Beneficial Ownership Transparency in Indonesia

Submitted by: Indonesia
BENEFICIAL OWNERSHIP TRANSPARENCY IN INDONESIA

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LEGAL BASIS

Presidential Regulation Number 13 Year 2018 regarding Implementation of Principle of Corporate Beneficiary Identification for Preventing and Eradicating Criminal Actions of Money Laundering and Terrorism Financing.

Ministry of Law and Human Rights Regulation Number 15 Year 2019 regarding Procedure on Implementation of Principle of Corporate Beneficiary Identification

Ministry of Law and Human Rights Regulation Number 21 of 2019 Procedure on Beneficiary Ownership Supervision

Ministry of Law and Human Rights Regulation Number 9 Year 2017 regarding Knows Your Customers Principle for Public Notary
Kind of Corporation(s)

- Limited Liability Company
- Foundation
- NGO
- Cooperation
- Firm
- Limited Partnership
- Civil Partnership
- *and other corporate form in the near future
Beneficial ownership qualification (GENERAL BENEFICIAL OWNERSHIP)

- **Beneficial ownership**
  - owns more than 25% (twenty five percent) shares in the limited liability company as contained in the articles of associations of the Corporation.

- **Beneficial ownership**
  - owns more than 25% (twenty five percent) voting right in the limited liability company as contained in the articles of associations of the Corporation.

- **Beneficial ownership**
  - receives more than 25% (twenty five percent) of the annual profit obtained by the Corporation.

- **Beneficial ownership**
  - is the actual owner of the share ownership fund of the limited liability company.
BENEFICIAL OWNERSHIP QUALIFICATION
(ULTIMATE BENEFICIAL OWNERSHIP)

- is entitled to appoint, replace, or terminate members of the board of directors, and members of the board of commissioners;
- is authorized or entitled to influence or control the limited liability company without any prior authorization from any party whatsoever;
- receive benefits from the Corporation.
INDONESIA’S MONEY LAUNDERING CASE(S) CONDUCTED BY CORPORATE’S ULTIMATE BENEFICIAL OWNERSHIP
KORPORASI SEBAGAI MEDIA PENCUCIAN UANG

Sindikat Narkotika Cuci Uang Rp 6,4 Triliun dengan Modus Ekspor-Impor

Penulis: Dinas Jarak Jauh
Editor: Yulawati
Rabu, 18 Desember 2016

Anggota sindikat narkotika mendirikan enak perusahaan fictif yang bergerak di bidang ekspor-impor untuk cuci uang hasil kejahatan senilai Rp 6,4 triliun.

Badan Narkotika Nasional (BNN) mengungkap tindakan pencucian uang (TPU) yang bersangkutan dengan kejahatan narkotika senilai Rp 6,4 triliun. Uang tersebut didapatkan dari hasil pengembangan kasus sindikat narkotika almarhum Freddy Budsman serta anak buahnya, Teguh, dan Haryanto Candra yang terlibat dalam perbuatan pidana.


KPK merencanakan Nazaruddin dengan Pasal 12 huruf a atau huruf b, subdisid Pasal 11 UU TTPU yakni Pasal 3 atau Pasal 4 j. Pasal 8 UU Narkotika 2010 j. Pasal 53 ayat 1 kecuali KPK.
MN case

In this case, MN was accused upon a corruption case in total amount Rp300,000,000,000, in exchange to Garuda Indonesia’s 29,937,500 shares. MN also hide his crime, by bought 8 companies by the name of his wife, Neneng Sri Wahyuni, and Permai Group’s subsidiaries
PT Putra Ramadhan, Korporasi Pertama yang Jadi Tersangka Pencucian Uang

Pertama Di Indonesia, Kejati Bengkulu Menangi Perkara Money Laundry

"HARI INI, SEKITAR PUKUL 14.00 WIB, ALHAMDULILLAH SUDAH DIGELAR SIDANG TPPU KORPORASI PT BBU DAN HAKIM MENGABULKAN TUNTUTAN KAMI. TERIMA KASIH PAK HAKIM KARENA SUDAH MENGERTI DAN MENDALAMI CAPEKNYA KERJA JAKSA DENGAN DITERIMANYA TUNTUTAN KAMI DAN TERBUKTI KORPORASINYA", UJAR HENRI YANG JUGA DIDAMPINGI KASI PENKUM DAN ASINTEL KEJATI, KAMIS (18/5/2017).

Pasal yang dibuktikan, yaitu Henti, adalah pasal 2 Undang-undang Nomor 51 Tahun 1999 sebagaimana telah disahkan dengan Undang-undang Nomor 20 Tahun 2001 tentang Pemberantasan Tindak Pidana Korupsi (Tipikor) dan pasal 3 Undang-undang Nomor 8 Tahun 2010 tentang Pengawalan dan Pemberantasan TPPU.

reference: Indonesia digital news
PT Putra Ramadhan, is the first company as the suspected of money laundering case

PT Putra Ramadhan (“The Company”) is a limited liability company established by the Kebumen Regent, M. Yahya Fuad. Before his inauguration on February 17, 2016, Yahya changed the composition of board of directors, board of commissioners, and the company’s share ownership, even though he’s no longer a Director.

Yahya acted to control the Company, and tried to hide his identity in every procurement project, and also used another 5 different companies to conceal his identity.
Skandal "Office Boy" Jadi Dirut Perusahaan, Anak Menteri Mengaku Tak Tahu Hendra Tidak Tamat SD

DIAN MAHARANI
kompas.com - 15/09/2014, 02:23 WIB

reference: Indonesia digital news
**Videotron case**

- President Director of PT Rifuel, RA, is accused for conducted corruption in related to videotron procurement project, in Ministry of Cooperative and Small-Medium-Enterprises.

- By settled PT Imaji Media and pointed *the company’s office boy as the President Director*, and also pointed Akhmad Kamaludin (staff) as the Commissioner, which is stated in the Deed of Establishment Number 2 dated February 1, 2012, by Jhonni M. Sianturi (public notary).

- Then, RA made a “letter of authority” from President Director of PT Imaji Media, which gave authorities to Riefan as:
  - Control company’ financial;
  - Sign the cheque(s);
  - Request of company’s balance, etc.

Terdakwa dalam kasus korupsi pengadaan Kartu Tanda Penduduk berbasis elektronik (e-KTP) Setya Novanto dapat dikategorikan sebagai beneficial owner atau pemilik manfaat dari salah satu perusahaan peserta lelang e-KTP, PT Murakabi Sejahtera. Posisi Novanto sebagai pemilik manfaat kian mendekatkan izat pasal pencucian uang.
Former Chief of House of Representative, SN, was deemed as a beneficial owner from one of the bidders in e-KTP procurement, PT Murakabi Sejahtera. In the trial, the Prosecutor was successfully proving that USD 7.3 million was delivered to SN. The money was submitted by his niece Irvanto Hendra Pambudi and his colleague, Made Oka Masagung. Nevertheless, there is no SN name in the company profile.
Who can submit the BO data:

a. The founder or the management (of the corporation);

b. Public Notary; or

c. Other person who possessed the authority from the corporation.
Article 4 paragraph (2) MLHR Regulation 15 of 2019

- Time of data submission
  - at the registration/establishment
  - when the corporation starts to operate its business
The Differences between Submission, Amendment, and Updating BO data

Submission (when a Corporation first declare its BO)

Amendment (when a corporation intends to change or remove the BO data)

Updating (mandatory in every year)
How to supervise?

(*MLHR Regulation Number 21 of 2019 is enacted on September 2019, but hasn’t yet to be adopted)

1. Through regulation enactment or standard operational procedure
2. Audit (online or offline)
3. Other administrative activities
   - MLHR cooperates with other ministry or related agency
   - MLHR may set a team
What are the Major Challenges to gather Beneficial Ownership Data?

1. The Beneficial Ownership submission rely on Corporate’s good faith

2. In order to disclose Beneficiary Ownership Data to public, it is hard to make a balance between the corporate’s obedience and personal information issue