

GATEKEEPERS OF AUTHENTICITY THROUGH NOTARIAL DUE DILIGENCE, GOVERNANCE AND INVESTOR PROTECTION

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*Minister of Law Regulation No 10 of 2026 rewrites the duty of Indonesian notaries to know the people who sit across their desks. This article dissects that instrument against the Law on the Office of Notary as amended in 2014, the anti-money laundering statute and the capital market regime, and reads it through juridical, philosophical, sociological and economic lenses. The doctrinal method applies the maxim *lex posterior derogat legi priori* to identify the operative text of each notarial provision, and the maxim *lex superior derogat legi inferiori* to test the reach of a ministerial regulation. The analysis finds that the Regulation brings notarial practice into close alignment with the FATF Recommendations on beneficial ownership, politically exposed persons, targeted financial sanctions and reliance on third parties. It also finds a misdirected cross-reference, a clause borrowed from banking regulation, an overbroad termination trigger, a blocking power that precedes any hearing, and silence on personal data protection and on substitute notaries. The article argues that notarial due diligence operates as hidden infrastructure of corporate governance, because the authentic deed fixes who owns, who controls and who decided. For issuers listed on the Indonesia Stock Exchange, the notarial record of articles of association and shareholder meetings becomes a public good that lowers information asymmetry and agency costs for minority investors. The article closes with targeted proposals for correction and harmonisation.*

Keywords: Notary; Know-your-service-user Principle; Beneficial Ownership; Corporate Governance; Investor Protection.

1. Introduction

1.1 Background

A notarial deed is a promise made by the State through the pen of a professional. The emblem of Garuda on the notarial seal tells every reader that the persons named in the deed truly appeared, truly spoke and truly agreed.¹ The Civil Code gives that promise its legal shape and grants it complete evidentiary force between the parties, their heirs and their successors in

¹Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris (Law No 30 of 2004 on the Office of Notary) (LNRI 2004 No 117, TLNRI No 4432), as amended by Undang-Undang Nomor 2 Tahun 2014 tentang Perubahan atas Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris (Law No 2 of 2014) (LNRI 2014 No 3, TLNRI No 5491) (UUJN) art 16(1)(l).

title.² A promise of such weight attracts admirers of every kind. Some of them wish to wash illicit wealth in the clear water of authenticity.

Indonesia has answered that danger in stages. Government Regulation No 43 of 2015 placed notaries among the reporting parties of the anti-money laundering regime, and its 2021 amendment refined their duties.³ Minister of Law and Human Rights Regulation No 9 of 2017 first translated that status into a know-your-service-user code for the notarial office.⁴ On 6 February 2026 the Minister of Law promulgated Regulation No 10 of 2026, which was enacted on 28 January 2026, revokes the 2017 instrument and entered into force on the day of its promulgation.⁵ Its preamble confesses that the earlier text had fallen out of step with legal development, and it names the FATF Recommendations as the yardstick of reform.⁶

The timing carries meaning. Indonesia joined the Financial Action Task Force as a full member after a mutual evaluation that scrutinised, among other matters, the gatekeeping professions.⁷ Membership raises the bar. A State that sits at the table that writes the standards must show that its own notaries apply them. Regulation 10/2026 is that demonstration in legal form.

The capital market supplies the second reason for attention. Every listed issuer is born, reshaped and governed through notarial deeds: the deed of establishment, the conversion into a public company, each amendment of the articles of association and the record of each general meeting of shareholders. Each of these deeds tells the market who owns, who controls and who decided. A notary who does not know the human being behind a shareholder delivers a polished mask to the market. Investors price masks poorly, and they price them at the expense of the honest issuer.

²Kitab Undang-Undang Hukum Perdata (Burgerlijk Wetboek, Indonesian Civil Code) arts 1868, 1870.

³Peraturan Pemerintah Nomor 43 Tahun 2015 tentang Pihak Pelapor dalam Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang (Government Regulation No 43 of 2015 on Reporting Parties in the Prevention and Eradication of Money Laundering) (LNRI 2015 No 148), as amended by Peraturan Pemerintah Nomor 61 Tahun 2021 (Government Regulation No 61 of 2021) (LNRI 2021 No 100) arts 3, 8.

⁴Peraturan Menteri Hukum dan Hak Asasi Manusia Nomor 9 Tahun 2017 tentang Penerapan Prinsip Mengenali Pengguna Jasa bagi Notaris (Minister of Law and Human Rights Regulation No 9 of 2017) (BNRI 2017 No 1087).

⁵Peraturan Menteri Hukum Nomor 10 Tahun 2026 tentang Penerapan Prinsip Mengenali Pengguna Jasa bagi Notaris (Minister of Law Regulation No 10 of 2026 on the Application of the Know-Your-Service-User Principle for Notaries) (BNRI 2026 No 86) (Regulation 10/2026) arts 38–39.

⁶*ibid* considerations (b)–(c).

⁷FATF, *Anti-money laundering and counter-terrorist financing measures: Indonesia, Mutual Evaluation Report* (FATF 2023).

1.2 Research Questions and Method

Three questions guide this study. The first asks what Regulation 10/2026 demands of notaries and how it coexists with the Law on the Office of Notary (UUJN) once the 2014 amendment is read as the governing text. The second asks which features of the Regulation deserve praise and which deserve repair. The third asks how notarial due diligence contributes to good corporate governance and to the protection of investors who rely on deeds drawn up for issuers.

The study employs normative legal research. It reads statutes, regulations and constitutional decisions in force on 22 October 2026, and it tests them against two classical maxims of Indonesian legal reasoning. The maxim *lex posterior derogat legi priori* identifies which version of a provision speaks today. The maxim *lex superior derogat legi inferiori* marks the ceiling above which a ministerial regulation cannot climb.⁸ Philosophical, sociological and economic analysis then measures the law against justice, social reality and cost.

2. The Normative Architecture of Regulation 10/2026

2.1 Lineage and Legal Basis

Regulation 10/2026 does not float in the air. It rests on Article 6(1) of Government Regulation No 43 of 2015 as amended, which charges the supervisory and regulatory authority of each reporting profession with the issuance of know-your-customer rules.⁹ The Government Regulation, in turn, names notaries as reporting parties and obliges them to report suspicious transactions conducted for, or in the name of, their clients in the classic gatekeeper activities.¹⁰ The statute at the top of the chain is the anti-money laundering law of 2010, which lifts professional secrecy for the act of reporting and shields the reporter from civil and criminal suit.¹¹ The chain is short, visible and lawful. Each link draws authority from the link above it.

⁸Undang-Undang Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-undangan (Law No 12 of 2011 on the Making of Laws and Regulations), as last amended by Undang-Undang Nomor 13 Tahun 2022 (Law No 13 of 2022) arts 7–8, 15.

⁹Regulation 10/2026 (n 5) consideration (d); Government Regulation No 43 of 2015 (n 3) art 6(1).

¹⁰Government Regulation No 43 of 2015 (n 3) arts 3, 8.

¹¹Undang-Undang Nomor 8 Tahun 2010 tentang Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang (Law No 8 of 2010 on the Prevention and Eradication of Money Laundering) (LNRI 2010 No 122) arts 12, 28–29.

2.2 Anatomy of the Obligations

The Regulation opens with a triad. Every notary must identify the service user, verify the service user and monitor the service user's transactions.¹² Four events wake the duty: the opening of a business relationship, a financial transaction worth at least Rp100,000,000, a suspicious transaction linked to money laundering or terrorism financing, and doubt about the truth of information supplied by the client.¹³ The business relationship covers the five classic gatekeeper services: creating, buying and selling legal entities; managing money, securities and other financial products; managing bank and securities accounts; operating and managing companies; and buying and selling property.¹⁴

The Regulation then installs a risk engine. Each notary must hold written policies and procedures, conduct a risk assessment and sort clients into risk tiers by profile, business, country and product or service.¹⁵ Anonymous accounts and accounts in fictitious names are forbidden.¹⁶ Identification follows the legal personality of the client: natural persons, corporations and legal arrangements each carry a distinct catalogue of data and supporting documents.¹⁷ The beneficial owner sits at the centre of the design. The definition reaches anyone who owns, benefits from, controls, gives a mandate for or stands as the final controller of a transaction through a legal entity or an agreement.¹⁸ When ordinary inquiry and further efforts both fail, the notary must identify the beneficial owner on the basis of verification and report the result through the official portal of the Directorate General of General Legal Administration.¹⁹

Verification demands a face-to-face meeting with the client and an examination of the authenticity of identity documents.²⁰ Verification precedes the business relationship, with a narrow allowance for completion soon afterwards once risk management is in place.²¹ Low-

¹²Regulation 10/2026 (n 5) art 2(1)–(2).

¹³ibid art 2(3).

¹⁴ibid art 2(4); FATF, *International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation: The FATF Recommendations* (FATF 2012, as updated) rec 22(d).

¹⁵Regulation 10/2026 (n 5) art 4.

¹⁶ibid art 5.

¹⁷ibid arts 6–7, 11–13.

¹⁸ibid art 1(9), arts 8–9, 15.

¹⁹ibid art 8(3).

²⁰ibid arts 10, 19.

²¹ibid art 20.

risk clients may enjoy simplified procedures. High-risk clients, including politically exposed persons, their relatives to the second degree, their close associates and persons transacting with high-risk countries, attract enhanced identification and closer supervision.²² When client and beneficial owner carry different risk grades, the higher grade governs.²³

The remaining chapters complete the machine. Notaries must keep transaction records and an information system that allows each transaction to be traced; they must screen clients and beneficial owners against terrorist, proliferation and other targeted financial sanction lists; they must refuse or end a relationship upon a match and report it to the Financial Transaction Reports and Analysis Centre (PPATK).²⁴ They must terminate a relationship with a client who refuses due diligence or whose information the notary doubts, and they must suspend due diligence when continuing it would tip off a suspect.²⁵ Reliance on due diligence performed by a supervised third party is permitted, and responsibility stays with the notary.²⁶ A suspicious transaction report must reach PPATK within three working days of discovery.²⁷ The Director General supervises compliance with the help of the Notary Supervisory Council and, when necessary, jointly with PPATK.²⁸ Updating of data, internal control, pre-employment screening, continuous training, management of new technology and cooperation with law enforcement round off the duties.²⁹ Sanctions climb from written warning to dishonourable dismissal, and the Minister may block a notary's account on the official portal of the Directorate General before any tiered examination takes place.³⁰

Table 1 maps the Regulation onto the international standard.

Table 1. Regulation 10/2026 measured against the FATF Recommendations

FATF standard	Regulation 10/2026	Assessment
Rec 1: risk-based approach	Arts 4, 16–18	Aligned; Art 18(2) lets a low-risk client shield a high-risk beneficial owner

²²ibid arts 16–17.

²³ibid art 18(1).

²⁴ibid arts 22–24.

²⁵ibid art 25.

²⁶ibid art 26.

²⁷ibid art 27.

²⁸ibid art 28.

²⁹ibid arts 29–32, 35–36.

³⁰ibid arts 33–34.

FATF standard	Regulation 10/2026	Assessment
Rec 10: customer due diligence and beneficial ownership	Arts 6–15, 19–20	Aligned; misdirected cross-reference in Art 6(4); no listed-issuer calibration
Rec 11: record-keeping	Arts 22–23	Partial; retention period left blank
Rec 12: politically exposed persons	Art 17	Aligned; reaches relatives to the second degree and close associates
Recs 6–7: targeted financial sanctions	Art 24	Partial; refusal and reporting, no freezing duty
Rec 15: new technologies	Art 35	Aligned in principle; Art 10(2) bars remote verification
Rec 17: reliance on third parties	Art 26	Aligned; responsibility stays with the notary
Rec 18: internal controls	Arts 30–32	Aligned
Recs 20–23: reporting and tipping-off	Arts 25, 27	Aligned; three-working-day deadline; overbroad termination trigger in Art 25(1)(b)
Recs 28, 35: supervision and sanctions	Arts 28, 33–34	Partial; account blocking precedes any hearing

Source: author's analysis of Regulation 10/2026 and the FATF Recommendations.

3. Lex Posterior and the Law on the Office of Notary

3.1 The Amended Text Governs

The UUJN of 2004 and its amendment of 2014 form one statute in two layers. The maxim *lex posterior derogat legi priori* decides which layer speaks. Each provision that the 2014 Law amended, inserted or deleted displaces its 2004 predecessor on the same subject. A lawyer who cites a 2004 letter in 2026 cites a ghost.

The ghost walks most visibly in Article 16. The 2014 Law inserted a new letter (c), which obliges the notary to attach the documents and the fingerprints of the appearers to the minuta.³¹ Every later letter shifted by one place. The duty of secrecy moved from letter (e) to letter (f). The duty to read the deed aloud before the appearers and two witnesses moved from letter (l) to letter (m). The duty to serve, save for a valid reason to refuse, moved from letter (d) to letter (e).³² The 2014 Law also added the word *amanah*, meaning trustworthy, to the first duty of the notary.³³

³¹UUJN (n 1) art 16(1)(c).

³²ibid art 16(1)(e)–(f), (m); compare Law No 30 of 2004 (n 1) art 16(1)(d)–(e), (l).

³³UUJN (n 1) art 16(1)(a).

Other displacements matter for this inquiry. The definition of a notary now recognises powers granted by the UUJN or by any other statute, and Regulation 10/2026 copies that amended definition word for word.³⁴ The special substitute notary of the 2004 text has vanished, together with Article 34.³⁵ The general sanctions chapter, comprising Articles 84 and 85, has gone; sanctions now live inside the provisions they protect, and the procedure for imposing them belongs to a ministerial regulation.³⁶ The approval of the Regional Supervisory Council for summoning a notary has yielded to the approval of the Notary Honour Council.³⁷ The deed must now be drawn up in Indonesian as a matter of duty, and the Indonesian text prevails over any foreign version.³⁸

Regulation 10/2026 contains a small scar of the same transition. Its list of legal bases describes the 2014 amendment as recorded in the "Tambahan Berita Negara" No 5491. The correct designation is the Supplement to the State Gazette, Tambahan Lembaran Negara No 5491.³⁹ The slip does not touch validity. It does reveal haste.

3.2 Secrecy Meets Disclosure

The notarial oath binds the notary to keep secret the contents of deeds and all information obtained in office.⁴⁰ Article 16(1)(f) repeats that duty and permits an exception only when a statute (undang-undang) provides otherwise. Article 54(1) restricts disclosure of deeds to persons with a direct interest, heirs and successors, and it allows a wider circle when any law or regulation (peraturan perundang-undangan) so provides.⁴¹

The two gates differ in height. The gate in Article 16(1)(f) opens for a statute alone. The gate in Article 54(1) opens for any level of regulation. A ministerial regulation standing by itself could pass the second gate and fail the first. Regulation 10/2026 needs no such solitary passage. The anti-money laundering law of 2010 supplies the statutory key: it exempts reporting from every secrecy duty that binds a reporting party and grants immunity save for

³⁴ibid art 1(1); Regulation 10/2026 (n 5) art 1(1).

³⁵UUJN (n 1) art 1(4), art 34 (both deleted).

³⁶ibid ch XI (deleted), art 91A.

³⁷ibid art 66(1), (3)–(4).

³⁸ibid art 43(1), (6).

³⁹Regulation 10/2026 (n 5) basis 2; Law No 2 of 2014 (n 1).

⁴⁰UUJN (n 1) art 4(2).

⁴¹ibid arts 16(1)(f), 54(1).

abuse of power.⁴² The duty to report suspicious transactions within three working days rests on statutory rock. The hierarchy of norms holds firm.⁴³

The anti-tipping-off rule of Article 25(3) of the Regulation draws on the same statute.⁴⁴ Secrecy toward the client and openness toward PPATK coexist as two faces of one loyalty: loyalty to the integrity of the deed.

3.3 Presence, Fingerprint and the Face-to-Face Rule

The amended UUJN anchors identity in the body. It requires the fingerprints of the appearers on the minuta, the physical presence of the notary when the deed is read and signed, and an appearer who is known to the notary or introduced by two identifying witnesses.⁴⁵ Regulation 10/2026 adds a documentary layer: the notary must meet the client in person and examine the truth of identity documents.⁴⁶ The two layers stack. The statute governs the form of the deed. The Regulation governs the knowledge behind the deed. A notary must satisfy both, and the stricter standard decides each case.

Tension appears at the frontier of technology. The Elucidation of Article 15(3) of the UUJN recognises the certification of electronic transactions, known as cyber notary.⁴⁷ The financial sector regulator already permits electronic verification without a physical meeting for financial service providers.⁴⁸ Regulation 10/2026 asks notaries to measure and mitigate the risks of new technology, and it demands an in-person meeting in categorical terms.⁴⁹ The bank may know its customer through a camera. The notary must know the same customer across a desk. The asymmetry protects authenticity today. It may hinder secure innovation tomorrow.

⁴²Law No 8 of 2010 (n 11) arts 28–29.

⁴³Law No 12 of 2011 (n 8) art 7(1).

⁴⁴Law No 8 of 2010 (n 11) art 12; Regulation 10/2026 (n 5) art 25(3).

⁴⁵UUJN (n 1) arts 16(1)(c), 16(1)(m), 39(2); Elucidation of art 16(1)(m).

⁴⁶Regulation 10/2026 (n 5) art 10.

⁴⁷UUJN (n 1) Elucidation of art 15(3).

⁴⁸Peraturan Otoritas Jasa Keuangan Nomor 8 Tahun 2023 tentang Penerapan Program Anti Pencucian Uang, Pencegahan Pendanaan Terorisme, dan Pencegahan Pendanaan Proliferasi Senjata Pemusnah Massal di Sektor Jasa Keuangan (OJK Regulation No 8 of 2023 on Anti-Money Laundering, Counter-Terrorism Financing and Counter-Proliferation Financing Programmes in the Financial Services Sector).

⁴⁹Regulation 10/2026 (n 5) arts 10(2), 35.

3.4 Discipline, Due Process and the Honour Council

Article 33 of the Regulation borrows the sanction ladder of the amended UUJN, from written warning to dishonourable dismissal, and it refers the procedure to the law on notarial office.⁵⁰ That referral respects the 2014 design. The UUJN guarantees every notary a chance to defend himself or herself before the supervisory councils in tiers before temporary suspension, and it reserves dismissal to the Minister upon the proposal of the Central Supervisory Council.⁵¹

Article 34 of the Regulation strikes a different chord. It allows the Minister, through the Director General, to block a notary's access to the official portal "before tiered examination".⁵² A notary without portal access cannot register companies, record amendments of articles or file beneficial ownership data. The block works as a suspension in everything save name. A measure with the bite of suspension ought to carry the procedural guarantees of suspension. The Regulation offers release once the notary complies, and it offers no prior notice, no hearing and no time limit.⁵³ Fairness speaks in the vocabulary of Article 9(2) of the UUJN. Article 34 still lacks that vocabulary.

The Notary Honour Council deserves separate notice. The Constitutional Court struck down the requirement of approval by the Regional Supervisory Council for summoning notaries.⁵⁴ The 2014 legislature reintroduced an approval gate through the Honour Council, with a deemed approval after thirty working days, and the Court has twice upheld that design.⁵⁵ Article 36 of the Regulation obliges notaries to cooperate with law enforcement. A ministerial duty of cooperation cannot dissolve a statutory gate. Investigators who seek a photocopy of a minuta still need the Honour Council, and the Regulation should say so to spare notaries a false dilemma.

⁵⁰Regulation 10/2026 (n 5) art 33(3)–(4); UUJN (n 1) arts 16(11), 91A.

⁵¹UUJN (n 1) arts 9(2)–(3), 12, 73, 77.

⁵²Regulation 10/2026 (n 5) art 34(1)–(2).

⁵³ibid art 34(3)–(4).

⁵⁴*Putusan Mahkamah Konstitusi Nomor 49/PUU-X/2012* (Constitutional Court of the Republic of Indonesia, 28 May 2013).

⁵⁵UUJN (n 1) art 66(3)–(4); *Putusan Mahkamah Konstitusi Nomor 22/PUU-XVII/2019* (Constitutional Court of the Republic of Indonesia, 2019); *Putusan Mahkamah Konstitusi Nomor 16/PUU-XVIII/2020* (Constitutional Court of the Republic of Indonesia, 23 June 2020).

3.5 Substitutes, Apprentices and Employees

The amended UUJN extends Articles 4, 15, 16 and 17 to substitute notaries and to temporary notarial officials.⁵⁶ Regulation 10/2026 defines its subject by the term "Notary" alone.⁵⁷ A substitute who covers a notary on leave draws deeds, meets clients and touches money. The Regulation leaves that person in a grey zone. Its rules on pre-employment screening and employee profiling complement the duty of secrecy that the 2014 Law imposed on apprentice notaries.⁵⁸ The office of the notary is a team. The Regulation treats it as a team in the back room and as a solitary figure at the front desk.

4. Critical Appraisal: Merits and Deficits

4.1 Merits

The first merit is fidelity to the international standard. The Regulation transposes the gatekeeper triggers of Recommendation 22, the reporting duty of Recommendation 23, enhanced diligence for politically exposed persons, screening against targeted financial sanctions, reliance on third parties and the governance of new technology.⁵⁹ Indonesian notaries now speak the same compliance language as their peers in other member jurisdictions.

The second merit is the centrality of the beneficial owner. The definition in Article 1(9) captures ownership, benefit, control, mandate and final control.⁶⁰ It refuses to stop at the name on the share register. It follows the money to the person who enjoys it.

The third merit is proportionality. The risk-based design allows simplified procedures for low-risk clients and demands enhanced scrutiny for high-risk clients.⁶¹ Scarce compliance effort flows toward danger and away from routine.

The fourth merit is the integration of the notary into the national beneficial ownership system. Article 8(3) links the notary to the records of the Directorate General.⁶² The beneficial

⁵⁶UUJN (n 1) art 33(2).

⁵⁷Regulation 10/2026 (n 5) art 1(1).

⁵⁸UUJN (n 1) art 16A; Regulation 10/2026 (n 5) art 31.

⁵⁹FATF Recommendations (n 14) recs 6, 12, 15, 17, 22–23.

⁶⁰Regulation 10/2026 (n 5) art 1(9).

⁶¹ibid arts 4, 16–17.

⁶²ibid art 8(3).

ownership regulation of 2025 assigns verification roles to the corporation, the notary and the Ministry.⁶³ The two instruments interlock like gears.

The fifth merit is institutional depth. Internal control, periodic review, employee screening and continuous training convert compliance from a moment into a habit.⁶⁴

The sixth merit is credible enforcement. Sanctions borrow the familiar ladder of notarial discipline, and supervision may proceed jointly with PPATK.⁶⁵ A rule with teeth earns respect.

4.2 Deficits

The first deficit is a misdirected cross-reference. Article 6(4) commands rejection when identity data or supporting documents "referred to in paragraph (2)" are incomplete. Paragraph (2) lists the categories of clients. Paragraph (3) lists identity and supporting documents.⁶⁶ A sanctionable duty of rejection deserves a precise pointer, because Article 33(2) attaches sanctions to Article 6 in its entirety.⁶⁷

The second deficit is a borrowed clause. Article 12(2)(c), on financial service providers as clients, speaks of a mandate to act "for and on behalf of the bank" in a business relationship "with the financial service provider".⁶⁸ The text appears transplanted from banking regulation. The client of a notary is the financial institution, and the counterpart is the notary. The clause misnames both.

The third deficit is an overbroad termination trigger. Article 2(3)(d) treats the notary's doubt about the truth of information as a reason to apply due diligence. Article 25(1)(b) treats the same doubt as a reason to terminate the relationship, and Article 25(2) converts the termination into a suspicious transaction report.⁶⁹ The Regulation prescribes inquiry and exit for one and the same state of mind. A notary who doubts must choose between investigating and leaving, and either choice may draw a sanction. A threshold of reasonable grounds, reached after verification, would cure the circle.

⁶³Peraturan Menteri Hukum Nomor 2 Tahun 2025 tentang Verifikasi dan Pengawasan Pemilik Manfaat Korporasi (Minister of Law Regulation No 2 of 2025 on the Verification and Supervision of Corporate Beneficial Owners) (BNRI 2025 No 76) arts 2, 6–8.

⁶⁴Regulation 10/2026 (n 5) arts 30–32.

⁶⁵ibid arts 28(3), 33.

⁶⁶ibid art 6(2)–(4).

⁶⁷ibid art 33(2).

⁶⁸ibid art 12(2)(c).

⁶⁹ibid arts 2(3)(d), 25(1)(b), 25(2).

The fourth deficit is a conjunctive drafting error in Article 25(3). The duty to stop due diligence arises when a transaction is suspected of laundering "and" the notary believes that continuing would breach the rule against tipping off.⁷⁰ The conjunction is correct in substance. The list ends with a semicolon and a dangling clause, and Article 25(5) refers back to letter (a) alone.⁷¹ Courts can repair grammar. Notaries should not need to ask them.

The fifth deficit lies in the exemption of Article 18(2). It releases low-risk clients from the comparison of risk between the client, a third party and the beneficial owner.⁷² The beneficial owner of a low-risk client may still carry high risk. A risk rating should follow the riskiest person in the chain, and a rule that ends the inquiry at the client defeats the purpose of Article 18(1).

The sixth deficit concerns targeted financial sanctions. Upon a match, Article 24 obliges the notary to refuse or end the relationship and to file a suspicious transaction report.⁷³ The terrorism financing statute and the international standard expect freezing without delay and prompt notification of the competent authorities.⁷⁴ A notary rarely holds client funds. A notary who does hold escrow money needs a clear instruction to freeze it.

The seventh deficit is the blank retention period. Article 23(4) refers the duration of record-keeping to "the laws and regulations" without naming a period.⁷⁵ The international standard demands at least five years.⁷⁶ The UUJN keeps the notary responsible for every deed for as long as the deed exists, even after the protocol passes to another custodian.⁷⁷ A fixed and generous period would match that lifelong responsibility.

The eighth deficit is silence on personal data. Due diligence gathers identity numbers, tax numbers, addresses, signatures and information on family members of politically exposed persons. The Personal Data Protection Law has applied in full since October 2024 and governs

⁷⁰ibid art 25(3).

⁷¹ibid art 25(5).

⁷²ibid art 18(2).

⁷³ibid art 24(2)–(3).

⁷⁴Undang-Undang Nomor 9 Tahun 2013 tentang Pencegahan dan Pemberantasan Tindak Pidana Pendanaan Terorisme (Law No 9 of 2013 on the Prevention and Eradication of Terrorism Financing); FATF Recommendations (n 14) rec 6.

⁷⁵Regulation 10/2026 (n 5) art 23(4).

⁷⁶FATF Recommendations (n 14) rec 11.

⁷⁷UUJN (n 1) art 65.

every controller of such data.⁷⁸ The Regulation names no lawful basis, no retention limit for data protection purposes and no security standard. A notary who complies with one law risks breaching the other.

The ninth deficit is the absence of a carve-out for listed issuers. The international standard allows simplified measures for companies listed on a regulated market that are subject to disclosure duties ensuring transparency of beneficial ownership.⁷⁹ Indonesian issuers already disclose substantial holdings and beneficial owners to the Financial Services Authority (OJK).⁸⁰ The Regulation does not tell the notary how to use those disclosures. Duplicated diligence raises cost without raising safety.

The tenth deficit is the omission of substitute notaries, discussed above, and the eleventh is the blocking power without procedural safeguards. Both deficits touch the rule of law, because both concern who is bound and how the binding is enforced.

The twelfth deficit is economic. The UUJN still caps notarial fees by reference to the economic value of the deed, at rates fixed in 2004.⁸¹ Regulation 10/2026 adds risk assessment, systems, screening, training and reporting. The cost of compliance rises. The ceiling on revenue stays put. The rational response of a small notarial office may be to comply on paper. Paper compliance is the most expensive form of non-compliance, because it buys the appearance of safety at the price of real risk.

5. Notarial Due Diligence as Corporate Governance Infrastructure

5.1 Governance Begins with Knowing Who Governs

Good corporate governance rests on transparency, accountability, responsibility, independence and fairness. The national code of the National Committee on Governance Policy and the international principles of the G20 and OECD share that core.⁸² Every principle

⁷⁸Undang-Undang Nomor 27 Tahun 2022 tentang Pelindungan Data Pribadi (Law No 27 of 2022 on Personal Data Protection).

⁷⁹FATF Recommendations (n 14) rec 10 and Interpretive Note to rec 10.

⁸⁰Peraturan Otoritas Jasa Keuangan Nomor 4 Tahun 2024 tentang Laporan Kepemilikan atau Setiap Perubahan Kepemilikan Saham Perusahaan Terbuka dan Laporan Aktivitas Menjaminkan Saham Perusahaan Terbuka (OJK Regulation No 4 of 2024 on Reports of Ownership or Changes of Ownership of Shares in Public Companies and Reports on Share Pledging Activities).

⁸¹UUJN (n 1) art 36.

⁸²Komite Nasional Kebijakan Governansi, *Pedoman Umum Governansi Korporat Indonesia* (KNKG 2021); OECD, *G20/OECD Principles of Corporate Governance 2023* (OECD Publishing 2023).

presupposes an answer to one prior question: who stands behind the company? Transparency about decisions means little without transparency about deciders. Accountability fails if the accountable person hides behind a nominee.

The notary answers that prior question at the moments that matter most. A limited liability company exists through a notarial deed of establishment, and amendments of its articles of association take notarial form in Indonesian.⁸³ Each corporation must determine and report its beneficial owners.⁸⁴ The notary verifies that report when the corporation uses notarial services.⁸⁵ Regulation 10/2026 supplies the method of verification. Three instruments form a triangle: the corporation declares, the notary verifies and the Ministry supervises.

5.2 Agency Costs and the Authentic Record

Agency theory explains why this triangle matters. Managers and controlling shareholders act as agents of other investors, and every gap in information widens the room for self-dealing.⁸⁶ The notarial deed narrows that room. It records with full evidentiary force who attended a meeting, who voted and what was decided. Due diligence under Regulation 10/2026 adds the identity of the person behind each signature. A related-party transaction concealed behind layers of nominees becomes visible once the notary asks, records and verifies who truly benefits.

Indonesian ownership tends toward concentration in family and group structures. The classic conflict between managers and dispersed owners gives way to a conflict between controlling and minority shareholders. Knowledge of the controlling person at the top of the chain is the first defence of the minority. Notarial due diligence turns that knowledge into a document.

⁸³Undang-Undang Nomor 40 Tahun 2007 tentang Perseroan Terbatas (Law No 40 of 2007 on Limited Liability Companies), as amended by Undang-Undang Nomor 6 Tahun 2023 tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2022 tentang Cipta Kerja menjadi Undang-Undang (Law No 6 of 2023) arts 7(1), 21(4).

⁸⁴Peraturan Presiden Nomor 13 Tahun 2018 tentang Penerapan Prinsip Mengenali Pemilik Manfaat dari Korporasi dalam Rangka Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang dan Tindak Pidana Pendanaan Terorisme (Presidential Regulation No 13 of 2018); Minister of Law Regulation No 2 of 2025 (n 63) arts 2–3.

⁸⁵Minister of Law Regulation No 2 of 2025 (n 63) art 7.

⁸⁶Michael C Jensen and William H Meckling, 'Theory of the Firm: Managerial Behavior, Agency Costs and Ownership Structure' (1976) 3 Journal of Financial Economics 305.

5.3 Governance of the Notary Itself

Regulation 10/2026 also imposes governance on the notarial office. It demands written policies, internal control, periodic review, staff screening and training.⁸⁷ The gatekeeper must keep its own gate. A notary who preaches transparency to clients and practises opacity in the office loses moral authority before losing legal authority.

6. The Capital Market Nexus: Protecting Investors through Authentic Deeds

6.1 The Notary as Supporting Profession

The Capital Market Law names notaries among the supporting professions of the capital market.⁸⁸ The Financial Sector Development and Strengthening Law of 2023 requires supporting professions to register with OJK before serving the financial services sector.⁸⁹ OJK Regulation No 5 of 2025 implements that duty for notaries and other professions and revokes the former regulation on notaries active in the capital market.⁹⁰ The capital market notary answers to two masters: the Minister of Law for the office and OJK for market activity.

6.2 Deeds that Investors Read

Investors encounter notarial work at each stage of an issuer's life. The deed converting a private company into a public company, the amendment of articles for an initial public offering, the deeds that increase capital in a rights issue and the deeds of merger all shape the rights attached to each share. The rules on general meetings of public companies recognise a notarial record of proceedings drawn up by an OJK-registered notary as the minutes of the meeting.⁹¹ That record proves quorum, votes and resolutions. A minority investor who challenges a resolution begins with the deed.

⁸⁷Regulation 10/2026 (n 5) arts 4, 30–32.

⁸⁸Undang-Undang Nomor 8 Tahun 1995 tentang Pasar Modal (Law No 8 of 1995 on the Capital Market), as amended by Undang-Undang Nomor 4 Tahun 2023 tentang Pengembangan dan Penguatan Sektor Keuangan (Law No 4 of 2023 on the Development and Strengthening of the Financial Sector) art 64.

⁸⁹Law No 4 of 2023 (n 88) art 259.

⁹⁰Peraturan Otoritas Jasa Keuangan Nomor 5 Tahun 2025 tentang Profesi Penunjang di Sektor Jasa Keuangan (OJK Regulation No 5 of 2025 on Supporting Professions in the Financial Services Sector), revoking Peraturan Otoritas Jasa Keuangan Nomor 67/POJK.04/2017 tentang Notaris yang Melakukan Kegiatan di Pasar Modal.

⁹¹Peraturan Otoritas Jasa Keuangan Nomor 15/POJK.04/2020 tentang Rencana dan Penyelenggaraan Rapat Umum Pemegang Saham Perusahaan Terbuka (OJK Regulation No 15/POJK.04/2020 on the Planning and Convening of General Meetings of Shareholders of Public Companies).

The governance code for public companies, applied on a comply-or-explain basis, asks issuers to protect shareholder rights and to disclose their governance practice in the annual report.⁹² The ownership reporting rules oblige directors, commissioners, substantial holders and controllers to report holdings and changes within five working days, with disclosure of beneficial owners when shares are registered for their benefit.⁹³ The anti-money laundering rules for the financial sector require financial service providers to ensure that the supporting professions they engage apply anti-money laundering programmes.⁹⁴ Regulation 10/2026 gives that requirement a notarial counterpart. The securities company that hires a notary and the notary who serves the issuer now share one vocabulary of diligence.

6.3 Four Channels of Investor Protection

The first channel is evidentiary. The authentic deed furnishes complete proof of what the notary saw and heard.⁹⁵ Due diligence extends that proof to the identity of the persons who appeared and, through the beneficial ownership records, to the persons behind them.

The second channel is civil liability. The amended UUJN reduces a defective deed to the force of a private deed and grants the injured party a claim against the notary for costs, damages and interest.⁹⁶ The Capital Market Law makes supporting professions answerable for misleading statements in registration documents to which they contribute.⁹⁷ A notary who neglects diligence when drawing deeds for an issuer exposes himself or herself to both channels.

The third channel is regulatory. OJK may sanction registered supporting professions, and the Minister may sanction notaries under Regulation 10/2026.⁹⁸ Two supervisors watch one office. Coordination between them remains a matter of administrative goodwill.

⁹²Peraturan Otoritas Jasa Keuangan Nomor 21/POJK.04/2015 tentang Penerapan Pedoman Tata Kelola Perusahaan Terbuka (OJK Regulation No 21/POJK.04/2015 on the Application of the Governance Guidelines for Public Companies); Surat Edaran Otoritas Jasa Keuangan Nomor 32/SEOJK.04/2015 tentang Pedoman Tata Kelola Perusahaan Terbuka (OJK Circular Letter No 32/SEOJK.04/2015).

⁹³OJK Regulation No 4 of 2024 (n 80).

⁹⁴OJK Regulation No 8 of 2023 (n 48).

⁹⁵Indonesian Civil Code (n 2) art 1870.

⁹⁶UUJN (n 1) arts 16(9), 41, 44(5), 48(3), 49(4), 50(5), 51(4).

⁹⁷Law No 8 of 1995 (n 88) art 80.

⁹⁸OJK Regulation No 5 of 2025 (n 90); Regulation 10/2026 (n 5) art 33.

The fourth channel is informational. Transparent ownership lets investors judge related-party risk, control premiums and the independence of commissioners. A market that knows who controls each issuer prices control fairly.

6.4 The Economics of Trust

George Akerlof showed that a market flooded with hidden defects drives good goods away.⁹⁹ Securities are information goods. An issuer whose ownership is opaque resembles a used car with a painted-over odometer. The authentic deed, backed by verified identity, works as a credible signal that honest issuers can send and dishonest issuers cannot fake at low cost.

Comparative research links the depth of capital markets to the quality of legal protection for outside investors.¹⁰⁰ Reinier Kraakman described gatekeepers as private parties able to disrupt misconduct by withholding their cooperation.¹⁰¹ Regulation 10/2026 converts that ability into a duty: the notary must refuse incomplete clients, sanctioned persons and clients who resist diligence.¹⁰² John Coffee warned that gatekeepers fail when the client who pays them also tempts them.¹⁰³ The issuer pays the notary. Fee caps limit income. Competition rewards speed. Those forces pull against diligence, and the law must pull harder.

7. Philosophical, Sociological and Economic Readings

7.1 Philosophical: Certainty, Justice and Purpose

Gustav Radbruch taught that law serves three values: legal certainty, justice and purposiveness.¹⁰⁴ The notarial deed embodies certainty. Due diligence infuses it with justice, because a certain record of a fraudulent transfer serves injustice with perfect precision. The purpose of the Regulation, the prevention of laundering and terrorism financing, gives both values a public mission. The deed becomes *fides publica* in the full sense: public faith that is worthy of faith.

⁹⁹George A Akerlof, 'The Market for "Lemons": Quality Uncertainty and the Market Mechanism' (1970) 84 Quarterly Journal of Economics 488.

¹⁰⁰Rafael La Porta, Florencio Lopez-de-Silanes, Andrei Shleifer and Robert W Vishny, 'Law and Finance' (1998) 106 Journal of Political Economy 1113.

¹⁰¹Reinier H Kraakman, 'Gatekeepers: The Anatomy of a Third-Party Enforcement Strategy' (1986) 2 Journal of Law, Economics, & Organization 53.

¹⁰²Regulation 10/2026 (n 5) arts 6(4), 24(2), 25(1).

¹⁰³John C Coffee Jr, *Gatekeepers: The Professions and Corporate Governance* (OUP 2006).

¹⁰⁴Gustav Radbruch, 'Five Minutes of Legal Philosophy (1945)' (Bonnie Litschewski Paulson and Stanley L Paulson trs) (2006) 26 OJLS 13.

Lon Fuller listed clarity, consistency and congruence among the conditions that make law a law worth obeying.¹⁰⁵ The drafting slips of Regulation 10/2026 offend those conditions in small measure. A misdirected cross-reference in a sanctionable provision is a small crack in the inner morality of law. Small cracks admit large doubts.

7.2 Sociological: The Living Law of the Notarial Office

Eugen Ehrlich located the centre of legal development in society itself.¹⁰⁶ The living law of the Indonesian notarial office has long relied on personal acquaintance. The UUJN itself still accepts an appearer introduced by two identifying witnesses.¹⁰⁷ Classical commentary portrays the notary as a confidant of families and enterprises.¹⁰⁸ Regulation 10/2026 asks the confidant to become a verifier. That shift alters relationships, fees and expectations.

Resistance will come in quiet forms. Clients will treat questions on source of funds as insults. Smaller offices will copy templates and file them. The assessment of Indonesia by the FATF identified supervision of the designated non-financial professions as an area requiring strengthening.¹⁰⁹ Law on paper becomes law in society through training, peer pressure and visible enforcement. Articles 28 and 32 of the Regulation supply the tools.¹¹⁰ The Indonesian Notaries Association and the supervisory councils must supply the will.

7.3 Economic: Cost, Benefit and Allocation

Compliance has a price. Risk assessment, screening tools, record systems and training consume money and time. The benefit accrues to society: lower crime, deeper markets and stronger fiscal capacity. The cost falls on the individual notary, whose fees the UUJN caps.¹¹¹ A rule that concentrates cost and disperses benefit invites under-supply.

Two remedies follow from the risk-based design. Supervisors can supply shared infrastructure, such as screening lists and secure access to beneficial ownership data, which lowers the private cost of compliance. The legislature can revisit the fee ceilings in the next

¹⁰⁵Lon L Fuller, *The Morality of Law* (rev edn, Yale University Press 1969).

¹⁰⁶Eugen Ehrlich, *Fundamental Principles of the Sociology of Law* (Walter L Moll tr, Harvard University Press 1936).

¹⁰⁷UUJN (n 1) art 39(2).

¹⁰⁸GHS Lumban Tobing, *Peraturan Jabatan Notaris* (Erlangga 1983); Habib Adjie, *Hukum Notaris Indonesia: Tafsir Tematik terhadap UU No 30 Tahun 2004 tentang Jabatan Notaris* (Refika Aditama 2008).

¹⁰⁹FATF, *Mutual Evaluation Report* (n 7).

¹¹⁰Regulation 10/2026 (n 5) arts 28, 32.

¹¹¹UUJN (n 1) art 36(3)–(4).

amendment of the UUJN, so that diligence becomes a remunerated service. Efficient law places each cost on the actor best able to bear it.

8. Recommendations

Eight proposals follow from the analysis.

First, a corrective regulation should repair the reference in Article 6(4) to paragraph (3), redraft Article 12(2)(c) for notarial relationships, correct the designation of the supplement to the State Gazette and tidy Article 25(3) and (5).

Second, Article 25(1)(b) should require reasonable grounds formed after verification, so that doubt triggers inquiry first and exit second.

Third, Article 34 should give notice, a short deadline for a hearing before the Regional Supervisory Council and a maximum duration for any block, in harmony with Article 9(2) of the UUJN.

Fourth, the Regulation should permit secure electronic verification under conditions set by the Minister, in step with the cyber notary concept and with the e-KYC practice of the financial sector.

Fifth, an express provision should extend the Regulation to substitute notaries and temporary notarial officials, mirroring Article 33(2) of the UUJN.

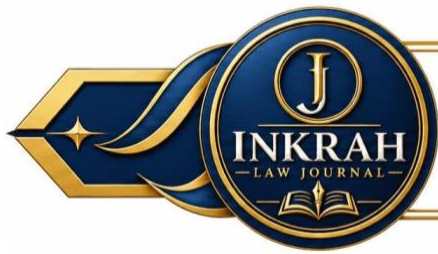
Sixth, a data protection clause should name the lawful basis for processing, fix retention at no less than five years after the end of the relationship and set minimum security measures under the Personal Data Protection Law.

Seventh, a calibrated rule for listed issuers should allow notaries to rely on OJK ownership disclosures for simplified diligence, with full verification of beneficial owners preserved whenever red flags appear.

Eighth, the Ministry of Law, OJK and PPATK should conclude a coordination agreement covering joint supervision of capital market notaries, data exchange and a single channel for freezing instructions under the terrorism financing law.

9. Conclusion

Regulation 10/2026 marks a mature step in the life of the Indonesian notarial office. It aligns the profession with the international standard, places the beneficial owner at the heart of diligence and links the notary to the national ownership register. It also carries drafting slips,



an overbroad termination rule, a blocking power without a hearing and silences on data protection, substitutes and listed issuers.

Read beside the amended UUJN, the Regulation stands on lawful ground. The 2014 text governs every provision it touched, and the anti-money laundering statute supplies the statutory key that unlocks notarial secrecy for reporting. Read beside the law of companies and securities, the Regulation reveals its larger purpose. The notary who knows the client protects the company from capture, the minority from expropriation and the market from deception.

The seal of Garuda promises truth. Due diligence makes that promise keepable. An investor who reads a deed drawn for an issuer deserves to know that the notary looked behind the names. Regulation 10/2026 commands that look. Its successors must make the command clear, fair and affordable.

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