

**PERTANGGUNG JAWABAN PIDANA PEMILIK MANFAAT
(*BENEFICIAL OWNERSHIP*) PADA TINDAK PIDANA KORUPSI
DI BIDANG PASAR MODAL**

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INTISARI

Penelitian ini bertujuan Pertama, untuk mengetahui dan menganalisis pertanggungjawaban pidana *Beneficial Ownership* pada tindak pidana korupsi di bidang pasar modal. Kedua, untuk mengetahui dan menganalisis pengaturan ideal mengenai *Beneficial Ownership* dalam tindak pidana di pasar modal pada masa mendatang dalam kaitannya dengan pertanggungjawaban korporasi pada tindak pidana korupsi.

Penelitian ini merupakan penelitian hukum normatif yaitu penelitian dengan mengkaji, menguji dan menerapkan konsep hukum pada peraturan perundang-undangan yang berlaku terhadap gejala yang terjadi, dan juga menjelaskan bagaimana pengaturan mengenai *Beneficial Ownership* yang tertuang dalam Perpres Nomor 13 Tahun 2018 tersebut apakah sudah cukup atau belum mengenai konsepsi *Beneficial ownership* dalam optimalisasi pengembalian kerugian keuangan Negara akibat Tindak Pidana Korupsi.

Penelitian ini memiliki dua kesimpulan yakni, Pertama, *Beneficial Ownership* yang melakukan tindak pidana korupsi di bidang Pasar Modal, aparat penegak hukum dapat meminta pertanggungjawaban pidananya menggunakan Undang-Undang Tipikor dengan menghubungkan tindakan atau perbuatan *Beneficial Ownership* dengan teori *Deelneming* (Pasal 55 dan Pasal 56 KUHP). Kedua, guna menekan tindak pidana korupsi oleh *Beneficial Ownership* di bidang Pasar Modal, maka pada masa mendatang perlu adanya regulasi kebijakan hukum pidana dalam Undang-Undang Tipikor dan Undang-Undang Pasar Modal yang mengatur secara eksplisit status, kedudukan dan kewenangan *Beneficial Ownership* pada suatu korporasi dengan memperhatikan teori *vicarious liability* (pertanggungjawaban pidana pengganti), *strict liability*, *teori identification*, teori agregasi dan/atau ajaran *corporate culture model*. Selain itu perlunya pengaturan tentang tata cara dan prosedur (hukum acara) penanganan korporasi khususnya *Beneficial Ownership* sebagai pelaku tindak pidana korupsi

Kata Kunci : Pertanggungjawaban Pidana, Tindak Pidana Korupsi, *Beneficial Ownership*, Pasar Modal

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***CRIMINAL LIABILITY OF BENEFICIAL OWNERSHIP IN CRIMINAL
ACTIONS OF CORRUPTION IN THE FIELD OF CAPITAL MARKETS***

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ABSTRACT

The purpose of this study, first, to determine and analyze the relationship between Beneficial Ownership program in the partnership program in the capital market. Second, to understand and analyze the ideal arrangement for realizing Beneficial Ownership in the loan program in the capital market at a certain time in relation to corporate relations in the corporate loan program.

It is a normative legal assessment, namely an assessment by assessing, assessing and applying legal concepts to the legislation in force to date, and also explaining how the assessment of Beneficial Ownership contained in Presidential Decree Number 13 of 2018 is sufficient or not the concept of Beneficial ownership in optimizing state financial development

This study has two conclusions, First, Beneficial Ownership carried out against beneficiaries of corruption programs in the Capital Market Capital Market, whether legal recipients can hold beneficiaries accountable for the use of corruption laws by replacing losses or benefits of Beneficial Ownership with Deelneming theory (Article 55 and Article 56 of the Criminal Code). Second, in order to claim compensation for ownership of Beneficial Ownership in the capital market, then in the event of a violation of the laws and regulations in the Corruption Act and The Capital Market Act which states separately the status, ownership of Beneficial Ownership in a corporation by establishing the theory of vicarious liability (criminal responsibility against), strict responsibility, theory identification, theory agregation and/or corporate culture model. In addition, the need for regulation of procedures (procedural law) for handling corporations, especially beneficial Ownership as perpetrators of corruption.

Keywords: Criminal Responsibility, Corruption, Beneficial Ownership, Capital Market

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