

The Money Laundering: Efforts to Prevent Transnational and Organized Crime in Indonesia

Lies Rosdiana Maysari^{*)}

^{*)} Faculty of Law, Universitas Islam Sultan Agung Semarang, Indonesia, E-mail: lrosdiana@bankbjb.co.id

Abstract. *Pretension of Money laundering in Indonesia has started since the act no. 15, 2002 concerning pretension of money laundering changes into the act no. 15, 2003 and it showed a positive impact. Meanwhile, the act does not seem optimal. Therefore, the Indonesian parliament constructs another act which is act no. 8, 2010 concerning prevention and pretension of money. The objective of this study is to discuss how far the act no. 8, 2010 concerning the prevention and pretension of money laundering can be implemented effectively. The method used library study with descriptive, explorative and analytic approaching. It can be concluded that: 1. Occurs some criminal offense as it is implemented in the second clause of act no. 8, 2010 towards money laundering presumption, does not need pre verification as long as the money came from corruption with the record of 2 proofs as the initial proof. 2. Money laundering in criminology is qualified as white collar criminalization, therefore using the inverse method is relevant, but in implementation it is dependent on the judge's will.*

Keywords: Crime; Government; Money.

1. Introduction

Indonesia is one of the countries that is quite open to becoming a target of money laundering, because in Indonesia there are potential factors as an attraction for money laundering actors, a combination of weaknesses in the social system and legal loopholes in the financial system, including a free foreign exchange system, no investigation of origins proposals invested and the development of capital markets, foreign exchange traders and banking networks that have expanded overseas¹. Seeing the magnitude of the impact it has had on the stability of the country's economy, a number of countries have established quite strict rules to

¹Adrian Sutedi, SH (2023). Banking Law: An Overview of Money Laundering, Mergers, Liquidations, and Bankruptcies. Graphics Light.

uncover money laundering.

In recent years, crimes involving money have begun to emerge, both in the banking and non-banking sectors. As is the case with money laundering which is clearly illegal because it provides incentives and protection against illicit money. Money laundering is an act committed to change the proceeds of crime such as corruption, narcotics crime, gambling, smuggling and other acts of assets that are known or reasonably suspected to be proceeds of crime with the intention of hiding or disguising the origin of assets so that they appear to be assets legitimate wealth². For this reason, cases of money laundering or money laundering must be made difficult or prevented. This act is very dangerous both nationally and internationally due to money laundering as a means to legalize the proceeds of crime in order to eliminate traces.

In addition, money laundering can affect national and global financial balances. By preventing the practice of money laundering, it is hoped that there will be a system that can reduce illegal activities such as smuggling, corruption, financing acts of terrorism, tax evasion, and others. If a criminal cannot enjoy the proceeds of his crime, then it is clear that their opportunity to commit a crime will decrease. According to Sutan Remi Syahrani, money laundering is a series of activities which is a process carried out by a person or organization against illicit money, namely money originating from crime, with the intention of hiding data and disguising the origin of the money from the government or authorities authorized to take action. by putting money into the financial system, using both bank and non-bank services. These institutions include stock exchanges, insurance and foreign exchange trading so that money can be issued from the financial system as halal money.

The act of money laundering is included in the scope of organized crime, in relation to which money laundering is a crime in the economic field which in essence provides an illustration of the direct relationship that crime is a continuation of economic activity and growth³. The phenomenon of money laundering is no longer a national problem but has become an international problem, so it is very important to place it at the center of legal regulations. Almost all economic crimes are committed with the motive of profit. Therefore, to deter perpetrators or reduce the crime by finding the facts of the crime so that the perpetrators cannot enjoy it and the crime also disappears.

Money laundering is a crime that is detrimental to the state, as stated above. The handling of the crime of money laundering in Indonesia began with the enactment

²Please, Herlina Hanum. "Prevention and Eradication of Money Laundering Crimes." Amaliah: Journal of Community Service 4.2 (2020): 186-190

³Lubis, F. (2020). Advocate Vs Money Laundering. deepublish.

of Act No. 15 of 2002 concerning the Crime of Money Laundering as amended by Act No. 25 of 2003 concerning Amendments to Act No. 15 of 2002 concerning the Crime of Money Laundering. has shown a positive direction⁴. However, the efforts made are felt to be not optimal, partly because the existing laws and regulations still provide room for different interpretations to arise, there are legal loopholes, the imposition of sanctions is not precise, the shift in the burden of proof has not been utilized, limited access to information, narrow coverage reporters and types of reports, as well as the lack of clarity on the duties and authorities of the executors of this Law.

Based on this, Act No. 8 of 2010 concerning the Prevention and Eradication of Money Laundering was drafted as a substitute for Act No. 15 of 2002 concerning the Crime of Money Laundering and Act No. 25 of 2003 concerning Amendments to Act No. 15 of 2002 concerning Money Laundering Crime⁵. The purpose of this writing is to discuss more deeply about money laundering and its handling in reference to Act No. 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes, which can be effectively enforced. The method used is a qualitative method with literature review and a descriptive exploratory approach.

2. Research Methods

The research method is a method taken to solve a problem that will be examined in a study. In writing this article, researchers used qualitative research methods. Qualitative research is research that emphasizes the quality or the most important thing about the nature of an item or object. The most important thing from an item or service in the form of an event/phenomenon/social phenomenon is the meaning behind the event which can be used as a valuable lesson for a theoretical concept development.

In line with this, the type of qualitative research used is descriptive research using literature study techniques. Literature study is a research technique carried out to critically examine and review a problem to be studied. Researchers will use secondary data sources obtained from documents, archives, books, articles, papers and other research results. Therefore, in the article by discussing about MONEY LAUNDERING: Efforts to Prevent Transnational and Organized Crime in Indonesia this will use this technique in order to obtain data and facts that are relevant to the problems above.

⁴Adrian Sutedi, SH (2023). Banking Law: An Overview of Money Laundering, Mergers, Liquidations, and Bankruptcies. Graphics Light.

⁵Nugroho, Nur, et al. "Analysis of Prevention of Money Laundering by Bank Negara Indonesia." ARBITER: Scientific Journal of Master of Laws 2.1 (2020): 100-110.

3. Results and Discussion

3.1. Money Laundering Crime

Basically, crime is a term known in Dutch Criminal Law, namely *Strafbaar Feit*. Indonesia has officially used the term as law in Indonesia. But there is no official explanation for this crime as to what is meant by *Strafbaar Feit*. Therefore, many criminal law experts try to provide definitions regarding criminal acts. According to Simon⁶, *Strafbaar Feit* is a criminal act that is against the law and is deliberately committed by someone who can be held responsible for his actions which he declares as something that can be punished. In contrast to Wirdjono Projodikoro who stated that a crime is an act in which the perpetrator can be subject to punishment. Meanwhile, according to Pompe⁷, *Strafbaar Feit* is a violation of the norm, which is carried out because of the fault of the violator and is subject to criminal penalties to maintain the rule of law and save public welfare. The term "action" is commonly used in laws and regulations, although its accuracy is still debatable.

Action refers to human behavior in a passive sense, and does not include negative human behavior. Furthermore, the term money laundering was first used in the United States. This term refers to money laundering by the mafia, namely business results obtained illegally which are mixed with the intention to make all the proceeds of the money laundering act appear to be legitimate. The term money laundering was first used in the context of criminal law, this refers to a case that occurred in the United States in 1982.⁸ According to Article 1 of Act No. 25 of 2003 as an amendment to Act No. 15 of 2002 concerning the Crime of Money Laundering, that money laundering is the act of placing, transferring, paying, spending, granting, or other acts of assets that are known or reasonably suspected to be the proceeds of a crime with the intent to hide, or disguise the origin of the assets so that it seems to be legal assets⁹.

The international world prohibits crimes related to narcotics and money laundering. This agreement was set forth in an international convention on money laundering "the United Nation Convention Against Illicit Traffic in Narcotics, Drugs and Psychotropic Substances of 1998, which is commonly referred to as The Vienna Convention, also called the UN Drugs Convention 1998, which requires its

⁶Putra, ARP (2019). Problematic Economic Analysis of the Law on Money Laundering Crimes. *Lex Renaissance*, 4(2), 303-316.

⁷Primary, A. (2021). *Juridical Analysis of the Crime of Money Laundering (Decision Study No. 311/Pid. Sus/2018/PN. Mdn)* (Doctoral dissertation, University of Medan Area).

⁸Ansori, GS (2022). PPATK's Role in Preventing and Eradicating Money Laundering Crimes. *Unira Law Journal*, 1(1), 37.

⁹Please, Herlina Hanum. "Prevention and Eradication of Money Laundering Crimes." *Amaliah: Journal of Community Service* 4.2 (2020): 186-190

members to declare crimes against perpetrators of certain acts related to narcotics and money laundering¹⁰. This international attention is not surprising, because money laundering is a crime that has a very extraordinary negative impact. There are several negative impacts caused by money laundering activities on society as a consequence in the form of:¹¹

- a. *Money laundering* enabling drug dealers and dealers, smugglers and other criminals to expand their operations. This will increase the cost of law enforcement to eradicate it and the cost of health care and treatment for victims or drug addicts. Allows drug dealers and dealers, smugglers and other criminals to expand their operations. This will increase the cost of law enforcement to eradicate it and the cost of health care and treatment for drug addicts.
- b. Money laundering activities have the potential to undermine public finances, this is as a result of the large amount of money involved in these activities. The potential for corruption increases with the circulation of enormous amounts of illicit money.
- c. *Money laundering* it can also reduce government revenue from the tax sector and indirectly harm honest taxpayers and reduce legitimate employment opportunities.
- d. The ease with which money flows into developed countries has drawn unwanted elements across borders, reduced quality of life and raised concerns for national security.

The nature of money laundering has become universal and international, that is, it crosses national jurisdictional boundaries. Transactions from country to country are now very easy, namely through the internet system, payments are made through banks electronically. So do not be surprised if money laundering is commonly referred to as a transnational crime, because the practice of money laundering can be done by someone without having to travel abroad.

3.2. Factors Causing Money Laundering As Organized Crime

As a type of transnational organized crime, money laundering is not only the responsibility of countries per country, but is an obligation for all countries which can be realized in regional or international cooperation through bilateral or multilateral forums. According to Edi Setiadi and Rena Yulia¹², as something that is newly known and still developing in Indonesia, Act No. 15 of 2002 concerning

¹⁰Adrian Sutedi, SH (2023). Banking Law: An Overview of Money Laundering, Mergers, Liquidations, and Bankruptcies. Graphics Light.

¹¹Rani, DAM, Sugiarta, ING, & Karma, NMS (2021). Virtual Money (Cryptocurrency) as a Means of Money Laundering in Stock Trading. *Journal of Construction Law*, 2(1), 19-23.

¹²Utami, S. (2021). Money Laundering Crime Against Virtual Money Money Laundering on Virtual Money. *Al-Adl: Journal of Law*, 13(1), 1-27.

the Crime of Money Laundering, is indeed still not perfect, and it is alleged that at that time it still contained many weaknesses. As stated by the Financial Action Task Force (FATF), an international anti-money laundering organization which views from a substantial point of view that the law still does not meet international standards, so that Indonesia is still included in the list of uncooperation nations in the fight against money laundering (a list of countries that cannot cooperate in combating money laundering) and is seen as a safe haven for money launderers.

In this case, the FATF as an International Organization in its work can provide sanctions against countries that are included in the list of countries that cannot cooperate in combating money laundering, for example in terms of banking financial transactions and international trade which can ultimately cause losses for the State of Indonesia. Based on the above conditions, on October 13, 2003 Act No. 25 of 2003 was passed concerning Amendments to Act No. 15 of 2002 concerning the Crime of Money Laundering, with considerations among others to avoid sanctions related to banking transaction problems and international trade¹³.

The interesting thing about Act No. 25 of 2003 concerning Amendments to Act No. 15 of 2002 concerning the Crime of Money Laundering can be seen from the existence of a bank's obligation to report suspicious financial transactions to the Financial Transaction Reports and Analysis Center (PPATK), even though on the other hand based on the Banking Act, banks are required to keep their customers confidential¹⁴. Among other things, based on these conditions, then on October 20, 2010 Act No. 8 of 2010 concerning the Prevention and Eradication of Money Laundering was issued, which revoked Act No. 25 of 2003 concerning Amendments to Act No. 15 of 2002 concerning Money Laundering Crime¹⁵. The factors for the occurrence of this crime of laundering, including:

1. The Impact of Technological Advancements in the Financial Transfer System.

The emergence of the practice of money laundering can be said to be the impact of technological advances in the financial transfer system, because electronic financial transfers/transfers can take place easily and only take a few seconds, for example by utilizing Automatic Teller Machines (ATMs) or Automated Teller Machines (ATMs). ATMs, and Electronic Wire Transfers. Technological advances in the field of financial transfers facilitate the growth of the practice of money laundering, because: (a) it does not have a geographic horizon, (b) it

¹³Lubis, F. (2020). Advocate Vs Money Laundering. deepublish.

Nugroho, Nur, et al. "Analysis of Prevention of Money Laundering by Bank Negara Indonesia."

¹⁴Adrian Sutedi, SH (2023). Banking Law: An Overview of Money Laundering, Mergers, Liquidations, and Bankruptcies. Graphics Light.

¹⁵Wiyono, R. (2022). Discussion on the Law on the Prevention and Eradication of Money Laundering Crimes. Graphics Light.

operates 24 hours a day, and (c) it has the speed of electronic transactions.

Wire transfers are a fast and precise way of money laundering, because they can access financial institutions in any country, transfer large amounts of money or financial transfers (both domestically and internationally) from illegal activities that are difficult for law enforcement to trace. It can be stated that technological progress does not always have a positive impact on the state and society. Progress sometimes actually causes the growth and development of crime, especially white-collar crime, which is confirmed by experts that even this white-collar crime no longer recognizes national boundaries¹⁶. In this regard, criminals always try to save money from their crimes in various ways, one of which is through the practice of money laundering.

2. Impact of the Development of Economic Globalization.

The development of economic globalization has opened up the country's economy to the flow of funds from developed countries. The Indonesian government's policy of opening the faucet as wide as possible for foreign investment if it is not carried out carefully and accurately will have a negative impact, namely opening up the potential for money laundering flows from other countries to Indonesia. This concern is quite justified when viewed from the fact that crimes involving foreigners in Indonesia are increasing. This condition can be exploited by people who want to get profits quickly but are not lawful, for example practicing saving money from the proceeds of narcotics crimes, prostitution, smuggling, selling illegal firearms, and so on.¹⁷ Open government policies in the field of foreign investment coupled with the crisis that hit Indonesia, allowed money laundering practices to thrive.

According to Eddie Setiadi¹⁸, legal instruments and the level of professionalism of law enforcement officials in Indonesia are still not good, even though Indonesia already has a law on eradicating money laundering, but Indonesia is still perceived by the views of other countries as a haven for the practice of money laundering, and in fact the existing laws cannot act effectively to eradicate this crime. The success of this law in eradicating money laundering depends on the police, prosecutors, courts, customs, financial regulators such as; Bank

¹⁶Utami, S. (2021). Money Laundering Crime Against Virtual Money Money Laundering on Virtual Money. *Al-Adl: Journal of Law*, 13(1), 1-27.

¹⁷Wiyono, R. (2022). Discussion on the Law on the Prevention and Eradication of Money Laundering Crimes. *Graphics Light*.

¹⁸Adrian Sutedi, SH (2023). *Banking Law: An Overview of Money Laundering, Mergers, Liquidations, and Bankruptcies*. *Graphics Light*.

Indonesia, the Ministry of Finance, and the Capital Market Supervisory Agency, financial service providers (banks, insurance, finance companies, mutual fund managers, and securities companies), as well as the role of the mass media and the public.

3.3. Efforts to Prevent Money Laundering in Indonesia

Cases of money laundering crime are already international in nature, for this reason a standard setting and perception that is the same and international in nature is needed to be placed in a central setting. In carrying out criminalization, it is determined in advance which form of the law on money laundering model will be adopted in Indonesia and of course adjusted to the legal system and overall conditions in Indonesia.¹⁹ In order to see the factors that have caused the law enforcement of anti-money laundering regulations in Indonesia to be not optimal, it is necessary to look again at understanding what money laundering is criminalized for or why money laundering practices must be eradicated.

Despite the fact that Indonesia created anti-money laundering at first because of international pressure not because of awareness of the importance of eradicating money laundering for Indonesia, the practice of money laundering is a way for perpetrators of economic crimes to freely enjoy and take advantage of the proceeds of their crimes.²⁰ In addition to that, money (proceeds of crime) is the pulse for organized crimes in developing their crime network, so it is very important to prevent perpetrators from enjoying the proceeds of crime. Enforcing the law against money laundering practices requires good cooperation from all elements of the Criminal Justice System (SPP), which in this case consists of the police, prosecutors, judges and also the Financial Transaction Reports and Analysis Center (PPATK).²¹ Each element of the SPP and PPATK must be able to run in a coordinated and simultaneous manner. However, it seems that there are still problems in enforcing money laundering. For this reason, an investigative body was formed as the Financial Intelligence Unit (FIU).

In Indonesia PPATK is an independent body, but its function is very limited, namely only as an administrative function. PPATK is tasked with collecting and processing information relating to suspicions or indications of money laundering²². PPATK functions as a driving force to analyze suspicions of money

¹⁹Ansori, GS (2022). PPATK's Role in Preventing and Eradicating Money Laundering Crimes. *Unira Law Journal*, 1(1), 37.

²⁰Putra, ARP (2019). Problematic Economic Analysis of the Law on Money Laundering Crimes. *Lex Renaissance*, 4(2), 303-316.

²¹Adrian Sutedi, SH (2023). *Banking Law: An Overview of Money Laundering, Mergers, Liquidations, and Bankruptcies*. Graphics Light.

²²Wiyono, R. (2022). Discussion on the Law on the Prevention and Eradication of Money Laundering Crimes. Graphics Light.

laundering, especially through early detection of suspicious transaction flows. However, this agency remains in the status of carrying out an initial investigation and is very limited (see Article 1 letter a number and 2) in assisting the police. The results of the analysis of transactions or suspicions of money laundering were then submitted to the police, which turned out to be still being investigated by the police and then followed up with further investigations and processes.²³ The results of PPATK's analysis are not used as evidence because they still need to be followed up during an investigation. In addition, during the investigation period, PPATK was not authorized to block, meaning that the results of this analysis were not very significant.

In an effort to eradicate the crime of laundering, an independent investigative agency, namely the Financial Intelligence Unit (FIU), is a middle way for the existence of an investigative body in the Provision of Financial Services (PJK), especially for banks.²⁴ Banks are always careful in maintaining customer trust which is a very important factor, while the police see that anything suspicious will be followed up and will be made a suspect as an attitude of enthusiasm and professionalism. In the beginning, the perpetrators mostly used bank services to launder their money, for this reason a special agency was needed for investigations before entering the investigation stage. In relation to efforts to eradicate money laundering, Financial Services Providers (PJK) are required to implement Know your Customer (KYC) as a preventive measure in efforts to eradicate money laundering and other obligations.

4. Conclusion

The rationale for the crime of money laundering is to avoid misuse and use of easy access and acceleration of the mobility of funds through financial services for the purpose of eliminating traces of sources of funds obtained from crime. This is important because money laundering is detrimental to society. There has been an increase in criminal activity which is the source of obtaining assets which are the object of money laundering through weaknesses in a country's legislation and weak control of public officials relating to monetary matters. The Law on Money Laundering Crimes includes a specific minimum penalty, but does not contain specific rules/guidelines for the application of the penalty. This will cause problems when viewed from the point of view of the criminal system, namely the number of criminal threats (minimum or maximum) is only one of the subsystems that cannot simply be applied in the formulation of offenses. In order for this law to be implemented, it must be accompanied by a subsystem regarding sentencing

²³Sutra, Ferna Lukmia. The Crime of Trading in Protected Wild Animals Which Has Implications of Money Laundering. Diss. AIRLANGGA UNIVERSITY, 2020.

²⁴Ansori, GS (2022). PPATK's Role in Preventing and Eradicating Money Laundering Crimes. Unira Law Journal, 1(1), 37.

rules/guidelines for its application first.

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