

## Legal Implications of Nominee Schemes in Foreign Ownership of Limited Liability Companies in Indonesia

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### *Abstract*

*The nominee scheme is a common practice in foreign investment in Indonesia, whereby an Indonesian citizen lends their name to formally hold shares on behalf of a foreign party in order to circumvent legal ownership restrictions. This practice raises legal concerns as it contradicts principles of transparency and legality enshrined in the national legal system. This article aims to examine the legal implications of nominee arrangements in foreign ownership of limited liability companies (Perseroan Terbatas) through a normative juridical approach. The discussion focuses on the validity of nominee agreements under Indonesian positive law and the legal consequences for both the foreign investors and the Indonesian nationals acting as nominees. The study finds that nominee schemes contravene the Investment Law, the Company Law, and the principle of beneficial ownership, rendering such agreements null and void by law, and denying legal protection to the parties involved.*

**Keywords:** *Nominee, Foreign Ownership, Limited Liability Company, Beneficial ownership.*

## INTRODUCTION

The era of globalization has also created an increase in the flow of foreign direct investment (FDI) into Indonesia. Foreign investment plays a crucial role in Indonesia's economic development. The government encourages foreign investment to boost economic growth, employment, and technology transfer. To protect national interests and domestic businesses, Indonesia has implemented restrictions on foreign ownership in certain business sectors. Since the New Order era, investment policies have mandated partnerships between foreign and domestic investors. For example, in 1974, the government required foreign investors to form joint ventures with a minimum of 20% national ownership, which was increased to 51% within 10 years. This restriction aimed to protect the national economy, but on the other hand, it also encouraged the emergence of legal evasion practices, such as ownership smuggling by foreign parties. One example is the phenomenon of nominee schemes, where foreign parties "borrow" the names of Indonesian citizens (WNI) when establishing local

companies. This allows for a situation where formally the majority of shares are in the name of the local party, but substantial control remains in the hands of the foreign investor. This practice creates a legal loophole regarding who the actual owner (beneficial owner) of a company is and who the formal owner is. It is in this context that nominee schemes (nominee agreements) emerge as a way for foreign investors to circumvent ownership restrictions and simplify administrative procedures. Nominee schemes refer to arrangements whereby Indonesian citizens (WNI) or local entities are named as formal shareholders of a Limited Liability Company (PT), while the actual benefits and control reside with the foreign investor as the beneficial owner. These nominee agreements are usually drawn up behind closed doors and are not explicitly recognized in Indonesian law. Nevertheless, this practice has become quite common in the establishment of Limited Liability Companies (PT) with foreign capital, particularly in sectors restricted or closed to foreign investment.

Furthermore, the lack of clarity regarding the oversight mechanism for nominee schemes raises questions about the effectiveness of authorized agencies and the role of notaries, as public officials authorized to draft company deed of establishment. Notaries have a legal responsibility to ensure the material accuracy of the founders and shareholders in the deed of establishment, but in practice, their involvement is often limited to administrative formalities. This situation indicates a gap in oversight that can be exploited to legitimize nominee practices.

In practice, the legal status of nominee agreements often falls into a gray area. Although these agreements are legally void, many foreign parties still file lawsuits seeking recognition of their substantial ownership. While some decisions consistently prohibit nominees, others have sparked debate among academics because judges failed to explicitly address the principle of beneficial ownership. This situation highlights a gap in legal interpretation at the enforcement level, ultimately weakening legal certainty and allowing nominee practices to continue to thrive.

This phenomenon raises various complex legal issues. On the one hand, nominee schemes provide opportunities for foreign investors to continue investing in restricted sectors and contributing to the economy. However, on the other hand, this practice can undermine the effectiveness of foreign ownership restrictions, create legal uncertainty, and potentially create legal risks for both foreign parties acting as beneficial owners and Indonesian citizens acting as nominees. Furthermore, the existence of nominee schemes challenges the role of notaries as public officials in ensuring the formal and material accuracy of the PT establishment process.

## **METHOD RESEARCH**

This research uses a normative approach, as explained by Peter Mahmud Marzuki that the normative approach is a legal research method carried out by examining library materials or secondary data, so it is also called library research (Peter Mahmud Marzuki, 2019). This approach views law as norms written in statutes and court decisions, as well as doctrines embedded in legal literature. In this research, law is viewed as an autonomous normative system, so analysis focuses on legal logic and applicable principles.

This research is descriptive-analytical in nature, meaning it aims to provide a systematic, factual, and accurate description of the object of study and analyze it based on applicable legal norms. This research relies on secondary data consisting of primary, secondary, and tertiary legal materials. Primary legal materials include laws and regulations, including the Investment Law, the Limited Liability Company Law, and the Civil Code. Secondary legal materials

include the opinions of legal experts such as Yahya Harahap, Salim HS, and Peter Mahmud Marzuki. Tertiary legal materials include legal dictionaries, legal encyclopedias, and so on.

Data collection was conducted through library research by exploring laws and regulations, scientific articles, law books, and other academic sources relevant to the topic of nominee schemes in foreign ownership of PT. The collected data were then analyzed qualitatively, namely by interpreting the content and meaning of legal norms and expert opinions to draw legal conclusions that are logical, coherent, and in accordance with the legal issues discussed in this study.

## **DISCUSSION**

### **1. Legal Regulations on the Practice of Nominee Schemes in Foreign Ownership of Limited Liability Companies in Indonesia**

A nominee arrangement is a form of agreement (a nominee agreement or a name-loan agreement) in which one party lends their name to another party for the benefit of that other party in the ownership of an asset or right. In other words, a nominee agreement is an agreement between two parties, usually in writing, in which one party (the nominee) agrees to act on behalf of the other party (the beneficial owner) to own an asset such as company shares, land, or other property. These agreements are usually made privately, but some are notarized. The nominee party is formally registered as the shareholder or owner of the asset, but substantially all economic benefits, control, and decisions regarding the asset rest with the beneficial owner. In the context of a Limited Liability Company (LLC), a nominee agreement means that an Indonesian citizen or legal entity is entrusted with holding shares on behalf of a foreign investor. This means that the Indonesian citizen's name is listed as the shareholder in the deed and shareholder register of the PT, even though the shares are actually owned and controlled by the foreign party.

The nominee practice is often chosen by foreign investors as a practical solution to circumvent various legal restrictions that prevent full foreign ownership. The primary reason is that Indonesian law prohibits or limits foreign nationals from owning certain assets. For example, in the land sector, foreign nationals are prohibited from owning land, in accordance with the provisions of Article 21 paragraph (1) of Law No. 5 of 1960 concerning Agrarian Principles. A foreign national may only own the right of use or the right of lease, not the right of ownership. To circumvent this, it is not uncommon for foreign nationals to use the name of an Indonesian citizen as the formal holder of land ownership rights, (Benny Almando, 2024) with the agreement that the land actually belongs to the foreign national. Similarly, in company share ownership, various regulations stipulate a maximum limit on foreign shares in certain business sectors. Consequently, foreign investors seeking to control more than 50% or even 100% of the shares of a limited liability company (PT) will seek out Indonesian citizens as nominee shareholders willing to hold the remaining shares as stipulated, but with the agreement that the Indonesian citizen is merely a legal figure.

Nominee agreements were originally born from the principle of freedom of contract in civil law. As long as the parties agree, they can enter into any agreement as long as it meets the requirements for a valid agreement under Article 1320 of the Civil Code. However, freedom of contract is not unlimited; contracts must not contain any reason that violates the law or public order, as stipulated in Article 1337 of the Civil Code. In practice, nominee agreements are considered a form of legal smuggling because their primary purpose is to circumvent or violate applicable laws. In Indonesia, until 2007, there were no written regulations explicitly regulating or prohibiting the concept of nominees. Due to this legal vacuum, the nominee scheme was used in a hazy manner in various business transactions. However, with the enactment of new regulations in the investment and corporate sectors, the legal position of nominee agreements

has become clear. Since the enactment of Law Number 25 of 2007 concerning Investment, specifically Article 33 paragraph (1), the use of nominee schemes in investment has been prohibited. Therefore, nominee agreements are legally considered invalid and null and void from their inception because they conflict with applicable laws and regulations.

Regulations regarding foreign investment in Indonesia are primarily governed by Law Number 25 of 2007 concerning Investment (hereinafter referred to as the Investment Law). The Investment Law provides a legal basis for both domestic and foreign investment, with the aim of creating a conducive investment climate while still safeguarding national interests. One of the key principles of the Investment Law is the principle of non-discrimination, or the principle of equal treatment, regardless of country of origin for investors. This means that foreign investors are essentially treated the same as domestic investors when doing business in Indonesia. However, this principle does not imply unlimited free foreign investment. The Investment Law recognizes the need for restrictions in certain sectors for the sake of national interests, economic sovereignty, and the protection of local businesses. The principle of togetherness encourages foreign and national investors to play a role together in advancing the people's economy, including through partnerships.

The concrete implementation of sector restrictions for foreign investment is manifested in the policy of listing business sectors open or closed to investment. The Capital Investment Law mandates the government to determine which business sectors are closed to investment (both foreign and domestic) and which are open under certain conditions, such as mandatory partnerships with MSMEs or restrictions on foreign share ownership. This provision is followed up through implementing regulations in the form of a Presidential Regulation concerning the List of Investment Business Sectors. Prior to 2021, the Negative Investment List (DNI) contained sectors closed or restricted to foreign investment. Following the issuance of the 2020 Job Creation Law and its implementing regulations, the government replaced the DNI approach with the Investment Priority List (DPI) through Presidential Regulation No. 10 of 2021 (as last amended by Presidential Regulation No. 49 of 2021). Within the DPI, most business sectors are now 100% open to foreign investment, with the exception of several strategic sectors, such as defense and security, and certain sectors related to public welfare, which remain closed or restricted. Only six business sectors are completely closed to investment, such as narcotics cultivation, gambling, the capture of prohibited fishing species, the exploitation of natural coral, the chemical weapons industry, and the ozone-depleting chemical industry. The remaining sectors are open, some with specific requirements such as partnerships with MSMEs, location in certain areas, or certain foreign capital ownership limits.

The Capital Investment Law (UUPT) requires that foreign investment in Indonesia be conducted in the form of an Indonesian business entity, generally a Limited Liability Company (PT PMA). Foreign investors are not permitted to operate a business directly as individuals but must establish a PT PMA in accordance with Indonesian law. The establishment of a PT PMA is subject to Law No. 40 of 2007 concerning Limited Liability Companies (UUPT) and implementing regulations regarding minimum capital requirements, ownership composition, and business licensing through the Online Single Submission (OSS) system. In principle, there is no prohibition on foreign ownership of up to 100% of the shares of a PT PMA in business sectors not on the negative list or outside the required sectors. However, for business sectors that are open with conditions, a maximum limit on the percentage of foreign shares applies. For example, before 2021, the telecommunications, certain transportation, and tourism sectors had a limit of 49% or 67% foreign ownership. With the 2021 Regional Investment Guidelines (DPI), some restrictions were relaxed, but the government continues to encourage partnerships with national entrepreneurs in priority sectors.

To enforce foreign and local ownership regulations, Indonesian investment law strictly prohibits the practice of nominee ownership. Article 33 paragraph (1) of the UUPM states:

"Domestic investors and foreign investors who invest in a Limited Liability Company are prohibited from making agreements and/or statements confirming that share ownership in the Limited Liability Company is for and in the name of another person." This prohibition is intended to prevent a discrepancy between the formal share ownership structure and the actual beneficial owner. If an investor still enters into a nominee ownership agreement, Article 33 paragraph (2) of the UUPM stipulates the sanction that "such agreement and/or statement shall be declared null and void." In other words, the name-borrowing contract is deemed never to have existed legally and is not binding. This provision is an explicit affirmation unprecedented in previous regulations to close the legal loophole previously exploited through the practice of nominee ownership. The doctrine of contract law is also in line with this rule that an agreement with an unlawful cause, which in this case circumvents the law, is void ab initio.

Although the prohibition on nominee agreements in Article 33 of the Capital Market Law is explicit, its implementation still faces several obstacles. Nominee agreements are generally concluded behind closed doors and under the table, making them difficult for authorities to detect. As long as formal company documents are met, nominee ownership structures can escape administrative scrutiny. The absence of a substantive verification mechanism for shareholders at the time of company establishment exacerbates this practice. Furthermore, the lack of specific criminal and administrative sanctions for the parties involved makes this provision more declaratory than operational. As a result, the prohibition on nominees is difficult to enforce effectively, and the practice continues to flourish in the business world, particularly in sectors with limited foreign ownership. Compared with other legal systems, such as the United Kingdom and Singapore, the use of nominees is legally regulated with a mandatory reporting mechanism. Nominees must be publicly registered, and beneficial owners must be reported to authorities through a register of beneficial ownership. This approach allows the country to maintain business flexibility while ensuring transparency and effective oversight. In contrast, Indonesia has opted for an absolute prohibition without any reporting instruments. Presidential Regulation No. 13 of 2018 concerning beneficial ownership is a good first step in narrowing the scope for nominee abuse, but its implementation still faces challenges in data integration and oversight. In the context of the Financial Action Task Force (FATF), the application of the beneficial ownership principle is crucial for detecting disguising ownership and preventing cross-border money laundering. The Limited Liability Company Law (Law No. 40/2007) also contains a principle that excludes nominee shareholders. Article 48 paragraph (1) of the Limited Liability Company Law stipulates that "a company's shares shall be issued in the name of its owner." This clearly stipulates that share ownership in a limited liability company (PT) adheres to the registered share principle, not bearer shares or trusts. The elucidation of Article 48 of the Limited Liability Company Law emphasizes that a company may only issue shares in the name of the actual owner; it may not issue shares in the name of another party (by appointment). The implication of this provision is that Indonesian company law does not recognize the concept of "nominee shareholders," unlike in other legal systems that recognize trustee/nominee shareholders. Anyone whose name is registered in the company's shareholder register is considered the legal owner of the shares, complete with all inherent rights, including voting rights, dividend rights, etc. Consequently, if there is a hidden agreement that shareholder A is actually only a trustee of party B, B's claim as beneficial owner is not legally recognized. Party B does not have legal capacity as a shareholder because his name is not listed, while party A, whose name is listed, is considered the full owner along with his rights. Therefore, the use of a nominee scheme in a PT is clearly contrary to the Company Law. Although the Company Law does not contain specific criminal sanctions or fines for this practice, the violation of the principles of Article 48 of the Company Law together with the prohibition of Article 33 of the Capital Market Law renders the nominee agreement null and void. Corporate law experts confirm this, M. Yahya Harahap argues that Indonesian company law does not recognize the

concept of "borrowing a name" (nominee), so that any statement or agreement borrowing a name regarding shares is an unlawful act and is null and void from the moment it is made. Thus, normatively, Indonesian regulations close the legal space for nominee schemes in PT share ownership (M. Yahya Harahap, 2016).

## **2. Legal Implications of the Nominee Scheme for Foreign Parties as Beneficial Owners and for Indonesian Citizens as Nominees in Terms of Applicable Law**

For foreign investors, as the true beneficial owners, the nominee scheme carries highly risky legal implications. First, because the nominee agreement is not recognized and is void by law, the foreign investor loses the legal basis to claim rights to shares held in another person's name. In the event of a dispute or default, the foreign party cannot enforce the agreement in court because the judge will base the decision on the formal share ownership records. If the Indonesian citizen nominee reneges on the agreement and claims the shares as their own, the foreign investor has no legal right to reclaim their assets. Essentially, the name-borrowing contract is considered non-existent. From a contract law perspective, this situation arises because the agreement has a prohibited objective, violating Article 33 of the Capital Market Law and Article 48 of the Company Law, thus failing to meet the requirements for a valid agreement, namely a lawful cause. Yahya Harahap emphasized that in the event of a dispute, any statement or will containing a nominee agreement will be deemed invalid and cannot be used to transfer shares or PT assets. In other words, foreign investors could potentially lose their investment *de jure* in the event of a dispute with the nominee or a third party, as the law only protects the formal owner. Second, foreign investors are in a weak position in terms of legal certainty and investment protection. One of the principles of investment is legal certainty for investors. However, by using hidden schemes, investors actually place themselves outside the umbrella of legal protection. If a nominee agreement cannot be officially registered or recorded, it will be difficult for foreign investors to prove their ownership if there is interference from other parties. In practice, foreign investors often try to secure their position through supporting documents such as absolute powers of attorney for shares, share purchase agreements, or fiduciary guarantees for shares. However, these instruments are also vulnerable to being considered part of a nominee scheme and can be declared null and void if disputed.

Third, there are potential legal sanctions and reputational issues. Although the Capital Market Law does not contain direct criminal sanctions for violations of Article 33 other than declaring the agreement void, if a nominee scheme is discovered by authorities such as the Investment Coordinating Board (BKPM) or the Financial Services Authority (OJK), administrative action can be taken, such as the revocation of the PT PMA's business license, the revocation of investment approval, or the blacklisting of the investor. Furthermore, for foreign investors registered in their home jurisdiction, engaging in unlawful nominee arrangements can tarnish their reputation and potentially violate the principles of good corporate governance. Internationally, transparency in corporate ownership structures is increasingly being tightened to prevent money laundering and illicit financing. Covert nominee schemes can arouse suspicion among international authorities. Therefore, for foreign parties, the perceived benefits of gaining full control through nominees must also be weighed against the significant legal risks, including the loss of rights and the lack of legal protection for their investments in Indonesia.

Turning to the perspective of Indonesian citizens acting as nominees, the legal consequences cannot be underestimated. First, these Indonesian citizens can be subject to legal liability as formal shareholders. If the PT suffers losses, becomes indebted, or faces legal action, the nominee is officially registered as the company owner. This means they can be held liable in their respective capacities, for example, for fulfilling capital obligations or in other civil legal

actions, while still adhering to the principle of limited liability of PTs. Even if the private agreement stipulates that all obligations must be borne by the foreign investor, under civil law, this agreement does not apply to third parties. The company's creditors or law enforcement officials will still consider the nominee to be the party with authority and responsibility for the company. This clearly creates uncertainty and risk for the nominee. Indonesian citizens acting as nominees can be sued, involved in disputes, and even potentially be implicated in criminal cases. For example, if the company is involved in a crime, the controlling shareholder may be investigated. This is despite the nominee receiving no benefits other than compensation from the foreign investor.

Second, Indonesian citizens acting as nominees risk facing legal sanctions for assisting in unlawful acts. Although Article 33 of the Capital Market Law does not impose criminal penalties, involvement in prohibited agreements could be considered an accomplice to a regulatory violation. If the government tightens enforcement, it is possible that Indonesian citizens who knowingly lend their names could face administrative sanctions, such as fines or the revocation of their rights in the company. Furthermore, from an ethical and professional perspective, notaries who draft nominee statements or absolute powers of attorney could also face ethical sanctions for assisting in drafting deeds that violate regulations prohibiting notaries from drafting deeds containing provisions that violate law or public order.

Third, from a rights perspective, a nominee essentially waives their rights informally but remains formally deprived. This means that while they may be a paper owner, they are deprived of economic rights such as profits, dividends, or voting rights, as per the hidden agreement with the foreign investor. This creates a vulnerability that, while not a problem during a good relationship, may not be a problem. However, if the relationship deteriorates, the nominee may be tempted to exercise their formal rights to unilaterally take over the company. Alternatively, if the nominee dies, their heirs could claim rights to the registered shares, which could lead to conflict with the foreign investor. All of these situations make the nominee's position uncertain and prone to conflict.

Normatively, the law does not provide special protection for nominees because they are legally the original owners. If they subsequently break their promises to foreign investors, such as refusing to transfer shares when requested, the law tends to favor the nominee as the legitimate owner. However, this actually highlights the vulnerability of this scheme: the beneficial owner is unprotected, while the nominee can be encouraged to engage in opportunistic behavior that undermines trust.

From the above explanation, it is clear that for Indonesian citizens acting as nominees, the short-term benefits, such as financial compensation from foreign investors, are not commensurate with the potential long-term legal risks. They could become involved in unlawful agreements, lose their independence over their rights, and be subject to liability that does not belong to them. Therefore, the public and legal practitioners agree that nominee agreements are detrimental to all parties and should be avoided.

Nominee schemes in foreign ownership raise several normative issues that deserve analysis, including conflicts of legal principles, challenges to legal certainty, and the dilemma of recognizing beneficial ownership. Regarding legal principles, there is a conflict between the principle of freedom of contract and the principle of compliance with the law. On the one hand, Article 1338 of the Civil Code upholds freedom of contract, meaning that parties are free to enter into any agreement, and that agreement is binding like law. However, on the other hand, this principle of freedom is limited by the provision that contracts must not conflict with mandatory law (*dwingend recht*). The prohibition on nominees in the Capital Market Law and the provisions of the Company Law are mandatory (imperative) rules that cannot be overridden by private agreements. In this context, the nominee agreement clearly violates the imperative rule, so the principle of freedom of contract cannot be used to justify it (Salim HS, 2018).

Another related principle is the principle of good faith and compliance with regulations. The nominee scheme is essentially a ploy to circumvent legal provisions, constituting a breach of investment regulations. While foreign investors seek economic benefits from investing in Indonesia, they also avoid legal obligations, such as requiring local partners or limiting their shareholdings. This practice undermines the principles of honesty and transparency, which are fundamental to investment governance. By concealing the identity of the true owner, the nominee scheme contradicts efforts to create a transparent and fair investment climate.

Furthermore, the nominee scheme poses serious problems for the principle of legal certainty. Legal certainty demands clarity and consistency in the application of the law so that parties can predict the legal consequences. In the case of corporate ownership, legal certainty requires that the status of shareholders and their rights be clearly defined and unambiguous. The nominee practice creates ambiguity, as there are distinct formal and material owners. For third parties, this situation creates confusion about who is authorized to represent the shares. For investors themselves, as previously described, there is uncertainty because their rights are not recognized by law. Furthermore, from the perspective of law enforcement, the existence of nominees complicates enforcement of regulations in restricted sectors. If a PT in a prohibited sector is disguised as foreign ownership using a nominee scheme, this can escape scrutiny if undetected. Although regulations explicitly prohibit it, implementing the nominee ban still faces evidentiary challenges. If a share structure is structured in a legally formal manner, the government must conduct additional investigations to prove the existence of a hidden agreement. This is certainly not easy, especially if the parties conspire to conceal the nominee scheme. This uncertainty can only be overcome if law enforcement consistently enforces the rules and establishes an early detection system, for example, through mandatory reporting of beneficial owners and supervision by a notary.

The principle of legal certainty also implies the need for a uniform legal interpretation. Doctrine and jurisprudence tend to agree on viewing nominee agreements as null and void. For example, the court ruling in the PT. Aldevco case affirmed that any statements or documents containing nominee arrangements are null and void and cannot be used as a basis for share transfer. This consistent view helps provide legal certainty that nominee schemes will not be protected in Indonesian courts.

Indonesian jurisprudence clarifies the legal position regarding nominee agreements. The Central Jakarta District Court's decision No. 535/Pdt.G/2007/PN.Jkt.Pst (PT Aldevco case) is a notable example. This case demonstrates the panel of judges' rejection of a foreign investor's claim that relied on a name-loan agreement to control shares. The judges argued that legitimate ownership is only that which is formally registered, while nominee agreements are considered unlawful and null and void. This decision demonstrates the judiciary's consistency in upholding the principle of legal certainty in corporate ownership structures. To strengthen law enforcement, future policies should emphasize not only prohibitions but also stronger reporting instruments, substantive verification by notaries, and administrative sanctions for companies that conceal beneficial ownership.

In the development of regulations regarding beneficial ownership, the discourse on nominees has taken on a new dimension. In 2018, the Indonesian government issued Presidential Regulation No. 13 of 2018 concerning the Implementation of the Principle of Recognizing Beneficial Owners of Corporations, as part of efforts to prevent money laundering and terrorism financing. This Presidential Regulation requires every corporation, including limited liability companies (PTs), to disclose their true beneficial owners and report this to the government. Beneficial owners include individuals who own certain shares, control companies, or receive significant benefits from the corporation. This policy is motivated by transparency concerns to prevent the misuse of ownership structures for criminal purposes. This presents a paradox: on the one hand, the Capital Market Law (UUPT) and the Company Law (UUPT)

prohibit the existence of hidden beneficial owners through nominees, while on the other hand, the government requires companies to disclose any behind-the-scenes beneficial owners. This means that the regulation *de facto* recognizes that in some companies there may be parties who are not formal shareholders but possess influence or benefits, potentially acting as nominees. Presidential Regulation 13/2018 is not intended to legalize name-borrowing agreements, but rather serves the purpose of transparency.

Some academics argue that the mandatory identification of beneficial owners should allow for a more limited legal approach to nominees. Muh. Afdal Yanuar argues that the legal status quo, which absolutely prohibits nominees, could be reviewed. In his view, the beneficial ownership regulation opens up the possibility of regulating nominees more transparently, such as by establishing guidelines that limit what nominees may and may not do, rather than simply prohibiting them altogether (Muh. Afdal Yanuar, 2021). This idea can be interpreted as a recommendation for more realistic investment law, addressing business practices with strict oversight rather than absolute prohibition.

However, the current public view still tends to maintain the ban on nominee schemes as a form of upholding the country's legal sovereignty. Beneficial owner disclosure is mandatory not to legalize nominees, but to prevent abuse. It could even be argued that the obligation to report beneficial owners reinforces the argument that concealing ownership is reprehensible. If a corporation is honest, its share structure should be transparent. If hidden beneficial owners are discovered, they must be disclosed to facilitate oversight. From this perspective, the principle of transparency in investment is strengthened. All investors must be transparent about their ownership. This potentially places beneficial owners involved in nominee schemes in a dilemma. They can report in accordance with the Presidential Regulation, which would mean admitting to violating the Capital Market Law, or fail to report, violating the Regulation and facing sanctions. This beneficial ownership policy is expected to eradicate nominee practices by promoting full transparency. Further harmonization of the investment regime and the anti-money laundering regime may be necessary in the future to eliminate regulatory overlap or loopholes. From the normative analysis above, it can be concluded that the nominee scheme conflicts with the principles of Indonesian investment law. The nominee scheme can violate the principles of legal certainty and transparency, and is essentially a practice that should be eradicated to protect a healthy business climate. Current legal policy favors enforcing the prohibition on nominees as a commitment to national economic sovereignty.

## **Conclusion**

Nominee schemes are a form of legal manipulation involving foreign ownership of PT shares in Indonesia. Normatively, this practice is prohibited and void by law, and provides neither legal certainty nor protection for the parties involved. Indonesian investment law prioritizes transparency, accountability, and sovereignty. Therefore, all forms of nominee practices must be prevented through regulation, education, and strict law enforcement.

The legal implications of nominee schemes are highly detrimental to all parties involved. Foreign investors, as beneficial owners, are not legally protected—their contracts are void, their investment rights are not recognized, and they risk losing control or ownership in the event of a dispute. Indonesian citizens acting as nominees bear potential legal liability as formal owners without enjoying the benefits and are also engaging in prohibited acts that can result in sanctions. Nominee schemes also undermine the principles of legal certainty and transparency by creating unclear ownership structures and creating legal uncertainty.

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