

ABSTRAK

Ine Nurhayati (01659190014)

TINJAUAN YURIDIS ATAS PELANGGARAN HUKUM OLEH *BENEFICIAL OWNERSHIP* DI INDONESIA

(viii + 104 halaman)

Penanaman modal yang dilakukan di Indonesia salah satunya melalui pendirian Perseroan Terbatas. Secara yuridis kepemilikan saham di dalam Perseroan Terbatas dimiliki dan tercatat atas nama pemegang saham dan atas kepemilikan saham tersebut pemegang saham menerima manfaat secara langsung dari jumlah saham yang dimilikinya. Undang-Undang Nomor 40 Tahun 2007 tentang Perseroan Terbatas tidak mengenal pemisahan antara pemilik tercatat (*legal owner*) dan pemilik manfaat (*beneficial ownership*). Akan tetapi, di dalam praktiknya kepemilikan saham yang tercatat dan penerima manfaat atas kepemilikan tersebut berbeda. Perbedaan tersebut dibuat dengan perjanjian *nominee* (perjanjian pinjam nama). Maka dari itu, perlu dilakukan penelitian terkait pengaturan mengenai kedudukan *beneficial ownership* di Indonesia dan implementasi pengaturan *beneficial ownership* dalam hal terjadi pelanggaran hukum yang dilakukan oleh *beneficial ownership*.

Penelitian ini menggunakan metode penelitian yuridis normatif dengan menggunakan metode pendekatan perundang-undangan, kasus, dan konseptual. Data yang digunakan oleh peneliti yaitu data sekunder yang terdiri atas bahan hukum primer, bahan hukum sekunder dan bahan hukum tersier.

Dari penelitian tersebut, *beneficial ownership* yang hadir melalui perjanjian *nominee* tidak diatur dalam peraturan perundang-undangan di Indonesia karena pemerintah hanya mengatur mengenai pemilik manfaat perseorangan dengan kualifikasi umum dan tertentu, di mana pemilik manfaat tersebut mempunyai hubungan langsung dan tidak langsung di dalam akta Perseroan Terbatas. Implementasi pengaturan pemerintah tidak memberikan kewajiban penyampaian informasi terhadap *beneficial ownership* yang hadir melalui perjanjian *nominee*, sehingga pengabaian penyampaian informasi tersebut bukan merupakan pelanggaran hukum dan atas pelanggaran serta kejahatan hukum yang berkaitan dengan keputusannya kepada Perseroan Terbatas dapat dimintakan pertanggungjawaban.

Referensi : 41 (1985-2018)

ABSTRACT

Ine Nurhayati (01659190014)

JURIDICAL REVIEW OF VIOLATION OF LAW BY BENEFICIAL OWNERSHIP IN INDONESIA

(viii + 104 pages)

One of the investments made in Indonesia is through the establishment of a Limited Liability Company. Juridically, share ownership in a Limited Liability Company is owned and registered in the name of the shareholders and upon this share ownership the shareholders receive direct benefits from the number of shares they own. Law Number 40 of 2007 concerning Limited Liability Companies does not recognize separation between the legal owner and the beneficial owner. However, in the reality the ownership which are listed and beneficiaries of the ownership are different. These differences made with a nominee agreement. Therefore, it is necessary to conduct a research to regulate the position of beneficial ownership in Indonesia and the implementation of beneficial ownership arrangements in the event of a legal violation committed by beneficial ownership.

This study used a normative juridical research method using statutory, case, and conceptual approaches. The data used by researcher are secondary data consist of primary legal materials, secondary legal materials and tertiary legal materials.

From this research, beneficial ownership that is present through a nominee agreement is not regulated in the laws and regulations in Indonesia because the government only regulates individual beneficial owners with general and certain qualifications, where the beneficial owner has a direct and indirect relationship in the Limited Liability Company deed. The implementation of government regulations does not impose the obligation to convey any information to beneficial ownership that is present through a nominee agreement so that the neglect of the submission of information does not constitute a violation of the law and for violations and legal crimes related to its decisions to Limited Liability Companies can be held accountable.

Reference: 41 (1985-2018)