

# **The Effectiveness of Indonesian Financial Transaction Reports and Analysis Center (PPATK) in Preventing and Eradicating Money Laundering Crime**

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**Abstract:** Money laundering is the act of placing, transferring, paying, spending, granting, donating, entrusting, carrying out the country, exchanging or other actions for the asset he knows or deserves to be suspected as the result of a criminal act with the intention of hiding or disguising the origin of the asset so as though become a legitimate asset. In order to prevent the occurrence of money laundering action, Laws Number 25 of 2003 concerning Amendment to Laws Number 15 of 2002 concerning Money Laundering Crime, then the government established Indonesian Financial Transaction Reports and Analysis Center (INTRAC), Pusat Pelaporan Analisis dan Transaksi Keuangan which later popularly called as PPATK. This institution is an independent institution that has the duty and authority to conduct an investigation of suspected action which related to money laundering crime. In this research, the researcher use normative legal research method, this research is compiled and analyzed qualitatively, which later described descriptively. The result shows that the role of PPATK in the prevention and eradication of criminal act of money laundering was very important, especially because PPATK had the main duty, as mandated by Law Number 8 of 2010 and Presidential Regulation Number 6 of 2012 dated January 11, 2012 concerning the National Coordination Committee for the Prevention and Eradication of Money Laundering, where the PPATK has four functions, namely, prevention and eradication of the money laundering crime, management of data and information which obtained by PPATK, supervision of reporting party compliance or the investigation of report and information of financial transaction which indicated as criminal act of money laundering and or other criminal act.

**Keywords:** The role of PPATK, preventing, eradicating, money laundering.

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Date of Submission: 26-11-2018

Date of acceptance: 07-12-2018

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## **I. INTRODUCTION**

### **A. Background Of Study**

Since the government issued the regulation in economic sector, one of them is Laws Number 40 of 2007 concerning Incorporated Company, so since that, the banking world also has experienced rapid development. An easy requirement causes everyone easily to establish a bank. The impact of the rules in banking sector, besides providing benefit or goodness, there is also a negative impact namely the development of economic crime, especially banking crime, either bank as victim or bank as perpetrator.

Crime in the banking sector is any crime which is related to banking. Like money laundering, and also someone who robbing a bank is a crime in the banking sector, so the definition of it is very broad. Whereas banking crime is a form of the action that have been created by banking law that are prohibition and necessity, for example the prohibition on establishing a dark bank and leaking bank secret.

Money laundering activity almost always involves bank, because of the globalization of banking, so that through payment system, especially electronic ones (electronic funds transfer), the proceed of crime which generally in large number will flow or even move beyond national border by utilizing bank secrecy factor which is generally upheld high by banking. Likewise, not only the legal aspect that are related to this crime, but also other non-legal aspects such as economic, politic and socio-cultural.

Nowadays, the perpetrator of crime have many choices regarding where and how they want the proceed of crime to appear to be 'clean' and 'legitimated by law'. The development of international banking technology that has provided a way for the growth of local/regional banking network to become a global financial institution nowadays has provided opportunity for money laundering actor to utilize these service network which impacted on the proceed of illegal transaction become legal in the business world on international financial market. Nowadays, money laundering activity have exceeded jurisdiction limit that offers a high level

of confidentiality or using various financial mechanisms where money can 'move' through banks, money transmitter, business activity can even be sent abroad so that the proceed become clean-laundered money.

Money laundering crime is not only a problem in the field of law enforcement, but also a concern of the national and international security threat of a country. In connection with this, the effort to prevent and eradicate the practice of money laundering have become an international concern, which for one thing is carried out by bilateral and multilateral cooperation.

It begins with the enactment of Laws Number 15 of 2002 concerning Money Laundering Crime which later changed on October 13, 2003 with the enactment of Laws Number 25 of 2003. Furthermore, Laws Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crime that supersedes the Laws Number 25 of 2003 was ratified by the President of Indonesia on October 22, 2010. The existence of this law is expected to assist in the enforcement of money laundering and other criminal acts, provide a strong legal base to guarantee legal certainty, the effectiveness of law enforcement, and trace & return of the asset of criminal proceed.

Laws Number 8 of 2010 concerning Prevention and Eradication of Money Laundering Crime has provided many changes which further strengthen the role of PPATK as a central institution (focal point) in the prevention and eradication of Money Laundering Crime (*Tindak Pidana Pencucian Uang/TPPU*) in Indonesia. The existence of Indonesian Financial Transaction Reports and Analysis Center (PPATK) is an effort to fulfill an international standard as stated in Financial Action Task Force on Money Laundering (FATF) recommendation. One of the recommendations of FATF is need to establish a permanent financial intelligence agency (Financial Intelligence Unit/FIU) and act as a focal point in the prevention and eradication of Money Laundering Crime (TPPU).

## **B. Formulation Of The Problem**

Based on the background above, the formulation of the problem that will be studied is:

To what extent is PPATK's effectiveness in preventing and eradicating money laundering crime?

## **II. THEORITICAL BACKGROUND**

### **A. Definition Of Money Laundering**

There is no similarity and comprehensive definition of money laundering. Each country has its own definition of money laundering in accordance with the terminology of crime according to the laws of the country concerned. Prosecutor and criminal investigation agency, businessman and company, developed countries and countries from the third world, each of it has its own definition based on different priority and perspective. But all the countries were agree, that the eradication of money laundering is very important to fight terrorism, drug business, fraud or corruption (Adrian Sutedi: 2008).

Article 1 section (1) of Laws Number 8 of 2010 concerning Prevention and Eradication of Money Laundering Crime states that Money Laundering is any act that fulfills the element of criminal act in accordance with the provisions of this Law.

Black's Law Dictionary (Henry Campbell Black, Black's Law Dictionary: 1990) defines money laundering as: "The term used to describe investment or other transfer of money flowing from racketeering, drug transaction, and other illegal source into legitimate channel so that its original source cannot be traced."

According to several experts (Ivan Yustiavandana, ArmanNefi, Aiwarman: 2010)

1. Welling: Money laundering is the process of concealing the existence of illegal source or the application of unauthorized opinion, so that income becomes legitimated.
2. Fraser: Money laundering is a very simple process where dirty money is processed or "washed" through legitimate or clean source, so that people can enjoy the illegal benefit safely.
3. Prof. Dr. M. Giovanoli: Money laundering is a process and in such the way, the asset which obtained from criminal act is manipulated in such a way so that the asset appears come from legitimated source.
4. Mr. J. Koers: Money laundering is a way to distribute the proceed of crime into a legitimate circulation and cover the origin of it.
5. Byung-Ki Lee: Money laundering is the process of transferring the wealth which obtained from illegal activity become legitimate asset.

### **B Juridical Foundation For The Prevention And Eradication Of Money Laundering PracticeIn Indonesia**

1. Laws Number 8 of 2010 concerning Prevention and Eradication of Money Laundering.
2. Laws Number 25 of 2004 concerning the National Development Planning System.
3. Laws Number 17 of 2007 concerning the National Long Term Development Planning (*Rencana Pembangunan Jangka Panjang Nasional/RPJPN*).

4. Presidential Regulation Number 6 of 2012 dated January 11, 2012 concerning the National Coordination Committee for the Prevention and Eradication of Money Laundering.
5. Government Regulation Number 8 of 2006 concerning Financial Reporting and Performance of Government institute.
6. Presidential Regulation Number 48 of 2012 concerning Organization and Work Procedure of Financial Transaction Reporting and Analysis Center.
7. Presidential Decree Number 3 of 2004 concerning the Staffing System of the Financial Transaction Reporting and Analysis Center.
8. Regulation of the Minister of Administrative and Bureaucratic Reform Number 53 of 2014 concerning Technical Guidelines of Performance Agreement, Performance Reporting and Reviewing Procedure of Performance Report.
9. Regulation of the Head of PPATK Number: PER-07/1.01/PPATK/08/12 concerning the Organization and Work Procedure of Financial Transaction Reporting and Analysis Center.
10. Bank Indonesia Regulation Number 12/PBI/2010 concerning the Application of APU and PPT Programs for Rural Bank and Syariah Rural's Financing Bank.
11. Regulation of the Head of PPATK Number: PER-10/1.01/PPATK/07/15 concerning the Performance Accountability System on the Financial Transaction Reporting and Analysis Center.
12. Decree of the Head of PPATK Number: KEP-229/1.01/PPATK/12/15 concerning Establishment of the Main Performance Indicators of Financial Transaction Reporting and Analysis Center for 2015-2019.
13. Bank Indonesia Regulation Number: 53.23/PBI/2003 concerning the Application of Know Your Customer Principles.
14. Bank Indonesia Regulation Number: 6/1/PBI/2004 concerning Foreign Exchange Trader.
15. Government Regulation Number 57 of 2003 concerning Procedure of Special Protection for Whistle blower and Money Laundering Witness.
16. Presidential Decree Number 81 of 2004 concerning National Coordination Committee for the Prevention and Eradication of Money Laundering.

### **C. Money Laundering Stages**

The stages of money laundering (AriefAmrullah: 2004) are:

1. *Placement*: an effort to place the cash which comes from a criminal act into the financial system in the form of physical movement of cash either by smuggling cash from one country to another: combining cash from legitimate activity; or by placing demand deposit into the banking system for example bank deposit, checks or through real estate or stock or converting it into another currency or transfer money into foreign exchange.
2. *Layering*: a process of transferring fund from certain account or location as a result of placement effort to another place through a series of complex transaction which is designed to camouflage or deceive such illicit money source, such as bearer bond, forex market, and stocks. In addition to this method, another step which used is to create as many account as possible from fictitious or false company by utilizing bank secrecy and privileged relationship between bank customer and lawyer. This effort is carried out to eliminate the audit trail so that it seems like a legal financial transaction.
3. *Integration*: a process of transferring laundered money from the proceed of placement or layering into activities or official business performance without any connection or links to previous illicit business. At this stage the whitened illicit money is put back into circulation in a form that complies with the rule of law, and has become legal. There are writing that say that this method is also called spin dry which is a combination of repatriation and integration.

### **D. Money Laundering Method**

As for the methods of criminal act of money laundering (Adrian Sutedi: 2008) are:

1. *Buy and Sell Conversion Method*.
2. *Offshore Conversion Method*.
3. *Legitimate Business Conversion Method*.

### **E. Modus Operandi Of Money Laundering**

The Modus of Money laundering Crime (Adrian Sutedi: 2008) are:

1. *Loan Back*, is by borrowing the your own money.
2. *Smurfing*, is an effort to avoid reporting by breaking down the transactions which carried out by many actors.
3. *Structuring*, is an effort to avoid reporting by breaking down the transactions so that the number of transactions becomes smaller.

4. *U Turn*, is an effort to obscure the origin of the proceed of crime by reversing the transaction and then returning it to its original account.
5. *Cuckoo Smurfing*, is an effort to obscure the origin of the funds source by sending fund from the proceed of crime through the account of a third party which waiting for the remittances from abroad and not realizing that the funds which received are "proceed of crime".
6. Purchasing of asset/luxury goods.
7. Exchange of goods (barter).
8. Mode over invoices or double invoice.
9. Underground Banking/Alternative Remittance Service.
10. The use of third party.
11. *Mingling*, is to mix the proceed of criminal act with fund from the result of legal business activity with the aim of obscuring the source of the fund.
12. The use fake identity.

#### **F. The Criminalization Of Money Laundering**

The act which determined by TPPU's Law as a criminal act are include placing asset which are the proceed of crime into the Financial Service Provider, whether placed on their own behalf or on behalf of another party; transferring asset that are the proceed of crime into the Financial Service Provider to other Financial Service Provider, either on behalf of themselves or other party; pay or spend asset which are the proceed of crime into the Financial Service Provider, whether the act is in his own name or on behalf of another party; grant or donate the asset which is the result of a criminal act, either on its own or on behalf of another party; entrust asset which is the result of a criminal act, either on its own behalf or another party; bring overseas the asset which are the proceed of crime; or exchange the asset which is the result of a criminal act with a currency or other securities. The law also establishes trial, assistance, and conspiracy to commit money laundering as a crime of money laundering with the threat of punishment and the same penalty. If the crime of money laundering is carried out by the corporation's management or his attorney then the criminal imposition is imposed on the manager or his/her proxy, while the corporation is only imposed criminal penalty (VentiGarnasih: 2004).

#### **G. Crimes which Related to Money Laundering**

Actions that included in criminal act related to money laundering (Purwaning Y.B.: 2004) includes:

1. Cash financial transaction with the aim of avoiding reporting by the Financial Service Provider of asset that are the result of a criminal act;
2. Financial Service Provider who does not report suspicious financial transaction and or financial transaction of at least Rp. 100 million;
3. Not reporting or not reporting properly the carrying of cash into or out of the Republic of Indonesia in the amount of Rp. 100 million or more;
4. Violating the prohibition on mentioning the name of the whistle blower.

### **III. RESEARCH METHOD**

#### **A. Type Of Research**

Based on formulation of the problem, the research method that the researcher use is normative empirical law, that is the method which used in law research, by examining existing library material or written in the regulation of legislation (Law ini book) law which is conceptualized as a norm as well as conducting field research in related institution, PPATK's office at Central Jakarta.

#### **B. Data Analysis**

The data were obtained from the result on this study are compiled and analyzed qualitatively, then the data is described descriptively in order to obtain an image that can be understood clearly and directionally to answer the problems that the researcher discuss.

### **IV. RESULT AND DISCUSSION**

The Financial Transaction Reporting and Analysis Center (PPATK) is a central institution (focal point) that coordinates the implementation of prevention and eradication of money laundering in Indonesia. Internationally, PPATK is a Financial Intelligence Unit (FIU) which has the duty and authority to receive financial transaction report, analyze financial transaction report, and then forward the result of the analysis to the law enforcement agency.

The Effort to prevent and eradicate the crime of money laundering is using the pursuit of crime result approach (follow the money) in preventing and eradicating criminal act. This approach is carried out by

involving various parties (known as the Anti-Money Laundering Regime), each of it has a significant role and function, including the Reporting Party, Supervisory and Regulatory Institution, Law Enforcement Agency, and other related parties.

In addition, to support the effectiveness of effort implementation in preventing and eradicating the crime of money laundering in Indonesia, through the Presidential Regulation Number 6 of 2012 dated January 11, 2012, it has been set the establishment of National Coordination Committee for Prevention and Eradication of Money Laundering (TPPU Committee) was chaired by the Coordinating Minister of Politic, Law and Security where the deputy is Coordinating Minister of Economic Affair and the Head of PPATK as the Committee Secretary.

In addition to domestic scope, PPATK actively utilizes coordination and cooperation with other countries' Financial Intelligence Unit (FIU) and International Forum such as The Egmont Group. That various collaboration were carried out by PPATK remember that money laundering is a crime which is done by utilizing multidisciplinary knowledge, technological progress and no boundaries.

Laws Number 15 of 2002 concerning Money Laundering Crime as amended by Laws Number 25 of 2003 expressly mandates the establishment of PPATK as the central institution (focal point) which coordinates the implementation of the TPPU Law. PPATK was inaugurated on October 17, 2003 by the Coordinating Minister of Politic, Law and Security, and from that point, it has been fully operated. This institution is an independent institution which has the duty and authority to conduct an examination upon suspected action that related to money laundering.

*Pusat Pelaporan dan Analisis Transaksi Keuangan* (PPATK) or The Indonesian Financial Transaction Reporting and Analysis Center (INTRAC) was formed with the authority to implement the policy to prevent and eradicate money laundering and also building anti-money laundering regime in Indonesia.

By this, so the eradication of criminal act has shifted on its orientation from "cracking down on the perpetrator" towards confiscating "the proceed of crime"; By declaring money laundering as a criminal act and with a system of reporting a certain amount of transaction and suspicious transaction, this makes it easier for law enforcer to investigate the criminal case to the figures behind them.

According to Article 26 of Law Number 25 of 2003, PPATK has the following tasks as follows:

- a. Collecting, storing, analyzing, evaluating, information which obtained by PPATK in accordance with this Law;
- b. Monitoring the record in the list of exception made by financial service provider;
- c. Making guidelines regarding the procedure of reporting suspicious financial transaction;
- d. Providing advice and assistance to the authorized agency about information which obtained by PPATK in accordance with the provision in this Law;
- e. Making guidelines and publication to the Financial Service Provider about their obligation determined in this law or with other laws regulation, and assist in detecting suspicious customer behavior;
- f. Providing recommendation to the government about the efforts to prevent and eradicate criminal act of money laundering;
- g. Reporting the result of the financial transaction analysis that indicate a crime of money laundering to the Police and Attorney General;
- h. Making and providing reports on result of the financial transaction analysis and other activities periodically 6 (six) months to the President, the House of Representative, the institution that authorized to supervise the Financial Service Provider;
- i. Providing information to the public about institutional performance as long as the provision of information does not conflict with this Law.

In relation to the PPATK's duty, the PPATK also has the function and authority in carrying its main task, namely the prevention and eradication of money laundering crime. In its function PPATK has four functions as follows:

1. prevention and eradication of money laundering crime.
2. management of data and information obtained by PPATK.
3. supervision of the compliance of the reporting party, and
4. analysis or examination of report and financial transaction' information which indicate criminal act of money laundering and/or other criminal act.

From four of functions above, it can be classified or divided as, the first one is prevention and second one is eradication or preventive and repressive. In relation with preventive, PPATK is given the authority to provide education and socialization about the crime of money laundering and other authorities. Then in repressive action the PPATK has the authority to take action against financial transaction which indicated committing money laundering crime. This means that PPATK tries to find and process the data in financial transaction.

The Anti-Money Laundering Approach is an approach that complements the conventional approach that has been carried out in combating crime. This approach has several advantages and breakthroughs in exposing crime, pursuing the result of crime and proving it in court. The existence of PPATK and the Anti-Money Laundering Regime has the ultimate goal of maintaining financial stability and integrity and also assisting law enforcement effort to reduce crime rate.

Public participation and stakeholder are very important to support the steps which taken by the PPATK in combating crime by 'follow-money' (follow the money) approach which aims to maintain financial system stability and reduce the crime rates.

## V. CONCLUSION AND SUGGESTION

### A. Conclusion

The role of PPATK in preventing and eradicating of money laundering crime is very important, it can be seen in Article 26 of the TPPU's Law and Article 27 of the TPPU's Law which is concerning the duty and authority of PPATK. As mandated by Laws Number 8 of 2010, where PPATK has four functions as follows:

1. Prevention and eradication of money laundering crime.
2. Management of data and information which obtained by PPATK.
3. Supervision of the compliance of the reporting party, and
4. Analysis or examination of report and information on financial transaction which indicated criminal act of money laundering and/or other criminal act.

### B. Suggestion

PPATK as the 'spearhead' in eradicating the crime of money laundering should maintain its consistency. The function of the PPATK must be optimized and coordination between institutions such as PPATK, the Police, the Attorney General and the financial service institution like bank and non-bank must be carried out as effective as possible. In addition, also campaigned for the anti-money laundering regime, directional and not only at bank and other financial service provider but throughout all the Indonesian people.

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