

## ULTIMATE BENEFICIAL OWNERS DEFINED

On March 1, 2018 the President signed Presidential Regulation No. 13 of 2018 on the Implementation of Know-Your-Beneficial-Owner Principle by Corporations for the Prevention and Eradication of the Criminal Acts of Money Laundering and Terrorism Funding (the “**Presidential Regulation**”). The Presidential Regulation became effective as of March 5, 2018.

### ❖ Definitions

The Presidential Regulation defines a “Beneficial Owner” as an individual who (i) may appoint or dismiss any of a corporation’s board of directors, board of commissioners, administrators, or supervisors of such corporation, (ii) possesses the authority to take control of such corporation, (iii) is entitled to receive, and/or does actually receives, benefits from such corporation, directly or indirectly, (iv) is the true owner of such corporation’s funds or shares, and/or (v) meets certain criteria of a beneficial owner under the Presidential Regulation.

A “Corporation” is defined as an organized association of individuals and/or assets both legal entities and non-legal entities. A Corporation includes: (i) a limited liability company, (ii) a foundation, (iii) an association (*perkumpulan*), (iv) a cooperative, (v) a limited partnership, (vi) a partnership, and (vii) any other form of corporation.

### ❖ Determination of Corporation’s Beneficial Owner

Under the Presidential Regulation, a Corporation must determine at least 1 (one) Beneficial Owner in accordance with a set of criteria provided. The provided criteria for limited liability companies, foundations, and associations are as follows:

Types of Corporation	Criteria as Beneficial Owner
Limited Liability Companies	<p>share ownership exceeding 25%;  voting rights exceeding 25%;  receiving more than 25% of the company’s annual profit or net profit; and/or  possession of the authority to appoint or dismiss any of the company’s board of directors or board of commissioners;</p> <p>or if none of the above applies:</p> <p>possession of the authority to influence or take control, without prior authorization;  receiving benefits from the company; and/or  the true owner of the company’s funds or shares.</p>
Foundations	<p>possession of an initial wealth of over 25% of the foundation as stated in the articles of association; and/or  possession of the authority to appoint or dismiss any of the foundation’s board of trustees, board of supervisors, and/or board of management;</p>

Types of Corporation	Criteria as Beneficial Owner
	<p>or if none of the above applies:</p> <p>possession of the authority to influence or take control, without prior authorization;  receiving benefits from the foundation; and/or  the true owner of the foundation's other wealth or participation.</p>
Associations	<p>possession of a funding source of more than 25% in the association as stated in the articles of association;  receiving more than 25% of the association's annual profit or net profit; and/or  possession of the authority to appoint or dismiss any of the association's board of supervisors and/or board of management;</p> <p>or if none of the above applies:</p> <p>possession of the authority to influence or take control, without prior authorization;  receiving benefits from the association; and/or  the true owner of the association's funding sources.</p>

Furthermore, any central or regional government institutions having the authority to register, validate, dissolve, or supervise Corporations (the “**Authorized Institutions**”) may determine other Beneficial Owners in addition to the ones determined by the relevant Corporations.

#### ❖ **Implementation of the Know-Your-Beneficial-Owner Principle**

The Presidential Regulation requires Corporations to appoint a person in charge who will be responsible for implementing the principle and for providing information in relation to the relevant Corporation and the Beneficial Owner(s) upon the request of any Authorized Institutions and/or law-enforcement agencies.

The implementation of the principle is done through identification and verification stages. The implementation must be done at the time of application for establishment, registration, validation, approval, or business permit of the Corporation, and throughout during the entire period of its operations.

The identification stage is to be carried out through collection of information of the relevant Beneficial Owner(s) (including its supporting documents), which comprise at least the individual's (i) full name, (ii) identity numbers, as found on a residential card, driving license or passport, (iii) date and place of birth, (iv) nationality, (v) address, as written on the relevant identity card, (vi) address in the relevant country of origin (for foreigners), (vii) taxpayer-identification number, and (viii) relationship with the relevant Corporation.

At the verification stage, Corporations must verify the information collected with the relevant supporting documents.

Corporations are then required to pass on this information to the relevant Authorized Institutions, along with a letter affirming the accuracy of the information which is being submitted. If it is deemed necessary, Authorized Institutions may undertake a further verification of the conformity between the submitted information and the data provided in the supporting documents. Corporations are also required to update any information regarding their beneficial owners on an annual basis.

#### ❖ **Sanctions**

Corporations not implementing the know-your-beneficial-owner principle may be subject to sanctions in accordance with the provisions of relevant laws and regulations.

#### ❖ **Cooperation and exchanges of information**

The Presidential Regulation allows Authorized Institutions to cooperate with each other and to exchange information with any domestic or international institution if a Corporation is alleged to have engaged in criminal activity relating to money laundering and/or terrorism funding.

More importantly, information on Beneficial Owners is publicly available from the relevant Authorized Institutions, in accordance with the procedures set out under the relevant Indonesian laws and regulations.

#### ❖ **Remarks**

Although this Presidential Regulation is aimed for the prevention and eradication of activities relating to money laundering and/or terrorism funding, given the broad coverage of this Presidential Regulation it is conceivable that any Authorized Institution may apply the principles in this Presidential Regulation in other contexts in determining whether or not a person is a Beneficial Owner of a Corporation.

An important aspect of the Presidential Regulation is the notion that the information of a Beneficial Owner is publicly available. Certain information of a person under the Residence Administration Law (Law No. 23 of 2006) is legally protected. Depending on the level of information of a Beneficial Owner that will be available publicly, it is unclear how the provisions of that Law may be overturned by the Presidential Regulation.

March 13, 2018

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