

Awas! Belum Laporkan Beneficial Owner, Korporasi Diblokir

Attention! Corporations Blocked due to Not Reporting Beneficial Owner

Setiap badan usaha (korporasi) diwajibkan untuk melaporkan transparansi mengenai informasi *beneficial owner* (BO) atau pemilik manfaat. Urgensi dari hal tersebut adalah untuk mencegah dan memberantas tindak pidana pencucian uang, korupsi, dan potensi kejahatan lainnya. Pelaporan pemilik manfaat (BO) harus dilaksanakan dengan **prinsip mengenali pemilik manfaat**, yaitu identifikasi pemilik manfaat dan verifikasi pemilik manfaat.

Hal tersebut diamanatkan oleh Undang-Undang Nomor 8 Tahun 2010 tentang Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang (**UU 8/2010**) dan Peraturan Presiden Nomor 13 Tahun 2018 tentang Penerapan Prinsip Mengenali Pemilik Manfaat dari Korporasi dalam Rangka Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang dan Tindak Pidana Pendanaan Terorisme (**Perpres 13/2018**).

Korporasi yang dimaksud merupakan kumpulan orang dan/atau kekayaan yang terorganisasi, baik merupakan badan hukum maupun bukan badan hukum. Adapun yang termasuk dalam korporasi adalah perseroan terbatas (PT), yayasan, koperasi, perkumpulan, persekutuan komanditer (CV), persekutuan firma, dan bentuk korporasi lainnya.

Every business entity (corporation) is required to be transparent and report regarding the beneficial owner (BO) information. The urgency of this transparency is to prevent and eradicate money laundering, corruption, and other potential crimes. Reporting of beneficial owners (BO) must be executed with the principle of recognizing beneficial owners, namely the identification of beneficial owners and verification of beneficial owners.

This is mandated by Law Number 8 of 2010 concerning The Prevention and Eradication of Money Laundering Crimes (Law 8/2010) and Presidential Regulation Number 13 of 2018 concerning The Implementation of the Principle of Recognizing Beneficial Owners of Corporations in the Context of Prevention and Eradication of Money Laundering Crimes and Terrorism Financing Crime (Presidential Regulation 13/2018).

A corporation is defined as an organized collection of people and/or assets, both legal entities and non-legal entities. Included within the definition of corporation are a limited liability company (PT or company), foundations, cooperatives, associations, limited partnerships/commanditaire vennootschap (CV), partnership firms, and other forms of corporations.

Sementara itu, pemilik manfaat (BO) merupakan orang perseorangan yang menjadi pemilik sebenarnya dari dana atau saham korporasi dan/atau yang memenuhi kriteria dalam Perpres 13/2018. Para pemilik manfaat berwenang untuk menunjuk atau memberhentikan direksi, dewan komisaris, pengurus, pembina, atau pengawas korporasi serta memiliki kemampuan untuk mengendalikan korporasi. Selain itu, pemilik manfaat juga berhak atas dan/atau menerima manfaat dari korporasi, baik langsung maupun tidak langsung.

Terkait pelaporan pemilik manfaat (BO), per tanggal 24 Februari 2023 terdapat pemberitahuan dari Kementerian Hukum dan HAM. Pengumuman tersebut menyatakan bahwa beberapa korporasi, yaitu PT, yayasan, dan perkumpulan yang belum pernah melaporkan BO, baik melalui transaksi Sistem Administrasi Badan Hukum (SABH) atau aplikasi *bo.ahu.go.id* akan **terblokir secara otomatis** oleh sistem.

Selain pada SABH atau aplikasi *bo.ahu.go.id*, sistem Online Single Submission (OSS) juga akan memberikan notifikasi bahwa data badan usaha korporasi berada dalam keadaan diblokir.

Apa Dampak Pemblokiran terhadap Korporasi?

Pemblokiran terhadap korporasi dalam SABH berdampak besar kepada setiap perubahan anggaran dasar yang akan dilakukan oleh korporasi. Mulai dari yang berbentuk PT, yayasan, koperasi, perkumpulan, CV, persekutuan firma, hingga bentuk korporasi lainnya.

Meanwhile, beneficial owners (BO) are the actual owners of corporate funds or shares and/or the people which fulfill the criteria in the Presidential Regulation 13/2018. Beneficial owners are authorized to appoint or dismiss directors, commissioners, management, supervisors, or supervisors of the corporation and have the ability to control the corporation. In addition, the beneficial owners are also entitled to and/or receive benefits from the corporation, either directly or indirectly.

*Regarding the reporting of beneficial owners (BO), as of 24 February 2023, there was a notification from the Ministry of Law and Human Rights. The announcement states that several corporations, namely PT or company, foundations, and associations that have never reported BO, either through a Legal Entity Administration System (Sistem Administrasi Badan Hukum/SABH) transaction or the *bo.ahu.go.id* application are **automatically blocked** by the system.*

*Besides SABH or the *bo.ahu.go.id* application, the Online Single Submission (OSS) system will also provide notifications that corporate business entity data is blocked.*

What is the Impact of the Blocking of Corporations?

Blocking corporations in SABH has a major impact on any changes to the articles of association that will be made by corporations. Starting from those in the form of PT or company, foundations, cooperatives, associations, CV, firm partnerships, to other forms of corporations.

Terhadap PT, berdasarkan Pasal 23 Undang-Undang Nomor 40 Tahun 2007 tentang Perseroan Terbatas (**UU 40/2007**), diatur sebagai berikut:

1. Perubahan anggaran dasar PT yang wajib mendapatkan persetujuan Menteri Hukum dan HAM mulai berlaku sejak tanggal diterbitkannya Keputusan Menteri Hukum dan HAM mengenai persetujuan anggaran dasar.
2. Perubahan Anggaran Dasar PT yang wajib diberitahukan kepada Menteri Hukum dan HAM mulai berlaku sejak tanggal diterbitkannya surat penerimaan pemberitahuan perubahan anggaran dasar oleh Menteri Hukum dan HAM.

Adapun permohonan untuk mendapatkan persetujuan maupun surat penerimaan pemberitahuan perubahan anggaran dasar diajukan PT melalui SABH. Oleh karena itu, dalam hal PT diblokir secara otomatis oleh sistem SABH, perubahan anggaran dasar PT ini tidak dapat mulai berlaku sampai pemblokiran dibuka dan PT mendapatkan persetujuan maupun surat penerimaan pemberitahuan perubahan anggaran dasar dari Menteri Hukum dan HAM melalui SABH.

Terlebih lagi, permohonan persetujuan perubahan anggaran dasar atau pemberitahuan perubahan wajib diajukan kepada Menteri Hukum dan HAM melalui SABH paling lambat 30 hari sejak tanggal akta notaris yang memuat perubahan anggaran dasar. Jika batas waktu tersebut lewat karena PT harus melakukan pembukaan blokir terlebih dahulu,

For example, regarding PT or company, based on Article 23 of Law Number 40 of 2007 concerning Limited Liability Companies (Law 40/2007), the change of the articles of association against PT or company is regulated as follows:

1. *Amendments to the Company articles of association that are required to obtain approval from the Minister of Law and Human Rights shall come into force from the date of issuance of the Decree of the Minister of Law and Human Rights regarding the approval of the articles of association.*
2. *Changes to the PT's article of association that must be notified to the Minister of Law and Human Rights shall come into force from the date of issuance of the letter of receipt of notification of amendments to the articles of association by the Minister of Law and Human Rights.*

As for the application to obtain an approval or a letter of receipt of notification of amendments to the articles of association submitted by PT through SABH. Therefore, in the event that the PT is automatically blocked by the SABH system, the amendment to the PT's articles of association could not take effect until the blocking is opened and the PT obtains approval or a letter of receipt of notification of the amendment to the articles of association from the Minister of Law and Human Rights through SABH.

Perubahan anggaran dasar tersebut tidak dapat diajukan atau disampaikan kepada Menteri Hukum dan HAM.

Bagaimana Cara Membuka Blokir Terhadap Korporasi?

Jika korporasi Anda belum melaporkan pemilik manfaat (BO), maka yang harus dilakukan adalah sebagai berikut:

1. Melakukan pelaporan pemilik manfaat (BO) melalui <https://bo.dhu.go.id>.
2. Mengirimkan email atau surat tercatat kepada Subdit Badan Hukum Kementerian Hukum dan HAM, untuk mengajukan permohonan pembukaan blokir serta melampirkan bukti pelaporan pemilik manfaat (BO) yang telah dilakukan.

Penting untuk dipahami bahwa informasi yang harus dilaporkan terkait pemilik manfaat (BO) di antaranya (Pasal 16 ayat (2) Perpres 13/2018):

1. Nama lengkap;
2. Nomor identitas kependudukan, surat izin mengemudi, atau paspor;
3. Tempat dan tanggal lahir;
4. Kewarganegaraan;
5. Alamat tempat tinggal yang tercantum dalam kartu identitas;
6. Alamat di negara asal dalam hal warga negara asing;
7. Nomor Pokok Wajib Pajak (NPWP) atau nomor identitas perpajakan yang sejenis jika merupakan Warga Negara Asing; dan
8. Hubungan antara korporasi dengan pemilik manfaat.

Moreover, an application for approval of amendments to the articles of association or notification of changes must be submitted to the Minister of Law and Human Rights through SABH no later than 30 days from the date of the notary deed containing the amendments to the articles of association. If the time limit passes because the PT has to unblock it first, the change in the base price could not be proposed or submitted to the Minister of Law and Human Rights.

How to Unblock the Blocked Corporations?

If your corporation has not reported the beneficial owner (BO) yet, then you must do the following steps:

1. *Reporting beneficial owners (BO) via <https://bo.dhu.go.id>.*
2. *Send an e-mail or a registered letter to the Legal Entity Sub-Directorate of the Ministry of Law and Human Rights, to submit a request for unblocking and attach proof of the reporting of the beneficial owner (BO) that has been carried out.*

It is essential to understand that the information that must be reported regarding the beneficial owner (BO) includes (Article 16 paragraph (2) of Presidential Regulation 13/2018):

1. *Full name;*
2. *Resident identity number, driver's license, or passport;*
3. *Place and date of birth;*
4. *Citizenship;*

Bagaimana Cara Menentukan Pemilik Manfaat Korporasi?

Kriteria pemilik manfaat korporasi diatur lebih lanjut dalam Perpres 13/2018.

Apabila ingin lebih memahami implikasi yang timbul terhadap pihak yang dilaporkan sebagai pemilik manfaat (BO) dalam korporasi di Indonesia, dapat menghubungi BP Lawyers melalui ask@bplawyers.co.id atau 082112341235 untuk melakukan diskusi lebih lanjut.

Dasar Hukum

1. Undang-Undang Nomor 40 Tahun 2007 tentang Perseroan Terbatas.
2. Undang-Undang Nomor 8 Tahun 2010 tentang Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang.
3. Peraturan Presiden Nomor 13 Tahun 2018 tentang Penerapan Prinsip Mengenali Pemilik Manfaat dari Korporasi dalam Rangka Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang dan Tindak Pidana Pendanaan Terorisme.
4. Peraturan Menteri Hukum dan Hak Asasi Manusia Nomor 15 Tahun 2019 tentang Tata Cara Pelaksanaan Penerapan Prinsip Mengenali Pemilik Manfaat dari Korporasi.
5. Peraturan Otoritas Jasa Keuangan Nomor 23/POJK.01/2019 tentang Perubahan atas Peraturan Otoritas Jasa Keuangan Nomor 12/POJK.01/2017 tentang Penerapan Program Anti Pencucian Uang dan Pencegahan Pendanaan Terorisme di Sektor Jasa

1. *The residential address listed on the identity card;*
2. *Address in the country of origin in the case of foreign nationals;*
3. *Taxpayer Identification Number (Nomor Pokok Wajib Pajak/NPWP) or similar tax identification number if a foreign citizen; and*
4. *The relationship between the corporation and the beneficial owners.*

How to Determine the Beneficial Owner of a Corporation?

The criteria for corporate beneficial owners are further regulated in Presidential Regulation 13/2018.

If you want to understand more about the implications that arise for parties who are reported as beneficial owners (BO) in corporations in Indonesia, you could contact BP Lawyers via ask@bplawyers.co.id or 082112341235 for further discussion.

Regulation

1. *Law Number 40 of 2007 concerning Limited Liability Companies.*
2. *Law Number 8 of 2010 concerning The Prevention and Eradication of Money Laundering Crimes.*
3. *Presidential Regulation Number 13 of 2018 concerning The Application of the Principle of Recognizing Beneficial Owners of Corporations in the Context of Prevention and Eradication of Money Laundering Crimes and Terrorism Financing Crimes.*
4. *Regulation of the Minister of Law and Human Rights Number 15 of 2019*

Keuangan.

6. Peraturan Otoritas Jasa Keuangan Nomor 11/POJK.04/2017 tentang Laporan Kepemilikan atau Setiap Perubahan Kepemilikan Saham Perusahaan Terbuka.

concerning Procedures for Implementing the Principle of Recognizing Beneficial Owners of Corporations.

Financial Services Authority Regulation

5. *Number 23/POJK.01/2019 concerning Amendments to Financial Services Authority Regulation Number 12/POJK.01/2017 concerning Implementation of Anti-Money Laundering and Prevention of Terrorism Funding Programs in the Financial Services Sector.*

Regulation of the Financial Services Authority Number 11/POJK.04/2017

6. *concerning Reports of Ownership or Any Changes in Ownership of Public Company Shares.*

The Firm

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