



Volume 39 No. 2, December

P-ISSN: 1412-2723

STRENGTHENING ANTI-MONEY LAUNDERING FRAMEWORK IN ONLINE BANKING: BANK INDONESIA'S INITIATIVES AND COUNTERMEASURES

Fadia Fitriyanti

Universitas Muhammadiyah Yogyakarta, Indonesia, E-mail: yantifadia@umy.ac.id

Muhammad Alwan Zain Nusantara

Universitas Muhammadiyah Yogyakarta, Indonesia, E-mail: m.alwan.law20@mail.umy.ac.id

ARTICLE INFO

Keywords:

Bank Indonesia; Money Laundering; Online Banking

DOI :

10.26532/jh.v39i2.31970

ABSTRACT

Several types of illegal finance practices, including money laundering, can significantly result in a negative effect on the economy or government finances of a country. It is also extremely harmful to the society at large. This study was conducted to shed light on the government's efforts to curtail the illegal use of Internet banking, focusing on Bank Indonesia in particular. This article employs normative legal research as its methodology. According to research, the implementation of the Money Laundering Law regarding the prevention of money laundering in the online banking system resulted in the establishment of a special work unit in accordance with Bank Indonesia Circular No. 11/31/DPNP dated November 30, 2009. Additionally, financial institutions must develop Customer Due Diligence (CDD) and Enhanced Due Diligence (EDD) procedures. CDD refers to the procedures used by a financial institution to verify the identity of customers and business transactions before engaging with them. A comprehensive CDD method known as EED is required by the bank due to the elevated risk of money laundering and terrorist funding in its customer relationships. As the executor of the anti-tipping-off mechanism, the bank must protect the privacy of the customer's reporting information. Financial institutions are required to have a comprehensive information management system that enables the detection and assessment of suspicious funds to prevent money laundering.

1. Introduction

Money laundering refers to the act of obscuring or tracing the source of funds by depositing illicit assets into the financial system to evade criminal prosecution. Legislation exists that prohibits law enforcement officials from utilizing assets that have been acquired through illicit means and from engaging in criminal activities. In contemporary times, the utilization of computers has become an essential aspect of human existence. Data processing speed is prevalent in several crucial industries such as health, education, the military,

economics, and finance due to the incorporation of intelligent systems, security, and the capacity to store data in computers.¹

Access to financial information systems such as online and telephone banking is limited to a small proportion of individuals. Internet banking provides customers with round-the-clock access to their accounts, eliminating the need to physically visit a bank to conduct transactions and offering them significant advantages. The impact of eras and technologies on the development of technology and a nation's economy has been substantial, including the issue of criminal activity.² This scenario facilitates criminal conduct at the individual, organizational, and corporate levels.³ The presence of a free trade regime and globalization have facilitated the swift movement of capital across national borders, enabling illicit funds to infiltrate Indonesia's economy without being generated by legitimate economic pursuits.⁴

This classification encompasses criminal acts such as the offering or acceptance of bribes, the illegal trade and distribution of drugs, the acts of terrorism, the facilitation of prostitution, and the illicit trafficking of weapons, as well as the unauthorized importation of wine, tobacco, and pornography.⁵ Illicit funds are laundered through financial institutions in order to obscure their origins and evade detection by legal authorities. Money laundering refers to the process of converting illicitly obtained funds into legitimate assets or income. The main purpose of this approach is to obfuscate the origin of money, therefore giving the appearance that it comes from lawful activity.⁶

Money laundering can adversely affect both the local community and the national economy or public finances. This phenomenon may arise due to an increment in various indisputably harmful transgressions. The implementation of preventative measures and the eradication of money laundering tactics have garnered global interest. Various nations have endeavored to thwart and eliminate the practice of money laundering by instituting global collaboration via bilateral and multilateral entities.⁷

-
- 1 Mohammed Ahmad Naheem., Trade Based Money Laundering: A Primer for Banking Staff, *International Journal of Disclosure and Governance*, Vol.14 No.2, May 1, 2017. page.95–117,
 - 2 Andi Nova Bukit., Pertanggungjawaban Bank Terhadap Hak Nasabah Yang Dirugikan Dalam Pembobolan Rekening Nasabah (Studi di PT. Bank Rakyat Indonesia Tbk, Kantor Cabang Medan Gatot Subroto), *Jurnal Ius Constituendum*, Vol.4 No.2, September 15, 2019, page.181–94
 - 3 Sergij S. Vitvitskiy et al., Formation of a New Paradigm of Anti-Money Laundering: The Experience of Ukraine, *Problems and Perspectives in Management*, Vol.19 No.1, March 23, 2021, page.354–63.
 - 4 Nella Hendriyetty and Bhajan S. Grewal., Macroeconomics of Money Laundering: Effects and Measurements, *Journal of Financial Crime*, Vol.24 No.1, January 1, 2017, page.65–81
 - 5 Sangmin Lee., Determining Personal Credit Rating through Voice Analysis: Case of P2P Loan Borrowers, *KSII Transactions on Internet & Information Systems*, Vol.15 Issue.10, 2021;
 - 6 Djoko Pamungkas., How Police Overcomes Money Laundering? Study Analysis of Role of Central Java Regional Police Department on Money Laundering Case, *Journal of Law and Legal Reform*, Vol.1 No.1, January 1, 2020, page.25–34
 - 7 Panicos Demetriades and Radosveta Vassileva., Money Laundering and Central Bank Governance in The European Union, *Journal of International Economic Law*, Vol.23 No.2, August 17, 2020, page.509–33

This topic has been previously explored in various studies, one of which is Achmad's research on the effects of money laundering on the Indonesian economy and the measures taken by the government to combat it⁸—the consequences and challenges associated with money laundering in the financial industry.⁹ Imaniyati's research delves into money laundering, encompassing the endeavors and tenets of the banking sector in anticipating money laundering offenses alongside the Islamic convictions regarding money laundering. Additionally, the research scrutinizes the Islamic stance on money laundering.¹⁰ This research focuses on the endeavors of the government, specifically Bank Indonesia, to hinder or eradicate the occurrence of money laundering through the utilization of Internet banking.¹¹

The genesis of this illicit financial activity is closely linked to endeavors aimed at eliminating corruption in Indonesia. The Money Laundering Law underscores the significance of the government and private sector's involvement in the economic, financial, and banking domains within the framework of the country's national interest. According to the "General Explanation of Law No. 7 of 1992 Concerning Banking" which has been substituted by "Law No. 18 of 1998" (hereinafter referred to as the Banking Law), the rapid growth of the nation's economy and the global economy across all sectors is consistently accompanied by a diverse range of challenges. Hence, the national banking system must exhibit agility in executing its duties and roles toward the public.¹²

Financial institutions, known as banks, are responsible for allocating public funds to individuals and entities requiring financial assistance. Financial institutions function as intermediaries, necessitating a certain level of trust.¹³ The implementation of "Money Laundering" represents a notable progression in the Indonesian government's efforts to combat the illicit practice of money laundering. The enactment of legislation that prohibits the act of money laundering is of utmost importance for Indonesia. This is not only to impede the inflow of unlawful funds but also to provide direction for the banking sector and other financial establishments in constructing a robust framework.¹⁴ Over time, online banking has grown more common, giving birth to virtual illegal actions

8 Zanu Achmad and Achmad Afandi., Dampak Money Laundering Di Dunia Perbankan Terhadap Perekonomian Di Indonesia, *The Journal of Universitas Negeri Surabaya*, Vol.1 No.3 2013;

9 I. Ketut Sukawati Lanang Putra Perbawa., Tindak Pidana Pencucian Uang Dalam Sistem Perbankan Indonesia, *Jurnal Advokasi*, Vol.5 No.1, 2015, page.29394.

10 Neni Sri Imaniyati., Pencucian Uang (Money Laundering) dalam Perspektif Hukum Perbankan dan Hukum Islam, *MIMBAR: Jurnal Sosial dan Pembangunan*, Vol.21 No.1, March 13, 2005, page.93–114

11 Undang-Undang (UU) Nomor 10 Tahun 1998 Tentang *Perubahan Atas Undang-Undang Nomor 7 Tahun 1992 Tentang Perbankan*, 1998,

12 Andrew Shandy Utama., Perkembangan Perbankan Syariah Di Indonesia, *UNES Law Review* Vol.2 No.3, May 11, 2020, page.290–98

13 Hagi Hutomo Mukti., Sharia Banking Development Indonesia with Malaysia (Study of Comparison of History, Legal Products and Assets), *Jurnal Usm Law Review*, Vol.3 No.1, May 18, 2020, page.17–33

14 Herlina Hanum Harahap., Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang, *Amaliah: Jurnal Pengabdian Kepada Masyarakat*, Vol.4 No.2, November 8, 2020, page.186–90

that might be seen as abstract. The current research seeks to shed light on the government's efforts, especially those of Bank Indonesia, to fight money trafficking via Internet banking.

2. Research Methods

As its research methodology, the paper employs normative legal studies guided by the norms and legal principles contained in statutes and regulations. The data sources for this study consist of primary, secondary, and tertiary legal texts. "Primary legal materials include Law No. 8 of 2010 concerning the Crime of Money Laundering, Law No. 11 of 2008 concerning Information and Electronic Transactions, and Bank Indonesia's Regulation No.11/28/PBI/2009 concerning Implementation of Anti-Money Laundering (AML) and Counter-Terrorism Financing Programs for Commercial Banks." Secondary legal material can take the form of seminars or other scientific meeting results, personal notes, or the opinions of legal experts regarding the subject matter of this study, which is content that serves as an explanation of primary legal materials, as well as research journals and/or newspapers on study materials. Tertiary legal material,¹⁵ also known as supporting legal content, may be utilized to elucidate and expand upon primary and secondary legal resources. General dictionaries, legal dictionaries, periodicals, scholarly journals, and newspapers are all examples of sources that could be considered legal material if they contain information pertinent to the research topic.¹⁶

A comprehensive literature review was conducted to collect primary and secondary data for this study by examining relevant legislation, literature, and the writings of legal professionals. Investigating legal norms makes collecting, evaluating, and generating normative law research data possible, which can be improved through article classification based on fundamental legal system knowledge. Literature and legal studies were scoured for data, which was then analyzed using qualitative methods, including the incorporation of legal documents' conceptualizations and their interpretations—the grouping of ideas or rules that are similar or related. Therefore, this study focuses on AML measures in online banking by determining and describing the relationship between multiple categories or rules.¹⁷

3. Results And Discussion

3.1. Money Laundering Arrangements in Indonesia

Welling is one of the legal experts who has defined money laundering. "Money laundering is defined as the concealing of an income's illicit source or use, followed by a subsequent disguising of that money to give the impression that it is genuine."¹⁸ Fraser said, "Money laundering is simply the process by which

15 Achmad and Afandi., Dampak Money Laundering Di Dunia Perbankan Terhadap Perekonomian Di Indonesia, *The Journal of Universitas Negeri Surabaya*, Vol.1 No.3, 2013

16 I. Gusti Ketut Ariawan., Metode Penelitian Hukum Normatif, *Kertha Widya*, Vol.1 No.1, December 31, 2013

17 Suteki and Galang Taufani., *Metodologi Penelitian Hukum (Filsafat, Teori Dan Praktik)* Depok: Rajawali Press, 2018.

18 Sarah N. Welling., *Smurfs, Money Laundering and the Federal Criminal Law: The Crime of*

'dirty' money proceeds from criminal activity are washed through 'clean' or legitimate sources, and attempts are made so that the 'bad guys' can enjoy their illicit gains more safely".¹⁹

Money laundering is a notion that is included in The United Nations Convention Against Illicit Traffic in Narcotics, Drugs, and Psychotropic Substances of 1988, which was later recognized in Indonesia by Law No. 7 of 1997. The following are included in the complete definition of money laundering:

The conversion or transfer of property with knowledge that the property is derived from any serious (indictable) offense or offenses, or act of participation in such offense or offenses, to conceal or disguise the illicit nature of the property, or aiding any person who is involved in the commission of such an offense or offenses to evade the legal consequences of his action; or the concealment or disguise of the true nature, source, location, disposition, movement, rights...in such an offence or offences.²⁰

Money laundering is a technique for using, transferring, and hiding the proceeds of crime. Money laundering includes, but is not limited to, organized crime, white-collar crime, corruption, drug trafficking, and other illegal activities. Money laundering is hiding assets (income/wealth) to be used secretly (via legal activities) without revealing their origin. It is the process of converting unlawfully obtained financial assets into assets that seem to have come from a legitimate source.

In addition, money laundering is a group of practices used by people or organizations to hide the source of cash from law enforcement or other authorized employees. It may be able to counteract unlawful behavior and remove that money from the financial system as halal money, particularly by infusing money into the financial system.

Furthermore, money laundering frequently uses three procedures: placement, layering, and integration. First, placement refers to bringing money or other financial assets obtained via illegal conduct into the financial system, especially banks and other financial organizations. The physical transfer of money or securities, in this case, such as money or securities smuggled from one nation to another, money used for both lawful and illegal activities, or small sums of money or securities deposited in a bank and later used to buy securities like stocks, convertible into another currency, or converted into foreign currency. Due to its high level of visibility, this particular stage of the money laundering process is also the most vulnerable.

The second method, called layering, comprises moving illicit gains from one place to another while hiding their source and owner. In this case, a technique

Structuring Transactions, *Florida Law Review*, Vol.41 No.2, April 1, 1989, page.287–343.

19 Go Lisanawati, Learning from The Theory of 'Crying Wolf' To Assess Cash Courier Reporting Activities to Combat Money Laundering, ed. Elfina L. Sahetapy, A. Suhartati Lukito, and Go Lisanawati (Genta Publishing, 2017), i–408, <https://repository.ubaya.ac.id/31775/>.

20 United Nations, The United Nations Convention Against Illicit Traffic in Narcotics, Drugs, and Psychotropic Substances 1988, § Article 3 Offences And Sanctions (n.d.), https://www.unodc.org/pdf/convention_1988_en.pdf.

for moving money from one account or another location after it has been placed utilizing a number of complex techniques intended to hide or defraud "illegal" cash sources exists. Additionally, in nations that do not cooperate to stop money laundering activities, this may be accomplished by opening as many phony company accounts as possible utilizing bank secrecy regulations. This layering process is described in Article 13 of the "Law on the Prevention and Eradication of the Crime of Money Laundering No. 10 of 2008". The Suspicious Transaction Report (STR) report is obviously more thorough than the Cash Transaction Report (CTR) since a bank is required to review it. Financial transactions that differ from customer profiles, traits, and habits are considered suspicious. This group of transactions includes those with a solid suspicion that they were carried out to hide dealings with financial service providers. This is under Article 1 Section 7 of "Law on the Prevention and Eradication of Money-Laundering Crimes No. 8 of 2010".

Third, integration is the process of investing in firms that employ the proceeds from money laundering crimes in ways that are unconnected to the unlawful actions resulting from the money laundering. The gains from money laundering are now returned to the government for distribution. As a result, these integration approaches are discovered using CTR or STR.

3.2. The Process of Money Laundering Using the Online Banking System

As a manifestation of information technology, the internet clearly indicates progress in the field. However, achieving a unified global community free from national boundaries remains a prerequisite for such progress. An inherent drawback is that organized criminal syndicates possess a multitude of uncomplicated avenues to perpetrate diverse categories of transnational criminal activities.²¹ Contemporary criminal organizations have the ability to expeditiously transfer significant sums of illicit funds across international borders. The utilization of banking amenities, such as Automated Teller Machines (ATMs), has facilitated the instantaneous transfer of funds from foreign accounts to domestic accounts, enabling criminals to engage in illicit activities. The withdrawal of funds through ATMs, without any means of tracing the perpetrators, has further compounded the issue. On a daily basis, the two primary International Electronic Funds Transfer Systems (IEFTS) facilitate wire transactions that amount to a total of more than \$6 trillion.²²

The prevalence of internet-based e-commerce is on the rise, and concomitantly, internet-based money laundering is also gaining traction. There is a concern that third-party entities may transmit payments and subsequently transfer them from one card to another, a procedure commonly referred to as electronic money.²³ Furthermore, in light of demands for enhanced transactional efficacy,

21 Ashwini Kumar et al., Analysis of Classifier Algorithms to Detect Anti-Money Laundering, in *Computationally Intelligent Systems and Their Applications*, ed. Jagdish Chand Bansal et al., Singapore, Springer, 2021, page.143–52

22 Chad Albrecht et al., The Use of Cryptocurrencies in the Money Laundering Process," *Journal of Money Laundering Control*, Vol.22 No.2, January 1, 2019, page.210–16

23 Septhian Eka Adiyatma and Dhita Fitria Maharani., Cryptocurrency's Control in the Misuse of

the utilization of online-based digital currency has been implemented, notwithstanding the ambiguity surrounding the identity of the transactional counterpart. The aforementioned transmission has the potential to take place either through the utilization of the internet or a smart card of the store value variety. Electronic wallets have become increasingly prevalent in recent years and are also vulnerable to money laundering.²⁴

The convenience and practicality of electronic money obviate the need for intermediaries in online transactions. Electronic money systems are expected to operate comparably to traditional currency in the future while avoiding the hazards, difficulties, and expenses linked to handling and administration. In such scenarios, perpetrators of fraudulent activities may utilize encryption techniques to heighten the complexity of accessing data pertaining to ongoing transactions, thereby impeding law enforcement efforts.²⁵

Money launderers within the banking sector often create bank accounts under the guise of non-existent accountants, attorneys, and corporations.²⁶ These accounts facilitate the illicit deposit or transfer of funds for commercial purposes, and transactions are carried out under the names of individuals, businesses, and fictitious entities. The salient feature of such bank accounts is that the transactions carried out through them often entail substantial amounts and take place beyond the purview of the account holder's routine business activities. Furthermore, the transaction is bolstered by deceitful assurances, financial accommodations, commercial dealings, and documentary credits.²⁷ If the proprietor is an entrepreneur, they will probably promptly become a nearby chamber of commerce member. The two entities exhibit a relational connection in certain instances, while in alternative scenarios, they may manifest as a singular individual.

The advent of Internet banking has resulted in a reduction in the level of direct interpersonal communication between financial institutions and their clientele. Internet service providers (ISPs) are able to gain access to the internet through the use of a personal computer (PC), whereas bank customers have the ability to access their accounts by means of Internet browser software. If a client enters a personal identification number into the online server of a bank, the browser software will transmit the appropriate key, provided that encryption software is utilized. The validation process challenges relevant financial

Money Laundering Acts as an Effort to Maintain the Resilience and Security of the State, *Lex Scientia Law Review*, Vol.4 No.1, May 8, 2020, page.70–82,

24 Christoph Wronka., Cyber-Laundering': The Change of Money Laundering in the Digital Age, *Journal of Money Laundering Control*, Vol.25 No.2, January 1, 2021, page.330–44,

25 Syeda Farjana Shetu et al., Predicting Satisfaction of Online Banking System in Bangladesh by Machine Learning, in *2021 International Conference on Artificial Intelligence and Computer Science Technology (ICAICST)*, Vol.65 No.1, 2021

26 Serhiy Leonov et al., Prototyping of Information System for Monitoring Banking Transactions Related to Money Laundering, *SHS Web of Conferences*, Vol.65, January 1, 2019, page.04013

27 David Chaikin., Money Laundering and Tax Evasion – The Assisting of the Banking Sector, in *The Handbook of Business and Corruption*, ed. Michael S. Aßländer and Sarah Hudson, Emerald Publishing Limited, 2017, page.237–54,

institutions due to indirect access.²⁸ The financial institution lacks the means to ascertain the veracity of the account holder's identity during the execution of transactions. Owing to the enhanced portability of the internet, customers are now able to expeditiously and effortlessly retrieve their accounts from any location. Regardless of their involvement in money laundering activities, individuals who opt to disclose their identity possess unhindered online connectivity and authority over their financial accounts from any geographical location worldwide.²⁹

The payment system is a critical concern within the framework of AML development, as it implies that the apex of the money laundering hierarchy obfuscates illicit gains by relocating them through both domestic and foreign service providers. The payment system has traditionally depended on physical currency and electronic transactions.³⁰ The expansion and importance of non-cash payment systems are expected to grow in tandem with a nation's development, particularly with the prevalence of high-value payment systems. Money launderers value the security of cash transfers above the possibility of the system being abused by authorities or the expense of the transaction. Consequently, the perpetrators of money laundering may be incentivized to employ the Real Time Gross Settlement (RTGS) system for the purpose of layering or transferring their assets, thereby increasing the degree of separation between themselves and the illicit activity. Bank Indonesia, in its capacity as the operator of the national payment system, is restricted to formulating policies and providing oversight for the system.

The effective implementation of Know Your Customer (KYC) by the bank can facilitate the identification of money launderers, even subsequent to the transfer of funds via clearing or RTGS. The commitment of Bank Indonesia to the national payment system and banking regulations, specifically the prudential principles of banking, is closely linked to its endorsement of the advancement of AML measures.³¹

3.3. Application of the Money Laundering Law on the Crime of Money Laundering in the Banking System

The development of penal policy is a multidisciplinary endeavor that involves both artistic and scientific elements. Its primary objective is to enhance the efficacy of legal frameworks and offer direction to the general populace rather than solely to elected officials. This is applicable to courts that enforce laws, as

28 Rana Alabdan., The Adoption of Online Banking with Saudi Arabian Banks: A Saudi Female Perspective, *Journal of Internet Banking and Commerce*, Vol.22, June 1, 2017, page.1–18.

29 Elisabetta Bjerregaard and Tom Kirchmaier., The Danske Bank Money Laundering Scandal: A Case Study, September 2, 2019

30 Panicos Demetriades and Radosveta Vassileva., Money Laundering and Central Bank Governance in The European Union, *Journal of International Economic Law*, Vol.23 No.2, August 17, 2020, page.509–33

31 Bassam Ali Raweh, Cao Erbao, and Fadi Shihadeh., Review the Literature and Theories on Anti-Money Laundering, *Asian Development Policy Review*, Vol.5 No.3, July 13, 2017, page.140–47.

well as to administrators and executors of court rulings.³² Money laundering, also referred to as ML, is a recently established criminal offense in Indonesia. Indonesia's criminalization and legal declaration of the aforementioned act only occurred in 2002. The notion of money laundering has been extensively recognized since the year 1930. Following the enactment of the Money Laundering Law of 2002, the act of money laundering was criminalized in Indonesia.

The criminalization of a previously lawful behavior can be attributed to a change in societal norms and values regarding the criminality of money laundering. According to Yenti Garnasih, Indonesia has implemented legal measures to prohibit money laundering within its jurisdiction in reaction to external pressure and admonitions from international entities such as the Financial Action Task Force (FATF). The primary goal of the Criminal Act of Money Laundering (TPPU, *Tindak Pidana Pencucian Uang*) is to eliminate unlawful activities by pursuing financial resources. Interfering with the financial operations of an organized crime group can potentially disrupt their primary source of sustenance. According to the experts' analysis, TPPU effectively eradicated illegal activities taking place at the "downstream" level. The criminalization of money laundering serves a minimum of three distinct objectives. Considering the significant extent of the global money laundering issues, it must be subjected to criminalization as a primary measure. AML measures are widely regarded as the most efficacious approach for detecting the leaders of organized criminal syndicates. Thirdly, it is comparatively less challenging to apprehend individuals involved in money laundering than to apprehend the primary offenders responsible for the predicate offense.

The categorization of money laundering into active and passive forms is outlined in Law No. 8 of 2010, which pertains to the Prevention and Eradication of Money Laundering Crimes. The third and fourth articles explain the notion of active money laundering, characterized as "active endeavors undertaken to uncover the origin of funds obtained through illicit activities." Passive ML can be defined as the passive behavior that entails the reception or handling of asset transfers resulting from illegal activities, as specified in Article 5.³³

In accordance with Article 65, paragraph (1) of Law No. 8 of 2010, concerning the Prevention and Eradication of Money Laundering Crimes, this analysis examines the legal rights and entitlements of the parties involved in commercial transactions. The aforementioned provision explicitly grants the Financial Transaction Reports and Analysis Center (PPATK, *Pusat Pelaporan dan Analisis Transaksi Keuangan*) the authority to request financial service providers to temporarily halt all or a portion of the transactions specified in Article 44 paragraph (1) letter i. The existence of this article may be subject to illicit

32 Iskandar Wibawa., Cyber Money Laundering (Salah Satu Bentuk White Collar Crime Abad 21)," *YUDISIA: Jurnal Pemikiran Hukum Dan Hukum Islam*, Vol.8 No.2, April 8, 2018, page.240–54

33 Iriansyah, Irfansyah, and Rezmia Febrina., Kewenangan Pusat Penelitian Dan Analisis Transaksi Keuangan (PPATK) Dalam Menerobos Rahasia Bank Berdasarkan Undang-Undang Nomor 8 Tahun 2010 Tentang Tindak Pidana Pencucian Uang, *Jurnal Hukum Respublica*, Vol.20 No.2, May 28, 2021, page.59–82

manipulation in order to apply coercion on the organization, thereby compelling PPATK to pursue a verdict from the local court prior to provisionally carrying out the transaction. The objective is to safeguard the financial interests of the state while simultaneously upholding the business rights of its inhabitants.³⁴ The PPATK lacks the necessary authorization from the government to carry out court directives issued to Eintracht. The enactment of this law may potentially result in the promotion of inequality as it could lead to a reduction in the status of investigators, prosecutors, and courts to that of the PPATK. Unlike the three aforementioned organizations, the PPATK has been relegated to a supporting institution as it is not a law enforcement agency.

The utilization of the AML Statute in the context of online banking, as stated in the Bank Indonesia Circular Letter No. 11/31/DPNP issued on November 30, 2009, involves the enforcement of the Money Laundering Law in the online banking system is executed through the establishment of a dedicated operational unit. In regard to these circumstances, it is essential for financial institutions to engage in collaborative efforts with law enforcement authorities in order to effectively implement procedures that are designed to prevent money laundering and identify the sources of funding. Implementing strategies designed to prevent money laundering and terrorism funding may potentially aid financial institutions in mitigating legal, reputational, and operational risks. Adopting the precautionary principles by banks through preventive implementations is a viable approach to mitigating potential risks.

3.4. Bank Indonesia's Efforts to Overcome Money Laundering in Online Banking

KYC: As an effort to prevent money laundering through fund transfers, the banking sector, through Bank Indonesia, issued Bank Indonesia Regulation Number 3/10/PBI/2001 concerning KYC Principles. The principle of Knowing Your Customer (KYC Principles) is a principle that banks use to find out the identity of customers as much as possible and monitor customer transaction activities, including reporting suspicious transactions. The application of the KYC principle includes both ordinary bank customers (face-to-face customers) as well as bank customers without physical contact (non-face-to-face customers), such as customers who make transactions via telephone, correspondence, and electronic banking.

Specifically for customers, banks or other financial service companies must recognize customers so that banks or other financial service companies are not entangled in money laundering crimes. This KYC Principle is a FATF recommendation, the fifteenth of the twenty-five Basic Principles of Effective Banking Supervision, the Basel Committee (Core Principles for Effective Banking Supervision), and the Basel Committee. Customer identification must be carried out starting from the customer's identity, customer acceptance procedures, continuous monitoring of customers, and then reporting to the competent

34 Erma Denniagi., Analisis Ke-Ekonomian Pidana Pencucian Uang Dalam Undang-Undang Nomor 8 Tahun 2010 Tentang Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang, *Lex Renaissance*, Vol.6 No.2, October 26, 2021, page.246–64

authority. Bank Indonesia has so far required banking institutions to identify their customers. The main purpose of issuing the PBI is to prevent banking institutions in Indonesia from becoming places of money laundering. It has long been said that banking institutions in Indonesia are convenient places for money laundering. This is due to the strict bank secrecy provisions. The Bank Indonesia Regulation (PBI, *Peraturan Bank Indonesia*) was meant to fill a legal vacuum because there was no money laundering law at that time. The PBI is also a recommendation from the Basel Committee on Banking Supervision in the Core Principles for Effective Banking and another recommendation from the FATF in Money Laundering. According to Munir Fuady, the principle of KYC is a principle applied by banks to find out the possible identity of customers and to monitor customer transaction activities, including reporting suspicious transactions, which include ordinary customers (face-to-face customers), as well as bank customers without being physically confronted (non-face-to-face customers), such as customers who make telephone, correspondence, and electronic banking transactions.³⁵

The Basel Committee was formed by The Central Bank Governors of Ten Countries (G10) in 1975 which is based in Basel. The Basel Committee comprises senior representatives of bank supervisors and central banks from Belgium, Canada, France, Germany, Italy, Japan, Luxembourg, the Netherlands, Sweden, the United Kingdom, and the United States.³⁶ The Basel Committee is a confidential discussion forum relating to specific issues, coordinating the supervisory responsibilities of banks. FATF recommendations set the basic framework for AML efforts and are designed to be applicable worldwide. The recommendations cover criminal law and law enforcement systems, the financial system and its regulations, and international cooperation. These recommendations are divided into (a) The general framework of the recommendation (Recommendations 1 to 3); (b) The role of the national legal system in combating money laundering (Recommendations 4 to 7); (c) The role of the financial system in combating money laundering (Recommendations 8 to 29); (d) Strengthening of international cooperation (Recommendations 30 to 40).³⁷

The implementation of the AML program begins with developing guidelines and standard policies for implementing the KYC principle as a requirement for banks to support the program. Standard guidelines for implementing the KYC principle by banks contain at least policies on accepting and identifying customers, monitoring customer accounts and transactions, and risk management policies. Based on the regulations, it is also stated that each bank is required to establish

35 Zulkarnain Sitompul., *Perlindungan Dana Nasabah Bank: Suatu Gagasan Tentang Pendirian Lembaga Penjamin Simpanan Di Indonesia*, Depok, Universitas Indonesia Library Universitas Indonesia, 2002

36 The Basel Committee., *History of the Basel Committee*, October 9, 2014, <https://www.bis.org/bcbs/history.htm>.

37 The Financial Action Task Force (FATF, 2012-2023)., *The FATF Recommendations on International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation*, 2012. www.fatf-gafi.org/en/publications/Fatfrecommendations/Fatfrecommendations.htm

a special work unit that implements AML and counter-terrorism financing programs, namely the Special Work Unit for Anti-Money Laundering and Prevention of Terrorism Financing (UKK APU-PPT, *Unit Kerja Khusus Anti Pencucian Uang dan Pencegahan Pendanaan Terorisme*). This unit reports and is directly responsible for the compliance director's duties. In addition, UKK manages and coordinates operational work units under it, which include branch offices including offices under its supervision as well as operational work units at the head office, in implementing the above-mentioned program because the operational work unit is the foremost work unit that protects the bank from efforts money laundering and funding of terrorism through the Law on the Prevention and Eradication of Money Laundering Crimes.³⁸

The application of the KYC principle can be used to prevent money laundering crimes committed by banking institutions. If the customer makes a suspicious financial transaction, the bank can immediately report it to PPATK as the Financial Intelligence Unit. After being analyzed and convinced that the transaction is categorized as a suspicious financial transaction, PPATK must report it to the authorities, namely the police and the prosecutor's office. In this case, it is hoped that the competent authorities can immediately take the necessary actions to stop the spread of money laundering crimes. The principle of KYC contains five primary elements: clear policies and procedures regarding customer acceptance, CDD, and EDD, updating and continuous monitoring of customer accounts and transactions, reporting suspicious financial transactions, and risk management. The five main elements must be appropriately implemented by the bank so that the institution can protect itself from money laundering.

Formation of Special Work Unit: Financial institutions, especially banks, are vulnerable to being used as a medium for money laundering and/or financing terrorism because there are different transaction alternatives for perpetrators of money laundering and/or financing terrorism in banks. For money laundering purposes, for example, the asset may be seized as an asset that appears legal but cannot be traced back to its source. These assets can be used to finance terrorist acts by terrorist financiers.

Regarding the widespread use of financial institutions to detect and combat money laundering and terrorism financing, various stakeholders must collaborate to fight illegal activity. Meanwhile, with the increasing complexity of goods, activities, and banking information technology, criminals will have more opportunities to use banking facilities and products to assist their illicit activities. Banks must play a key role in supporting law enforcement in implementing AML and combating terrorist financing measures. Banks are expected to develop AML and counter-terrorism funding strategies to reduce various risks, including legal, reputation, and operational risks. In order to mitigate potential risks, financial institutions must strictly adhere to the precautionary principle, which can possibly be achieved by implementing AML and anti-terrorism initiatives.

38 Bank Indonesia., Peraturan BI No. 11/28/PBI/2009 Tentang *Penerapan Program Anti Pencucian Uang Dan Pencegahan Terorisme Bagi Bank Umum*, 2009, <http://peraturan.bpk.go.id/Details/137573/peraturan-bi-no-1128pbi2009>.

Financing Laws: In order to improve the eradication of money laundering and funding of terrorism, it is necessary to update Bank Indonesia regulations for the application of the KYC principle that has been in effect to date. These provisions should be updated based on more comprehensive international standards. Changes to this standard can be made in several ways, including:

- 3.4.1. Customer Due Diligence (CDD) is a term used to describe the process of identifying, verifying, and monitoring customers;
- 3.4.2. Use of a risk-based strategy (Risk-Based Strategy);
- 3.4.3. Arrangements for combating terrorism financing;
- 3.4.4. Cross-border correspondent banking arrangements; and
- 3.4.5. Money transfer arrangements.

Banking is expected to operate healthily because AML and anti-terrorism funding initiatives are implemented effectively, thereby increasing the resilience and stability of the financial system. The AML and Prevention of the Financing of Terrorism (APU and PPT) program aims to countermeasures for the use of the financial industry as a channel or target for unlawful activities, either directly or indirectly. It is necessary to establish guidelines for the implementation of AML and prevention of terrorism financing programs in the banking environment, which will be regulated by Bank Indonesia Regulations and PPATK.

The establishment of a special unit is necessary to support the implementation of the AML and Combating the Financing of Terrorism (APU and PPT) Program. Furthermore, it is crucial to ensure that the board of directors and the board of commissioners demonstrate a comprehensive understanding of the APU and PPT programs in order to effectively support their implementation. For this program to run effectively, the active role of the board of directors and the board of commissioners is significant, as this role can influence organizational achievements in implementing the APU and PPT programs.

As for the organization regarding the establishment of provisions, rules, and procedures related to the implementation of AML and prevention of terrorism financing carried out by the Special Work Unit by referring to the directors' regulations. Customer Due Diligence (CDD) and Enhanced Due Diligence (EDD) policies: Customer Due Diligence (CDD) is a process by which banks must identify, verify, and monitor transactions to ensure compliance with customer profiles. If a bank deals with customers who are categorized as having a high risk of money laundering or channeling funds for terrorism efforts, the bank is required to take a comprehensive CDD approach known as EDD. Implementation of CDD and EDD policies has a significant impact on determining whether a transaction is a suspicious financial transaction or not. If a suspicious financial transaction is suspected, the bank officer from the relevant work unit is required to make a report for the transaction using a suspicious financial transaction report or cash transaction report.

Anti-Tipping Off Provisions: Officials who are legally designated as organizations, entities, or individuals are subject to regulations related to the offense of money laundering. Those who are required to maintain the

confidentiality of documents while performing their responsibilities, as stipulated by the Law on the Prevention and Eradication of Money Laundering Crime No. 8 of 2010. Furthermore, the inclusion of documents regarding dubious financial transactions, in addition to relevant information and its sources, is outlined in Article 12.

Explanation of the Law on the Prevention and Eradication of Money Laundering Crimes No. 8 of 2010 mentions the provisions in Article 12 paragraph (1) as anti-tipping-off. This paragraph regulates the provisions used to prohibit customers from transferring their assets, making it more difficult for law enforcement to track them and their assets. Anti-tipping off provisions (paragraph 2) also apply to officials or PPATK, as well as officials or employees of supervisory and regulatory organizations, so that customers who are suspected of committing personal crimes and the goods workers concerned do not delay the criminal investigation process.

This provision guarantees that the confidentiality of records and/or information is maintained as long as PPATK officials or employees, investigators, public prosecutors, judges, and others carry out their duties by this Law on the Prevention and Eradication of Money Laundering Crimes. The inclusion of provisions prohibiting the leaking of suspicious financial transaction reports (anti-tipping off) is aimed at tackling transactions with funds or assets originating from criminal acts and the possibility of releasing suspects of money laundering crimes, reducing the effectiveness of countermeasures and suppressing cases of money laundering crimes.

The meaning of anti-tipping off rules is not explained in Bank Indonesia Regulation No.11/28/PBI/2009 concerning implementing AML and preventing Terrorism Funding Programs. On the other hand, Article 29 Paragraph (3) stipulates that banks can request information regarding the reasons and purposes for transactions that do not match the customer's profile insofar as the anti-tipping-off provisions of the Law on Money Laundering are criminal.

The article states, "with due observance of anti-tipping off as stipulated in the Law on Money Laundering Crimes", although it is not specifically regulated in Bank Indonesia regulations. This means that Bank Indonesia's anti-tipping off provisions refer to the Money Laundering Law, which prohibits contacting customers or other parties, either directly or indirectly, in any form whatsoever, regarding financial transaction reports deemed suspicious being prepared or submitted to PPATK.

Information Management System: In carrying out efforts to monitor the profiles and records of transactions made by customers, banks must carry out maintenance of information systems that are capable of detecting, analyzing, monitoring, and sending results of reports on the characteristics of transactions carried out by bank customers efficiently. Banks must be able to follow individual transactions, both for internal functions and/or Bank Indonesia, as well as those related to court cases, by using their information system. Adjustment of the level of sophistication of the information system in detecting suspicious financial activity is carried out according to the complexity, volume of

transactions, and bank risks. Banks need to regularly update standards to detect suspicious financial transactions.

Banks should regularly update the standards used to detect suspicious financial transactions, such as savings, time deposits, current accounts, and loans, even if they are part of a CIF. There are two approaches to joint accounts:

3.4.6. If the joint account holder (account C and D) has another account with the same name (account C and account D), then the CIF is divided into two CIFs, namely on behalf of C and on behalf of D. Each CIF is required to notify C and D that they have a joint account; and

3.4.7. If the co-account owners (accounts A and B) have no other accounts, CIF includes information about A and B.

To maintain a single CIF, banks should develop policies requiring banks to link each additional account opened by an existing client with the customer information number of the customer in question. The customer has two different consumer CIFs when registered as a customer at a conventional bank and a Sharia Business Unit within the same bank.³⁹

4. Conclusion

The banking system must prevent money laundering in accordance with Bank Indonesia Regulation Number 11/28/PBI/2009. This regulation requires commercial banks to implement AML and counter-terrorism programs. A critical strategy in this regard is KYC, which focuses on customer identification. Additionally, Bank Indonesia Circular Letter Number 11/31/DPNP, dated November 30, 2009, explains the application of the Anti-Money Laundering Law in online banking. Financial institutions must also implement CDD and EDD policies. CDD involves identifying, verifying, and monitoring customer transactions to ensure they align with their profiles. For customers considered to have a higher risk of money laundering or terrorism financing, financial institutions must apply EDD, which is a stricter form of CDD. Banks are also required to maintain the confidentiality of reporting information, especially when reporting suspicious transactions, as part of their anti-tipping-off obligations. Banks need to have an effective information management framework to combat money laundering and monitor financial activities. The use of complex online banking systems can hinder law enforcement's ability to trace money laundering activities through financial channels.

Bibliography

Books:

Chaikin, David., 2017, *Money Laundering and Tax Evasion – The Assisting of the Banking Sector*, In *The Handbook of Business and Corruption*, edited by Michael S. Abländer and Sarah Hudson, 237–54. Publishing Limited, Emerald;

39 Bank Indonesia., *Surat Edaran Bank Indonesia Nomor 11/31/DPNP*, 2009, <https://www.ojk.go.id/id/kanal/perbankan/regulasi/surat-edaran-bank-indonesia/Pages/surat-edaran-bank-indonesia-nomor-11-31-dpnp.aspx>.

Kumar, Ashwini, Sanjoy Das, Vishu Tyagi, Rabindra Nath Shaw, and Ankush Ghosh., 2021, *Analysis of Classifier Algorithms to Detect Anti-Money Laundering*, In *Computationally Intelligent Systems and Their Applications*, edited by Jagdish Chand Bansal, Marcin Paprzycki, Monica Bianchini, and Sanjoy Das, 143–52. Springer, Singapore;

Bjerregaard, Elisabetta, and Tom Kirchmaier., 2019, *The Danske Bank Money Laundering Scandal: A Case Study*,

Sitompul, Zulkarnain., 2002, *Perlindungan Dana Nasabah Bank: Suatu Gagasan Tentang Pendirian Lembaga Penjamin Simpanan Di Indonesia*, Universitas Indonesia Library, Universitas Indonesia, Depok;

Suteki, and Galang Taufani., 2018, *Metodologi Penelitian Hukum (Filsafat, Teori Dan Praktik)*, Rajawali Press, Depok;

Journals:

Achmad, Zanuar, and Achmad Afandi., Dampak Money Laundering Di Dunia Perbankan Terhadap Perekonomian Di Indonesia, *The Journal of Universitas Negeri Surabaya*, Vol.1 No.3 2013;

Adiyatma, Septhian Eka, and Dhita Fitria Maharani., Cryptocurrency's Control in the Misuse of Money Laundering Acts as an Effort to Maintain the Resilience and Security of the State, *Lex Scientia Law Review*, Vol.4 No.1, May 8, 2020;

Alabdan, Rana., The Adoption of Online Banking with Saudi Arabian Banks: A Saudi Female Perspective, *Journal of Internet Banking and Commerce* Vol.22 No.S8, June 1, 2017;

Albrecht, Chad, Kristopher McKay Duffin, Steven Hawkins, and Victor Manuel Morales Rocha., The Use of Cryptocurrencies in the Money Laundering Process, *Journal of Money Laundering Control*, Vol. 22 No.2, January 1, 2019;

Ariawan, I. Gusti Ketut., Metode Penelitian Hukum Normatif, *Kertha Widya*, Vol.1 No.1, December 31, 2013;

Bukit, Andi Nova., Pertanggungjawaban Bank Terhadap Hak Nasabah Yang Dirugikan Dalam Pembobolan Rekening Nasabah (Studi di PT. Bank Rakyat Indonesia Tbk, Kantor Cabang Medan Gatot Subroto), *Jurnal Ius Constituendum*, Vol.4 No.2, September 15, 2019;

Demetriades, Panicos, and Radosveta Vassileva., Money Laundering and Central Bank Governance in The European Union, *Journal of International Economic Law*, Vol.23 No.2, August 17, 2020;

Denniagi, Erma., Analisis Ke-Ekonomian Pidana Tindak Pidana Pencucian Uang Dalam Undang-Undang Nomor 8 Tahun 2010 Tentang Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang, *Lex Renaissance*, Vol.6 No.2, October 26, 2021;

Harahap, Herlina Hanum., Pencegahan Dan Pemberantasan Tindak Pidana

- Pencucian Uang, *Amaliah: Jurnal Pengabdian Kepada Masyarakat*, Vol.4 No.2, November 8, 2020;
- Hendriyetty, Nella, and Bhajan S. Grewal., Macroeconomics of Money Laundering: Effects and Measurements, *Journal of Financial Crime*, Vol.24 No.1, January 1, 2017;
- Imaniyati, Neni Sri., Pencucian Uang (Money Laundering) dalam Perspektif Hukum Perbankan dan Hukum Islam, *MIMBAR: Jurnal Sosial dan Pembangunan*, Vol.21 No.1, March 13, 2005;
- Iriansyah, Irfansyah, and Rezmia Febrina., Kewenangan Pusat Penelitian Dan Analisis Transaksi Keuangan (PPATK) Dalam Menerobos Rahasia Bank Berdasarkan Undang-Undang Nomor 8 Tahun 2010 Tentang Tindak Pidana Pencucian Uang, *Jurnal Hukum Respublica*, Vol.20 No.2, May 28, 2021;
- Lee, Sangmin., Determining Personal Credit Rating through Voice Analysis: Case of P2P Loan Borrowers, *KSII Transactions on Internet & Information Systems*, Vol.15 Issue.10, 2021;
- Leonov, Serhiy, Hanna Yarovenko, Anton Boiko, and Tetiana Dotsenko., Prototyping of Information System for Monitoring Banking Transactions Related to Money Laundering, *SHS Web of Conferences*, Vol.65, January 1, 2019;
- Lisanawati, Go., 2017, Learning from The Theory of 'Crying Wolf' To Assess Cash Courier Reporting Activities to Combat Money Laundering, edited by Elfina L. Sahetapy, A. Suhartati Lukito, and Go Lisanawati, Genta Publishing,
- Mukti, Hagi Hutomo., Sharia Banking Development Indonesia with Malaysia (Study of Comparison of History, Legal Products and Assets), *Jurnal Usm Law Review*, Vol.3 No.1, May 18, 2020;
- Naheem, Mohammed Ahmad., Trade Based Money Laundering: A Primer for Banking Staff, *International Journal of Disclosure and Governance*, Vol.14 No.2, May 1, 2017;
- Pamungkas, Djoko., How Police Overcomes Money Laundering? Study Analysis of Role of Central Java Regional Police Department on Money Laundering Case, *Journal of Law and Legal Reform*, Vol.1 No.1, January 1, 2020;
- Perbawa, I. Ketut Sukawati Lanang Putra., Tindak Pidana Pencucian Uang Dalam Sistem Perbankan Indonesia, *Jurnal Advokasi*, Vol.5 No.1 2015;
- Raweh, Bassam Ali, Cao Erbao, and Fadi Shihadeh., Review the Literature and Theories on Anti-Money Laundering, *Asian Development Policy Review* Vol.5 No.3, July 13, 2017;
- Shetu, Syeda Farjana, Israt Jahan, Mohammad Monirul Islam, Refath Ara Hossain, Nazmun Nessa Moon, and Fernaz Narin Nur., Predicting Satisfaction of Online Banking System in Bangladesh by Machine Learning, In *2021 International Conference on Artificial Intelligence and*

Computer Science Technology (ICAICST), Vol.65 No.1, 2021;

Utama, Andrew Shandy., Perkembangan Perbankan Syariah Di Indonesia, *UNES Law Review*, Vol.2 No.3, May 11, 2020;

Vitvitskiy, Sergij S., Oleksandr N. Kurakin, Pavlo S. Pokataev, Oleksii M. Skriabin, and Dmytro B. Sanakoiev., Formation of a New Paradigm of Anti-Money Laundering: The Experience of Ukraine, *Problems and Perspectives in Management*, Vol.19 No.1, March 23, 2021;

Welling, Sarah N., Smurfs, Money Laundering and the Federal Criminal Law: The Crime of Structuring Transactions, *Florida Law Review*, Vol.41 No. 2, April 1, 1989;

Wibawa, Iskandar., Cyber Money Laundering (Salah Satu Bentuk White Collar Crime Abad 21), *YUDISIA: Jurnal Pemikiran Hukum Dan Hukum Islam*, Vol.8 No.2, April 8, 2018;

Wronka, Christoph., Cyber-Laundering': The Change of Money Laundering in the Digital Age, *Journal of Money Laundering Control*, Vol.25 No.2, January 1, 2021;

Regulations:

Bank Indonesia. Peraturan BI No. 11/28/PBI/2009 Tentang Penerapan Program Anti Pencucian Uang Dan Pencegahan Terorisme Bagi Bank Umum (2009). <http://peraturan.bpk.go.id/Details/137573/peraturan-bi-no-1128pbi2009>.

———. Surat Edaran Bank Indonesia Nomor 11/31/DPNP (2009). <https://www.ojk.go.id/id/kanal/perbankan/regulasi/surat-edaran-bank-indonesia/Pages/surat-edaran-bank-indonesia-nomor-11-31-dpnp.aspx>.

Undang-undang (UU) Nomor 10 Tahun 1998 tentang *Perubahan atas Undang-Undang Nomor 7 Tahun 1992 tentang Perbankan 1998*.

Websites:

The Basel Committee., *History of the Basel Committee*, October 9, 2014. <https://www.bis.org/bcbs/history.html>;

The Financial Action Task Force (FATF, 2012-2023)., *The FATF Recommendations o International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation*, 2012. www.fatf-gafi.org/en/publications/Fatfrecommendations/Fatf-recommendations.html;

United Nations., *The United Nations Convention Against Illicit Traffic in Narcotics, Drugs, and Psychotropic Substances*, , § Article 3 Offences And Sanctions (n.d.). 1998, https://www.unodc.org/pdf/convention_1988_en.pdf.