



Implementation of Beneficial Ownership in Corporations to Prevent the Crime of Money Laundering in Accordance with Law Number 8 of 2010

Dede Indra Permana Soediro¹; Joko Setiyono²

¹ Master of Law Program, Faculty of Law, Diponegoro University, Indonesia

² Faculty of Law, Diponegoro University, Indonesia

E-mail: dedeindrapjk@gmail.com

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Abstract

The era of globalization influences the development of the world economy and one of them is the existence of many forms of business associations, in this case called corporations. Corporations are organized groups and/or assets, whether they are legal entities or non-legal entities. Corporations are often used as a place or business turnover for the proceeds of crime which is called money laundering. Crimes that are often committed by corporations are crimes related to money laundering. To prevent and eradicate the crime of money laundering, corporations must register their beneficial owners. A beneficial owner is an individual who can appoint or dismiss directors, commissioners, administrators, managers or supervisors of a corporation, has the ability to control the Corporation, is entitled to and/or receive benefits from the Corporation either directly or indirectly, is the actual owner of the funds or shares of the Corporation and/or fulfill the criteria as intended in the Presidential Regulation. The method used in this research is normative juridical, which is research using statutory regulations as study material. The data collection technique used by researchers in this research is a library study technique where data is obtained from scientific writings and research in articles and other journals. In order to prevent and eradicate the crime of money laundering, Law Number 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering was issued, as well as Presidential Decree Number 13 of 2018 concerning the Application of the Principle of Recognizing the Benefits of Corporations in the Context of Preventing and Eradicating the Crime of Money Laundering and Terrorism Financing Crime. When establishing a corporation, the beneficial owners of the corporation must be registered. The hope of this regulation is to prevent and eradicate criminal acts of money laundering carried out by corporations under the pretext or business reasons of corporate businesses.

Keywords: *Corporation; Beneficial Owner; Money Laundering*

Introduction

A country looks advanced with one thing, namely the economic development that is being carried out, both in terms of infrastructure, facilities and infrastructure as well as existing facilities. Progress can also be seen from a social and political perspective. The level of social welfare influences the level or growth rate of a country's progress, apart from that, the progress of a country is of course accompanied by regulations that go hand in hand with the activities carried out.¹

The implementation of achieving a goal will be more effective and efficient if it is done together or in groups, like a corporation. Corporations have a very big role in achieving the nation's ideals, namely realizing prosperity for all Indonesian people. Corporations are getting stronger in the era of globalization that the world is experiencing. Corporations are the subject of strong economic law and have stronger power than individuals because the potential losses incurred are much greater than for individuals. Corporations are organized groups and/or assets, whether they are legal entities or non-legal entities.

The role of corporations as social actors is very large and important as social life becomes increasingly complex, but currently there is a lack of clarity regarding the concept of corporations as subjects of criminal law and what entities are responsible.²

Etymologically, corporation comes from the Dutch language, namely *Corporatie*, which in English is called corporation and in Latin corporation which in a narrow sense can be interpreted as a legal entity that has the authority to do something.³

Corporations have important benefits for the nation's economic development, for example in terms of increasing tax revenues for the state and opening up opportunities for people to work and this is a step towards improving technology, in this case corporations are one of the pillars in the nation's economic progress. As technology advances, it triggers the emergence of crimes committed by corporations. Cooperative crime is a crime committed by a business entity or corporation or committed by an individual who may be related to a corporation or other business entity.

In the modern era like now, crimes are not only committed by individuals but also by corporations. Corporate crime is a crime that is developing in the era of globalization.⁴

Crimes that are often committed by corporations are crimes related to money laundering. The losses resulting from the practice of money laundering are so great, therefore there have been many efforts to prevent the crime of money laundering which have been carried out in various countries, one of which is the existence of Law Number 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering.

All money laundering through information technology usually tries to hide traces and avoid detection using sophisticated techniques. Therefore, it is important to increase awareness and protect yourself from cyber attacks and money laundering activities by using appropriate security technology and good practices in money management.⁵

¹ Sanjaya, B, Muladi, M, Sari, RK & Disemadi, HS (2020) Inconsistencies in Corporate Criminal Responsibility in Legislation Outside the Criminal Code, *Pandecta Research Law Journal*, 15 920, 218-227. Page 219

² <https://law.ui.ac.id/korporasi-as-subjek-Hukum-dan-perbayarnya-dalam-Hukum-pidana-indonesia/> accessed 19 March 2024, at 14.39 WIB.

³ Retnowinarni, R. (2019) Corporate Responsibility for Corporations in Indonesia, *Legal Perspective*, 19(1), 82-104. Matter. 87

⁴ Nikmah Rosidah, Mashuril Anwar, 2021, *Handling of Corruption Crime Cases with Subjects, Corporate Law*, Suluh Media, Yogyakarta, Page. 1

⁵ Sufyaldy, 2023, Tutorial " *Massive and organized money laundering with the help of information technology*, /www.iainpare.ac.id, accessed on 10 October 2023 at 12.41

The crime of money laundering as a crime has a distinctive characteristic, namely that this crime is a multiple crime, not a single crime. " ⁶Money laundering is a type of crime that is growing rapidly and at the same time poses a very dangerous potential threat if it is not prevented and eradicated completely. .⁷

Money laundering is a way for criminals to commit crimes by disguising the profits they obtain from illegal activities or businesses.⁸

Money laundering is a crime that is a continuation of a previous crime, so there must be an initial crime that triggers the next crime. Article 2 of Law Number 8 of 2010 states that criminal acts that cause the crime of money laundering include corruption, bribery, narcotics, psychotropic substances, labor smuggling, migrant smuggling, excise, customs, human trafficking, illegal arms trafficking. , terrorism, kidnapping, theft, fraud, embezzlement, counterfeiting, gambling and prostitution.

Money Laundering or money laundering is a criminal scheme carried out with the aim of disguising the origin of the proceeds of a criminal act, in other words, money laundering will remove any trace that the money or wealth owned by someone or someone else actually came from a criminal act.⁹

Corporations are seen as an ideal form of realizing human desires, therefore their existence in society is felt to bring positive benefits from a social and humanitarian perspective, this is because foundations do not solely prioritize profits or pursue profit and income as befits business entities.

Corporation is a form of association, both legal and non-legal, which cannot be separated from the concept of beneficial ownership. On March 5 2018, Presidential Regulation Number 13 of 2018 concerning the Application of the Principle of Benefits from Corporations in the Context of Prevention And Eradication Act Criminal Washing Money and the Crime of Terrorism Financing (Presidential Decree 13/2018) was officially implemented.

Corporations based on the Presidential Regulation in Article 2 paragraph (2), which include corporations include:

- a. Limited Liability Company
- b. Foundation
- c. Gathering
- d. Cooperative
- e. Limited partnership
- f. Fellowship of Firms and
- g. Other Corporate Forms.

As legal subjects, corporations have rights (and obligations) like humans have, can make contracts, can sue and be sued. However, corporations are still different from human legal subjects in that they do not have a lifespan, meaning that corporations can live forever. ¹⁰

From a simple trading business, in the modern world corporations have turned into entities that cross national borders, having dominant power and strength because they control global energy and finance. ¹¹ The strengthening role of transnational corporations in the era of globalization is driving major

⁶ Joni Emirzon, Practice forms and Modes of Money Laundering Crime, https://jurnal.kpk.go.id/document/SEMINAR_ROADSHOW/Bentuk-Praktik-dan-Modus-tpuJoni-Emirson.pdf, Accessed 10 October 2023

⁷ Go Lisanawati, 2018, *Existence and Role of Supervisory and Regulatory Institutions (LPP) in the Anti-Money Laundering Regime*, Graha Ilmu, Yogyakarta, p. 1

⁸ Fauziah Lubis, 2020, *Advocates VS Money Laundering*, Deepublish Publisher, Yogyakarta, p. 1

⁹ Ibid p. 2.

¹⁰ Muladi and Dwidja Priyatno, 2012, *Corporate Criminal Liability*, Third Edition, Prenada Media Group, Jakarta, p. 37-38

¹¹ Ari Yusuf Amir, 2020, *Corporate Criminal Doctrines*, Arruzz Mediwa, Yogyakarta, Pg. 1

changes to world trade law. Business companies began to organize themselves in ways that enabled them to operate and compete throughout the world.¹²

With many corporations causing criminal acts of money laundering or abusing corporations as tools or places for laundering money resulting from crime or corruption, there is a regulation that there must be a beneficial owner or *beneficial ownership* which explains that there is a party that receives benefits from the corporation. Beneficiaries are defined as individuals who can appoint or dismiss directors, board of commissioners, administrators, supervisors or supervisors in a corporation. Corporate owners are also entitled to and/or receive benefits from the corporate company, either directly or indirectly. The beneficial owner is the actual owner of the company's funds or shares.

Since the promulgation of Presidential Decree 13/2018 in 2018, hereinafter referred to as Presidential Decree Number 13 of 2018, new terminology has emerged that needs to be filled in by Company Founders, namely the Beneficial Ownership of the *Company*. The government demands transparency from all corporations in Indonesia by requiring disclosure and implementation of the principle of identifying corporate beneficial owners. This transparency is encouraged in the context of preventing and eradicating criminal acts of money laundering and terrorist financing.

Previously, the Government had issued regulations on the crime of money laundering and transparency of corporate beneficial owners, namely Law Number 8 of 2010 concerning Prevention of Combating the Crime of Money Laundering. These provisions are limited and cannot explain in detail information about the beneficial owners of a corporation in Indonesia. Lack of transparency regarding the beneficial owners of a corporation can lead to several abuses with the aim of breaking the law, not only money laundering and terrorism financing, but bribery, corruption, hiding assets from creditors and other prohibited activities are very possible to occur. Several criminal cases have involved beneficial owners who often use their companies to enrich themselves. Meanwhile, in the organizational structure, this person is not listed in it, creating an opening for corruption.

The shortcomings in corporate regulations are often used by individuals to avoid responsibility. Related to this, researchers conducted research regarding the certainty of beneficial owners in corporations and the implementation of Presidential Decree No. 13 of 2018 in accordance with Law no. 8 of 2010 concerning Prevention and Eradication of the Crime of Money Laundering, and a title has been drawn which will be discussed in more depth in this writing with the title namely; "**Implementation of Beneficial Ownership in Corporations to Prevent the Crime of Money Laundering in Accordance with Law Number 8 of 2010**".

Problem Formulation

Based on the background of the problem that has been described in the section above, there is a problem formulation that will be discussed in this writing, namely:

1. What is the legal certainty of beneficial owners *in corporations*?
2. How is the implementation of Presidential Decree Number 13 of 2018 regarding beneficial owners of corporations, to prevent the crime of money laundering based on Law No. 8 of 2010?

Research Methods

The method used in this research is normative juridical, which is research using statutory regulations as study material. The data collection technique used by researchers in this research is a

¹² Ibid, Arin Yusur Anir , Hal . 2

library study technique where data is obtained from scientific writings and research in articles and other journals.

Etymologically, "the term normative legal research comes from English, namely *normative legal research*, in Dutch it is called *normative juridisch onderzoek*, while in German it is called *normative juristische recherche*.¹³

The type of approach in this research uses a statutory approach (*statue approach*) and a conceptual approach. The regulations that are the source of this research include Law No. 8 of 2010 concerning Prevention and Eradication of the Crime of Money Laundering and Presidential Regulation No. 13 of 2018 concerning the Application of the Principle of Recognizing the Beneficial Owners of Corporations in the Context of Preventing and Eradicating the Crime of Money Laundering and Terrorism Financing Crime.

Discussion

1. Legal Certainty of Beneficial Ownership in Corporations

Owner benefit is person individual Which can appoint or dismiss directors, board of commissioners, administrators, supervisors, supervisors in the corporation. In Article 1 point 2 regarding the definition of beneficial owner, where the emphasis is on individuals who actually own corporate funds or shares as a result of ownership of three criteria,¹⁴ namely:

1. Appoint or dismiss directors, board of commissioners, administrators, supervisors or supervisors Corporation
2. Have the ability to control corporation.
3. Have the right to and/or receive benefits from the corporation either directly or indirectly direct.

Based on Presidential Decree no. 13/2018, as a whole, an individual can be said to be a beneficial owner if he or she has income and/or profits resulting from ownership of more than 25% of shares, capital, initial assets, funding sources, or other rights that can give rise to profits from the corporation.

Even though an individual does not own assets in a corporation, he is also categorized as a beneficial owner if he has unlimited authority regarding the appointment of corporate management and control of the corporation without having to obtain approval. from authority from party wherever, or is the actual owner of the funds on ownership corporation.

In accordance with Presidential Decree Number 13 of 2018, Space scope or beneficial owner criteria include company limited partnerships, foundations, associations, corporations, limited partnerships, firm partnerships, and other forms of corporations.¹⁵

In CHAPTER II concerning Determination of Corporate Beneficial Owners, Article 3 of Presidential Decree Number 13 of 2018 is written

- (1) Every corporation is required to determine the beneficial owners of the corporation

¹³Salim HS and Erlies Septiana Nurbani, 2014, *Application of Legal Theory in Thesis and Dissertation Research*, Raja Grafindo Persada, Jakarta, Pg . 18

¹⁴ Article 1 Number 2 Presidential Decree No. 13 of 2013 concerning the 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.

¹⁵ Presidential Decree No. 13 of 2013 concerning the 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.

- (2) The beneficial owner of the corporation as referred to in paragraph 91) is at least 1 (one) personnel who has each of the criteria for the corporate form.

Draft Owner Benefit Which arranged in Presidential Decree No. 13/2018 departs from the concept of *Beneficial Owner* (hereinafter referred to as BO) which is regulated in the *Financial Action Task Force (FATF) Recommendations*. According to the *FATF Recommendation*, BO refers to a natural person who *ultimately* owns or controls another party (*Ultimate Owns or Controls*), and/or a person individual Which its interests controlled by others. Apart from that, BO also refers to an individual who exercises overall effective control (*ultimate affective control*) over other parties or over legal arrangements.¹⁶

The terms *Ultimate Owns Or Controls* and *Ultimate Effective Control* go hand in hand refers to a situation where the exercise of ownership or control is carried out either through direct or indirect control. Creation of the concept of Beneficial Owners according to Presidential Decree no. 13 of 2018 also has the same background as the definition of *beneficial ownership* in the *FATF Recommendations*. Both regulations state that BO disclosure must be carried out by the corporation. This is because corporations can be used as tools, either directly or indirectly, by perpetrators of criminal acts who are BO or beneficial owners who commit TPU and criminal acts of terrorism, thus, the aim of making Presidential Decree No. 13 of 2018 and *FATF Recommendations* is for prevent Money laundering crimes and Act Criminal Terrorism. Disclosure of *beneficial ownership* or beneficial owners is regulated in Presidential Decree No. 13 of 2018 can done with Work The same And request information Beneficial Owners In order to prevent and eradicate criminal acts of money laundering and financing of criminal acts of terrorism by corporations, authorized agencies can carry out exchange information with agency requester Good national and international scope.

Of course, the exchange of information is carried out in accordance with statutory provisions when in scope national And in accordance with provisions of legislation in the foreign sector and international agreements in scope international.

Since the promulgation of Presidential Decree No. 13 of 2018, hereinafter referred to as Presidential Decree 13/2018, new terminology has emerged that needs to be filled in by Company Founders, namely the *Beneficial Ownership of the Company*. The government demands transparency from all corporations in Indonesia by requiring disclosure and implementation of the principle of identifying corporate beneficial owners. This transparency is encouraged in the context of preventing and eradicating criminal acts of money laundering and terrorist financing.

Previously, the Government had issued regulations on the crime of money laundering and transparency of corporate beneficial owners, namely in Law 8 of 2010 concerning Prevention and Eradication of the Crime of Money Laundering. These provisions are limited and cannot explain in detail information about the beneficial owners of a corporation in Indonesia. Lack of transparency regarding the beneficial owners of a corporation can lead to several abuses with the aim of breaking the law, not only money laundering and terrorism financing, but bribery, corruption, concealment assets from creditors and other prohibited activities are very possible For happen. A number of case criminal about These beneficial owners often use their companies to enrich themselves. Meanwhile, in the organizational structure, this person is not listed in it, so there is a gap for action corruption.

Presidential Decree Number 13 of 2018 regulates that obligation corporation For convey information regarding the owner benefit to agency Which authorized can implemented by Notary Public. In connection with matter the, Regulation Minister of Law and Human Rights Number 9 of 2017 concerning Implementation of the Principle of Recognizing Service Users for Notaries ("Permenkumham

¹⁶Darrussalam, *Beneficial Owner in the Context of Presidential Decree No. 13 of 2018 and Tax*, <http://news.ddtc.co.id> accessed on March 5, 2024

9/2017”) has arranged that Notary Public is one of the professions that is obliged to apply the Principle of Recognizing Service Users. The application of this principle includes the Notary's obligation to identify the beneficial owners of corporate and other engagements.

Disclosure of beneficial ownership of every corporation in Indonesia aims to make it possible to know the people behind the corporation. So far, in Indonesia there have been many dirty games carried out by people behind corporations to hide their assets. With the obligation to disclose beneficial ownership, tax authorities can use the data to prevent taxpayers from escaping their obligations. This taxpayer is one of the reasons for the beneficiary to disguise and break the chain of ownership in order to avoid the obligation to pay tax.

Concrete implementation in realizing *beneficial ownership transparency* is carried out based on Minister of Law and Human Rights Regulation Number 15 of 2019 concerning Procedures for Implementing the Principle of Recognizing Beneficial Owners from Corporations, this regulation is also supplemented by Regulation of the Minister of Law and Human Rights Number 21 of 2019 concerning Supervision of the Implementation of the Recognizing Principle Beneficial owners of corporations, where these two Minister of Law and Human Rights regulations are implementing regulations of Presidential Regulation Number 13 of 2018 concerning the application of the Principle of Recognizing Beneficial Owners of corporations in the context of Preventing the Eradication of Money Laundering and Terrorism Financing Crimes.¹⁷

Legal protection is an action or effort to protect society from arbitrary actions by authorities that are not in accordance with the rules law, to create order and tranquility so as to enable humans to enjoy their dignity as human beings.¹⁸

Legal protection in Indonesia is manifested in the presence of various laws and regulations. This form of protection or corporation provides legal certainty.

Legal certainty is one of the most important principles in a rule of law. According to Radbruch,¹⁹ law has goals that are oriented towards the following things:

- (1) Legal certainty;
- (2) Justice;
- (3) Usefulness or usefulness

The principle of legal certainty contains 2 (two) meanings, namely first, there are general rules that provide explanations to individuals regarding actions that may and may not be carried out. Second, there is legal security for individuals from arbitrary government power²⁰

In accordance with Article 11 of Presidential Decree Number 13 of 2018, corporations determine the beneficial owners of the corporation from information obtained through:

- a. The articles of association include changes to the articles of association, and/or the deed of establishment of the corporation
- b. Corporate establishment engagement documents
- c. General meeting of shareholders (GMS) decision documents, foundation organ decision documents, management meeting decision documents or member meeting decision documents
- d. Information from authorized agencies
- e. Information on private institutions that accept deposits or transfers of funds for the purchase of limited liability company shares

¹⁷ <https://jatim.kemenkumham.go.id/tengah-information/article/5794-penerapan-politik-princi-mengenal-pebangun-besar> accessed March 24 2023, at 15.00 WIB.

¹⁸ Setiono, *Rule of Law*, UNS, Surakarta, 2004, p. 3.

¹⁹ O. Notohamidjojo, *Basic Questions of Legal Philosophy*, Griya Media, Salatiga, 2011, p. 33

²⁰ Peter Mahmud Marzuki, 2008, *Introduction to Legal Studies*, Kencana Prenada Media Group, Jakarta, p. 158.

- f. Information on private institutions that provide or provide benefits from corporations to beneficial owners
- g. Statements from members of the board of directors, members of the board of commissioners, supervisors, administrators, supervisors and/or officers, corporate employees whose veracity can be guaranteed
- h. Documents owned by a corporation or other party showing that the individual in question is the actual owner of the funds for ownership of shares in a limited liability company,
- i. Documents owned by the corporation or other party which show that the individual in question is the actual owner of the funds in the other's assets or investment in the corporation and/or other information whose truth can be accounted for.

Determination of beneficial owners or *beneficial ownership* is regulated in Presidential Decree No. 13 of 2018 in Article 3:

- (1) Every corporation is obliged to determine the beneficial owners of the corporation
- (2) The beneficial owner of the corporation as referred to in paragraph (1) is at least 1 (one) personnel who has each of the criteria in accordance with the corporate form.

The obligation of every corporation to provide information and to register *beneficial ownership* or beneficiaries is a step to anticipate and prevent corporate practices as vehicles or media for money laundering. This encourages transparency of BO or *beneficial ownership information* from corporations.

The beneficial ownership of a company or corporation is not always related to money laundering or other criminal acts. However, in the anti-money laundering regime, beneficial owners are of particular concern because often in law enforcement there is no criminal offense against money laundering or other criminal acts. These²¹ beneficial owners *are not touched* by the law. This is because it is difficult to reveal the connection between the beneficial owner and the crime of money laundering or other criminal acts committed by the perpetrator (*Material Dader*), who is the person who carries out the action based on the orders given by the beneficial owner (*Beneficial Owner*).²²

2. Implementation of Presidential Decree Number 13 of 2018 Concerning Beneficial Owners of Corporations, to Prevent Criminal Acts of Money Laundering Based on Law Number 8 of 2010

There are many crimes committed by individuals or by corporations and these crimes generate wealth, for example the crime of money laundering.

laundering or *Money Laundering* is a series of activities in which a person or organization carries out an amount of illicit money obtained from a crime with the intention of embezzling and hiding the origin of the money from the government or authorized agencies.²³

laundering is defined simply as a process that converts the proceeds of crime or dirty money into a form that appears legitimate so that it can be used safely.²⁴

The perpetrator of the criminal act of money laundering is a person or corporation who has embezzled money resulting from corruption and made the money appropriate or legal income. The person

²¹ Syahrilal Syakur, 2022, *Criminal Liability by Beneficial Owners as Perpetrators of Money Laundering and Other Crimes in Limited Liability Companies*, *Journal of Anti Money Laundering/Countering The Financing of Terrorists*, Vol 01, No. 01, PPATK, Jakarta, p. 104.

²² Ibid Page 104

²³ Yani, Ahmad, mas (2013), *Crime of Money Laundering (Review of Law Number 8 of 2010 concerning Prevention and Eradication of the Crime of Money Laundering)* E-Journal Widya Yustisia (1), p. 21

²⁴ Garnasih, Yenti (2016), *Anti-Money Laundering Law Enforcement and Its Problems in Indonesia*, PT. Rajagrafindo Persada, Jakarta, p. 15

or corporation ultimately looks for a place or place for the money obtained from corruption, namely by establishing a company.²⁵

Business carried out by an individual or an association, in the sense of an association formed as a legal entity or an association formed which is not a legal entity.²⁶

Associations have 4 elements, namely:

- 1) There are shared interests
- 2) There is a common will
- 3) There is a goal, and
- 4) There is an element of cooperation

Corporations according to Law Number 8 of 2010 concerning Prevention and Eradication of the Crime of Money Laundering are organized groups of people and/or assets whether they are legal entities or non-legal entities.

According to the legal dictionary, *corporatie*; *Rechtspersoon* (Netherlands), *Corporation*, *Corporate* (England), Corporation; legal entity (Indonesia) is a company which is a legal entity; A corporation or company here is meant as an association or organization which is treated by law like a human being (personal), namely as the bearer (or owner) of rights and obligations; has the right to sue or be sued before a court.²⁷

Implementation or application is an implementation carried out by individuals, government agencies, officials, or private groups of decisions or regulations that exist or have been issued.

The way to apply *beneficial ownership* to prevent and eradicate the crime of money laundering in accordance with Law Number 8 of 2010 concerning the crime of money laundering is by implementing the regulations issued by the president Number 13 of 2018 concerning the application of the principle of Recognizing the Beneficial Owners of corporations in the framework of Prevention and Eradication. Money Laundering Crimes and Terrorism Financing Crimes.

It is not only the criminal act of money laundering that is sheltered by corporations, but there are also criminal acts of terrorist financing which are often sheltered behind a corporation.²⁸

The implementation of preventing and eradicating money laundering crimes in corporations is that when corporations establish their associations, they must register who is the beneficial owner of the corporation. This is contained in Chapter II Article 3 of Presidential Decree Number 13 of 2018, which reads:

1. Every corporation is obliged to determine the beneficial owners of the corporation.
2. The beneficial owner of the corporation as intended in paragraph (1) is at least 1 (one) personnel who has each of the criteria in accordance with the form of corporation.

Beneficial owners in corporations according to Presidential Decree no. 13 of 2018 is an individual who can appoint or dismiss directors, board of commissioners, administrators, supervisors or supervisors in a corporation, has the ability to control the corporation, is entitled to and/or receive benefits

²⁵ Permata Dewi, Lidya, 2019, *Implementation of Presidential Regulation Number 13 of 2018 in the Establishment of Limited Liability Companies*, Acta Comitatus Journal, Udayana University, Bali, p. 4

²⁶ Rr. Dijan Widijowati, 2012, *Commercial Law*, Andi Publisher, Yogyakarta, Page. 40

²⁷ Yan Pramudya Puspa, 1977, *Law Dictionary*, Complete edition, Aneka Ilmu, Semarang, p. 256

²⁸ Fatrul Razi, Rembrandt, Yussy Adelina Mannas, 2023, *Legal certainty of the principle of beneficial ownership and the role of notaries based on Permenkumham Number 15 of 2019*, Andalas University Journal, page 6

from the corporation either directly or indirectly, is the actual owner of the funds or shares corporation and/or fulfill the criteria as intended in this Presidential Regulation.

Registration of beneficial owners or *beneficial ownership* is carried out by authorized agencies, in this case government agencies both at the central and regional levels which have the authority to register, ratify, approve, notify, business license or disband corporations or institutions which have supervisory and regulatory authority in the corporate sector., this is stated in Article 1 number (3) general provisions, Presidential Decree Number 13 of 2018.

With the implementation of this Presidential Decree, it is hoped that Law Number 8 of 2010, concerning the prevention and eradication of the crime of money laundering will run as well as possible and reduce or even eliminate the practice of money laundering carried out by corporations, so that the crime of money laundering can be eradicated and the perpetrator gets a deterrent effect.

The principle of legal certainty is considered as one of the main elements in the concept of *the rule of law* or the rule of law.²⁹ Legal certainty is needed to ensure peace and order in society, to carry out legal actions. As with regulations regarding the prevention and eradication of money laundering crimes, this is something that will definitely become positive law.

Gustav Radbruch's opinion states that in essence the principle of legal certainty is a very basic thing where the law must be positive, implemented and obeyed.³⁰

Legal certainty is the application of the law in writing so that the public can be sure that the law is being obeyed. Creating legal certainty in legal provisions requires requirements related to the internal structure of the legal norms themselves. In the case that this writing is about corporations, there is legal certainty about corporations and the benefits of getting legal certainty in carrying out legal actions.

Regulations become legal protection, that is, preventive legal protection is applied on the basis of laws or regulations that regulate legal protection which acts as a limiter in carrying out activities and also minimizes violations. Law Number 8 of 2010 plays a role in fulfilling legal needs for national development as well as guaranteeing legal certainty which functions as a provider of legal protection for the community or interested parties.

Various definitions have been put forward and written by legal experts, which basically provide almost the same definition, namely that the law contains regulations for human behavior.³¹

Conclusion

1. Legal Certainty of Beneficial Owners in Corporations, corporate legal certainty in terms of beneficial ownership or *beneficial ownership* has been regulated in Law Number 8 of 2010 where the Law regulates the Prevention and Eradication of the Crime of Money Laundering. In this case, the law was implemented to eradicate the crime of money laundering.
2. The way to apply *beneficial ownership* to prevent and eradicate the crime of money laundering in accordance with Law Number 8 of 2010 concerning the crime of money laundering is by implementing the regulations issued by the President Number 13 of 2018 concerning the Application of the Principle of Recognizing Beneficial Owners of Corporations in the Context of Prevention and Eradication. Money Laundering Crimes and Terrorism Financing Crimes. When establishing a corporation, the beneficial owners of the corporation must be registered. The hope of this regulation is to prevent and eradicate criminal acts of money laundering carried out by corporations under the pretext or business reasons of corporate businesses.

²⁹ Wikipedia, *Legal Certainty*. https://id.wikipedia.org/wiki/Kepastian_law . Accessed on March 6 2024 at 15.57 WIB

³⁰ O. Notohamidjojo, *Basic Questions of Legal Philosophy*, Griya Media, Salatiga, 2011, pp. 33-34

³¹ Syamsul Arifin, 2012, *Introduction to Indonesian Law*, Medan area University Press, Medan, Pg m. 5-6

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