficulties associated with artificial intelligence technologies in this regard, whether in light of the comparative laws of the State of Vermont in 2018 or the State of Wyoming in 2021 or other laws that are still under discussion such as the English Companies Law of 2006 as amended, the UAE Companies Law of 2021, the Iraqi

Companies Law of 1997 as amended, and Law No. (28) of 2007 Enforcement Law of Companies Law (Federal) No. 21 of 1997.

1-4-Study plan:

In order to cover the advanced problems and attempt to answer the questions raised in this research paper, the researcher decided to divide this study into two sections: In the first, we present the nature of the limited liability company based on blockchain technology, while in the second, we cover the legal organization of the limited liability company based on blockchain technology and the challenges it faces.

2- Discussion

2-1-Essence of the limited liability company based on blockchain technology

The evolution and change in the field of commercial companies since ancient times led to the emergence of the limited liability company (LLC) whose members have limited liability, meaning that they do not bear personal responsibility for the debts of the company in general due to its independent legal personality. It is these companies in particular that have attracted the interest of decentralized autonomous organizations, as they found them suitable in many aspects for decentralized governance because they can be managed by a manager or members, and therefore in many aspects they are close to the infrastructure of decentralized autonomous organizations from the traditional company.

As a result, the Blockchain-Based Limited Liability Company (BLLC) is a decentralized autonomous organization. It is a legally recognized business organization like a traditional LLC, but it operates and stores assets mostly on a peer-to-peer network. These entities allow owners and investors to receive a financial return on their investment through an automated system of contracts that runs on algorithmic code.

Accordingly, we will see the concept of blockchain technology and its types, then we will analyze the requirements for operating this company.

2-1-1-Blockchain Technology Concept and Types:

It is known that Blockchain technology was used outside the scope of cryptocurrencies for the first time in 2015 when a Canadian of Russian origin named Vitalik Buterin launched the Ethereum currency, which was inspired by Bitcoin, as it was designed to be a technological platform based on Blockchain technology (Conway, 2022, P. 130). Accordingly, we see the concept of Blockchain technology and then identify its types.

2-1-1-1-Blockchain Technology Concept:

Blockchain technology is the technological infrastructure developed to allow cryptocurrencies to operate (Vachet, 2017-2018, p. 3). In jurisprudence, this technology is known as a shared, immutable ledger that facilitates the process of storing and transferring information, is transparent and secure, and operates without a central control body (Pignel, 2019, p. 4). Or it is a digital list of records in which transactions are recorded in blocks and linked using encryption. When the blocks are filled with data, they are chronologically stamped and added to the blockchain in a verifiable manner, and cannot be changed or replaced without the consent of all partners” (Haitham Al-Sayed Issa, 2021, p. 9).

Legislatively, Section 4171(1) of the Vermont Blockchain Limited Liability Company Act of 2018 defines a blockchain as “a mathematically secured, chronological, decentralized consensus ledger or database, whether maintained via Internet interaction, peer-to-peer network, or otherwise”.

Section 1/1 of Connecticut Act 7310 of 2019 on the Smart Contracts Act defines distributed ledger technology as a distributed, decentralized, shared, and replicated ledger that may be public or private, permissioned or permissionless, and may include the use of electronic currencies or electronic tokens as a medium of electronic exchange.

Section 730/5(1) of the Illinois Blockchain Act of 2020 defines it as “an electronic record created using a decentralized method by multiple parties to verify the storage of a digital record of transactions that is secured using a cryptographic hash of past transaction information”.

Section 702(b) of the Marshall Islands Decentralized Autonomous Organizations Act of 2022 defines it as “a distributed ledger that can record transactions between two parties in a mutually verifiable and permanent manner”.

The UAE legislator referred to blockchain technology when it defined distributed ledgers in Article (2/11) of Law No. (4) of 2022 regarding the regulation of virtual assets in the Emirate

of Dubai, stating that it is “a public or private digital database through which transactions made on virtual assets are recorded, created, saved and shared, so that their validity and ownership are proven in a network of a group of nodes that are done automatically from multiple locations and places, and include blockchain technology”.

It is clear from the advanced definitions that blockchain technology is a widely known form in parallel with distributed ledger technology. This technology allows the elimination of intermediaries (Douville et al., 2018, p. 1144), by enabling users to interact digitally with others in a secure manner (Möslein, 2020), as the presence of a synchronized digital ledger that records all transactions that occur in “blocks” in the chain after broadcasting it to the network in a readable, understandable and comprehensible manner (Ashraf Jaber, 2020, p. 43).

2-1-1-2- Types of Blockchain

2-1-1-2-1- Public blockchain:

It is an open-source network for all users from all over the world, and any user can access it from his device through his electronic wallet linked to the blockchain (Sarmiento, 2021, p. 22), as the public blockchain platform is based on the peer-to-peer (P2P) system, which means that dealings between its users are direct without the intervention of intermediaries (Bambara et al., 2018, p. 13), and without verifying the identities of the transacting parties (Nouran Youssef and Ayman Saleh, 2022, p. 4).

2-1-1-2-2- Private blockchain:

It is a tightly controlled, consortium-operated, limited-node network where data is confidential and accessible only to trusted members (Dimitropoulos, 2020, p. 1). Only pre-authorized individuals or organizations can execute transactions, pre-verification of all transacting parties is mandatory as part of the transaction, and records of participation are only visible to those parties and not to the public.

Finally, private blockchains can be classified into two other types: the first is permissionless, which does not require prior permission to enter it and without verifying the identity of all parties. The second type is permissioned, which requires prior permission to enter it, through the process of verifying the intervening parties before conducting transactions.

2-1-2-Requirements for operating a company based on blockchain technology:

The LLC does not operate on blockchain technology alone, but is linked to some other technologies such as smart contracts and decentralized autonomous organizations.

2-1-2-1- Smart contracts:

Blockchain technology is described as the abstract base layer that enables the implementation of a wide range of products and services (Koster, 2020, p. 755), by integrating long-term smart contracts that contain assets and encrypting the regulations of the entire organization (Mohammed Badr Ahmed Othman Al-Kouh, 2024, p. 1317). Therefore, it is rightfully considered the basis of decentralized autonomous organizations.

From a jurisprudential perspective, one aspect of jurisprudence defines a smart contract narrowly as a software code that operates on the blockchain and is digital to record assets or representations of physical objects based on external data that was not known at the time the code was programmed, and leads to the redistribution of obligations between two or more parties in the form of transactions (Maume et al., 2020, p. 24).

On the other hand, there are expanded definitions, including that a smart contract is an electronic contract concluded on blockchain technology using unreadable encrypted algorithmic programs, representing the terms and conditions of the contract or transaction that takes place between two or more people via the computer using blockchain platforms and encrypted programs such as the Bitcoin platform and Ethereum, where the contract or transaction is generally integrated into it, including its terms and conditions that differ from one transaction to another (Rubio et al., 2019, p. 1).

Legislatively, Section 730/5 Paragraph (6) of the Illinois Blockchain Act of 2020 defines a smart contract as a contract stored as an electronic record that is verified using a blockchain. Section 48-250-110(10) of the Tennessee Decentralized Autonomous Organization Act of 2022 defines it as an event-driven computer program that executes on an electronic, distributed, decentralized, shared, and replicable ledger used to automate transactions.

Section 48-5-101(29) of the Utah Decentralized Autonomous Organization Act of 2024 defines it as software code that is published on a permissionless blockchain, consisting of a set

of pre-defined instructions that are executed in a distributed manner by the underlying blockchain network nodes, and that produces a change to the network.

So smart contracts are computerized transaction protocols that, in theory, implement contractual terms. They essentially work as computer programs that are deployed on a blockchain, making them undeniable and verifiable.

Therefore, we see, with some jurisprudence, that this contract is a modern example of the development of contracting procedures. Once the conditions of “if/when then” are met, the contract is automatically executed, ending with the electronic signature of these documents through encryption technology (Abdelkrim Zerouali, Amina Ben Jeddou, 2021, p. 285). Since there is no need for a third-party intermediary, the time and costs spent on implementing agreements are much less (Conway, 2022, p. 135).

A smart contract can also be a guarantee of immediate execution of a contract (Alharby, 2017, p. 127), especially when the amounts due are transferred via a cryptocurrency, or via automatic payment into a bank account (Mekki, 2018, p. 416). Smart contracts allow for the automatic acceptance of an agreement based on the fulfillment of specific criteria controlled by digital means (Finger, 2023).

2-1-2-2- Decentralized autonomous organizations:

It is necessary to talk about the concept of decentralized autonomous organizations and then distinguish them from other traditional business structures.

2-1-2-2-1- The concept of decentralized autonomous organizations:

In 1996, American scientist Nick Szabo coined the term Decentralized Autonomous Organizations, or DAOs, to describe the groundbreaking potential of smart contracts to automate governance and decision-making processes. This revolutionized collective organization (Koster, 2020, p. 755), using token holders' decisions via blockchain technology, especially Ethereum (Lane et al., 2024, p. 6).

These organizations are described as independent because they work on their own, while they are decentralized because they cannot be managed or decisions made by one person but by a group of people.

Decentralized autonomous organizations are a governance structure based on distributed ledger technology that can be used by any for-profit or non-profit organization (Möslein, 2021). The European Central Bank has defined them as “virtual organizations built on and powered by code and blockchain technology.” The United States Treasury Department has also defined them as “a governance system that operates according to a set of transparent, encoded rules or smart contracts” (United Nations, 2024, p. 18).

The Marshall Islands Decentralized Autonomous Organization Act of 2022 defines a resident domestic limited liability company whose certificate of incorporation or limited liability company agreement contains a statement expressly stating in the certificate of incorporation or limited liability company agreement, if applicable, that the company is a decentralized autonomous organization.

In jurisprudence, a decentralized autonomous organization is defined as a local organization on the Internet that is coordinated and managed by anonymous community members through a network of blockchain-based digital assets and smart contracts as a form of team production (Lane et al., 2024, p. 7).

These organizations can be created in two distinct ways: The first is to embed decision-making capabilities into the organization’s smart contract code, where no one can directly influence its operations.

The second way is to create the organization through the coordinated assembly of multiple smart contracts, making its capabilities much greater than the sum of its parts (Blaszczyk, 2024, p. 113), where decisions are made among all members, and the parties to the contract are immediately notified of the final outcome (Brunson, 2023, p. 614).

So these autonomous organizations can be said to be a type of decentralized application that incentivizes its users to engage in activity that furthers its agreed-upon business goals by enabling them to work together without requiring them to trust each other.

2-1-2-2-2- Distinguishing decentralized autonomous organizations from traditional business structures:

Traditional LLC structures are based on centralized organizations with hierarchical relationships among partners, the company’s directors, the company’s executive management,

and employees (United Nations, 2024, p. 19). Authority, responsibility, and control flow downward from the directors (the partners, via the supervisory board) to the agents (the company's management), while accountability flows in the opposite direction. This devolved structure creates the risk of opportunistic behavior on the part of the company's executive management. This problem is exacerbated by information asymmetries and coordination problems among partners.

Corporate governance experts have proposed a wide variety of mechanisms to mitigate agency problems, using emerging technologies such as blockchain that can provide new solutions to this classic problem via a peer-to-peer network (Lafarre et al., 2023, p. 7). Thus, decentralized autonomous organizations are global digital organizations that are not tied to geographic locations or jurisdictions but rather seek to expand across the world, connecting thousands—if not tens or hundreds of thousands—of members regardless of their geographic location, background, or faith (Wright, 2021, p. 152).

The initial source of financing is often equity capital from the founding partners and members of the LLC, which often covers the start-up costs of establishing the company as well as an equity stake in it.

This is why DAOs do not have a CEO who can spend at will, nor a CFO who can manipulate the books. Rather, members are on equal footing, at least in terms of access to and access to material information about how the DAO operates (Marco, 2022-2023, p. 16). They also avoid the headaches that many companies have suffered. Conversely, DAOs are public: once all data is stored on the blockchain, organizations no longer need to manually update their procedures or notify shareholders of every new transaction (Benzbir et al., 2024, p. 16), and no member of the network can manipulate the rules of the organization or individual transactions themselves.

DAOs also typically leverage blockchain technology to implement governance within them, a process that can involve using any number of open source tools and decentralized applications that have pre-defined organizational structures or protocols that are customizable through governance tokens on the Web3 infrastructure.

In traditional hierarchical firms, partners rely on appointed managers. However, these managers may sometimes prioritize their own interests over those of shareholders, leading to

increased agency costs. Technology could have the potential to address this agency problem and its associated costs. For example, if smart contracts were used to facilitate an agency relationship between partners and managers within a blockchain network, thereby bypassing traditional corporate governance mechanisms (Lafarre et al., 2023, p. 180).

This is why DAOs have decentralized decision-making processes compared to traditional corporations. However, there is a clear focus on more democratic and decentralized decision-making. DAOs are not run by boards or managers, but rather aim to be governed by highly democratic or participatory processes or algorithms (Wright, 2021, p. 152). Blockchain networks are increasingly integrated into polycentric governance structures—that is, where there are multiple decision-making centers within a comprehensive set of rules.

2-2-Legal regulation of blockchain-based limited liability companies and their challenges

The rise of blockchain technology in the field of commercial companies resulted in varying effects on the legal regulation process, especially the issue of legal recognition of the regulation of limited liability companies based on this technology in light of the challenges they face. Accordingly, we divide this topic into two requirements: In the first, we discuss the legal recognition of these newly established companies, and in the second, we present their advantages and the challenges they face.

2-2-1-Legal recognition of limited liability companies based on blockchain technology:

Legal recognition of blockchain-based legal liability companies did not come all at once, but rather the limits of this recognition varied, which requires knowing the position of some countries on regulating these companies.

2-2-1-1- Limits of legal recognition of these companies:

By reviewing the laws regulating this type of company, we found that recognition of it is either direct or indirect.

2-2-1-1-1- Direct recognition:

The US state of Vermont explicitly recognized the regulation of blockchain-based limited liability companies as of July 1, 2018, under Subchapter (12) of Chapter (25) of the Limited Liability Companies Act of the Corporations, Partnerships and Associations Act No. (11) of the Vermont Laws. Vermont thus became the first US state - worldwide - to recognize the establishment of a limited liability company (Koster, 2020, p. 755), operating in part or in full on blockchain technology, as a distinct category of limited liability companies that can use blockchain technology in its governance.

In application of the above, a limited liability company organized under this law for the purpose of conducting a commercial business may use blockchain technology in a significant part of its commercial activities, and may even choose to rely on this technology in its articles of incorporation provided that the legal requirements contained in the law are met (Id. § 4172).

To be certified, the company must meet a number of legal requirements in its operating agreement, including: (1) providing a brief description of the project the company operates; (2) whether the blockchain technology underlying the company will be fully decentralized, partially decentralized, or a private ledger or database, including the extent of participants' access to information and read and write permissions with respect to the protocols (Id. § 4171(3)); (3) specifying whether the company has issued or intends to issue any virtual currency, and what function such virtual currency will play in the operation of the company; (4) voting procedures on the blockchain; (5) adopting protocols for responding to system security breaches or other unauthorized actions that affect the integrity of the blockchain technology underlying the company; (6) appointing the core developers, if any, of the protocols and a mechanism for modifying membership in such a group; (7) stating how a person may become a member of the company; and (8) defining the rights and obligations of each group of participants within the company (Id. § 4171(2)).), including the participants who are entitled to the rights and obligations of members and managers, (9) determining the scope and extent of the application of limited liability and agency authority to any participants or group of participants in the company, (10) adopting rules that incentivize the use of renewable energy by any mining pool operator, (11) determining whether the company intends to comply with any nationally or internationally recognized blockchain governance law in effect at the time (Id. § 4173(2)).

The company must have its fixed place of business in Vermont or conduct some or all of its business activities in Vermont, or both. In this case, a company that qualifies as a digital business entity will receive special tax exemptions (Id. § 4174).

A member or director of a corporation may transact business with the corporation in more than one capacity, including as a member, director, developer, node, miner, or participant therein, or as a trader and holder of currency for his or her own account and for the account of others, provided that the member or director complies with any applicable fiduciary duties. The activities of a member or director transacting business with the corporation in multiple capacities are not deemed to occur in this state solely because the corporation is organized in this state (Id. § 4175).

It is noted that voting procedures, which may include smart contracts executed on blockchain technology, must be adopted to address proposals submitted by directors, members, or other groups of participants in the company for upgrades or modifications to software systems or protocols or both, other proposed changes to the company's operating agreement, or any other matter relating to governance or activities within the company's purpose.

In order to achieve its governance, the company may adopt any reasonable algorithmic means to achieve the consensus process to verify the validity of records, as well as the requirements, transactions and procedures necessary to conduct operations, or make regulatory decisions regarding the blockchain technology used by the company. It may, in accordance with any procedure specified in Section 4173 of this Code, provide for the modification of this consensus process or its replacement with a new process that is consistent with the requirements of the Code and the provisions of corporate governance (Id. § 4176). Thus, it can be said that this form of governance does not rely on practical interaction, and that day-to-day operations are handled by algorithmic code that is implemented to reflect the wishes of the members of the limited liability company.

Interestingly, the Vermont Legislature states that “this subchapter does not exempt a blockchain-based LLC from any other judicial, statutory, or regulatory provision of Vermont or federal law, including federal and state securities laws. In the absence of such provision in this subchapter, the provisions of the Vermont Limited Liability Company Act shall apply” (Id. § 4177).

This raises the question of how traditional concepts such as fiduciary duties apply to organizations that are primarily autonomous. It seems that the framers of the law expected some human intervention in the management of the organization.

2-2-1-1-2- Indirect recognition:

Several US states have recently enacted similar legislation to apply blockchain technology to businesses, but on a broader scale, with Wyoming at the forefront. In addition to Tennessee's 2022 law and Utah's 2024 Decentralized Autonomous Organizations Act.

Similar to the Vermont law, on March 17, 2021, the Wyoming Senate passed the Decentralized Autonomous Organization Supplement, a bill that aims to clarify the legal status of a decentralized autonomous organization (Marco, 2022-2023, p. 40). The Decentralized Autonomous Organization Supplement (DAO) was subsequently enacted, which went into effect on July 1, 2021, and was amended in 2022, 2023 (WYO. STAT. ANN. § 17-31-101 (2021)).

Wyoming was the first state to allow DAOs to organize as limited liability companies (WYO. STAT. ANN. tit. 17, ch. 31 (West 2023)). To be registered as such (Id. § 17-31-104(a,c) (West 2022). 17-31-106(a)), its articles of incorporation or operating agreement must clearly state that the corporation is a DAO (Id. § 17-31-104(d)). Its registered name must include a wording or abbreviation indicating its status as a DAO, specifically "DAO," "LAO," or "DAO LLC." (Id. § 17-31-104(d)).

An LLC may be incorporated for any lawful purpose, regardless of whether it is for profit or not. The articles of association must also state how the organization is to be managed, and to what extent the LLC is managed by its members or algorithmically (Id. § 17-31-105(c)-(e)).

While the operating agreement may be a smart contract (Id. § 17-31-108), the DAO LLC must include a publicly available identifier for any smart contract used directly to manage, facilitate, or operate the organization (Id. § 17-31-106(b)).

It is worth noting that the responsibility for managing a decentralized autonomous organization lies solely with its members or members and any applicable smart contracts. Therefore, all smart contracts used by the organization must be capable of being updated, modified, or otherwise upgraded (Id. § 17-31-109).

If entirely new smart contracts are deployed, the company's articles of incorporation must be amended to include the new contract title. The law explicitly states that the purchase of the relevant digital assets, and voting tokens, is the default status for becoming a member of the LLC (§ 17-31-113(d)(i) (West 2022)).

Any person may form a decentralized, independent organization with one or more members by signing the required documents and delivering one original and one duplicate of the articles of incorporation to the appropriate registration authority. The person forming the organization need not be a member of the organization, but must always maintain a registered agent within the state (Id. § 17-31-105(a)-(b)).

Contrary to the Vermont law, which says nothing about the impact on members' fiduciary duties other than to indicate that the Vermont LLC Act (VT. STAT. ANN. tit. XI, § 4176 (2017)) applies, Wyoming law does mention fiduciary duties (§ 17-31-110 (2021)). It explicitly states that no member of a decentralized autonomous organization may be subject to any fiduciary duties toward the organization or any member, except to the extent that members are subject to what is called an implied contractual covenant of good faith and fair dealing, unless otherwise provided in the organization's articles of incorporation or operating agreement (Id. § 17-31-110 (2021)).

In terms of voting, membership interests in a DAO are calculated by dividing a member's contribution of digital assets to the organization by the total amount of digital assets they have contributed to the organization at the time of voting. If all members have not contributed digital assets to an organization as a prerequisite to becoming a member, each member must have one membership interest and be entitled to one vote, unless otherwise stated in the articles of incorporation, smart contract, or operating agreement.

No member may withdraw from any DAO except in accordance with the terms set forth in the Articles of Association, Smart Contracts, or Operating Agreement. No member may dissolve the organization for failure to return the members' capital contributions. In all cases, a withdrawing member loses all membership interests in the organization, including any governance or economic rights.

However, if the articles of incorporation, operating agreement, and smart contracts of a DAO do not specify how a person can become a member of the organization, a person is

considered a member if he or she purchases or otherwise assumes ownership of a membership share or other property that gives him or her voting or economic rights within the DAO.

If a person withdraws from membership in the organization, he shall cease to be a member thereof if he transfers, sells, or assigns all membership interests or other property giving him voting or economic rights within the decentralized autonomous organization and retains no other property right therein (Id. § 17-31-113).

Finally, an independent LLC, unlike a traditional LLC, is often dissolved by law if the organization fails to approve any proposals, fails to take any actions for one year, or ceases to be controlled by at least one natural person (Id. § 17-31-114(a) (2022)).

2-2-1-2- The position of some countries on the legal recognition of limited liability companies based on blockchain technology:

2-2-1-2- 1- English law:

The English legislator has organized several forms of commercial companies, including the Limited Liability Company in the current Companies Act of 2006 in Chapter (46) amended until 2025. A limited company is a “limited company” if the liability of its members is limited by its articles of association, whether limited by shares or limited by guarantee. If their liability is limited to the unpaid amount on the shares they hold, the company is “limited by shares”. However, if their liability is limited to the amount that the members have pledged to contribute to the company’s assets in the event of its liquidation, the company is “limited by guarantee” (Id. § 58).

In application of the above, English companies law does not specifically address the distinctive characteristics of blockchain-based limited liability companies that are managed by decentralized autonomous organizations, and blockchain-based projects frequently use the form of decentralized autonomous organizations.

Accordingly, the Law Commission produced a paper on decentralized autonomous organizations and explored current trends in the legal structures that some of these organizations are beginning to adopt (Fleming, 2024).

The Law Commission aims to try to define the legal status and responsibilities of participants in and management of limited liability companies. To this end, in 2022 the Commission launched a call for evidence and information from users and other experts on how

decentralized autonomous organizations should be characterised, and how the law of England and Wales might accommodate them now and in the future (Law Commission, 2022).

The end result was a working paper entitled “The Scope of decentralized autonomous organizations” published by the Law Commission in July 2024 which set out its initial considerations on these issues as follows:

The report found that decentralized autonomous organizations arose to some extent from a desire to operate outside traditional, heavily regulated, state-controlled environments. Most of these organizations do not operate in a fully autonomous or decentralized manner, as many deal with an off-chain environment, entering into contracts and holding assets on-chain and in the real world (off-chain). This is contrary to the claim by some that these organizations are merely code operating independently on the blockchain, rather than a business run by token holders. The committee noted that “under these circumstances, it is not possible to withdraw from national and international laws simply because of the creation of a new form of organization or because of the technology used to arrange it.”

The report found that the majority of these organizations are proactively adopting legal entities with separate legal personality. This process is sometimes known as “wrapping.” The panel recognized that incorporating some form of legal entity would help the project’s ability to conduct real-world transactions as well as allow DAO participants to benefit from the separate legal personality and limited liability that most corporate structures provide. The panel concluded that most of these organizations tend to opt for:

- a) pure DAOs with no specific legal structure.
- b) hybrid arrangements, meaning that they still use smart contract-based coordination and governance but with one or more separate legal forms or legal entities.
- c) digital legal entities, where the merged legal entity also adopts a distributed ledger or smart contract in its operations or governance.

3- Although some forms of legal structure close to that of DAOs are common, few DAOs choose to incorporate in England and Wales. The Law Commission has noted that the current legal structures available in England and Wales are inconsistent with or unsuitable for the operations and objectives of DAOs. These include difficulties relating to registration and transparency requirements, difficulties in complying with company law, anti-money

laundering and know your customer requirements where it is difficult to maintain member privacy, and the fluidity of DAO membership.

4- The Law Commission has concluded that:

a) There is no immediate need at this stage to develop a separate legal entity for DAOs in England and Wales. However, the Government should keep this issue under review.

b) There is no current case for providing different legal or regulatory treatment for DAOs (such as reduced disclosures or increased flexibility in management oversight).

c) The Commission considers that the most significant gap lies in the legal options available to non-profit DAOs in England and Wales, in particular the lack of an unincorporated non-profit association with limited liability and a separate legal personality (as is the common structure for DAOs in the USA).

d) A review of the Companies Act would be useful in identifying reforms that would make it easier for organisations to benefit from distributed ledger technology at the governance level.

e) The law of England and Wales already provides significant flexibility to accommodate new technologies with little or no legal intervention, with the Law Commission previously confirming that smart contracts are capable of forming legally enforceable contracts and that computer code can be written.

2-2-1-2- UAE Law:

The UAE legislator has organized several forms of commercial companies, including the limited liability company in the current Commercial Companies Law of 2021 in Articles 71-104. It defined it as a company in which the number of partners is not less than two and not more than fifty partners, and each of them is only liable to the extent of his share in the capital. It allowed a single natural or legal person to establish and own a limited liability company, and the owner of the company's capital is not liable for its obligations except to the extent of the capital stated in its articles of association.

In application of the above, the UAE Commercial Companies Law does not address the distinctive features of blockchain-based limited liability companies. Therefore, the formal acceptance of these companies is still in its infancy. It is well known that the independent and

decentralized nature of these companies, in contrast to the typical corporate entities as defined in the UAE Commercial Companies Law, thus raises concerns about their governance, liability and legal status. In addition, it is difficult to grant legal personality to these companies that do not have a physical location or central management.

In order to accommodate the decentralized design of these new companies while maintaining accountability and protecting stakeholders, it will be necessary to change existing laws or introduce new ones to recognize these companies as legal entities. The UAE will therefore need to carefully strike the right balance between promoting innovation and maintaining legal certainty when creating the regulatory structure for these companies. One possible strategy may be to create a special legal category for these companies that recognizes their special characteristics and serves as the basis for regulatory oversight.

There is a lot of interest in codification initiatives and legislative measures that can give these companies a solid legal basis as a result of the UAE's path towards legal recognition. The UAE government has adopted blockchain technology in implementing government transactions. To achieve the desired results, the country launched the UAE Blockchain Strategy 2021 and the Dubai Blockchain Strategy. The Dubai Future Foundation has established the Global Blockchain Council to explore and research current and future applications of blockchain and work to regulate digital transactions via blockchain technology platforms.

The legal frameworks in the UAE should take into account these companies due to their intrinsic connection to the larger digital asset ecosystem, especially with the issuance of Law No. (4) of 2022 regarding the regulation of virtual assets in the Emirate of Dubai. This has enabled the emirate to maintain its leading position as a global financial center that relies on innovation and effective regulation. The Dubai International Financial Centre (DIFC) is a free zone with regulatory independence, where the Dubai Financial Services Authority (DFSA) is responsible for regulating virtual assets in the DIFC. It has developed a special regulatory framework that includes the Investment Tokens System (2021) and the Cryptocurrency System (2022). This framework aims to achieve a balance between innovation, consumer protection, and strict regulatory compliance.

The Dubai Virtual Assets Law of 2022 also regulated virtual currencies and digital tokens. This resulted in the establishment of the Dubai Virtual Assets Regulatory Authority

(VARA), which aims to promote Dubai as a hub for virtual assets and regulate, supervise and monitor the activities of these assets.

Finally, it is fortunate that the Central Bank of the UAE has granted preliminary approval to AED Stablecoin to issue its own currency, AE Coin, under the Payment Token Services System Circular issued on June 7, 2024.

2-2-1-2- 3- Iraqi law:

The Iraqi legislator has organized several forms of commercial companies, including the limited liability company in the current Companies Law of 1997 under the name of the private limited company. It is worth noting that this law is in effect in the Kurdistan Region - Iraq pursuant to Law No. (28) of 2007, the Law of Enforcement of the Companies Law (Federal) No. (21) of 1997 in the Kurdistan Region - Iraq.

This company was defined as a company that consists of a number of natural or legal persons not less than two and not more than twenty-five persons, and these contribute to the company's shares, and bear responsibility for its debts at the nominal value of the shares they contributed (Article 6-Second of the aforementioned law amended in 2004, 2019). It also permitted the establishment of a limited liability company by a single owner, whether a natural person or a legal person. (Articles (4-2), (8-First) of the aforementioned law).

In application of the above, the Iraqi Companies Law did not address the distinctive characteristics of blockchain-based limited liability companies, especially since Iraq is witnessing a modest development in the digital transformation of payments due to local factors and challenges. Although some digital financial services such as banking applications and online payment services are available, the technical infrastructure is still in its development stages. In other words, one of the main challenges is the lack of digital infrastructure.

Another challenge facing fintech in Iraq is the regulatory environment. There is still a lot of uncertainty and confusion as fintech companies need clear and consistent regulations to operate effectively and attract investment.

It goes without saying that the Iraqi government is currently exploring the use of blockchain technology to improve transparency, reduce fraud and enhance the security of financial transactions. One of the most important blockchain projects in Iraq is the launch of FilsCoin, a digital currency backed by the Iraqi dinar.

2-2-2-Advantages and Challenges of Blockchain-Based Limited Liability Company

2-2-2-1 Advantages of Blockchain-Based Limited Liability Company

2-2-2-1 -1- Legal Clarity and Recognition:

By providing a clear legal framework for blockchain-based LLCs, the legislation legitimizes these new entities, provides a simplified model for their creation and operation that can potentially reduce overhead costs (Akter, 2024, p. 6), and gives potential companies the confidence to establish their operations in a country where such confidence is absent or uncertain. These companies are thus prepared to engage in business transactions or exchange data that they would not otherwise do without the involvement of an intermediary.

2-2-2-1 -2- Limited Liability and Privacy Protection:

These companies offer limited liability legal protection to their members, similar to traditional LLCs. This means that members are not personally liable for the company's debts or obligations.

Another major benefit of blockchain technology is its high level of security, as it is almost impossible to hack. As a result, blockchain as a technology integrated into limited liability companies can manage privacy issues better than traditional systems by anonymizing data and requiring permissions to limit access to it.

2-2-2-1 -3- Flexible governance:

The legislation allows these companies to create flexible governance structures. For example, they can leverage blockchain technology for voting and decision-making, allowing for decentralized and democratic governance.

Decentralized autonomous organizations that run LLCs also provide individual members with a greater sense of involvement and influence in their activities. Whereas traditional corporations rely on a small group of individuals to dictate decision-making, these corporations share decision-making equally among members to create a truly decentralized decision-making system.

2-2-2-1 -4- Encouraging innovation:

By legitimizing these companies, the state is encouraging innovation through the adoption of blockchain technology. This could lead to increased technological development and economic activity in the near future.

These companies often avoid complex legal procedures and use registration exemptions to address this. The members of the decentralized autonomous organizations that run these companies usually agree to manage decision-making through smart contracts, software, and code-based rules.

2-2-2-1 -5- Eliminating human error through the use of smart contracts:

Smart contracts ensure that company funds are not misused in ways that conflict with the intended purposes of the contract. Since they typically operate on an open-source blockchain, it becomes virtually impossible for any stakeholder or member to hide any fraudulent or illicit activities within the blockchain. Members and interested parties have unrestricted access to examine the company's transaction history at any given moment, fostering a culture of trust and transparency that is often absent in many traditional regulatory systems (Akter, 2024, p. 6).

2-2-2-2- Challenges of Blockchain-Based LLC

2-2-2-2-1- Technological complexity:

The use of blockchain technology adds a layer of complexity to the operation or auditing of limited liability companies based on it, especially in light of the lack of knowledge and skills required by auditors. For example, participants must understand blockchain technology, smart contracts, and digital currencies, which may prevent some from participating.

2-2-2-2-2- Application of trust:

Because blockchain technology and the LLCs based on it are relatively new and complex, gaining the trust of the public and potential participants can be difficult. Misunderstandings or misconceptions about the technology can affect the reputation and acceptance of such new companies. It will therefore be necessary to find a legal mechanism that imposes trust on the relevant members of the company, to the extent that human interaction is required. But apart from distinguishing between the rules applicable to partially and fully autonomous

organizations, it is necessary to engage in outlining the appropriate fiduciary duties of members (Conway, 2022, p. 142).

2-2-2-2-3- Security and environmental concerns:

Because blockchain-based LLCs rely heavily on this technology, they are vulnerable to potential security breaches, hacks, and cybersecurity breaches that have led to several high-profile disasters involving the theft of large sums of money from corporate coffers and member accounts, especially in the event of a group controlling the vast majority of computing power (51 percent attack) and the loss or theft of private digital wallet keys (Akter, 2024, p. 6).

These companies also face the risk of significant fluctuations in the value of the funds held in their vaults, due to the price instability associated with cryptocurrencies as well as coding flaws in the blockchain software they run on.

Finally, the extensive energy use and carbon emissions associated with these companies and the blockchain infrastructure that supports some of the DAOs they run have raised environmental concerns.

2-2-2-2-4- Regulatory uncertainty:

Although the legislation provides a framework for blockchain-based LLCs, there may be uncertainty about how these new types of organizations will interact with other areas of law, such as tax and securities regulation.

The question thus arises as to who will be held liable for violations of legal rights resulting from the actions of an independent entity? For example, who will be the defendant if a company's system is hacked, and individual assets are at stake? Will it be the members or managers of a limited liability company—if such organizations are structured as such—or the software developers who created the blockchain technology? Or some combination of the two? The less human interaction there is in these business entities, the more difficult it will be to determine where liability lies when legal disputes arise, unless some form of strict liability is desired (Conway, 2022, p. 142-143).

2-2-2-2-5- Privacy issues and enforcement of judicial rulings:

Although a public smart contract always expresses transparency, which is generally considered a positive aspect, the laws related to regulating these companies always require that they disclose their smart contract address in the platform provided upon registration. This makes the smart contract available to the public, which may raise privacy concerns.

Another problem could arise when a blockchain-based LLC has to enforce a judgment. If a judgment is entered against the company, accessing the entity's resources would require the assets to be aggregated across the various blocks in the network. The assets are not stored in a central bank account but instead are in ledgers stored on multiple computers around the world.

On the other hand, members may not be willing to use the entity's assets to enforce a judgment, and thus individual member liability may arise. But in general, the decentralized autonomous organizations that run these companies have historically supported compensation for user losses due to judgments, as long as they have the assets to cover these costs and the organization's members are inclined to release the funds (Conway, 2022, p. 144).

3- Conclusion:

Since the late 2000s, blockchain has emerged as a disruptive technology that is primarily implemented in the financial services market. Limited liability companies have sought to leverage blockchain technology alongside core business standards to avoid the need for trusted intermediaries in business structure and functions.

The study raises the question of the feasibility and suitability of blockchain-based limited liability companies, especially in light of the challenges and uncertainties that remain regarding their legal status, complex governance structures, and liability characteristics. The practical implementation of these companies has revealed elements of centralization and the presence of agents despite the widespread talk about decentralization of decision-making and ownership.

Therefore, this study came to confirm that limited liability companies based on blockchain technology are a new form of commercial companies and were not just a false idea confined to a narrow scope, but rather that future developments will produce new commercial structures based on artificial intelligence technologies. We reached this as a result of dividing the study into two sections: In the first, we discussed the nature of the limited liability company

based on blockchain technology, and in the second, the legal organization of these new companies and their challenges.

The researcher reached a set of results and recommendations in this regard:

3-1- Results:

A blockchain-based limited liability company is a new type of social structure mediated by technology to record, process and store financial transactions, where smart contracts that operate on the blockchain protocol are developed, used and controlled by its participants.

Blockchain technology and smart contracts, operating within a decentralized peer-to-peer network, offer a unique opportunity to accelerate the creation of commercial companies. They go beyond simply reducing the agency costs of empowered boards; they can fundamentally redesign corporate governance by removing agents and hierarchical structures, and eliminating human error.

Countries can resolve many of the legal issues that arise from using traditional business structures by enacting a blockchain-based LLC legal regime that provides legal clarity in flexible governance and operation of these new entities in order to encourage innovation, protect privacy, and limit liability.

This innovative strategy will position the UAE and Kurdistan Region of Iraq as a hub for blockchain technology advancement and a leader in the global digital revolution, stimulating innovation in the digital economy, increasing investment in blockchain technology and creating new job opportunities.

Blockchain-based entities are undoubtedly the inevitable future of business, and countries must continue on the path to final legislation.

The decentralized autonomous organizations that run these new companies have the potential to transform traditional business structures in both the private and public sectors into new commercial structures.

3-2- Recommendations:

In light of the results of the study, the researcher calls upon the UAE and Iraqi legislators to:

Addressing the competent legislative authorities to start taking the necessary legislative measures in the near future to amend some provisions of the UAE and Iraqi Commercial Companies Law in order to accommodate Blockchain technology in the field of commercial companies, by creating new legal frameworks that recognize limited liability companies based on Blockchain technology.

Guided by legislation that has already been enacted to regulate blockchain-based LLCs, such as the Vermont Act of 2018, the Wyoming Decentralized Autonomous Organizations Act of 2021, the Tennessee Act of 2022, the Utah Act of 2024, and the Marshall Islands Act of 2022.

Expanding the jurisprudential writings and comparative research that address and track developments related to the legal recognition of blockchain-based limited liability companies and their legal regulation on the global stage.

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الملخص:

إذا كانت الشركات ذات المسؤولية المحدودة قد انتشرت على نطاق واسع في تسعينيات القرن العشرين، فإن الشركات ذات المسؤولية المحدودة القائمة على تقنية البلوك تشين قد شهدت نمواً هائلاً في العامين الماضيين بفعل العولمة الرقمية. وتتبنى هذه الشركات المنظمات المستقلة اللامركزية، والمعروفة اختصاراً بـ DAO، والتي تعمل على منصة blockchain من خلال العقود الذكية ولا مركزية السيطرة.

وبالرغم من المزايا العديدة لهذه الشركات إلا أنها تواجه العديد من التحديات القانونية والمخاطر التنظيمية. ومما يزيد من أهمية هذه الدراسة أن قوانين الشركات التجارية في دول العراق (إقليم كردستان)، الإمارات العربية المتحدة، لا تشمل البتة على قواعد تنظيمية في هذا الشأن، مما يثار معه التساؤل حول ماهية هذه الشركات المستحدثة؟ وما أوجه التشابه والإختلاف بينها وبين الشركات التقليدية؟ وما أحكامها القانونية؟ وهل ينبغي اعتمادها داخل المنظومة التشريعية أم لا؟ وبعبارة أخرى هل المنظمات اللامركزية المستقلة التي تنتمي لهذه الشركات قادرة على إزاحة الهياكل التنظيمية التقليدية؟ وسوف نبرز في هذه الدراسة إلى أي مدى يمكن اعتبار الشركات ذات المسؤولية المحدودة القائمة على تقنية البلوك تشين شكلاً جديداً من أشكال الشركات التجارية أم أن الأمر لا يتعدى مجرد كونها فكرة زائفة محصورة في نطاق ضيق .

كلمات دالة: الشركات – المسؤولية المحدودة – البلوك تشين – العقود الذكية – المنظمات المستقلة - اللامركزية.

پوخته:

ئەگەر کۆمپانیایەکی بەرپرسیاریتی سنووردار لە سێلانی ئەمەدەکاندا بەربلۆ بوون، کۆمپانیایەکی بەرپرسیاریتی سنووردار لەسەر بنەمای بلۆکچەین لە دوو سالی رابردوودا گەشەیهکی گەرمیان بەخۆیوە بینیوە بەهۆی جیهانگیری دیجیتالییەوه.

ئەم کۆمپانیایانە ریکخراوە سەر بەخۆکەنی لامەركەزی و مەركەز، کە بە DAO ناسراون، کە لەسەر پلاتفۆرمی بلۆکچەین لە رینگە گریبەستی زیرەک و لامەركەزی کۆنترۆلکردنەوه کار دەکەن.

سەرەرای سوو دە زۆرمەکانی ئەم کۆمپانیایانە، بەلام پروو بەرووی چەندین تەحەدای یاسایی و مەترسی ریکخراوەیی دەبنەوه. ئەوەی گرنگی ئەم تویژینەمە زیاتر دەکات ئەوەیە کە یاساکانی کۆمپانیا بازەرگانییەکان لە ولاتانی عێراق (هەرمی کوردستان) و ئیماراتی یەكگرتووی عەرەبی هیچ رێسایەکی ریکخراوەیی لەم پروووە ناگرێتەوه، ئەمەش پرسبارێک دەورژێنێت کە ئەم کۆمپانیا تازە دروستکراوانە چین؟ لێکچوون و جیاوازی نێوان ئەو و کۆمپانیا تەقلیدیەکان چین؟ بڕگە یاساییەکانی چین؟ ئایا پێویستە لەناو سیستەمی یاسادانان پەسەند بکەیت یان نا؟ بە واتایەکی تر ئایا ئەو ریکخراوە لامەركەزییە ئۆتۆنۆمانەیی کە سەر بەم کۆمپانیایانە، توانای ئاواوەکردنی پێکەتە تەقلیدیە ریکخراوەییەکانیان هەیە؟

لەم لیكۆلنەوهیەدا، ئێمه تیشك دهخهینه سهڕ ئهوهی كه تا چه‌ند كۆمپانیایه‌كانی به‌رپرسیاریتی سنوورداری له‌سه‌ر بنه‌مای بلۆكه‌چین ده‌توانرێت به‌ فورمیکی نویی كۆمپانیا بازركانییه‌كان هه‌ژمار بكرین یان ئایا ته‌نها بیروكهییه‌کی درۆیه كه له مه‌ودایه‌کی ته‌سكدا قه‌تیس كراوه.

وشه‌ی سه‌ره‌گی: كۆمپانیایه‌كان – به‌رپرسیاریتی سنوورداری – بلۆكه‌چین – گرتیه‌سته زیرمه‌كه‌كان – پێكه‌راوه سه‌ربه‌خۆكان – لاهه‌ركه‌زی.