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license**RISK, RESPONSIBILITY, AND REGULATION: A SOCIO-LEGAL ANALYSIS OF NOTARIAL ACCOUNTABILITY IN IDENTIFYING BENEFICIAL OWNERSHIP****Muhammad Yusron Aljula^{1*}, Hartanto¹**¹Universitas Muhammadiyah Surakarta, Jalan Ahmad Yani, Sukoharjo 57162, Indonesia*Correspondence E-Mail: muhammadyusron626@gmail.comDOI: <https://doi.org/10.30598/baileofisipvol3iss1pp33-48>**ABSTRACT**

This paper aims to analyze the legal accountability of notaries in fulfilling their obligation to identify the Beneficial Ownership, as mandated by Presidential Regulation No. 13 of 2018 on the Implementation of the Principle of Knowing the Beneficial Owner of Corporations. Employing a normative juridical approach and comparative legal method, this study examines the scope of notarial liability and the extent of legal protection afforded through the Beneficial Ownership Declaration Letter. Findings highlight the strategic role of notaries as gatekeepers in preventing money laundering and terrorism financing, particularly through their authority to identify parties and inquire into corporate beneficial ownership. However, this responsibility carries the risk of legal overburden if not supported by adequate legal safeguards. While the Declaration Letter may serve as evidence of due diligence, its probative value is only conclusive if uncontested. Thus, regulatory reform is needed to clarify that notarial responsibility is limited to formal truth based on client declarations, not material truth. The novelty of this study lies in its socio-legal argument for reconstructing norms of notarial liability amid an increasingly complex anti-money laundering regime. The main recommendation calls for harmonizing the identification duty with the statutory limits of notarial authority to balance legal risk, responsibility, and protection.

Keywords: Notary Accountability, Beneficial Ownership, Anti-Money Laundering, Due Diligence, Legal Protection

INTRODUCTION

Amidst the increasing complexity of global financial crimes, such as money laundering and terrorist financing, state efforts to identify the ultimate or beneficial owner of a legal entity have become increasingly urgent (Olujobi & Yebisi, 2023; Teichmann, 2022; Zia et al., 2022). In Indonesia, Presidential Regulation No. 13 of 2018 emerged as a regulatory milestone emphasizing the importance of the Principle of Identifying the Beneficial Owner of Corporations as part of a national strategy to prevent financial crimes (Agustino et al., 2023; Lamada, 2024). In its implementation, notaries play a strategic role as one of the mandated parties to apply this principle. However, this responsibility does not come without risks. In fulfilling their duties, notaries not only face administrative challenges but also potential legal liabilities that may arise from errors or inaccuracies in identifying the actual beneficial owner of a corporation. This is

where the dilemma arises: notaries are required to exercise due diligence, yet they also need clear legal protection to avoid being scapegoated in broader law enforcement efforts.

These concerns are not unfounded. Reports from the Financial Transaction Reports and Analysis Center (PPATK) indicate that disguising the identity of beneficial owners often occurs in the establishment of legal entities, particularly shell companies. This issue is exacerbated by the fact that many notaries find themselves in an ambiguous position—bound to comply with repressive regulations while also being subject to client confidentiality obligations as stipulated in the Notary Position Act. This challenge forms the background of this study: what is the legal position of notaries in applying the Principle of Identifying the Beneficial Owner, and to what extent can mechanisms such as the Beneficial Owner Statement Letter provide adequate legal protection for notaries.

Research on the involvement of notaries in preventing financial crimes has been the focus of several previous studies. Juliansyah & Ismelina (2024), Puspita et al. (2024), and Savitri et al. (2024) highlight the complexity of the notary's role as a gatekeeper within Indonesia's legal system, particularly when tasked with client identification in the context of money laundering. On a global scale, studies by Nduka et al. (2021) and Tairu (2022) emphasize the importance of non-financial institutions, including notaries, as Designated Non-Financial Businesses and Professions (DNFBPs) that must be integrated into financial crime prevention systems. Similarly, Adjie (2023), Mirzajanovna (2024), and Prawati et al. (2024) assert that fulfilling the know-your-client principle is not only the responsibility of financial institutions but also of professional entities like notaries who are directly involved in the establishment of legal entities.

Furthermore, research by Lubis et al. (2023) and Pramadanty et al. (2024) reveals that notaries' understanding of the beneficial ownership principle remains inconsistent, with some expressing uncertainty regarding legal liability if the information provided by clients turns out to be false. This is echoed by Pantazatou (2023) and Parmono et al. (2024), who find that not all notaries feel legally empowered to reject a deed if there are signs of identity concealment by the beneficial owner. These studies generally highlight the practical dilemmas faced by notaries, but they have yet to delve deeply into the legal construction of liability, especially concerning the evidentiary value of the Beneficial Owner Statement Letter.

On the other hand, normative studies such as those by Iryadi et al. (2021), Lubis et al. (2022), and Putra et al. (2025) tend to focus more on analyzing the authority of notaries within the framework of the Notary Position Act, without considering how newer regulations like Presidential Regulation No. 13/2018 may intersect or even conflict with existing legal provisions. Meanwhile, research by Sofyani et al. (2022) on beneficial ownership disclosure practices in various countries suggests that Indonesia is still in the early stages of building a transparent and accountable system. This is supported by reports from the Financial Action Task Force (FATF), which point out that the implementation of beneficial ownership rules in developing countries, including Indonesia, still contains legal loopholes that must be addressed.

Several other studies, such as Budiono et al. (2023) and Saragih & Djaja (2023), have discussed legal protection for the notary profession, but they tend to focus on the general context of document misuse rather than the specific issue of implementing the Principle of Identifying the Beneficial Owner. Even analyses by Khairani et al. (2024) and Zaki & Saidin (2024) merely touch the surface, treating this issue as part of an ethical responsibility rather than a legal framework that could threaten the professional standing of notaries under criminal law.

From the literature review, it becomes apparent that few studies have specifically examined legal protection for notaries in the context of implementing the cross-sectoral Principle of Identifying the Beneficial Owner—which spans administrative law, economic criminal law, and professional ethics. While many studies highlight the role of notaries in preventing money laundering, few have truly explored how this legal responsibility is limited or guaranteed, particularly in relation to the evidentiary strength of the Beneficial Owner Statement Letter, which has become common practice in the field.

It is within this context that this study takes a relatively unexplored stance. This research not only investigates the role of notaries as enforcers of regulatory obligations but also initiates a discussion on how such regulations should be reformulated to align with the principle of proportional responsibility and professional protection. By analyzing the evidentiary strength of the statement letter from the perspective of legal proof, and placing it within the framework of the legal relationship between notary and client, this study touches on the grey areas that have long been overlooked in policy formulation and regulatory implementation.

Thus, this study not only underscores the importance of notaries in the prevention of financial crimes but also advocates for the urgency of clarifying the boundaries of legal liability that notaries must bear when carrying out their duty to identify beneficial owners. If the state expects notaries to act as gatekeepers, then it must also provide a fair protective framework so that notaries do not become legal scapegoats. This is the central contribution of this research: a socio-legal approach that considers not only normative aspects but also the practical realities faced by notaries in their daily work.

The objective of this study is to comprehensively analyze how the legal responsibilities of notaries in applying the Principle of Identifying the Beneficial Owner should be limited and protected through the strengthening of legal instruments such as the Beneficial Owner Statement Letter, and how existing regulations should be adjusted to avoid imposing disproportionate burdens on the notarial profession. This study is expected to enrich academic and policy discourse on financial crime prevention by positioning notaries not merely as implementers but also as legal subjects entitled to protection.

RESEARCH METHOD

This research adopts a normative juridical approach with a socio-legal reading as the primary analytical lens (Hamzani et al., 2023; Noor, 2023). This methodological choice is driven

by the need not only to understand legal norms textually but also to examine how these norms operate in practice, especially in the implementation of the Principle of Identifying the Beneficial Owner by notaries. The normative juridical approach is necessary to explore the framework of positive law governing the duties and responsibilities of notaries, particularly in relation to Presidential Regulation No. 13 of 2018, Law No. 2 of 2014 concerning the Notary Position Act (UUJN), as well as other relevant laws such as the Anti-Money Laundering Law. However, law does not function in a vacuum. Therefore, this normative approach is complemented by a socio-legal perspective to enable a more grounded analysis of the social and professional realities that notaries face in practice.

In terms of data collection, this research relies primarily on literature study, considering that the object of analysis is legal norms and regulations. Primary data sources consist of statutes, legal documents, and legal constructs derived from court decisions or derivative regulations. Secondary data sources include academic literature such as books, journal articles, prior research, institutional reports (e.g., PPATK and FATF), and informal interviews conducted to contextualize the social realities (with strict adherence to informant confidentiality). The literature review forms the foundation of this study, as it explores the legal responsibility embedded in formal norms. However, since legal norms are always shaped and evolve through social practice, contextual readings are essential to understand how implementation and legal consequences are experienced by legal actors, in this case, notaries.

To enrich the practical dimension of the socio-legal analysis, the study also includes limited qualitative interviews with several notaries who have experience applying the beneficial ownership principle, as well as legal scholars specializing in notarial law and anti-money laundering. These interviews were conducted in a semi-structured format to allow informants the flexibility to elaborate on their experiences and perspectives. The goal of this step is to gain insights into how notaries interpret their responsibilities under existing regulations, and how they assess the effectiveness and legal risks of using the Beneficial Owner Statement Letter. This technique complements the normative analysis with a more vivid and contextual empirical understanding, offering a more humanized interpretation of legal norms that are often viewed as rigid.

During the analysis phase, data from the literature review and interviews were re-examined using triangulation of sources and methods. Source triangulation involved comparing data from statutes, academic writings, and interview results with notarial practices reflected in court decisions or official reports from state institutions such as PPATK. Meanwhile, method triangulation was applied by combining legal document review and interviews, each with distinct analytical methods. This approach bridges the gap between what is legally prescribed and what happens in practice, ensuring the analysis does not become trapped in idealistic interpretations of legal texts but instead weighs both normative and social realities proportionally. These steps were deliberately designed to meet the need for a legal research approach that is not only doctrinal but also contextual. This aligns with Vanhercke & Verdun's (2022) view that law must

be understood in relation to the social actors and institutional structures through which it is enacted.

RESULTS AND DISCUSSION

Notaries as Gatekeepers in the Anti-Money Laundering Regime

In the context of combating modern financial crimes, notaries occupy an increasingly strategic position as part of the legal infrastructure responsible for maintaining the integrity of both legal and financial systems. Presidential Regulation No. 13 of 2018 on the Implementation of the Principle of Recognizing the Beneficial Owner of a Corporation affirms this role by explicitly naming notaries as one of the implementers of the beneficial ownership identification principle. This designation places notaries in the category of Designated Non-Financial Businesses and Professions (DNFBPs), as defined in the recommendations of the Financial Action Task Force (FATF), which globally obliges certain non-financial professions to participate in anti-money laundering (AML) and counter-terrorism financing (CTF) systems. This role is not merely administrative; it entails legal and ethical responsibilities to identify and document the true beneficial owners of legal entities being established or modified.

Through the normative juridical approach applied in this study, it is found that Presidential Regulation No. 13/2018 imposes a substantive obligation on notaries to implement the principle of due diligence—namely, to identify the actual individuals who exercise control over a legal entity. This is reflected in Article 6 paragraph (1), which requires all parties, including notaries involved in the establishment of corporations, to obtain, retain, and update information on the beneficial owner of the respective corporation. Normatively, this provision marks a shift in the notary's function from merely recording the parties' intentions to becoming an active agent ensuring ownership transparency in legal entities. This places notaries at a crossroads between official duties, professional confidentiality, and broader public interest.

In practice, socio-legal readings drawn from limited interviews with notaries in Jakarta and Surabaya reveal a compelling dynamic. A senior notary from Jakarta remarked, "We have no independent verification tools to assess whether someone is truly the Beneficial Owner—we can only rely on what the client says and the documents they present." This statement highlights the practical limitations notaries face when shouldering responsibilities under a risk-based regulatory regime. In such legal frameworks emphasizing prevention, front-line actors—including notaries—are positioned as risk managers who must assess potential violations even before they occur (Scheel, 2025). However, not all actors possess the resources or authority to conduct comprehensive risk assessments.

The literature review in this study also indicates that the role of notaries as part of the DNFBP group is often not fully understood—either by the public or by notaries themselves. A 2022 report from Indonesia's Financial Transaction Reports and Analysis Center (PPATK) found that only 47% of notaries interviewed were familiar with the details of their obligations

concerning beneficial ownership, and only about 28% routinely required clients to fill out a Beneficial Owner Statement as part of the incorporation process. These figures reveal a gap between the legal norms and their practical implementation—what socio-legal approaches identify as a dissonance between legal texts and the world of practice.

Furthermore, a review of legal documents and secondary regulations, such as Circular Letter of the Minister of Law and Human Rights No. AHU.OT.03.01-06 of 2019 on the Procedures for Implementing the Principle of Recognizing Beneficial Owners, shows that the oversight mechanism for notarial compliance remains largely administrative and lacks strong indicators of effectiveness. This results in limited incentives—or even legal pressure—to ensure that notaries consistently fulfill their gatekeeping role. To illustrate this condition, the following table summarizes findings from limited interviews and secondary data from the PPAK report:

Table 1 Summary of Research Findings on the Implementation of the Principle of Recognizing Beneficial Owners by Notaries

Aspect	Research Findings
Notary understanding of Beneficial Owners	Most are aware of the concept, but not all understand their detailed obligations.
Use of Beneficial Owner Statements	Generally done formally, but with no substantial verification.
Main challenges	Lack of verification access, unclear legal liability, and uncertainty about scope of authority.
Attitudes toward regulation	Consider it important, but feel the responsibility is excessive without clear legal protection.

Source: Research Findings (2025)

These findings suggest that the gatekeeping role assigned to notaries is no longer a mere procedural responsibility, but has evolved into a complex legal and ethical burden. Within the logic of risk-based regulation, notaries have become part of an early detection system for potential financial crimes. However, without adequate supporting mechanisms, this role becomes counterproductive. When the burden of risk is not matched by investigatory authority and proportional legal protections, notaries are caught in legal uncertainty that could lead to the criminalization of their professional function.

The findings in this section indicate that within a risk-based anti-money laundering regime, the notary's position as a gatekeeper needs to be restructured—not by reducing their responsibilities, but by ensuring those responsibilities are supported by fair, proportional, and clearly defined legal frameworks that establish the boundaries of their authority and their right to protection. Otherwise, the ideal of a preventive legal regime transforms into a structural burden on practitioners, ultimately diminishing the effectiveness of the legal system itself.

Beneficial Ownership Declaration Letter: Function, Legal Strength, and Limits of Protection

The Beneficial Ownership Declaration Letter is a crucial element within the anti-money laundering regulatory framework as stipulated in Presidential Regulation No. 13 of 2018. This

document functions not only as an administrative instrument but also as a symbol of the transfer of responsibility between the client (the appearer) and the notary, particularly in the context of identifying the Beneficial Owner. It serves as evidence that the notary has exercised due diligence as required by the regulation; however, its legal evidentiary value remains subject to both epistemic and juridical limitations.

Legally, the Beneficial Ownership Declaration Letter falls under the category of private deeds as referred to in Article 1867 of the Indonesian Civil Code. This means its probative value is relative and highly dependent on the acknowledgment of the signatory party. Permana et al. (2024) and Saputra et al. (2021) explain that while private deeds may be used as evidence, their evidentiary weight becomes absolute only if not contested by other parties. In practice, such statements are often unilaterally prepared by the appearer and simply attached by the notary to the notarial minute as supporting documentation. The notary does not have the authority to investigate the substantive truth of the statement's contents, unless there is a clear indication that the document is false or fictitious.

Eriksen & Eriksen (2025) assert that the relationship between professionalism and legal responsibility creates a complex epistemic dilemma. In the case of notaries, this dilemma manifests in the question of whether a notary can be held legally liable for information that lies substantively beyond the scope of their professional competence. For instance, when an appearer declares that they are not representing a party with an opaque ownership structure, the notary can only assess based on formal documents, not by conducting a substantive investigation. In this position, the notary is caught between the obligation to act diligently—as emphasized in Article 16(1)(a) of the Notary Law (UUJN)—and the functional limitations of being a public official without investigative capacity.

Limited interviews with several notaries indicate that the declaration letter serves as a form of “administrative shield” that offers a false sense of security. One notary in Jakarta remarked, “This letter is formal evidence, but we remain anxious. If a dispute or criminal report arises, our position is still vulnerable.” This statement reinforces the analysis that the declaration merely shifts the burden of verification to the appearer, while the risk burden can still fall on the notary if the administrative process is deemed negligent or inadequate.

The function of the declaration becomes even more complex when linked to the Ministry of Law and Human Rights' SABH online application system. In that system, users are required to accept legal responsibility clauses for the submitted information, including civil and criminal liabilities. Notaries, as users acting on behalf of clients, are automatically bound to this declaration. This situation places notaries not only in an administrative role but also potentially exposes them to legal consequences if the information proves inaccurate—despite the substantive responsibility for such information lying with the appearer.

The legal strength of the declaration letter does not automatically guarantee protection for the notary. Here lies a structural imbalance in the management of legal risk. As emphasized by T.H. Lubis & Ramadhani (2021) and Ramadhani et al. (2021), a private deed is only valid if

signed by the declaring party and not contested in its truth. When contested, the burden of proof falls back on the submitting party, which in some cases could be the notary. Consequently, although the notary may have formally fulfilled their obligations by including the declaration, legal risk remains if there is any misinformation from the appearer.

Some legal scholars have advocated for limiting notarial liability strictly to the formal aspects of document verification. As Usman & Darodjat (2024) argue, the complexity of AML regulations imposes excessive pressure on legal professionals who lack investigative tools. Thus, regulations should also formalize legal protections for notaries as public officials acting in good faith within administrative boundaries—not as material investigators. Such protections align with the principles of procedural justice in modern legal professions.

In this context, it is not an overstatement to say that the Beneficial Ownership Declaration Letter represents a critical point in the oversight regime of legal professions: Should professional responsibility be limited to administrative compliance, or should it extend into substantive proof? The ambiguity of this boundary makes notaries vulnerable to disproportionate criminalization, especially when used as scapegoats in larger money laundering schemes.

Therefore, it is important to recognize that while this document confirms a notary's adherence to due diligence principles, it is insufficient to fully shield them from potential legal consequences. A new normative framework is needed to clearly establish that the substantive burden of proof regarding beneficial ownership lies with the appearer, while the notary should only be responsible for formal and administrative aspects. Such efforts would not only reduce epistemic tension in notarial practice but also create a more balanced legal risk governance between the state, legal professions, and society.

Ambiguity of Authority: The Imbalance Between the Notary Law and Presidential Regulation No. 13/2018

In the regulatory dynamics of the notarial profession in Indonesia, a significant tension arises between the provisions of the Notary Law (UUJN) and those of Presidential Regulation No. 13 of 2018 (Perpres 13/2018) on the Implementation of the Principle of Recognizing the Beneficial Owner of Corporations. This regulation places notaries in a strategic position as key actors in promoting corporate transparency and preventing money laundering, mandating them to assist in identifying beneficial owners. However, this additional burden is not accompanied by explicit adjustments within the UUJN to expand notarial functions, duties, or legal protections in the context of preventive oversight.

Normatively, the UUJN is the primary legal framework that defines in detail the scope of a notary's duties, authority, and liability—including the principle of due diligence to be exercised when performing legal acts (Article 16(1)(a) UUJN). Nevertheless, Perpres 13/2018, a secondary legal product subordinate to statutory law, expands the obligations of notaries without a formal legislative mechanism to redefine their authority. In practice, notaries are now expected not only to identify the appearer as required by Article 39 of the UUJN but also to actively collect, record,

and submit information on beneficial ownership, as mandated in Article 18(3) of Perpres 13/2018.

The consequences of this imbalance are not merely administrative; they also create a disproportionate double burden. Notaries are now required to perform additional investigative duties regarding corporate ownership structures, even though the UUJN does not equip them with sufficient verification instruments or authority. Limited interviews with notaries in Jakarta, Surabaya, and Ambon revealed widespread concern over potential legal implications stemming from inaccurate information about beneficial owners. Most of them believe that responsibility for the substantive truth of beneficial ownership declarations should lie with the client, not the notary, as long as the notary has exercised formal due diligence. This highlights their uncertainty when operating in the gray area between administrative norms and legal sanction threats.

From the perspective of constitutional and positive legal theory, the imposition of additional legal burdens on public officials like notaries through secondary regulations without revising primary norms contradicts the principle of legality and professional rights protection (Herd et al., 2023). Lévesque & Negura (2021) also warn that responsibilities imposed on front-line bureaucrats like notaries must be balanced with institutional support and clear boundaries to avoid turning responsibility into a trap.

In comparative studies, countries like the UK and Germany have regulated beneficial ownership through reporting systems that bypass legal professionals in the strict sense. In the UK, for instance, companies are required to report beneficial ownership through the “People with Significant Control” (PSC) register, supervised by Companies House, with lawyers or notaries acting merely as administrative facilitators, not substantive investigators. Similarly, in Germany, beneficial ownership is managed via a transparency-based registration system (Transparenzregister), where verification authority remains with official institutions, not individual legal professionals.

These comparisons highlight a structural flaw in Indonesia’s regulatory design regarding the allocation of authority and responsibility. When a secondary regulation like Perpres 13/2018 imposes new burdens without amending the UUJN, it creates potential normative disharmony that not only disadvantages notaries but also undermines public trust in legal certainty within the notarial system. Therefore, a revision or normative harmonization is needed so that the system of identifying beneficial ownership does not become a source of legal vulnerability—for both notaries and the legal system as a whole.

Formal Truth vs. Material Truth: Affirming the Limits of Notary Responsibility

In notarial practice, the principle of formal truth serves as a fundamental foundation distinguishing the role of notaries from that of law enforcement officers or other investigative institutions. According to Article 16 paragraph (1) letter a of the Notary Office Law (UUJN), notaries are obliged to act honestly, thoroughly, independently, impartially, and in the interest of all parties in every legal transaction. However, this honesty and diligence are legally

interpreted within the bounds of formal truth, meaning that notaries are only responsible for verifying the identity, legal capacity, and legal intent of the appearing parties based on authentic documents and legally declared statements.

Presidential Regulation No. 13 of 2018 has expanded this scope of responsibility through the obligation to identify the Beneficial Owner. Notaries are now required not only to record and reflect information as declared by the parties but are implicitly expected to ascertain who truly benefits from a corporation's ownership structure. This shifts the notary's responsibility from an administrative-formal role toward a quasi-investigative-material role. Within the framework of Barrera & Latorre's (2021) socio-legal theory and the theory of state function differentiation, a fundamental question arises: is it reasonable and fair to transfer the substance of legal supervision to a legal profession that lacks the tools, authority, and investigative resources?

Limited interviews conducted with five notaries in major cities such as Jakarta, Surabaya, and Makassar reveal that most feel trapped in an ambiguous position. One notary stated, "We are not investigators; we can only ask clients to sign a Beneficial Ownership Statement, but we have no way to verify the accuracy of its contents." This statement reflects the normative reality that responsibility for the material accuracy of information should lie with the client, while the notary ensures that all administrative procedures and documentation are legally compliant.

Supporting literature affirms these findings. In Decision No. 49/PUU-X/2012, the Constitutional Court also emphasized that formal truth constitutes the limit of responsibility for legal professions without investigative functions. Contemporary legal literature, such as Saloranta (2021), further argues that the responsibilities of non-judicial legal professionals should not extend into the realm of material evidence, as doing so would undermine professional legitimacy and impose disproportionate burdens within the legal system.

The distinction between formal and material truth is not merely semantic but relates directly to guarantees of justice in the structure of legal accountability. Formal truth refers to information provided and recorded in accordance with legally valid data. Material truth, on the other hand, demands a deeper verification of the substantive reality behind the documents—something that requires investigative authority, access to confidential financial data, or coordination with institutions like the Financial Transaction Reports and Analysis Center (PPATK) and the police, all of which clearly exceed the notary's capacity.

In this context, expecting notaries to guarantee material truth is equivalent to assigning law enforcement functions to professionals without the authority or resources to carry them out. If the legal system wishes to maintain notaries as gatekeepers, then clearer, fairer boundaries must be defined in the regulatory framework. This can be achieved by reinforcing the legal force of the Beneficial Ownership Statement as a client liability document rather than a notary's responsibility, and by providing legal protection mechanisms in case of disputes or accusations regarding the accuracy of client-provided information. Regulatory harmonization has been proposed by several legal scholars, including Adjie (2023) and Basyarudin (2024), who emphasize the importance of "reconstructing the norms of liability" in response to the evolving role of

notaries amid global demands for transparency.

Table 2 Essential Differences Between Formal Truth and Material Truth

Aspect	Formal Truth	Material Truth
Source of information	Legal declaration by the appearing party	In-depth investigation by authorities
Notary's authority	Review of identity documents and signed statements	No investigative authority
Legal function	Administrative and preventive	Enforcement and substantive verification
Legal responsibility	Limited to procedure and documentation	Potential criminal liability for false information
Regulatory support needs	Sufficient with deeds and written statements	Requires interagency and cross-border data access

Source: Research Analysis (2025)

The separation between gatekeeping and law enforcement functions becomes critical. A fair legal system must protect public officials from being burdened with responsibilities beyond their mandate while still upholding principles of accountability in corporate governance. In this regard, notaries stand at the intersection between legal administration and ethical responsibility, and thus regulation must be grounded in the realities of their work rather than abstract policy ideals.

Ensuring Equal Legal Protection: Toward Regulatory Harmonization

Ultimately, when notaries are tasked with identifying Beneficial Ownership during the legal entity formation process, the state is expanding their role as front-line actors in preventing transnational crimes such as money laundering and terrorism financing. However, it must be understood that this additional responsibility must be accompanied by proportional legal protection. It is normatively unacceptable for the notarial profession—an integral part of the legal system's support structure—to be left vulnerable due to regulatory ambiguities that place them in a grey zone between administrative and investigative functions. This is why the call for regulatory harmonization is not merely a technocratic suggestion but an ethical imperative for a just legal system.

In this regard, legal protection for notaries must be realized in two forms. First, normative protection through regulatory updates that clearly reaffirm the limits of the notary's authority and responsibility, in accordance with the Notary Office Law (UUJN). Second, institutional protection ensuring that notaries cannot be held liable for information legally declared by clients, as long as the notary has conducted formal verification procedures in accordance with prevailing regulations. As emphasized by T. H. Lubis & Ramadhani (2021), a fair legal system protects its enforcers from disproportionate liabilities, for without such protection, professionalism is reduced to bureaucratic compliance born of fear.

Regulatory harmonization here is not only about aligning laws and presidential regulations within the formal legal hierarchy, but also about aligning the values, functions, and institutional logic therein. In many instances, public policy in Indonesia places administrative officials in a dilemma—expected to engage in oversight but without matching authority or protection. This is where Lamada’s (2024) view becomes relevant: “Good regulation is not only about requiring compliance but also about offering incentives and guarantees for fulfilling such obligations.” In this case, notaries require assurance that the state will not abandon them when legal risks increase due to unresolved regulatory ambiguities.

Findings from this study indicate that the psychological and professional burden felt by notaries does not stem from a rejection of their role in promoting financial transparency, but from the imbalance between obligations and rights defined by regulation. As one legal scholar noted in an interview: “Notaries do not reject their contribution to crime prevention, but they do not want to be scapegoats when clients provide incorrect information.” This statement highlights the urgency of having clear norms that ensure notarial responsibilities remain limited and proportional, and that the verification mechanisms used (such as the Beneficial Ownership Statement) hold strong legal legitimacy.

Regulatory reform is no longer a policy option but a fundamental need to preserve the integrity of the legal system itself. When the state demands transparency from its citizens, it must also offer clarity in responsibility to its legal professionals on the ground. If this is not done, a structural imbalance will emerge where legal risks continue to rise while normative protections remain stagnant. Harmonizing Presidential Regulation No. 13 of 2018 with the UUJN is a critical starting point for strengthening the notary’s role as a supporting actor in a fair and functional legal system.

Therefore, the discourse on beneficial ownership cannot be separated from the broader discourse on legal governance, the relationship between responsibility and authority, and the ethics of protecting professionals operating on the front lines of bureaucratic justice. This is where the urgency of legal reform lies—not merely in legalistic terms, but in a responsive manner to ever-evolving social dynamics, with the aim of building a humane and resilient legal system amid global complexities.

CONCLUSION

Based on the normative juridical and socio-legal approaches employed in this study, it can be concluded that notarial legal responsibility in identifying the Beneficial Owner (as mandated in Presidential Regulation No. 13 of 2018) exists in a tension between regulatory demands and the limits of authority established by the Notary Office Law. In practice, notaries play a strategic role as gatekeepers in the anti-money laundering regime; however, this role may result in disproportionate legal burdens if the state fails to provide balanced normative protections. The need for legal certainty regarding the limits of this liability becomes increasingly urgent when

considering the fact that notaries are only authorized to verify formal truth based on client declarations—not to guarantee material truth, which requires investigative authority. Therefore, the answer to the central question of this study lies in the urgency of reconstructing the legal norms that define the function and limits of notary liability in a fairer, more rational manner consistent with a legal system that aims to prevent harm rather than overburden its actors. The novelty of this research lies not only in the proposed harmonization between Presidential Regulation and the UUJN, but also in its argument that a modern legal system must respond to social complexity through equitable protection for legal professionals serving as front-line agents of preventive policy.

ETHICAL STATEMENT AND DISCLOSURE

This study was conducted in accordance with established ethical principles, including informed consent, protection of informants' confidentiality, and respect for local cultural values. Special consideration was given to participants from vulnerable groups to ensure their safety, comfort, and equal rights to participate. No external funding was received, and the authors declare no conflict of interest. All data and information presented were collected through valid research methods and have been verified to ensure their accuracy and reliability. The use of artificial intelligence (AI) was limited to technical assistance for writing and language editing, without influencing the scientific substance of the work. The authors express their gratitude to the informants for their valuable insights, and to the anonymous reviewers for their constructive feedback on an earlier version of this manuscript. The authors take full responsibility for the content and conclusions of this article.

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