

Reform Regulations And Responsibilities Of Beneficial Ownership In Limited Companies In Connection With The Crime Of Money Laundering

Dhimas Saputra¹, Handoyo Prasetyo², Slamet Tri Wahyudi³

^{1,2,3} Fakultas Hukum, Universitas Pembangunan Nasional "Veteran" Jakarta, Jakarta, Indonesia
E-mail: deemsaja@gmail.com , handoyoprasetyo@upnvi.ac.id

Abstract

In this case, a Limited Liability Company (LLC) can be used to conceal beneficial ownership, which can be a method to cover up money laundering activities. This research aims to explore the role of beneficial ownership in limited liability companies. The research methodology is juridical-normative, employing statutory and conceptual approaches. Secondary data obtained from literature studies is utilized. The position of the beneficial owner (BO) in a limited liability company is not yet specifically regulated within the Indonesian national legal framework. Presidential Regulation Number 13 of 2018 regarding the Implementation of the Principle of Recognizing the Beneficial Owners of Corporations in the Context of Preventing and Eradicating Money Laundering and Terrorism Financing Crimes introduces the definition of a BO as an individual who is the ultimate beneficiary or holds the highest level of authority with complete control over the company. The BO's position in the company is based on their rights as outlined in Article 4 Paragraph (1) of Presidential Regulation Number 13 of 2018, which equates them to a Major Shareholder. A BO holds shares, voting rights, and profit rights exceeding 25%, which surpasses the minimum shareholding requirement for major shareholders of at least 20% in the company.

Keywords: Beneficial Ownership, Companies, Money Laundering

1. Introduction

As a country based on the rule of law, Indonesia emphasizes that all activities carried out within its territory must comply with applicable legal provisions. Violations of this law will be subject to sanctions regulated in the state legal system as a form of law enforcement (Nasution, 2013). Sri Endah Wahyuningsih revealed that the rule of law is a state that optimally implements law enforcement respects human rights, and guarantees equality for all citizens in applicable law and government, without exception. Therefore, law enforcement is one measure of the success of the rule of law. Law enforcement aims to realize justice for every individual and Indonesian citizen (Wahyuningsih, 2015). Indonesia has carried out many technological reforms and developments in various fields. As an inevitable consequence, law has a vital role in the life of the nation and state. In the context of the rule of law, some principles are closely related to the concept of a welfare state, where certain aspects emphasize the protection of human rights, the legality of government and state institutions, law enforcement, and most importantly, all policies in the life administration. The state must be based on applicable law.

Julius Sthal introduced the concept of the rule of law known as "rechstaat," which encompasses the protection of human rights, the separation of powers, governance based on law, and administrative justice (Asshiddiqie, 2005). These concepts broadly reflect the characteristics of the modern rule of law. If any of these legal principles are not upheld, the rule of law cannot function effectively. Presently, crimes in Indonesia are on the rise and are being committed by various parties and legal entities, extending beyond national borders and involving other countries. Legal developments aim to regulate behaviors, preserve traditions, and align with international legal advancements and those within Indonesia (Rahayu, 2005). According to the ideals of the Indonesian nation as embodied in Pancasila and the 1945 Constitution, economic development is a tangible effort towards achieving a just and prosperous society. Currently, the Indonesian business world is experiencing very complex developments. Therefore, there is a high probability that problems arising from the growth of existing businesses will arise. In the context of international business, corporate beneficial

ownership, known as beneficial ownership (BO), is one of the problems that may arise in the business world (Ali, 2010).

English Trust Law first used the term "beneficial owner." It is not necessary to have a legal title recognizing ownership; a person who qualifies as an owner can be considered a beneficial Owner. Because it generally occurs in countries with a standard legal system, this concept is not known in countries with a civil law legal system, including Indonesia. The Financial Action Task Force (FATF) recommendations regulate the concept of Beneficial Owners (BO) worldwide. FATF defines BO as the person who ultimately owns or controls the customer and carries out transactions on his behalf. This also includes those with ultimate authority over legal entities or institutions. Expert opinions vary regarding the concept of Beneficial Owner. Vogel states that Beneficial Owners are individuals or groups who have the right or power to control the use of other people's capital or wealth and make decisions regarding the management of the results or profits from that capital or wealth. Beneficial Owner is also known as a type of ownership that is not only legally registered as the Owner but also has the authority to make decisions regarding the management of the assets it owns (Meyer, 2010). However, according to Olivier, Libin, Weeghel, and Toit, Beneficial Owners also have implications in the context of facilities for reducing tax rates on royalties, dividends, and interest provided to tax subjects under certain conditions. In this case, the beneficial Owner is an element that must be considered in providing these facilities.

Share ownership in a company can be exercised directly by shareholders and through nominees. A nominee is an individual specifically appointed to act on behalf of the person who appointed him (beneficiary) in carrying out specific legal actions. Nominees can be appointed for various legal actions, such as becoming property or land owners, directors, proxies, shareholders, etc. However, problems arise in share ownership whose owners have yet to be explicitly regulated in Law Number 40 of 2007 concerning Limited Liability Companies (UUPT), namely as beneficial owners or beneficial ownership (BO). BO is often hidden in the company's complex ownership structure, making legal tracking challenging. This can cause obstacles, especially difficulties in determining responsibility for handling money laundering crimes committed by BO. Apart from that, it is essential to be open about BO in the company, considering that there is a difference between the definition of a company representative and the definition of BO, which is different in practice.

In 2014, the "Guidance on Transparency and Beneficial Ownership" was published to regulate beneficial ownership (BO). Corporate vehicles like companies, trusts, foundations, partnerships, and other legal entities are often used for various business activities. This guidance, issued by the Financial Action Task Force (FATF), sets standards and guidelines for countries to regulate and ensure transparency of information regarding beneficial owners. The guidelines highlight that the lack of adequate, accurate, and quickly accessible information on beneficial owners can be exploited by criminals to conceal several things: (1) the identity of the perpetrators; (2) the true purpose behind opening an account in the name of a corporate entity used for money laundering; and (3) the source and intended use of assets suspected to originate from criminal activities within the corporate entity (Eleanora, 2011).

In this context, vigorous law enforcement is needed for criminal offenses involving profit owners in Indonesia. The economic benefits of an entity or company are referred to as lucky owners. Determining and identifying beneficial owners is a complex challenge. This is usually caused by an attempt to hide actual ownership to avoid legal liability. In addition, prosecuting offenses involving beneficial owners also faces legal, procedural, and practical challenges, which can make law enforcement less effective. In these circumstances, a thorough evaluation of the identification and prosecution system is essential to identify existing weaknesses, uncover problems, and suggest improvements that can increase the effectiveness of law enforcement related to criminal offenses involving beneficial owners. By increasing the accuracy of the identification system and improving the prosecution process, law enforcement is hoped to become more effective (Harahap, 2013).

The problem that will be studied in this research is how the role of beneficial ownership in Limited Liability Companies is regulated. This research aims to determine the role of beneficial ownership in limited liability companies. The theory used as an analytical tool in this research is law enforcement theory.

2. Method

The author's research falls into the category of doctrinal research, which is often referred to in Indonesia as a normative research method. Doctrinal legal research is law research that is developed and conceptualized based on the doctrine adhered to by its conceptualizers and developers. The data sources for this research include both secondary and primary data. The secondary data comprises three sources of legal material: primary legal materials, secondary legal materials, and tertiary legal materials. The data analysis method used is qualitative descriptive analysis, which involves describing the obtained data in clear and accurate sentences. This analysis utilizes both inductive and deductive reasoning approaches. A deductive approach is applied to draw conclusions from general data to specific data, while an inductive approach is used to derive conclusions from specific data to general data. After analyzing the data individually, the results are systematically organized to address the identified problems.

3. Results and Discussion

In 1977, the concept of Beneficial Owner (BO) was introduced in the OECD (Organization for Economic Cooperation and Development) Model Tax Convention in paragraph (12). This paragraph clarifies that a reduction in the tax rate in the source country cannot be granted if there is an intermediary, such as an agent or nominee, involved in dividend, interest, or royalty payment transactions unless the BO is a resident of the other country in the agreement. However, the commentary on Article 10 (dividends) of the 1977 OECD Model Tax Convention emphasizes that the term beneficial owner does not include agents or nominees. It states explicitly that tax rate reduction facilities in the source country cannot be provided if intermediaries, such as agents or nominees, in dividend, interest, and royalty payment transactions unless the BO is a resident of another country in the agreement (Hartomo, 2010). In 1986, the OECD again discussed BO in its committee on Fiscal Affairs "Double Taxation Convention and the Use of Channel Companies." The OECD emphasizes that conduit companies are excluded from the BO concept because they act as intermediary companies that hold assets or rights as agents or nominees. This opens the possibility of providing tax agreement facilities to parties who should not qualify as BO.

Regarding granting authority to form agreements or take over obligations, which only serve as an administrative or fiduciary function for the parent company, this party only has minimal authority from the actual owner. Then, in further developments in 2001, the OECD MTC issued a report entitled "Behind the Corporate Veil: Using Corporate Entities for Illicit Purposes." In this report, BO is defined as the party that receives benefits from a transaction (Oguttu, 2007).

In the tax sector, it is important to assess who the actual beneficiary is (Beneficial Owner); for example, in a company, the owner is defined as a shareholder or member, but in a partnership, the associate or partner holds the interest. In 2002, the OECD Model Tax Convention (OECD MTC) emphasized that the definition of BO should not be interpreted narrowly technically but must be adapted to the context and take into account the purpose of establishing the tax treaty in question, including efforts to prevent double taxation as well as tax avoidance and evasion. The understanding of Beneficial Owners (BO) within the OECD framework is regulated in Article 10, paragraph 12.4. This article explains that nominees, agents, or conduit companies are not considered BO because the income recipient cannot use or utilize the income they receive. Apart from that, it is explained in more detail that BO is a person or entity who can use and operate the income he receives according to his own decisions, without any contractual constraints or legal obligations to pass on the income to other parties. In 2014, there was an update in the BO concept at the OECD when the OECD

Council accepted BO by proposing changes to Commentary Articles 10, 11, and 12. These changes include "limited rights," where the BO requirements are deemed met if there are no binding contractual obligations.

At the High-Level Conference (Summit) in Brisbane in November 2014, the countries that are members of the G20 Group adopted the High-Level Principles regarding Beneficial Ownership Transparency. These principles describe financial transparency as an issue of "high priority." These principles are based on the recommendations of the Financial Action Task Force (FATF), which set the current global standards for preventing money laundering. Since 2003, the issue of beneficial ownership has been a significant concern and particularly emphasized the importance of "competent authorities" having Access to beneficial ownership (BO) information for investigation and prosecution (Hatchard, 2018). According to the definition provided by the FATF, a "beneficial owner" is the natural person who ultimately owns or controls a customer and the natural person on whose behalf a transaction is conducted. This definition also encompasses individuals who exert ultimate effective control over a legal entity or arrangement.

There are ten principles covering the following elements:

- a. Definition of the beneficial owner;
- b. Risk assessment relating to legal and regulatory entities;
- c. Beneficial ownership information of the legal entity;
- d. Access to beneficial ownership information of legal entities;
- e. Beneficial Ownership information from the trust;
- f. Access to beneficial ownership information about the trust;
- g. Roles and responsibilities of financial institutions, businesses, and professions;
- h. Domestic and international cooperation;
- i. Information on beneficial ownership and tax evasion
- j. Shareholders and nominees.

In 2014, guidelines were issued to regulate transparency and beneficial ownership. This guide refers to the fact that various legal entities such as corporations, trusts, foundations, partnerships, and different types of individuals and legal entities are involved in multiple business activities. FATF provides guidelines and standards to guide countries in regulating Legal Arrangements and Beneficial Ownership. However, in the context of the global economy, this action is often misused for activities such as money laundering, corruption, tax evasion, insider transactions, and terrorist financing. Corporate Vehicles or corporate legal entities are a means that is often used to hide and convert the proceeds of criminal activity into the financial system. Abuse of Corporate Vehicles can be reduced by providing information about the legal and actual owners and the source of the assets owned by these Corporate Vehicles to the authorities. Information regarding Legal Owners and Beneficial Ownership benefits law enforcement and other authorities. With this information, authorities can identify people responsible for unlawful activities or as essential sources of information for investigative purposes (Silva, 2017).

Presidential Regulation Number 13 of 2018, titled "Application of the Principle of Recognizing the Beneficial Owners of Corporations in the Context of Preventing and Eradicating Crimes of Money Laundering and Terrorism Financing Crimes" (abbreviated to Presidential Decree Number 13 of 2018), has been enacted as part of legal reforms aimed at bolstering measures to prevent and eradicate money laundering and terrorist financing crimes in Indonesia. This regulation mandates that every corporation must identify the beneficial owner, defined as at least one individual who meets specific criteria based on the corporation's form. Article 1 Paragraph (2) clarifies that a Beneficial Owner is an individual who can appoint or dismiss the directors, board of commissioners, administrators, supervisors, or other officials of the corporation, can control the corporation, and holds rights over and benefits from the corporation. This includes direct or indirect ownership of corporate funds or shares, as specified in the Presidential Regulation. According to the regulation, a corporation is defined as an organized association of people and assets, either as a legal entity or non-legal entity, including limited liability companies, foundations, associations,

cooperatives, limited partnerships, firm associations, and other corporate forms. Every corporation must identify at least one individual as the beneficial owner, who meets the criteria specified for the corporate form, as stated in Article 3 Paragraph (2). The requirements for beneficial owners in a company that has been categorized in Article 4 are:

- 1) The beneficial owner of a Limited Liability Company is an individual who meets the following criteria:
 - a. own shares of more than 25% (twenty-five percent) in a limited liability company as stated in the articles of association;
 - b. has voting rights of more than 25% (twenty-five percent) in a limited liability company as stated in the articles of association;
 - c. receive profits or more than 25% (twenty-five percent) of the profits or earnings obtained by the Limited Liability Company per year;
 - d. has the authority to appoint, replace, or dismiss members of the Board of Directors and members of the Board of Commissioners;
 - e. has the authority or power to influence or control a Limited Liability Company without having to obtain authorization from any party;
 - f. receive benefits from a limited liability company and
 - g. is the actual owner of the funds for ownership of Limited Liability Company shares.
- 2) An individual who meets the criteria as intended in paragraph (1) letters e, letter f, and letter g is an individual who does not meet the criteria as intended in paragraph (1) letters a, letter b, letter c, and letter d.

The Corporation determines the beneficial owners of the Corporation based on the information contained in the articles of association and deed of establishment of the Corporation, the corporation establishment agreement document, the decision document of the general meeting of shareholders, the decision document of the foundation organ meeting, the decision document of the management meeting, or the decision document of the members' meeting. This information can also be obtained from agencies that have relevant authority. The principle of corporations recognizing beneficial owners involves identifying and verifying beneficial owners. This information includes collecting the complete identity of the beneficial owner, such as a population identity number, driving license, or passport. If the beneficial owner is a foreign national, the address in their country of origin must also be recorded. Apart from that, the NPWP number (Taxpayer Identification Number) or similar tax identity number and the relationship between the Corporation and the beneficial owner must also be collected (Tjono, 2013).

In Article 18 Paragraph (3) of this Presidential Decree, the authorized parties are determined to convey information regarding the beneficial owners of corporations. These parties include, but are not limited to:

- a. founder or administrator of the Corporation;
- b. Notary Public or
- c. other parties authorized by the founder or management of the Corporation to convey information on the Beneficial Owners of the Corporation.

In addition to the Beneficial Owners that the corporation has determined, the Authorized Agency has the authority to determine additional Beneficial Owners. Authorized Agencies refer to government agencies at both central and regional levels that have authority in the registration, ratification, approval, notification, business licensing, or dissolution of corporations, as well as agencies responsible for supervision and regulation in the corporate business sector. Article 13 in this regulation explains that the Authorized Agency determines additional beneficial owners based on an assessment carried out by the Authorized Agency. This assessment is based on:

- a. results of audits of corporations carried out by Authorized Agencies based on this Presidential Regulation;

- b. information on government agencies or private institutions that manage data and information on Beneficial Owners and receive reports from certain professions that contain information on Beneficial Owners; and
- c. other information whose integrity can be confirmed.
Agencies that have this authority include:
 - a. Ministry which carries out government affairs in the legal sector for Limited Liability Companies, Foundations and Associations;
 - b. Ministry that organizes government affairs in the field of cooperatives and small and medium enterprises for cooperatives;
 - c. Ministry that organizes government affairs in the field of trade for limited partnerships, firm partnerships, and other forms of corporations; And
 - d. Institutions with the authority to supervise and regulate the corporate business sector.

Article 2 of Presidential Regulation Number 44 of 2015 concerning the Ministry of Law and Human Rights (Perpres Kemenkumham Number 44 of 2015) outlines the authority of the Ministry of Law and Human Rights regarding limited liability companies. This ministry is responsible for handling governmental affairs in law and human rights to support the President in governing the country. One of the functions of the Ministry of Law and Human Rights, as specified in Article 3 Letter A, includes the formulation, determination, and implementation of policies related to statutory regulations, general legal administration, corrections, immigration, intellectual property, and human rights. The principle of identifying the Beneficial Owners of a Corporation is applied when applying for the establishment, registration, ratification, approval, or business licensing of a corporation. This is regulated in Article 19 Paragraph (1) of this regulation, which stipulates that the introduction of Beneficial Owners is carried out through:

- a. submission of information on Beneficial Owners if the Corporation has determined the Beneficial Owners; or
- b. submission of a letter stating the Corporation's willingness to convey information on the Beneficial Owner to the competent authority if the Corporation still needs to determine the Beneficial Owner.

Corporations that still need to submit information regarding Beneficial Owners must determine and submit this information to the authorized agency within a maximum of 7 (seven) working days after the corporation obtains a business permit or registration certificate from the authorized agency or institution. Corporations must submit information or statements regarding Beneficial Owners through the Corporate Administration Services System. The principle of recognizing the beneficial owners of a corporation when the corporation carries out business or activities is regulated in Article 20 Paragraph (1). In this case, the corporation must submit any information changes regarding Beneficial Owners to the Authorized Agency through the Corporate Administration Services System. Submission of changes to the Beneficial Owner information by the corporation to the Authorized Agency must be carried out within a maximum of 3 (three) working days from the change in the Beneficial Owner information. Article 21 confirms that every corporation must update information regarding Beneficial Owners periodically every 1 (one) year.

Meanwhile, about corporate relationships, notaries or other parties who receive power of attorney from the corporation, by Article 22 Paragraph (1), must keep documents related to the Beneficial Owners of the corporation for at least 5 (five) years from the date of establishment or corporate approval. In a situation where the corporation experiences dissolution, the liquidator must keep documents related to the Beneficial Owners of the corporation for at least 5 (five) years from the corporation's dissolution date. The principle of recognizing Beneficial Owners by a corporation, carried out at the time of application for the establishment, registration, ratification, approval, or licensing of corporate business, as well as when the corporation carries out business or activities, is explained in Article 15 Paragraph (1). This principle includes the identification and verification of beneficiary owners. However, this regulation does not provide further

details regarding the imposition of sanctions on corporations. It is only stated in Article 24 that corporations that do not comply with the provisions described in Article 3, Article 14, and Articles 18 to Article 22 will be subject to sanctions by the requirements of the applicable laws and regulations.

The Financial Transaction Reports and Analysis Center (PPATK) categorizes Beneficial Owners (BO) as service users with the potential to be involved in money laundering crimes. The definition of BO in Article 1 Paragraph (7) states that BO is every individual who:

- a. is the actual owner of the funds placed with the Financial Services User or PJK (ultimately own account);
- b. controlling customer transactions;
- c. provide authority to carry out Transactions;
- d. controlling legal entities; and or
- e. is the final controller of transactions carried out through a legal entity or based on an agreement.

In terms of determining service users who have the potential to commit criminal acts of money laundering and terrorist financing, Article 4 explains that this is carried out by preparing categories of high-risk service users based on the following factors: a. profile; b. country; c. business; or d. products and or services. Article 1 Paragraph (8) of the Regulation of the Head of the Center for Financial Transaction Reports and Analysis (PPATK) Number: PER-02/1.02/PPATK/02/15, which is also known as Regulation of the Head of PPATK Number: PER-02/1.02/PPATK/02 /15, regulates categories of service users based on profile factors, including Politically Exposed Person (PEP). PEP refers to individuals who currently or previously had public power by the provisions stipulated in the applicable laws and regulations regarding state administrators. PEP also includes individuals who are or have been registered as members of political parties who influence the policies and operations of political parties, whether they have Indonesian or foreign citizenship.

Regarding PEP, the categories of state officials in Article 5 letter A paragraph (1) include: a) president and vice president; b) ministers, deputy ministers and ministerial level positions; c) members of the People's Consultative Assembly which includes members of the People's Representative Council and members of the Regional Representative Council; d) chief justices at the Supreme Court as well as judges at all judicial bodies; e) Constitutional Judge; f) members of the Judicial Commission; g) members of the Presidential Advisory Council; h) members of the Financial Audit Agency; i) members of the Board of Governors of Bank Indonesia; j) members of the Board of Commissioners of the Financial Services Authority; k) chairman of the Corruption Eradication Commission; l) the head of the Republic of Indonesia's representative office abroad who has the position of extraordinary ambassador and has full powers; m) governor and deputy governor; n) regent or mayor; o) deputy regent or deputy mayor; p) members of the Regional People's Representative Council or similar institutions in the region; and q) other state officials determined by law (Wijayanta, 2014).

Article 5, letter a of the regulation explains that entities related to Politically Exposed Persons (PEP) include the PEP's nuclear family, including family members up to the second degree. Apart from that, it also includes companies owned, managed, and controlled by PEP, as well as parties generally and publicly known to have close relationships with PEP. If prospective Service Users, Service Users, and Beneficial Owners (BO) fall into the profile category described in Article 5, they will immediately be classified as high-risk. They will also be included in a separate list, and an analysis will be carried out regarding the risk of money laundering and terrorist financing by Financial Services Providers (PJK). According to Article 12, transactions involving Service Users and BOs with a high-risk classification must be monitored at least once a year. This monitoring step must be taken to prevent criminal acts of money laundering and terrorist financing. The beneficial owner (BO) structure has been revealed in handling corruption

cases in Indonesia. One example is the money laundering criminal case involving Muhammad Nazarudin, a former member of the People's Representative Council (DPR) of the Republic of Indonesia. Nazarudin was charged with purchasing shares in various companies using money obtained from corruption. In this case, he used a company that is part of the Permai Group. Linkages with beneficial owners arise when a shareholder uses a nominee agreement within the company. This is often referred to as the company owner, who can control or control the company through his family. The existence of a beneficial owner can be recorded directly in the company's organizational structure, or it can also be recorded indirectly.

Using the Beneficial Owner (BO) scheme in corruption cases in Indonesia occurred in an E-KTP-based case involving Setya Novanto. This case was recorded in the South Jakarta District Court Decision Number 97/Pid.Prap/2017/PN.Jkt.Sel. The Corruption Eradication Commission (KPK) conducted an investigation and found that Setya Novanto was the beneficial owner of PT. Murakabi Sejahtera. In the E-KTP project, there is a conflict of interest because PT. Murakabi Sejahtera is the leader of the Murakabi Consortium and one of the bidders for the E-KTP project. In the E-KTP project, it was revealed that Deisti Astriani Tagor and Reza Herwindo, Setya Novanto's wife and son, had shared ownership of PT. Mondialindo Graha Perdana is the majority shareholder of PT. Murakabi Sejahtera, the company involved in the project. Deisti owns 50% of the shares, while Reza owns 30% of the shares in PT. Mondialindo Graha Perdana. This fact was revealed in a trial at the Corruption Crime Court (Tipikor) in 2017, where Deniarito, former Main Director of PT. Mondialindo Graha Perdana and PT. Murakabi Sejahtera gave testimony as a witness for the defendant Andi Agustinus alias Andi Narogong. Andi Narogong was charged with making a profit of US\$1,499 million and Rp. 1 billion in the project to procure electronic KTPs (KTP-e), which caused state financial losses of Rp. 2.3 trillion. Apart from that, Setya Novanto's daughter, Dwina Michaella, is listed as the Commissioner of PT. Murakabi Sejahtera. The tower is the PT office address. Murakabi Sejahtera is the same as PT. Mondialindo Graha Perdana, at Imperium Tower, 27th floor, Jalan HR Rasuna Said, Kuningan, South Jakarta. It should be noted that the majority of PT. Murakabi Sejahtera is owned by PT. Mondialindo Graha Perdana and the two share offices on a property owned by Setya Novanto. The total fee awarded reached US\$ 7.3 million. In these details, Setya Novanto received money from Made Oka Masagung, his relative, and Irvanto Hendra Pambudi, his nephew and former Director of PT. Murakabi Sejahtera. This company participated in the tender for the E-KTP project. The defendant and others involved committed criminal acts of corruption to benefit themselves. Setya Novanto abused his authority and position as Chairman of the DPR in procuring goods and services. As Chairman of the DPR, Novanto used his authority to ensure that the proposed budget for the electronic KTP implementation project worth IDR 5.9 trillion was approved by the DPR. Novanto is also known to have asked for a 5 percent commission from entrepreneurs involved in the electronic KTP project to reward members of the DPR RI in Commission II.

The impact of this action was very detrimental to the country with a significant amount, namely 2.3 trillion rupiah. Several officials received money from a businessman named Andi Agustinus, or Andi Narogong. In the Electronic KTP project, Andi's role was vital in ensuring that the budget of IDR 5.9 trillion was approved. Andi distributed money to the leadership and members of Commission II of the DPR and the Budget Agency to get approval for the budget amount. The Corruption Eradication Commission (KPK) stated that Andi and Novanto worked together in organizing this project, which ultimately caused state losses of IDR 2.3 trillion (Syahayani, 2017). In this transaction, Setya Novanto used a dollar barter scheme through a money changer carried out by PT. Biomorf in Mauritius, owned by businessman Johannes Marliem. This transaction involved Irvanto Hendra Pambudi, amounting to 3.5 million US dollars, and Made Oka, amounting to 1.8 million US dollars and another 2 million US dollars. The money was then given in cash through Setya Novanto's nephew, namely Irvanto Hendra Prambudi Cahyo.

4. Conclusions and Suggestions

Based on the results of the research and discussion, it can be concluded that the position of the beneficial owner (BO) in a limited liability company still needs to be specifically regulated in the national legal framework. Presidential Regulation Number 13 of 2018 concerning the Implementation of the Principle of Recognizing the Beneficial Owners of Corporations in the Context of Preventing and Eradicating Crimes of Money Laundering and Terrorism Financing Acts introduces the definition of BO as an individual who is the ultimate (final beneficiary) or holder of the highest level of authority who has complete control over the company. BO's position in the company is based on his rights as regulated in Article 4 Paragraph (1) of Presidential Decree Number 13 of 2018, which is equivalent to the Main Shareholder. BO has shares, voting rights, and rights to profits of more than 25%, which exceeds the share ownership limit of the main shareholder, who is at least 20% of the company. However, in the researcher's opinion, there is still a legal vacuum regarding the BO's firm position in the company. The researchers also provide suggestions related to the research that they have conducted, namely that the Government coordinates and integrates legal regulations about the disclosure of beneficiary owners (BO). The Government is increasing supervision over the transparency of shareholders who use other people's names (nominees). The Government takes a proactive approach to tackling money laundering by analyzing the company information it holds, identifying suspicious companies, and conducting investigations.

References

- Ali, Z. 2010. *Metode Penelitian Hukum*. Jakarta: Sinar Grafika
- Asshiddiqie, J. 2005. *Konstitusi dan Konstitusionalisme*. Jakarta: Konstitusi Press
- Eleanora, F.N. 2011. Tindak Pidana Pencucian Uang. *Jurnal Hukum*. 26 (2): 8
- Harahap, M. Y. 2013. *Hukum Perseroan Terbatas*. Jakarta: Sinar Grafika
- Hartomo. 2010. *Hukum Perseroan Terbatas*. Jakarta: Sinar Grafika
- Kiki Rezki Lestari et al. An Investigation Of The Effects Of wind Velocity On The Performance Of Turbines And Generators. *Majority Science Journal (MSJ)*. Vol. 2No. 1, February 2024
- Meyer, S. P. 2010. *The Meaning of Beneficial Ownership and The Use Thereof For tax Treaty Shopping and Tax Avoidance*. Greek: University of Pretoria
- Nasution, B.J. 2013. *Negara Hukum Dan Hak Asasi Manusia*. Bandung: Mandar Maju
- Oguttu, A.W. 2007. Curbing Treaty Shopping: The Beneficial Ownership Provision Analysed From A South Africa Perspektive. *The Comparative and International Law Journal of Southern Africa*. 40 (2): 239
- Rahayu, E.W.P. 2005. *Pranata Hukum Sebuah Telaah Sosiologis*. Semarang: PT. Suryandaru Utaman
- Resti Ariani et al. 2024. Comparison Of Sars-Cov Antibody Titer Levels Against Abo Blood Type, Age, And Gender In Convalescent Plasma Donations. *Majority Science Journal (MSJ)*. Vol. 2 No. 1, February 2024
- Silva, B.D. 2017. Evolution of the Beneficial Ownership Concept: More than Half of Century of Uncertainty and What History Can Tell Us. *Frontiers of Law in China*. 12 (4): 502
- Tjono, A., & Sadjiarto, R. A. 2013. Penentuan beneficial owner Untuk Mencegah Penyalahgunaan Perjanjian Penghindaran Pajak Berganda. *Jurnal Tax & Accounting Review*. 3
- Wahyuningsih, S.E. & Rismanto. 2015. Kebijakan Penegakan Hukum Pidana Terhadap Penanggulangan Money Laundering Dalam Rangka Pembaharuan Hukum Pidana Di Indonesia. *Jurnal Pembaharuan Hukum*. 11 (1): 46-47
- Wijayanta, T. 2014. Asas Kepastian Hukum, Keadilan, dan Kemanfaatan Dalam Kaitanya Dengan Putusan Kepailitan Pengadilan Niaga. *Jurnal Dinamika Hukum*. 14 (2): 219