

## Optimalization of Legal Instruments for Beneficial Ownership Identification and Reporting in Indonesian Cooperative Sector

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### Abstract

This research is important to examine the concept of beneficial ownership in the context of cooperatives in the Indonesian legal system, where this concept only exists in the limited liability company regime. This study uses normative legal methods with a legislative approach, a conceptual approach, and a comparative approach. The findings of this study show that the concept of beneficial ownership reporting in Indonesia does not clearly regulate the cooperative sector, and in comparison with the European Union, Germany, France, and Japan, which already regulate this matter in detail. This study looks at the concept of beneficial ownership reporting compared to 3 (three) countries, where the concept and reporting procedures are more clearly regulated in those countries. Furthermore, this shows the existence of legal certainty for beneficial ownership reporting in Indonesia in the cooperative sector and must defend the right of data privacy, but only the government must know the beneficial ownership, not the public. This study compares the concept of beneficial ownership and finds the ideal concept for the cooperative realm in Indonesia.

## 1. Introduction

Cooperatives play an important role in the Indonesian economy.<sup>1</sup> As membership-based economic institutions, cooperatives contribute to creating jobs, building local economies, and improving community welfare.<sup>2</sup> Therefore, it is important to understand the context of cooperatives in Indonesia, including the number, types, and sectors of existing cooperatives, as well as the problems and challenges faced by cooperatives in carrying out their functions. Cooperatives have a strategic role in the Indonesian economy.<sup>3</sup> They are not only the driving force of the local economy,<sup>4</sup> but also provide opportunities for members to actively participate in economic activities.<sup>5</sup> Currently, there are various types of cooperatives in Indonesia, ranging

<sup>1</sup> Rianda Dirkareshza and E N Sihombing, "Acceleration of Village Welfare through Bumdes: Disorientation of Implementation of Bumdes Regulations and Policies," *Jurnal Penelitian Hukum De Jure* 21, no. 4 (2021): 419–34.

<sup>2</sup> Yeni Nuraeni, "Strategi Pengembangan UMKM Berbasis Agroindustri Melalui Program Desa Migran Produktif (Desmigratif) Dalam Rangka Perluasan Kesempatan Kerja," *Jurnal Akuntansi Manajerial (Managerial Accounting Journal)* 3, no. 1 (2018): 42–53, <https://doi.org/10.52447/jam.v3i1.1220>.

<sup>3</sup> Rianda Dirkareshza, "Aspek Usaha Bersama Berdasarkan Asas Kekeluargaan Dalam Pembatalan UU No. 17 Tahun 2012 Terkait Putusan Mahkamah Konstitusi No. 28/PUU-XI/2013," *Universitas Sumatera Utara*, 2016.

<sup>4</sup> Rizki Febri Eka Pradani, "Pengembangan Badan Usaha Milik Desa (Bumdes) Berbasis Potensi Lokal Sebagai Penggerak Ekonomi Desa," *Jurnal of Economics and Policy Studies* 1, no. 1 (2020): 23–33, <https://pdfs.semanticscholar.org/86f3/754437e74b0ecffd5782362ad65485b20d23.pdf>.

<sup>5</sup> Rianda Dirkareshza, Andri Ardiantor, and Roni Pradana, "Penafsiran Hukum (Legal Interpretations) Terhadap Undang-Undang Nomor 25 Tahun 2009 Tentang Pelayanan Publik Demi Masyarakat Yang Sejahtera, Adil, Dan Makmur (Welfare State)(Standpoint Usul Perubahan Terhadap UU Pelayanan Publik)," *Reformasi Hukum* 25, no. 2 (2021): 127–46, <https://doi.org/10.46257/jrh.v25i2.202>.

from consumer cooperatives, savings and loan cooperatives, to producer cooperatives. They operate in various sectors, including agriculture, trade, finance, and industry.<sup>6</sup> However, cooperatives also face several challenges, such as limited access to capital,<sup>7</sup> lack of knowledge about cooperative management,<sup>8</sup> and rapid market changes. Studying the context of cooperatives in Indonesia will provide a deeper understanding of the role and challenges faced by cooperatives in supporting the national economy.

In Indonesia, there are several legal regulations governing the identification and reporting of beneficial ownership of cooperatives.<sup>9</sup> This regulation aims to encourage transparency and accountability in cooperative ownership.<sup>10</sup> Presidential Regulation No. 13/2018 on the Application of Principles Regarding Beneficial Owners of Corporations in the Context of Preventing and Eradicating Criminal Acts of Money Laundering and Criminal Acts of Financing Terrorism, this Presidential Regulation regulates the application of principles regarding the beneficial owners of corporations as an effort to prevent and eradicate criminal acts of money laundering and terrorism financing.<sup>11</sup> The mention of cooperatives in this regulation shows the importance of identifying beneficial owners in the context of cooperatives as a step to prevent the potential misuse of cooperatives in illegal activities. Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 15 of 2019 concerning Procedures for Implementing the Principle of Recognizing Beneficial Owners of Corporations, this Ministerial Regulation regulates the procedures for implementing the principle of recognizing beneficial owners of corporations.<sup>12</sup> The provision of these guidelines is important because it helps cooperatives effectively identify and report beneficial owners, so that transparency and accountability in cooperative ownership can be improved. Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 21 of 2019 concerning Procedures for Supervising the Implementation of the Principle of Recognizing Beneficial Owners of Corporations. This Ministerial Regulation regulates the procedures for supervising the application of the principle of recognizing beneficial owners of

<sup>6</sup> Ikhsan Rochmadi, "Analisis Dampak Perdagangan Bebas Dan Global Pada Bergesernya Nilai Budaya, Prinsip Dan Tujuan Koperasi," *Jurnal Ekonomika* 4, no. 2 (2011): 45-51, <https://doi.org/10.36774/sisiti.v8i2.257>.

<sup>7</sup> Yuli Rahmini Suci, "Perkembangan UMKM (Usaha Mikro Kecil Dan Menengah) Di Indonesia," *Jurnal Ilmiah Cano Ekonomos* 6, no. 1 (2017): 51-58, <https://doi.org/10.30606/cano.v6i1.627>.

<sup>8</sup> Bambang Wisnuadhi et al., "Peningkatan Pengetahuan Manajemen Koperasi Syariah Pada Pengurus Dan Anggota Rintisan Koperasi Syariah Berkah Kabupaten Bandung Barat," *Jurnal Difusi* 3, no. 2 (2020): 39, <https://doi.org/10.35313/difusi.v3i2.1904>.

<sup>9</sup> Kusri Purwijanti and Iman Prihandono, "Pengaturan Karakteristik Beneficiary Owner Di Indonesia," *Jurnal Notaire* 1, no. 1 (2018), <https://doi.org/10.20473/ntr.v1i1.9098>.

<sup>10</sup> Bambang Widarno Dewi Saptantinah, "Standar Pelaporan Keuangan Dewan Koperasi Indonesia," *Eksplorasi* 27, no. 1 (2014), <https://ejurnal.unisri.ac.id/index.php/Eksplorasi/article/view/853>.

<sup>11</sup> Michael Nugroho Widjaja, "Peran Notaris Dalam Penerapan Prinsip Mengenali Pemilik Manfaat Dalam Pendirian Korporasi," *Indonesian Notary Journal* 1, no. 1 (2019): 31, <http://dx.doi.org/10.37146/ailrev.v3i1.64>.

<sup>12</sup> Nevey Varida Ariani, "Beneficial Owner: Mengenali Pemilik Manfaat Dalam Tindak Pidana Korporasi," *Jurnal Penelitian Hukum De Jure* 20, no. 1 (2020): 71-84, <http://dx.doi.org/10.30641/dejure.2020.V20.71-84>.

corporations.<sup>13</sup> Effective supervision of the application of this principle is important to ensure that cooperatives comply with their beneficial owner identification and reporting obligations, which can help prevent acts of corruption, money laundering, and other illegal activities involving cooperatives.

An analysis of these regulations may include an understanding of the urgency and relevance of applying the principle of recognizing beneficial owners in the context of cooperatives. The application of this principle is designed to ensure transparency, accountability in cooperative ownership, prevent potential abuse, support efforts to prevent money laundering against terrorism financing. This can emphasize the need for clear rules and guidelines to ensure cooperatives comply with the obligation to identify and report beneficial owners effectively.<sup>14</sup> In line with Indonesia's commitment to fight financial crime and maintain the integrity of the cooperative sector. In essence, beneficial ownership is an important concept in the context of cooperatives.<sup>15</sup> Simply put, beneficial ownership refers to ownership that provides tangible benefits to a particular individual or group. In cooperatives, a clear understanding of beneficial ownership is important as it can prevent harmful practices, such as using cooperatives as a tool to hide true ownership. Accurate and transparent identification and reporting of beneficial ownership in cooperatives can enhance good governance, build member trust, and improve the transparency and accountability of cooperative organizations.

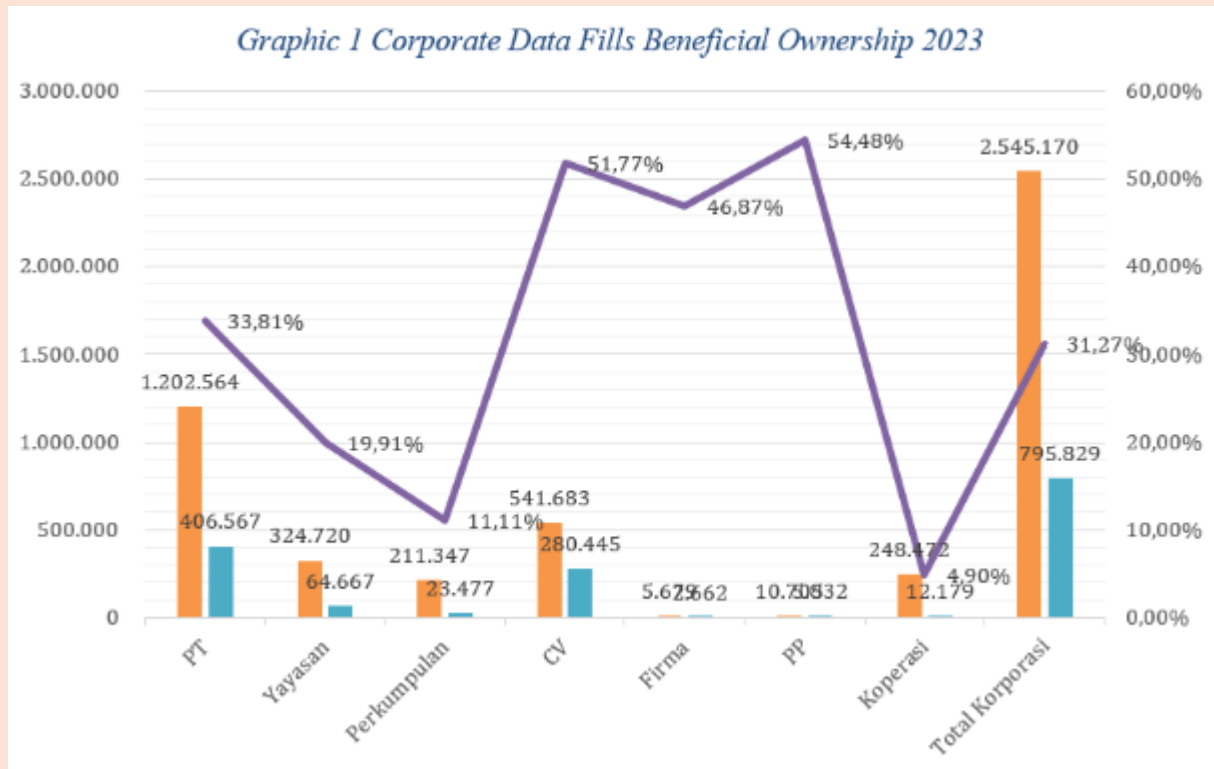
However, in practice, there are still some weaknesses or obstacles related to this regulation. For example, the lack of clarity in the definition of beneficial ownership, inconsistency with international practices, or shortcomings in the reporting mechanism. Therefore, it is necessary to evaluate the existing regulations to improve and enhance the effectiveness of beneficial ownership identification and reporting in the cooperative sector. Identifying and reporting beneficial ownership in the cooperative sector is not without challenges. There are several factors that affect the success of this process. First, the complexity of cooperative ownership structures can make it difficult to identify beneficial ownership. Cooperatives are often composed of various members with varying levels of participation and ownership. In addition, the limited resources and administrative capabilities of cooperatives can also be an obstacle in carrying out accurate beneficial ownership identification and reporting. This can be seen in Graph 1 related to the gap between the number of existing corporations and corporations reporting beneficial ownership.

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<sup>13</sup> Mavoarota Abraham Hoegelstravores Zamili, "Analisis Yuridis Tentang Kewajiban Notaris Menerapkan Prinsip Mengenali Pemilik Manfaat (Beneficial Ownership) Dalam Proses Pembuatan Akta Badan Hukum Perseroan Terbatas," *Fiat Iustitia: Jurnal Hukum*, 2022, 222-34, <https://doi.org/10.54367/fiat.v2i2.1770>.

<sup>14</sup> Tiara Carina et al., *Percepatan Digitalisasi Umkm Dan Koperasi* (Tohar Media, 2022).

<sup>15</sup> Muhammad Naruddin Subhan, Nana Nawasiah, and Eka Sudarmaji, "Koperasi Indonesia, Apa Kabar?(Tinjauan Terhadap Aset, Volume Usaha Dan Benefit Bagi Anggota)," *ISEI Economic Review* 2, no. 2 (2018): 26-39, <http://jurnal.iseibandung.or.id/index.php/ier>.



Source: Ministry of Law and Human Rights 2023, processed by the author

When contextualized within the realm of cooperatives, cooperatives themselves are legal entities that adhere to the philosophy of “one member, one vote.” This philosophy reflects that all members of a cooperative are equal, and control over the cooperative lies with the annual general meeting. This concept stems from the spirit of establishing cooperatives based on the people's economic movement to create an advanced, just, and prosperous society. The main basis for the formation of cooperatives is derived from Article 33, paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which states that “*The economy shall be organized as a joint venture based on the principle of kinship.*” This article emphasizes that cooperatives are legal entities that aim to run businesses based on kinship, so equality is important in the context of cooperatives.

Despite this, the context is significantly different when it comes to capital contributions in cooperatives. Capital contributions in cooperatives do not need to be reported in the same manner as corporations (limited liability companies) when analyzed normatively. However, corporate capital contributions are highly susceptible to money laundering practices and nominee shareholders in cooperatives. This is not immediately apparent from the concept of profit distribution or voting in annual general meetings. Indeed, according to Mohammad Hatta's concept of cooperative development, kinship and the spirit of the people's movement are prioritized in the formation of the cooperative concept to achieve collective goals. However, this also emphasizes the principle of transparency in reporting beneficiaries, which currently does not exist in the normative framework of cooperatives under Indonesian national law.

There are several previous studies on the object and subject of study similar to this research; previous studies are important considering the tendency of support or refutation

between previous or future studies. In the first source, written by Paul Michael Gilmour entitled "Lifting the veil on beneficial ownership: Challenges of implementing the UK's registers of beneficial owners" in a reputable international journal. The study shows that the lack of beneficial ownership transparency facilitates money laundering by hiding corrupt wealth and thwarting authorities' efforts to trace illicit finances. This suggests that implementing a register of beneficial owners may be a superficial approach to addressing the multifaceted issue of money laundering. Better intergovernmental cooperation is needed to increase beneficial ownership transparency and ensure measures to curb money laundering abroad are successful.<sup>16</sup> The similarity with this research is the object related to the transparency of Beneficial Ownership, previous research will strengthen the opinion of this research to be able to optimize legal instruments, especially in Beneficial Ownership.

In the second source, in a reputable international journal article with the title "The abuse of the beneficial ownership of trusts to conceal assets in insolvency and divorce proceedings: a South African study" written by Andrea Dubber, Constant Van Graan and Andre Groenewald. This study aims to determine how trusts are misused to hide assets in insolvency and divorce proceedings. In addition to discussing how fraudulent trusts are evaluated by South African courts, two court cases will also be analyzed to determine how trusts have been abused in the past to hide assets in bankruptcy and divorce proceedings. The study found that trusts can be abused in various ways to hide assets in bankruptcy and divorce proceedings. This can vary from the way the trust is established to the way the trust is used. But trusts are particularly vulnerable to abuse when there is no separation between ownership and enjoyment of trust assets, and the trust does not have an independent trustee.<sup>17</sup> The similarity between this research and previous studies is the object related to beneficial ownership, this research will support related to the process of distributing shares after divorce or death of the beneficial owner.

Finally, in the third source, in an article published by Otniel Yustisia Kristian with the title "Possibility of Share Ownership by Cooperatives as a Means of Not Criminal Money Laundering". Based on the legal research conducted, the results show that there is an opportunity for cooperatives that hold shares in the company to be used as a container or means of money laundering due to the cooperative membership, which is actually open and there is a mechanism for placing cooperative capital from outside cooperative members through a participation capital scheme. It is possible to utilize cooperatives that hold shares in the company along with subsidiaries of the cooperative as a medium for money laundering. The money laundering practices can include money laundering practices using the use of nominee mode, concealment within bussines structure mode, and issue of legitimate bussines

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<sup>16</sup> Paul Michael Gilmour, "Lifting the Veil on Beneficial Ownership: Challanges of Implementating The UK'S Registers of Beneficial Owners," *Journal of Money Laundering Control* 23, no. 4 (January 2020): 717-34, <https://doi.org/10.1108/JMLC-02-2020-0014>.

<sup>17</sup> Andrea Dubber, Constant Van Graan, and Andre Groenewald, "The Abuse of the Beneficial Ownership of Trusts to Conceal Assets in Insolvency and Divorce Proceedings: A South African Study," *Journal of Financial Crime* 31, no. 1 (2024): 76-87, <https://doi.org/10.1108/JFC-02-2023-0026>.



mode.<sup>18</sup> There are similarities in objectives with this research that beneficial ownership can be a field of criminal offense and regulations are needed to mitigate this.

The three sources reviewed all agree that the legal framework for beneficial ownership identification and reporting in Indonesia needs to be improved. However, there are some differences between the sources. For example, the first source focuses on the legal aspects of the issue, while the second source focuses on the regulatory aspects. The third source takes a more comprehensive approach, addressing both the legal and regulatory aspects of the issue. The novelty in this research is that it provides a comprehensive overview of the legal and regulatory framework for beneficial ownership identification and reporting in Indonesia. The research also proposes a number of recommendations to improve the legal and regulatory framework in this area.

Cooperatives play an important role in the Indonesian economy, but they are also faced with various problems and challenges. Beneficial ownership is important in the cooperative context, as accurate and transparent identification and reporting will improve cooperative governance, build member trust, and enhance the integrity of the cooperative sector. In conclusion, the importance of beneficial ownership in the cooperative context cannot be ignored. Accurate and transparent identification and reporting of cooperative ownership will enhance good governance, build trust, and reduce the risk of abuse of power. To achieve this, optimization of legal instruments related to beneficial ownership is important. With clear definitions, conformity with international practices, and improvements in reporting mechanisms, cooperatives in Indonesia can operate more effectively and play a stronger role in the national economy.

## 2. Methods

The research method that will be used in this study is the normative juridical research method.<sup>19</sup> This method involves legal text analysis and a statutory approach in answering research questions.<sup>20</sup> The statutory approach will be used to examine various legal regulations related to Beneficial Ownership in the context of cooperatives in Indonesia.<sup>21</sup> By referring to various relevant laws, government regulations, and court decisions, this research will analyze and interpret legal provisions relating to the identification and reporting of cooperative beneficial owners.<sup>22</sup> In addition, this research will also utilize a conceptual approach. The conceptual approach involves understanding and analyzing legal concepts related to beneficial ownership in cooperatives. The research will explore definitions, theories, principles,<sup>23</sup> and concepts related to beneficial owners in cooperatives both nationally and

<sup>18</sup> Otniel Yustisia Kristian, "Posibilitas Kepemilikan Saham Oleh Koperasi Sebagai Sarana Tindak Pidana Pencucian Uang," *AML/CFT Journal: The Journal Of Anti Money Laundering And Countering The Financing Of Terrorism* 1, no. 1 (2022): 33–52, <https://journal.ppatk.go.id/index.php/jac/article/download/27/6>.

<sup>19</sup> Bambang Waluyo, *Penelitian Hukum Dalam Praktek* (Jakarta: Sinar Grafika, 2008).

<sup>20</sup> Peter Mahmud Marzuki, *Penelitian Hukum: Edisi Revisi* (Prenada Media, 2017).

<sup>21</sup> John W Creswell and J David Creswell, *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches* (Sage publications, 2017).

<sup>22</sup> Uwe Flick, "Triangulation in Qualitative Research," *A Companion to Qualitative Research* 3 (2004): 178–83, <https://doi.org/10.4135/9781529716634>.

<sup>23</sup> Tony Clayton and Nicholas Radcliffe, *Sustainability: A Systems Approach* (Routledge, 2018), <https://doi.org/10.4324/9781315070711>.

internationally.<sup>24</sup> Through this approach, the research will build a solid conceptual framework to understand the role and importance of beneficial ownership in cooperatives as well as its implications in regulation and practice in Indonesia. Furthermore, this analysis will be extended with an analytical approach to identify patterns, trends, comparisons, and implications of the data obtained. By using analytical descriptive data analysis techniques, this research will provide a deeper understanding of the practices and challenges in optimizing beneficial ownership in cooperatives in Indonesia.

### 3. Results and Discussion

#### 3.1. The Role of Beneficial Ownership in Cooperative Transparency and Accountability

Beneficial Owners are individuals who can appoint or dismiss directors, board of commissioners, administrators, supervisors, or supervisors in the Corporation, can control the Corporation, are entitled to and/or receive benefits from the Corporation either directly or indirectly, are the actual owners of funds or shares of the Corporation and/or meet the criteria.<sup>25</sup> The application of the principle regarding the beneficial owner has several objectives including: a. Providing transparency of data on the beneficial owner of the corporation so that complete and accurate data can be obtained; b. Achieving predetermined service standards in providing legal certainty for the parties and encouraging the prevention and eradication of criminal acts of money laundering and terrorism financing; c. Supporting ease of investment and fostering trust for investors.<sup>26</sup>

In the Presidential Regulation regarding the beneficial owner, the government assumes that corporations can be used as a means, either directly or indirectly, by criminal offenders who are the beneficial owners of the proceeds of money laundering and terrorism financing. The government ensures that efforts to prevent and eradicate these criminal acts have followed international standards, as stated in the Financial Action Task Force (FATF).<sup>27</sup> The Financial Action Task Force (FATF) is a supervisor of money laundering and terrorism financing. In the standards or guidelines issued by the FATF, it is mentioned in recommendation number 24, namely regarding Transparency and Beneficial Ownership of Legal Persons and Arrangements.<sup>28</sup>

In increasing the transparency of cooperatives, a supervisory body is formed that is elected by cooperative members who are responsible to the members' meeting. The arrangements of the cooperative supervisor are listed in the previously agreed articles of association. Cooperative supervisors have an important role in the running of a cooperative to

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<sup>24</sup> Josef Myslin and Jiri Kaiser, "State Approach - Index - Based Measurement," *TEM Journal*, 2022, <https://doi.org/10.18421/TEM112-03>.

<sup>25</sup> Adnan Fawwaz Hadju, "Beneficial Owner: Mengenali Pemilik Manfaat Dan Sanksi Bagi Perseroan Terbatas," *Jurnal Ilmiah Wahana Pendidikan* 9, no. 12 (2023): 1-8, <https://doi.org/10.5281/zenodo.8062374>.

<sup>26</sup> Popon Srisusilawati and Nanik Eprianti, "Penerapan Prinsip Keadilan Dalam Akad Mudharabah Di Lembaga Keuangan Syariah," *Law and Justice* 2, no. 1 (2017): 12-23, <https://doi.org/10.23917/laj.v2i1.4333>.

<sup>27</sup> Yudha Bagus Tunggal Putra, "Kewenangan Komisi Pemberantasan Korupsi Dalam Penuntutan Tindak Pidana Pencucian Uang," *Jurnal Rechtsens* 13, no. 2 (2024): 181-98, <https://doi.org/10.56013/rechtsens.v13i2.3061>.

<sup>28</sup> Raissa Azaria Syaharany, "Tanggungjawab Beneficial Owner Pada Koperasi Yang Dinyatakan PKPU" (Universitas Islam Indonesia, 2024).

supervise the implementation of the Cooperative's policies and management and the results are then written to be submitted at the members' meeting and must keep the report confidential from third parties. Cooperative supervisors are regulated in Law Number 25 of 1992 concerning Cooperatives.<sup>29</sup>

The implementation of cooperative supervisors is also regulated in the Minister of Cooperatives and SMEs Regulation Number 9 of 2020 in Chapter IV specifically discusses this matter. The first part discusses the type of implementation of cooperative supervision which includes supervisory duties, forms of supervision and the results of supervision carried out. The tasks carried out in accordance with article 6 include: a. supervision of all facilities and infrastructure related to the implementation of the Cooperative's business activities; b. examination, verification, and clarification of any documents relating to the Cooperative; c. request for information from members, management, supervisors, sharia supervisory boards, management, employees, creditors, investors and Cooperative partners; d. preparation of BAPK and LHPKK; e. reporting the results of the examination to the head of the assignor; and f. monitoring the application of administrative sanctions against Cooperatives with a health level under supervision or under special supervision. Supervision is carried out routinely or at any time which can be done directly or indirectly with information technology media.<sup>30</sup> Article 8 paragraph 3 states that, indirect supervision (off-site) as referred to in paragraph (1) is carried out by analyzing and examining documents and written reports that must be submitted periodically by the Cooperative to the Deputy / Head of the Regional Apparatus. So, the follow-up of a supervision result is not only to the member meeting but also to government officials. The documents resulting from the report are in the form of: a. changes to the articles of association, bylaws, management/supervisors, and address of the Cooperative; b. annual accountability reports of the management and supervisors, minutes of events, and statements of decisions of the members' meeting signed by the chairman, secretary of the meeting, and one of the members' representatives; and c. work plan and budget plan for income and expenditure of the Cooperative. The context of this regulation directly grants significant authority to the Minister of Cooperatives and SMEs (now separated into the Minister of Cooperatives and the Minister of SMEs) to conduct direct supervision of cooperatives, including beneficiaries, even though there are no rigid rules regarding beneficial ownership in this regulation.

Legal digitization is utilized in the identification and reporting process. Indonesia uses online AHU, which can be accessed through applications and websites. Reporting beneficial ownership can be done by the founder/management of the cooperative or Person in charge (PIC) authorized by the corporation.<sup>31</sup> The reporter must fill in personal data in the form of

<sup>29</sup> Safira Fitri Ma'ani, "Implementasi Prinsip Good Corporate Governance Melalui Peran Notaris Dalam Melakukan Penyuluhan Hukum Pada Aktivitas RUPS" (Universitas Islam Indonesia, 2024).

<sup>30</sup> Hans Borneo Hutagalung, "Regulasi Dan Implementasi Peer to Peer Landing Di Indonesia," *Jurnal Darma Agung* 32, no. 6 (2024): 441-51, <https://jurnal.darmaagung.ac.id/index.php/jurnaluda/article/download/5187/4368/>.

<sup>31</sup> Mochamad Lutfi Suryana, "Tinjauan Hukum Peran Direktorat Jenderal Administrasi Hukum Umum Terhadap Beneficial Owner Pada Perseroan Terbatas Dalam Tindak Pidana Pencucian Uang," " *Dharmasisya*" *Jurnal Program Magister Hukum FHUI* 1, no. 4 (2022): 26,



identity number, name and corporate identity. If the person doing the reporting is the PIC, then the data on the name of the authorizer and the power of attorney are required. The reporter must select the criteria based on Presidential Regulation number 13 of 2018, including: a. limited liability company; b. foundation; c. association; d. cooperative; e. limited liability partnership; f. firm partnership; and g. other forms of corporation. Furthermore, the reporter fills in the identity of the beneficial owner, which can then be added or deleted. The reporter is also required to update the data of the beneficial ownership owner at least once a year.

Beneficial ownership regulations in Indonesia, especially those relating to cooperatives, still require comprehensive evaluation. While there are several regulations governing the transparency and accountability of cooperatives, their implementation often faces challenges. This evaluation will examine the strengths and weaknesses of existing regulations and identify areas for improvement. One of the main weaknesses is the lack of a clear and consistent definition of beneficial owner in the context of cooperatives. Existing regulations are often ambiguous, making it difficult to identify exactly who the beneficial owner is in various cooperative ownership definition structures. Clear and operational definitions are essential to ensure transparency and accountability.<sup>32</sup>

Another weakness is the lack of effective oversight mechanisms. While cooperative supervisory bodies exist, their capacity and resources are often limited. This leads to difficulties in monitoring compliance with regulations and cracking down on violations. Strengthening the capacity of supervisory bodies, including improved human resources and technology, is essential to improving supervisory effectiveness. In addition, access to information on beneficial ownership of cooperatives is often limited. The information is not always easily accessible to cooperative members or the public. This hinders members' participation in supervision and decision-making. Increased access to information through a secure and easily accessible digital platform will improve transparency and accountability.

Lack of strict sanctions is also an issue. Light sanctions for violations of beneficial ownership regulations do not provide a deterrent effect. This leads to a lack of compliance and hampers efforts to improve transparency. Increased sanctions, including administrative and criminal sanctions, are essential to ensure compliance. Finally, coordination among agencies related to cooperative supervision still needs to be improved. Lack of coordination can lead to overlaps or gaps in supervision. Improved coordination between agencies will increase the effectiveness of supervision and law enforcement.<sup>33</sup> In conclusion, beneficial ownership regulations on cooperatives in Indonesia still need improvement. These improvements should include clear and consistent definitions, effective supervisory mechanisms, easy access to information, strict sanctions, and good inter-agency coordination. With these improvements,

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[https://scholarhub.ui.ac.id/dharmasisya/vol1/iss4/26?utm\\_source=scholarhub.ui.ac.id%2Fdharma%2Fvol1%2Fiss4%2F26&utm\\_medium=PDF&utm\\_campaign=PDFCoverPages](https://scholarhub.ui.ac.id/dharmasisya/vol1/iss4/26?utm_source=scholarhub.ui.ac.id%2Fdharma%2Fvol1%2Fiss4%2F26&utm_medium=PDF&utm_campaign=PDFCoverPages).

<sup>32</sup> Novariza Novariza, "Pengaturan Transparansi Beneficial Ownership Di Sektor Jasa Keuangan Dalam Rangka Pencegahan Dan Pemberantasan TPPU," *PAMPAS: Journal of Criminal Law* 2, no. 3 (2021): 37-58, <https://doi.org/10.22437/pampas.v2i3.14946>.

<sup>33</sup> Robby Putra Indasyah and others, "Pola Koordinasi Dalam Pengawasan Penggunaan Dana Desa (Studi Kasus Desa Pancasila, Kecamatan Natar, Kabupaten Lampung Selatan)," 2023.

the transparency and accountability of cooperatives can be improved, so that they can contribute to sustainable and equitable economic development.<sup>34</sup>

Improvements to legal instruments governing beneficial ownership in cooperatives in Indonesia should be directed at increasing transparency, accountability, and preventing abuse.<sup>35</sup> Some potential improvements include: *First*, the preparation of a clear and comprehensive definition and regulatory concept of beneficial owner. Nowadays, there are no specialized regulations that are *lex specialis* in the Indonesian legal system for regulating beneficial ownership in cooperatives, especially in regulations at the ministerial level (Ministry of Law of the Republic of Indonesia). This regulation will actually be a breakthrough in unifying definitions, regulatory contexts, and other aspects of beneficial ownership in cooperatives. If it has happened, the definition and the particular regulation should cover various forms of ownership and control in cooperatives, including shareholding, asset ownership, and influence in decision-making. This definition should be operational and easily understood by all relevant parties. The ease of compiling this definition should also be done in standardizing the definition of beneficial owner, which then eliminates the confusion related to the beneficial owner concept. This also affects cooperatives when given the concept of beneficial owner. The concept of beneficial owner must be contextualized to cooperatives so that its essence is in line with the concept of cooperatives. Moreover, the existence of dominant capital holders in cooperatives requires the sharing of benefits that should be in the cooperative so as to enable the concept of equal justice for all capital holders in the cooperative.

The concept of regulation that is put forward in clarifying beneficial ownership reporting is in terms of clarity of reporting regulations to regulators (particularly to the Directorate General of General Legal Administration and the Ministry of Cooperatives), in addition to reporting on existing membership in cooperatives. Then, this context is important in maintaining consistency and transparency in the entry and exit of existing memberships in cooperatives. In Indonesia, reporting on capital is already regulated in Article 122 of Ministry of Cooperative Regulation No. 9 of 2018 concerning the Implementation and Development of Cooperatives. Paragraph (1) states that cooperative administrators must periodically issue capital reports as part of the Cooperative Financial Report. This cooperative reporting covers the cooperative's own capital or equity capital and existing loan capital. This context is important in expanding the potential of this article into a cooperative's obligation to report in its own financial statements to maintain transparency and accountability. However, this context does not constitute an obligation for cooperatives because cooperative financial statements are only presented at the annual general meeting.

In addition, there are indications of overlapping supervisory authority over cooperatives between the Directorate General of General Legal Administration of the Ministry of Law and Human Rights of the Republic of Indonesia (Dirjen AHU Kemenkum RI) and the Ministry of Cooperatives in terms of reporting beneficial ownership in cooperatives. Technically, the authority and functions of the Dirjen AHU Kemenkum RI to supervise business entities

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<sup>34</sup> Kristian, "Posibilitas Kepemilikan Saham Oleh Koperasi Sebagai Sarana Tindak Pidana Pencucian Uang."

<sup>35</sup> Adrian Sutedi and others, *Hukum Perbankan: Suatu Tinjauan Pencucian Uang, Merger, Likuidasi, Dan Kepailitan* (Sinar Grafika, 2023).

(including cooperatives) are regulated in Article 200 letter d of Minister of Law Regulation No. 1 of 2024 concerning the Organization and Governance of the Ministry of Law of the Republic of Indonesia, which states that "In carrying out the duties referred to in Article 199, the Directorate General of General Legal Administration performs the following functions: d. monitoring, evaluation, and reporting in the fields of business entities, civil law, criminal law and pardons, amnesties, abolitions, rehabilitations, dactyloscopy, civil servant investigators, central authority and international law, constitutional law, citizenship status and naturalization, political parties, and general legal administration information technology in accordance with the provisions of laws and regulations." Furthermore, in the context of the Ministry of Cooperatives, it also has special authority to supervise cooperative legal entities as stipulated in the Regulation of the Minister of Cooperatives and Small and Medium Enterprises No. 9 of 2020 concerning Cooperative Supervision, which actually gives the Ministry of Cooperatives the authority to supervise cooperatives. The problem of overlapping institutions can be an issue, especially in terms of beneficial ownership reporting when formulating specific rules on beneficial ownership in cooperatives.

*Second*, the establishment of comprehensive reporting obligations for beneficial ownership in cooperatives. In this case, cooperatives should be required to report beneficial ownership information periodically to the authorized supervisory body. The reported information should include the identity, address, and proportion of ownership or control of each beneficial owner. An integrated and technology-based reporting system can improve reporting efficiency and accuracy. As is known, cooperatives have an internal supervisory body that is obliged to oversee all activities of the cooperative itself.<sup>36</sup> According to Article 39 paragraph (2) letters a and b of Law No. 5 of 1992 concerning Cooperatives, which states that "Supervisors are authorized to: a. examine the records in the Cooperative; b. obtain all necessary information." This concept gives full responsibility to internal supervisors related to beneficial owners in cooperatives,<sup>37</sup> especially the proportion of capital ownership holders in cooperatives to the distribution of profits generated by cooperatives (depending on the type of cooperative). In addition to the cooperative's internal supervisors, it is important to report this to the Directorate General of General Legal Administration and the Minister of Cooperatives. This reporting is intended to maintain transparency and eliminate the potential for money laundering and other legal violations. As such, reporting is useful and eliminates the potential for legal violations in cooperatives, particularly preventing the potential for nominee shareholders and money laundering within the cooperative's capital structure.

*Third*, strengthening the mechanism of supervision and law enforcement, and socialization. Cooperative supervisory bodies need to be given adequate authority and resources to conduct effective supervision. This includes increasing the capacity of human resources, information technology, and budget. Strict and proportional sanctions should be applied against violations of beneficial ownership regulations, including administrative and

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<sup>36</sup> Eri Susanto et al., "Analisis Problematika Dewan Pengawas Syariah Terhadap Pendamping Koperasi Syariah," *Syarikat: Jurnal Rumpun Ekonomi Syariah* 6, no. 2 (2023): 399-409, [https://doi.org/10.25299/syarikat.2023.vol6\(2\).14748](https://doi.org/10.25299/syarikat.2023.vol6(2).14748).

<sup>37</sup> Anindita Priscilia Toriq, "Tinjauan Yuridis Pelaksanaan Pengembalian Aset (Asset Recovery) Dalam Tindak Pidana Korupsi Sebagai Upaya Pemulihan Kerugian Negara (Studi Kasus Putusan Nomor 17/Pid. Sus-TPK/2020/PN. Smg)" (Universitas Islam Sultan Agung Semarang, 2021).

criminal sanctions.<sup>38</sup> Supervisory mechanisms are important in reconstructing beneficial owners in cooperatives.<sup>39</sup> Officials authorized to supervise cooperatives apart from internal instruments are from the Ministry of Cooperatives through Functional Officials of Cooperative Supervisors who are authorized to carry out cooperative supervisory functions as confirmed in Article 3 paragraph (1) of Permenkop UMKM No. 9 of 2020 concerning Cooperative Supervision which states that "Cooperative Supervision is carried out by Functional Officials of Cooperative Supervisors." His authority includes the following matters: " a. supervision of all facilities and infrastructure related to the implementation of the Cooperative's business activities; b. examination, verification, and clarification of every document related to the Cooperative; c. request for information from members, management, supervisors, sharia supervisory board, management, employees, creditors, investors and cooperative partners; d. preparation of BAPK and LHPKK; e. reporting the results of the examination to the head of the assignor; and f. monitoring the application of administrative sanctions against Cooperatives with a health level under supervision or under special supervision." This concept gives more authority to the Functional Officials of Cooperative Supervision. This concept gives more authority to the Supervisory Officer in overseeing the running of the cooperative. In addition, socialization and education are carried out to provide a deep understanding to all cooperative members so that they are enlightened regarding the concept of beneficial owner in cooperatives.

*Fourth*, the use of information technology has an essential role in improving the efficiency and effectiveness of beneficial ownership supervision in the government system for complying with the principle of transparency and accountability for the cooperatives. With a technology-based system, the process of collecting beneficial owner data can be automated, thereby reducing the risk of human error in recording.<sup>40</sup> In addition, technology allows for more secure data storage using encryption and layered security systems to prevent unauthorized access. Data analysis conducted with intelligent algorithms can identify suspicious transaction patterns and detect potential acts of money laundering or tax evasion.<sup>41</sup> The use of big data and artificial intelligence can also help regulators predict risks and take preventive action against possible violations of the law. In addition, information technology allows integration between related agencies to share data in real-time, thereby increasing transparency and accelerating responses in handling suspicious cases.<sup>42</sup> Digital systems can

<sup>38</sup> Sri Odit Megonondo, "Rekontruksi Regulasi Penghentian Penuntutan Pecandu Narkotika Dalam Kerangka Restorative Justice Berbasis Nilai Keadilan Pancasila" (UNIVERSITAS ISLAM SULTAN AGUNG, 2022).

<sup>39</sup> Lindu Aji Saputro, "Kebijakan Hukum Pidana Terhadap Penerapan Prinsip Beneficial Ownership Pada Tindak Pidana Pencucian Uang Yang Berasal Dari Tindak Pidana Korupsi Di Masa Yang Akan Datang" (Universitas Islam Sultan Agung Semarang, 2023).

<sup>40</sup> Putri Wulandari and Rizky Basatha, "Merancang Aplikasi Penjualan Piko Bakery Berbasis Windows," *Jurnal Penelitian Teknologi Informasi Dan Sains* 2, no. 4 (2024): 114-25, <http://dx.doi.org/10.59688/bufnets.v3i1.68>.

<sup>41</sup> Rafrini Amyulianthy et al., *Kecerdasan Finansial: Mengelola Keuangan Bisnis Untuk Pertumbuhan Berkelanjutan* (PT. Sonpedia Publishing Indonesia, 2025).

<sup>42</sup> Desi Julianti, "Strategi Kebijakan Penguatan Pelayanan Publik Dan Pengawasan Perizinan Berusaha Dengan Aplikasi Berbasis Teknologi Informasi," *Kybernology Jurnal Ilmu Pemerintahan Dan Administrasi Publik* 2, no. 2 (2024): 324-63, <https://journal.wiyatapublisher.or.id/index.php/kybernology>.



also simplify the reporting process for companies or entities that are required to report beneficial ownership, so that they can fulfill their legal obligations more easily. With automation and digitization, the previously heavy administrative burden can be reduced, allowing resources to be allocated to more effective analysis and enforcement. With these benefits, utilizing information technology in beneficial ownership monitoring is a very important solution to improve compliance and prevent financial crime. By making these improvements, beneficial ownership legal instruments in cooperatives in Indonesia can become more effective in increasing transparency, accountability, and the prevention of abuse. This will contribute to increasing public trust in cooperatives and the sustainability of cooperatives as a pillar of the people's economy.

### 3.2. Adopting Best Practices from Other Countries in Regulating Cooperative Beneficial Ownership

Several countries have implemented best practices in regulating beneficial ownership, especially in the context of cooperatives. The adoption of these best practices can provide inspiration and valuable lessons for Indonesia in improving the regulation of beneficial ownership of cooperatives. The first is the European Union (EU). The European Union regulates beneficial ownership in Directive (EU) 2018/843 on the Prevention of Money Laundering and the Financing of Terrorism (AMLD V), specifically in Article 30 which reads that "Identification of Beneficial Ownership" Public access to beneficial ownership information enables greater scrutiny of information by civil society, including the press or civil society organizations, and contributes to maintaining confidence in the integrity of business transactions and the financial system.<sup>43</sup> It can contribute to combating the misuse of corporations and other legal entities and legal arrangements for the purposes of money laundering or terrorist financing, both by assisting investigations and through reputational impact, given that anyone who can conduct a transaction knows the identity of the beneficial owner. It also facilitates the timely and efficient availability of information to financial institutions and authorities, including third-country authorities, involved in combating such abuses. Access to such information will also assist investigations into money laundering, related offenses of origin, and terrorist financing.

Then, in Article 31, which contains the "Obligation to Obtain and Hold Adequate, Accurate and Current Information on Beneficial Ownership".<sup>44</sup> Investor and general public confidence in financial markets is largely dependent on the existence of accurate disclosure regimes that provide transparency in the structure of beneficial ownership and control of companies. This is especially true for corporate governance systems characterized by concentrated ownership, as is the case in the European Union. On the one hand, large investors with significant voting rights and cash flows can drive long-term growth and corporate performance. But on the other hand, controlling beneficial owners with large voting rights may have incentives to divert corporate assets and opportunities for personal gain at the expense of minority investors. The potential for increased confidence in financial markets

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<sup>43</sup> Parlement of European Union, *Article 30 Directive (EU) 2018/843 on the Prevention of Money Laundering and the Financing of Terrorism*. (Brussel: Parlement of European Union, 2018).

<sup>44</sup> Parlement of European Union, *Article 31 Directive (EU) 2018/843 on the Prevention of Money Laundering and the Financing of Terrorism*. (Brussels: Parlement of European Union, 2018).

should be seen as a positive side effect rather than the aim of increasing transparency, which is to create an environment that is less likely to be used for money laundering and terrorist financing purposes.

In apart from the concept of beneficial ownership generally recognized first in the European Union, the concept of cooperative legal entities in other countries also needs to be analyzed so that it can be used to see the potential for comparison in other countries in developing a beneficial ownership reporting scheme for cooperative legal entities. The concept of beneficial ownership reporting becomes relevant when examining the cooperative concepts existing in European Union countries, as the European Union also regulates matters related to beneficial ownership. For instance, countries such as Germany, France, Italy, and Japan have cooperative concepts similar to those in Indonesia and have specific beneficial ownership concepts, particularly regarding the reporting of beneficial owners and the largest capital owners in cooperatives.

Germany, as a country with a cooperative concept similar to Indonesia, also has a comprehensive membership concept accompanied by instruments for reporting capital ownership and savings in cooperatives.<sup>45</sup> This reporting is regulated under Sections 30 and 15a of the *Genossenschaftsgesetz*, which require the reporting of the latest membership changes to the local district court, which must then be reported to the national BO system (*Transparenzregister*). This concept makes Germany one of the main economic powers in the European Union, where reporting regulations and the establishment of cooperatives are systematized through the Anti-Money Laundering Act or *Geldwäschegesetz* (GwG).<sup>46</sup> This system is centered on the Transparency Register, a centralized database managed by *Bundesanzeigerverlag*. One of the most significant evolutions in the German system is the transition from a catch-all register to a full register, effective as of August 1, 2021, through the Transparency Register and Financial Information Act (TraFinG). Previously, companies were not required to report to the Transparency Register if BO information for legal entities was already available in other public registers such as the Commercial Register. However, to align with EU standards and create a comprehensive and easily accessible database, this “reporting fiction” was abolished. All entities, including cooperatives (*Genossenschaft*),<sup>47</sup> are now required to actively report their BO directly to the Transparency Register. Cooperatives were given a transition period until June 30, 2022, to comply with this new obligation.

The definition of BO in Germany aligns with EU standards, namely an individual who directly or indirectly holds more than 25% of the capital, controls more than 25% of the voting rights, or exercises control in another comparable manner.<sup>48</sup> Recognizing that these criteria are

<sup>45</sup> The World Bank, “Beneficial Ownership Guide for Germany,” 2024, [https://star.worldbank.org/sites/default/files/2024-04/Beneficial\\_Ownership\\_Guide\\_Germany\\_2024.pdf](https://star.worldbank.org/sites/default/files/2024-04/Beneficial_Ownership_Guide_Germany_2024.pdf).

<sup>46</sup> Pemerintah Federal Jerman, “Transparenzregister- Und Finanzinformationsgesetz (TraFinG),” 2021, <https://www.hengeler.com/en/transparency-register-08-2021>.

<sup>47</sup> Norton Rose Fulbright, “Beneficial Ownership Registers: Regulation around the World,” 2023, <https://www.nortonrosefulbright.com/en-fr/knowledge/publications/abe55ea5/beneficial-ownership-registers-regulation-around-the-world>.

<sup>48</sup> Oliver Escobar, “Between Radical Aspirations and Pragmatic Challenges: Institutionalizing Participatory Governance in Scotland,” *Critical Policy Studies*, 2022, <https://doi.org/10.1080/19460171.2021.1993290>.

often not applicable to cooperatives and other entities with dispersed ownership, German law introduces a highly pragmatic solution, that's the concept of the fictitious economically entitled person or fictitious beneficiary.<sup>49</sup> This concept serves as a fallback mechanism. If, after conducting a thorough and detailed analysis, an entity cannot identify any individual who meets the standard ownership or control criteria, the reporting obligation does not end there. Instead, the law automatically designates all members of the board of directors or legal representatives (*gesetzliche Vertreter*) of the entity as fictitious BO. These individuals must then be registered in the Transparency Register. This solution ensures that for every entity registered in Germany, there is always a name of an individual who can be held accountable, thereby eliminating the possibility of "ownerless" entities in the register. This is an approach that prioritizes legal certainty and accountability over the rigidity of definitions.<sup>50</sup>

In France, in line with other EU member states, a robust BO framework has been established based on the Code monétaire et financier (Monetary and Financial Code), which transposes the AMLD into national law. Its central register is known as the *Registre des bénéficiaires effectifs* (RBE), whose data is submitted to the clerk of the Commercial Court (*Greffe du Tribunal de Commerce*) and integrated nationally through the Institut National de la Propriété Industrielle (INPI).<sup>51</sup> The definition of BO in France is consistent with European standards, targeting individuals who own or control more than 25% of a company's capital or voting rights, or who exercise control through other means.<sup>52</sup> Like Germany and Italy, France also applies a fallback mechanism where the legal representative (*représentant légal*) of the company will be considered the BO if no other individual can be identified through ownership or control criteria.<sup>53</sup>

The most distinctive aspect of the French approach is the policy commitment to public transparency. The EU's fifth AMLD directive initially mandated full public access to the BO register. However, in November 2022, the Court of Justice of the European Union (CJEU) ruled in an important decision that this unrestricted public access was unlawful because it violated the right to privacy guaranteed in the Charter of Fundamental Rights of the European Union. This ruling forced many member states to restrict public access again, generally by requiring a "legitimate interest." However, France took a different stance. In January 2023, French Minister of Economy and Finance Bruno Le Maire publicly stated that the French government had decided to maintain public access to RBE data, pending an in-depth analysis to align the policy with the CJEU ruling. This stance signals a strongly pro-transparency philosophical

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<sup>49</sup> Norton Rose Fulbright, "Beneficial Ownership Registers: Regulation around the World."

<sup>50</sup> DLA Piper, "Significant Changes to Notification Obligations to the German Transparency Register on Ultimate Beneficial Owners," July 2021, <https://www.dlapiper.com/en/insights/publications/2021/07/significant-changes-to-notification-obligations>.

<sup>51</sup> Pemerintah Prancis, "Code Monétaire et Financier (Monetary and Financial Code)," 2016, [https://star.worldbank.org/sites/star/files/g20\\_bo\\_country\\_guide\\_france.pdf](https://star.worldbank.org/sites/star/files/g20_bo_country_guide_france.pdf).

<sup>52</sup> Trade Registry France, "French Register of Beneficiaries: A Legal Framework for Transparency and Compliance," July 2024, <https://traderegistry.fr/french-register-of-beneficiaries-a-legal-framework-for-transparency-and-compliance/>.

<sup>53</sup> TransactionLink, "Registre Des Bénéficiaires Effectifs (RBE)," July 2024, <https://www.transactionlink.io/integrations/registre-des-beneficiaires-effectifs-rbe>.

position, which views public access as an important tool for civil society, journalists, and businesses to exercise oversight and maintain accountability.<sup>54</sup>

The third country in this context is Japan. Japan's approach to BO transparency in cooperatives presents a sharp contrast to the European model, which is mandatory and strictly managed by the state. The main legal framework in Japan is the Act on Prevention of Transfer of Criminal Proceeds (APTCP), which requires certain financial institutions and professions to conduct customer due diligence,<sup>55</sup> including identifying BO. However, the way the state facilitates this obligation is very different. Japan does not have a mandatory BO register. Instead, the government introduced the Substantial Controlling Persons List System, which became operational in January 2022. This system is voluntary. A company, including various types of cooperatives (*kyōdō kumiai*), may choose to prepare a list of its "Substantial Controllers" and submit a request to the Legal Affairs Bureau to store the list and issue an official copy.<sup>56</sup>

The definition used is "Substantial Controlling Person" (*Jisshitsuteki Shihaisha*), which is narrowly defined as an individual who directly or indirectly holds more than 25% of the voting rights in the entity.<sup>57</sup> The focus is purely on voting control, without complex alternative criteria as in Europe. The mechanism of this system is more facilitative than supervisory. Companies submit the list they have prepared themselves, along with supporting documents such as a list of members or shareholders. The role of the registrar from the Legal Affairs Office is not to independently verify the accuracy of the BO status, but only to check whether the submitted list is consistent with the supporting documents attached. The primary purpose of this system is to provide companies with a tool to easily demonstrate their BO structure to third parties, particularly financial institutions, when opening accounts or conducting transactions.<sup>58</sup>

Due to its voluntary nature, there are no direct legal sanctions for companies that choose not to use this system. However, "sanctions" arise indirectly from market pressure. A company that cannot provide satisfactory proof of its BO to a bank or other financial institution will face significant difficulties. Their transactions may be rejected, their accounts may not be opened, or they may be flagged in a Suspicious Transaction Report (STR). Thus, compliance is driven not by the threat of punishment from the state, but by the commercial need to participate in the financial system. This approach reflects a different regulatory philosophy, in which the state acts as a facilitator to help the private sector meet its regulatory obligations.<sup>59</sup> Notwithstanding this, Japan's framework continues to be subject to evaluation by the FATF,

<sup>54</sup> Open Government Partnership, "Improve the Transparency of Company Ownership and Control," 2018, <https://www.opengovpartnership.org/members/france/commitments/FR0009/>.

<sup>55</sup> Pemerintah Jepang, "Act on Prevention of Transfer of Criminal Proceeds (APTCP)," 2007, [https://www.mof.go.jp/english/policy/international\\_policy/amlcftcpf/3.efforts.html](https://www.mof.go.jp/english/policy/international_policy/amlcftcpf/3.efforts.html).

<sup>56</sup> Kementerian Kehakiman Jepang, "Beneficial Ownership of Legal Persons List System," 2022, [https://www.moj.go.jp/MINJI/minji06\\_00190.html](https://www.moj.go.jp/MINJI/minji06_00190.html).

<sup>57</sup> Kementerian Kehakiman Jepang, "Substantial Controlling Persons List System," 2022, [https://www.moj.go.id/MINJI/minji06\\_00190.html](https://www.moj.go.id/MINJI/minji06_00190.html).

<sup>58</sup> Financial Action Task Force (FATF), "Japan's 3rd Enhanced Follow-Up Report," 2024, <https://www.fatf-gafi.org/content/dam/fatf-gafi/fur/Follow-Up-Report-Japan-2024.pdf.coredownload.inline.pdf>.

<sup>59</sup> The World Bank, "G20 Beneficial Ownership Country Guide: Japan," n.d., [https://star.worldbank.org/sites/star/files/g20\\_bo\\_country\\_guide\\_japan.pdf](https://star.worldbank.org/sites/star/files/g20_bo_country_guide_japan.pdf).



which has identified several weaknesses and encouraged further strengthening. After presenting the three countries, here is a comparison table of the three countries above:

**Table 1.** Comparison of Indonesia, Germany, France, and Japan in the Context of Beneficial Ownership in Cooperatives

Key Roles	Indonesia	German	France	Japan	European Union
Legal Basis	Presidential Regulation No. 13 of 2018; Ministry of Law's Regulation 2/2025	Geldwäschegesetz (GwG); TraFinG	Code monétaire et financier (implementasi AMLD)	Act on Prevention of Transfer of Criminal Proceeds (APTCP)	Directive (EU) 2018/843 (AMLD V)
BO's Definition (Threshold)	>25% SHU and other provisions stipulated in Presidential Regulation No. 13 of 2018	>25% Capital	>25% Capital	>25% Capital (Substantial Control)	Standard threshold (implied >25% ownership/control).
Alternatif Criteria	Yes (control, benefits, fund owner)	Yes (control by other means)	Yes (control by other means)	None (focus on single threshold)	Allows member states to implement fallback provisions (e.g., senior managing officials).
Fictitious/Fallback BO Concept	Corporative Controlling Personnel	Yes (Board of Directors)	Yes (Legal Representative)	None (declarative system)	Based on European Country as the member of EU.
Central Registry Name	BO Reporting System (via AHU Online)	Transparenzregister	Registre des bénéficiaires effectifs (RBE)	Substantial Controlling Persons List System	Mandates member states to establish interconnected central registers.
Registry Nature	Mandatory after audit or financial statements (Not at initial registration)	Mandatory (Full Register)	Mandatory	Voluntary (at the company's request)	Mandatory for member states to implement registers.
Managing Authority	Ministry of Law (Directorate General of Legal Administrative)	Bundesanzeiger Verlag	Commercial Court Clerk (via INPI)	Legal Affairs Office (Ministry of Justice)	Based on European Country as the member of EU.

Verification Mechanism	Strengthened (risk-based, documents, questionnaires)	Verification by authorities	Verification by authorities	Limited (confirmation of registration based on company documents)	Requires member states to implement effective, proportionate, and dissuasive sanctions.
Public Access Level	Limited (with justification)	Wide public access	Wide public access	No public access at all	Based on European Country as the member of EU.

The comparative context also shows that the ease of access to the beneficiary registration process through an online platform represents an innovation in terms of facilitating access for the parties involved. The system, which can be accessed electronically via a website, demonstrates administrative efficiency by reducing bureaucratic burdens. Additionally, the implementation of regulations that detail relevant legal elements provides a valid legal basis for the beneficial ownership registration process. In other words, this mechanism also ensures compliance with the legal framework governing beneficial ownership, providing reliability and legal certainty in every transaction related to beneficial ownership.<sup>60</sup> Given these advantages, then, it would be important to recognize that ease of access and legal compliance are two mutually supportive pillars that can create a strong foundation for beneficial ownership regulation in the Indonesian cooperative sector.<sup>61</sup> As an integrated concept, ease of access and legal compliance are not only a defense against potential violations but also symbolize a commitment to good governance and the empowerment of beneficial ownership in the context of cooperative finance.

Four years after the beneficial ownership Presidential Regulation was enacted, the obstacles involve the absence of key actors who can ensure effective implementation and the lack of “norm enforcers” in the form of incentives and disincentives, such as substantial sanctions that are still inadequate. From a substantive perspective, the sustainability of beneficial ownership implementation does not depend solely on regulations but also on the presence of key actors who can ensure consistency and efficiency in implementation. To date, there has been no clear role for key stakeholders in ensuring compliance and transparency of beneficial ownership regulations. Furthermore, weaknesses in “norm-enforcing mechanisms” or incentives and disincentives remain a significant obstacle. The importance of introducing positive incentives, such as rewards for compliance, and disincentives, such as substantial penalties for violations, has not been fully realized, making it difficult to encourage compliance. In facing these challenges, a deep understanding of the difficulties in disclosing

<sup>60</sup> Fatrul Razi, Rembrandt Rembrandt, and Yussy Adelina Mannas, “Kepastian Hukum Prinsip Pemilik Manfaat (Beneficial Ownership) Serta Peranan Notaris Berdasarkan Permenkumham Nomor 15 Tahun 2019,” *UNES Law Review* 5, no. 4 (2023): 4683–4703, <https://doi.org/10.31933/unesrev.v5i4.807>.

<sup>61</sup> Iwan Riswandie, “Perlindungan Hukum Bagi Masyarakat Marginal Dalam Perspektif Asas ‘Equality Before The Law,’” *Sultan Adam: Jurnal Hukum Dan Sosial* 1, no. 2 (2023): 298–310, <https://doi.org/10.71456/sultan.v1i2.545>.

BO data is essential. A comprehensive identification of these obstacles is the foundation for developing more effective strategies and policies to improve transparency and compliance with BO regulations as a whole.

Indonesia, in terms of beneficial ownership regulations and reporting systems, can apply the concepts implemented by Germany and France. The reason is not only the registration requirement at the time of cooperative establishment, but also the widespread public access to information regarding the identities of capital owners in both countries. As a country governed by the rule of law, Indonesia must also respect the personal data of the beneficiaries of all cooperatives that report their ownership. Reporting to regulators (in this case, the Directorate General of General Legal Administration and the Ministry of Cooperatives) is carried out routinely at certain intervals, but this does not mean that the information is immediately disclosed to the public regarding the beneficial owners. This is very different from the context of the European Union, which has a concept of openness and independence for its member states while still imposing certain restrictions to ensure that the rights of beneficial ownership are properly protected. This clearly shows that respect for personal data is also important to ensure the privacy of all beneficial owners in cooperatives. Especially with the enactment of Law No. 27 of 2022 on Personal Data Protection, the state must respect the personal data of beneficial owners, particularly cooperative beneficiaries. Thus, the concept of beneficial ownership reporting in Indonesia is limited to reporting to regulators and does not disclose it to the public unless there are indications from regulators regarding suspicious ownership and the potential for nominee ownership of capital in the cooperative. This will certainly protect the rights of other members who are not included in the cooperative's beneficiaries.

This context of beneficiaries does not deviate from the philosophical concept of cooperatives that maintain equal relationships among their members (one man, one vote), but it aims to minimize the abuse of power by actual capital holders who are members of the cooperatives they established, so that decisions in cooperatives can be regulated by the beneficiaries of those cooperatives. This also aims to protect the welfare of other cooperative members and prevent the beneficial owner from monopolizing or taking advantage of the cooperative for personal gain, which would result in taking personal advantage of the Surplus of Cooperative Operations (SHU), which should be the right of all members regardless of their actual ownership in the cooperative. Thus, the normative construction of beneficial ownership reporting must respect the privacy of the actual dominant beneficial owners and disclose it when there is a potential for legal violations and nominee arrangements within the cooperative itself.

#### 4. Conclusions

The role of beneficial ownership in cooperatives is focused on the balanced distribution of benefits to all beneficiaries in the Cooperative. Regulation of beneficial ownership in Indonesia, especially those related to cooperatives, still requires comprehensive evaluation. Although there are several regulations governing transparency and accountability of cooperatives, their implementation often faces challenges. This evaluation will examine the strengths and weaknesses of existing regulations, and identify areas that need improvement. Thus, several improvements to legal instruments governing beneficial ownership in

cooperatives in Indonesia must be directed at increasing transparency, accountability, and preventing abuse. Several potential improvements include: First, the preparation of a clear and comprehensive definition of beneficial owner. Second, the establishment of comprehensive reporting obligations. Third, strengthening the mechanism of supervision and law enforcement, and socialization of education. Fourth, the use of information technology has an essential role in increasing the efficiency and effectiveness of supervision of beneficial ownership.

Beneficial ownership can generally be seen from the European Union concept. However, specifically, the concept of beneficial ownership is recognized in the context of cooperative legal entities in Germany, France, and Japan. The context of beneficial ownership for cooperatives in Indonesia must prioritize the concept of disclosure of beneficiaries from the outset, rather than waiting until the concept of periodic annual financial reporting to regulators (the Indonesian Ministry of Law and the Ministry of Cooperatives). This concept indicates that there is notification of beneficial owners from the outset, with the composition of beneficial owners consisting of members who influence the cooperative (such as the management or supervisors of the cooperative) who benefit from the cooperative's activities. Although the concept in other countries provides public access to beneficial ownership in cooperatives, Indonesia needs to maintain the values of respect for privacy data in order to protect beneficial ownership and only disclose it when regulators have other considerations for disclosing such data. In addition, when considering the concepts in the above countries for application in Indonesia, the normative construction of beneficial ownership reporting must respect the privacy of the actual dominant beneficial owners and disclose it only when there is a potential violation of the law and nominee arrangements within the cooperative itself, so as not to violate the provisions of the Personal Data Protection Law (PDP) and the privacy rights of beneficial owners, which are their constitutional rights as citizens. Only the state, as the regulator, should know who the beneficial owners of cooperatives are without having to disclose this information to the public. This requires specific regulations at the relevant ministerial level, both the Indonesian Ministry of Law, which has the authority to establish cooperatives, and the Indonesian Ministry of Cooperatives, which has the authority to supervise cooperatives, in terms of beneficial ownership, so that the practice of beneficial ownership disclosure can be implemented properly.

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