Asia Pacific Fraud Journal
E-ISSN: 2502-695X, ISSN: 2502-8731
Volume 4, Nomor 1 (January-June) 2019
http://apfjournal.or.id/index.php/apf

PREVENTION OF CRIMINAL ACTS OF MONEY LAUNDERING IN BANKS

✉Dwi Desi Yayi Tarina, Dinda Dinanti, Muthia Sakti
Faculty of Law, Universitas Pembangunan Nasional Veteran Jakarta

ARTICLE INFORMATION

Article History:
Received Nov 25, 2018
Revised Dec 19, 2019
Accepted Dec 1, 2018

JEL Classifications
K14; G21; P24

DOI:
10.21532/apfj.001.19.04.01.04

ABTRACT

National development carried out so far has been an ongoing development effort in order to create a just and prosperous society based on Pancasila and the 1945 Constitution. To achieve this goal, the implementation of development, including in the economic and financial fields. Economic activities that occur in society are essentially a series of extraordinary legal actions of various types, varieties, qualities and variations that are carried out between individuals, between companies, between countries and between groups in various volumes with high frequency at any time in various places. The role is good in terms of collecting funds from the community and channeling available funds to finance existing economic activities. Many forms of crime are committed within the scope of a country, whether committed by individuals or corporations. This form of crime produces considerable wealth, such as corruption, smuggling of goods or labor, embezzlement, narcotics, gambling, tax crimes, and so forth. In order not to reveal who is the perpetrator, the assets obtained from the above crimes are hidden from the origin by entering the assets into the financial system, especially in the banking system. This form is called money laundering. In this writing, the author wants to formulate a problem statement that will be discussed, namely concerning the role of banks in preventing money laundering. In this section the methods of conducting research is normative juridical. The role of banking institutions to prevent and detect the flow of dirty money that tries to enter the financial system.

Keyword: Money Laundering, Banking

1. INTRODUCTION

National development carried out so far has been an ongoing development effort in order to create a just and prosperous society based on Pancasila and the 1945 Constitution. To achieve this goal, the implementation of development must always pay attention to harmony, harmony and balance as elements of development, including in the economic and financial fields. Today's national economic development shows a direction that is increasingly fused with regional and international economies that can support at the same time can have a less favorable impact. Meanwhile, the development of the national economy is always moving rapidly with increasingly complex challenges. Therefore, various policy adjustments are needed in the economic sector including the banking sector so that it is expected to be able to improve and strengthen the national economy.

The banking sector which has a strategic position as an intermediary institution and supporting the banking system is a very decisive factor in the intended adjustment process. In connection with this, improvements to the national

✉ Corresponding author :
Address : -
Email : alittriani@unesa.ac.id

banking system are needed, which not only includes efforts to restructure banks on an individual basis but also improve the overall banking system. Restructuring efforts of national banks are a joint responsibility between the government, the banks themselves and the community that uses the services of banks. The shared responsibility can help maintain the health level of national banks so that they can play a maximum role in the national economy.

Today's human economic activities are closely related to the world of banking. Economic activities that occur in society are essentially a series of extraordinary legal actions of various types, varieties, qualities and variations that are carried out between individuals, between companies, between countries and between groups in various volumes with high frequency at any time in various places. The role is good in terms of collecting funds from the community and channeling available funds to finance existing economic activities. Given the increasing economic activities that occur in the community, of course, the more the need for funds as a driving factor in driving the economy. Along with the rapid development of the world economy has had an impact on increasing trade transactions between business actors, where one business actor or investment in several countries is based on the country's law (Mustafa Siregar, 1991: 1).

Banking institutions are the core of the financial system of each country. Banks are financial institutions that become places for individuals, private business entities, state-owned enterprises, and even government institutions save the funds they click on. Through credit activities and various services provided, banks serve financing needs and launch a payment system mechanism for all sectors of the economy (Hermansyah, 2014: 7). In Indonesia, banks are regulated in Law Number 7 of 1992 concerning Banking as amended by Act Number 10 of 1998.

The formulation of the definition of the bank, according to the dictionary legal term Fockema Andreae which says that a bank is an institution or an individual who runs a company in receiving and giving money from and to third parties. Due to the existence of checks that can only be given to bankers as interested, the bank in a broad sense is a person or institution which in its work regularly provides money to third parties. Whereas Law Number 10 of 1998 concerning Banking defines banks as legal entities that collect funds from the public in the form of deposits and channel them to the public in the form of loans and / or other forms in order to improve the lives of many people (Lukman Santoso, 2011: 31).

Regarding the banking principles adopted in Indonesia, it can be seen from the provisions of Article 2 of Act Number 10 of 1998 concerning Banking that Indonesian banks in carrying out their business are based on economic democracy using the principle of prudence. What is meant by economic democracy is economic democracy based on Pancasila and the 1945 Constitution. Whereas what is meant by the precautionary principle is that banks and the people involved in it, especially in making policies and carrying out their business activities must carry out their respective duties and authorities carefully, thoroughly and professionally so as to gain public trust. In addition, banks in making policies and carrying out their business activities must always comply with all laws and regulations that apply consistently and can be based on good faith. Public trust is the main keyword for the development or failure of a bank, in the sense that without the trust of the community, a bank will not be able to carry out its business activities (Hermansyah, 2014: 19).

Banking has a primary function as intermediation, namely to collect funds from the public and channel them effectively and efficiently in the real sector to drive development and economic stability of a country. In this case the bank collects money from the public for public trust. In the banking world customers are consumers of banking services. The position of the customer in relation to banking services is in two positions which

can take turns according to which side they are in (Lukman Santoso, 2011: 31).

Customers according to Law Number 10 of 1998 concerning Banking are parties that use bank services. In the law, customers are divided into 2 (two), namely depositors and debtor customers. Depository customers are customers who place their funds in banks in the form of deposits based on bank agreements with the relevant customers, while debtor customers are customers who obtain credit or financing facilities based on sharia principles or are equated with bank agreements with the relevant customers.

Many forms of crime are committed within the scope of a country, whether committed by individuals or corporations. This form of crime produces considerable wealth, such as corruption, smuggling of goods or labor, embezzlement, narcotics, gambling, tax crimes, and so forth. In order not to reveal who is the perpetrator, the assets obtained from the above crimes are hidden from the origin by entering the assets into the financial system, especially in the banking system. This form is called money laundering (Waluyo, 2009: 237).

The term money laundering was previously only applied to financial transactions related to organized crime, but now the limits of its understanding are further extended by government regulators, which includes every financial transaction that produces assets as a result of illegal actions such as criminal tax avoidance (Husein, 2003: 26) . At present, illegal activities of money laundering practices are recognized as potentially carried out by individuals, small and large businesses, corrupt officials, members of organized crime such as drug dealers or mafias, and even corrupt countries or important institutions through very complex networks such as using shells companies based in countries or terrestrial surge taxes.

Banks are one place that is prone to money laundering practices. This is because the stages of money laundering crimes are generally carried out through banking transactions (Philips Darwin, 2012: 97). Crimes that occur naturally cause losses, both material economic and immaterial in nature, which involve security and peace in community life. Various efforts have been made to tackle crime, but crime has never disappeared from the face of the earth, even increasing along with the human way of life and the development of increasingly sophisticated technology that causes the growth and development of patterns and the variety of crimes that arise. These crimes have involved or produced vast amounts of assets.

Property derived from various crimes or criminal acts is generally not directly spent or used by perpetrators of crime because if it is directly used, it will be easily traceable by law enforcement regarding the source of the acquisition of the assets. Usually the perpetrators of crime first try to get the assets obtained from these crimes into the financial system, especially into the banking system. Moreover, supported by the rapid development of science and technology has led to the integration of the financial system including the banking system by offering a mechanism for funding traffic on a national and international scale can be done in a relatively short time.

The practice of money laundering is a global phenomenon. The handling of money laundering has gone through a process of international cooperation, but the perpetrators of money laundering still find ways and means to grow and develop continuously (Adrian Sutedi, 2010: 17). The methods and techniques used in money laundering techniques vary greatly, which among others are applied by money laundering in the banking and non-banking sectors by utilizing professional facilitators, establishing fake companies, investing in real estate, purchasing insurance products, securities companies and misusing corporate vehicles.

Such conditions can be easily exploited by some people to hide or bury the origin of funds obtained from illegal proceeds which can be categorized as criminal acts.

In general, such acts constitute funds from the proceeds of corruption and money laundering crimes which have received extra attention from the international community for decades, because of the dimensions and implications that violate national boundaries (Adrian Sutedi, 2008: 1). The impact that can be caused by the crime is very large for the continuity of the economy, social and culture of a nation. So that many criminal acts of corruption and money laundering are categorized as extraordinary crime and both have special arrangements in the legal system. Whatever the form, criminal acts are detrimental to society and anti-social (Moeljatno, 2008: 2).

Money laundering is basically an attempt to process money from crime with a business so that the money is clean or appears as halal money. Money laundering in general can be interpreted as an act or an act of transferring, using or committing another act on the results of a criminal act that is often carried out by criminal organizations, as well as individuals who commit acts of corruption, narcotics trafficking and other criminal acts as stipulated in Article 2 paragraph (1) Law Number 8 of 2010 concerning Prevention and Eradication of Uamg Washing Crimes. Where the action aims to hide or obscure the origin of the illicit money so that it can be used as if it were legal or legal money.

Based on data obtained from the Financial Transaction Reporting and Analysis Center (PPATK), throughout 2017 there was the potential for criminal acts of money laundering with a value of up to Rp. 747 trillion. This money laundering crime is allegedly carried out by persons from various professions starting from the governor to the head of the Regional General Hospital. The Head of the PPATK also stated that throughout 2017, there were 20 reports or information on the results of examinations and inspection reports. All of them have been submitted to law enforcement officials consisting of as many as 11 reports, the Police consists of 3 reports, the Directorate General of Taxes have 2 reports and 2 reports from the Directorate General of Customs and Excise, and 1 report from the TNI, BNN and Attorney General's Office. PPATK has also conducted checks on the accounts of the reported parties spread in a number of providers of bank and non-bank financial services. These accounts are spread across various locations in Gresik, Magetan, Madiun, Surabaya, Mataram, Pontianak, Bandung, Kendari, Purwakarta, Kawang, Sumbawa and Banjarmasin. In addition, it was also revealed that the 19 reported people worked as Governors, Regents, Heads of Regional Development Planning Offices, law enforcement officials, civil servants, businessmen, auction officials and heads of hospitals.

Based on that fact, the authors are interested in making a writing entitled the prevention of money laundering in banking. In this writing, the author wants to formulate a problem statement that will be discussed, namely concerning the role of banks in preventing money laundering. It aims to provide readers with insight into the role of banks in preventing money laundering.

2. METHOD

In this section, the author wants to describe the methods of conducting research, which include:

a. Types of research
   This type of research is normative juridical research, carried out by examining secondary data or research based on standard rules that have been recorded, also called library research (Soerjono Soekanto and Sri Mamudji, 2001: 13-14). In this case the author focuses on legal systematic research related to the role of an institution in reviewing criminal acts of money laundering.
b. Data source
   In this study the data used is secondary data, which consists of:
   1) Primary legal material; namely binding legal materials consisting of:
      a) 1945 Constitution of the

Republic of Indonesia.
b) Law Number 1 of 1946 concerning the Criminal Code.
c) Law Number 10 of 1998 concerning Banking.
d) Republic of Indonesia Government Regulation Number 8 of 2010 concerning Prevention and Eradication of Money Laundering Crimes.
e) Bank Indonesia Regulation Number 14/27 / PBI / 2012 concerning Application of Anti Money Laundering and Prevention of Terrorism Funding Programs for Commercial Banks.

2) Secondary legal material; namely legal material that provides an explanation of primary legal materials, namely those that can be in the form of a draft law, the results of research, scientific work from the legal community.
3) Tertiary legal material; namely legal material that provides instructions and explanations for primary and secondary legal materials such as legal dictionaries and encyclopedias.

c. Data collection technique
Based on the type of this research that is normative juridical, in collecting legal material, the author uses secondary data collection methods the author conducted a library study. Literature study is a technique of collecting data by conducting study studies of books, literature, records that have to do with the problems to be solved. Literature study is conducted at:
1) Central Library of the National Development University of Veteran Jakarta.
2) DKI Jakarta Regional Public Library.
3) Personal books of the author's personal property and other supporting literature, besides that, also through searching using internet media.

d. Data analysis
Data that has been collected from the study of the anthropology, then processed by means of selection, is classified systematically, logically and juridically qualitatively. Descriptively qualitative analysis is a method of analyzing the results of literature studies in the form of describing problems using theories and describing them in sentences and concluded by using deductive methods, namely a way of drawing conclusions from general to specific propositions, and studied as a intact and systematic unity.

3. RESEARCH RESULT AND DISCUSSION

Money laundering is a simple clean-up activities against money or possessions that others do not know that the money actually comes from the proceeds of crime or criminal offenses. Efforts to clean up are often through the bank because it is indeed a place to save money. But along with the advancement of information technology and the complexity of the financial system and the increasingly sophisticated modus operandi of money laundering perpetrators, money laundering can be through other means, for example through the purchase of goods and services. An example is the auction of antiques, or the collector of expensive paintings. Money laundering in transactions or payment systems outside the banking industry is also in high probability. Bank Indonesia has also issued a regulation concerning this matter, namely Bank Indonesia Regulation No. 14/3 / PBI / 2012 dated March 29, 2012 concerning the Anti Money Laundering and Prevention of Terrorism Funding Program for Payment System Service Providers other than Banks. This provision is a continuation of the mandate of the Law No. 8 of 2010 on the Prevention and Combating of Money Laundering, and governs the application of the Anti-Money Laundering and Combating the Financing of Terrorism that must be applied by

service providers of payment systems.

In its development, money laundering crimes are increasingly complex, crossing jurisdictional boundaries, and using increasingly varied modes, utilizing institutions outside the financial system, and even extending to various sectors. To anticipate this, the Financial Action Task Force (FATF) on Money Laundering has issued an international standard that could be used for any state or jurisdiction in the prevention and combating of money laundering and criminal act of terrorism financing, known as the Revised 40 Recommendations and 9 Special Recommendations (Revised 40 + 9) FATF, among others, concerning the expansion of Reporting Parties which includes traders of gems and jewelry or precious metals and motorized vehicle traders. In preventing and combating of money laundering need to be carried out regional and international cooperation through bilateral or multilateral forum so that the intensity of the crime that resulted in or involve a large amount of wealth that can be minimized.

By Sarah N. Welling, money laundering starts with stolen money or dirty money (Adrian Sutedi, 2008: 21). Money can be dirty in two ways: first through tax evasion to earn money legally, but the amounts reported to the government for tax purposes less than it actually obtained. And the second way is to get money through unlawful ways, such as buying and selling illegal drugs or illicit drug trafficking, gambling, bribery, terrorism, prostitution, arms trafficking, smuggling of liquor, tobacco and pornography, smuggling illegal immigrants and white-collar crime (Adrian Sutedi, 2008: 22).

The practice of money laundering was indeed carried out initially only on money obtained from the traffic of narcotics and drug trafficking of that kind. But then, money laundering was carried out on money obtained from other sources of crime. In simple terms, the process of money laundering can be grouped in three (3) activities, namely placement, layering and integration.

Placement, is the phase of placing money generated by a crime activity for example by breaking large amounts of cash into small, inconspicuous amounts to be placed in the financial system either by using a bank deposit account, or used to purchase a number of financial instruments to be billed and then deposited in the bank account is in another location. Placement can also be done by physical movement of cash, either through cash smuggling from one country to another, and combining cash from crime with money obtained from the results of legitimate activities. This placement process is the weakest point of money laundering.

Layering, is defined as separating the proceeds of crime from its source, namely the crime activities related through several stages of financial transactions. In this case there is a process of transferring funds from certain accounts or locations as a result of placement to other places through a series of complex transactions designed to disguise or hide the source of illicit money. Layering can also be done through opening as many as possible to fictitious company accounts by utilizing bank secrecy provisions.

Integration, which is an attempt to establish a foundation as a legitimate explanation for the proceeds of crime. Here the money washed through placement and layering is transferred to official activities so that it does not appear to be related at all to previous crime activities which are a source of money being washed. At this stage the money that has been washed is put back into circulation in a form that is in line with the rule of law. This integration process occurs when the process of layering successful.

In Indonesia, in Law Number 8 of 2010 concerning Prevention and Eradication of Money Laundering Crime, money laundering is divided into 3 (three) criminal acts, namely:

a. Money laundering active, ie any person who places, transfer, assign, expend, pay, donate, leave, brought

out of the country, changing the shape, redeemed for cash or letter berharha or other acts of assets that is known or reasonably suspected was the result criminal offenses referred to in Article 2 paragraph (1) for the purpose of concealing or disguising the origin of wealth (Article 3).

b. Passive money laundering crime, that is, every person who receives or controls the placement, transfer, payment, grant, donation, safekeeping, exchange or use of assets he knows or should be expected to be the result of a crime as referred to in Article 2 paragraph (1). It is considered equally to commit money laundering. However, it is excluded for the reporting party implementing the reporting obligations as provided for in this law (Article 5).
c. In Article 4, it is also imposed on those who enjoy the proceeds of money laundering crimes imposed on anyone who hides or disguises the origin, source of location, allocation, transfer of rights, or actual ownership of the assets he knows or is reasonably expected to be proceeds of crime as referred to in Article 2 paragraph (1). This is also considered the same as doing money laundering.

In general, there are 3 (three) conventional methods commonly used by money laundering actors, namely:

a. Money smuggling; is a method in which the launderer who perform an illegal income transfers in secret to a country or territory. Transfers here are made in cash not electronically.
b. Through financial institutions; this method is to use financial institutions such as banks to help carry out money laundering, especially in the case of transferring proceeds of crime to other countries or regions. The various facilities provided by financial institutions such as account opening, credit, currency exchange, and money transfers have made money laundering agents use this institution as a tool to wash their money. The existence of a global economy and an integrated capital market also makes money laundering actors safer and easier to transfer between countries. This method is increasingly popular given the principle of bank confidentiality, so that their identity is safe from investigation.
c. Through non-financial institutions; the most common method used in this field is to buy various valuables and property or by conducting business activities such as restaurants, hotels and shops. This method also has begun hard to do because in addition to the various recommendations in the areas of finance, FATF and various international conventions have also made recommendations in the areas of anti-money laundering non-financial. The 2001 EC Directive, for example, requires anti-money laundering responsibilities not only to financial institutions but also to non-financial institutions, individuals or entities, such as auditors, external accountants and consultants, property agents, notaries and other professional law, and dealers of valuables . Moreover, the improvement of the 40 FATF Recommendations have also been financially and professions requiring companies to meet anti-money laundering obligations.

In general, there are 3 (three) new methods of money laundering using technology, namely:

a. Using electronic money;
   According to the Bank For International Settlements, Electronic Money (E-Money) is a stored value where the records of funds or values belonging to consumers are stored in an electronic device owned by consumers. E-Money has several advantages compared with traditional money, namely:

   1. E-Money uses a card or device that can store funds in very large amounts, so it does not require a large place or container to carry it.
   2. E-Money is easy to transfer anytime

and anywhere with the help of the internet.

3. E-Money is harder to track because it doesn't have a serial number like traditional money. In addition, encryption technology contained in the E-Money transfer process makes it increasingly difficult to know its origin.

b. Internet Bank;
Is a virtual bank that offers various facilities like regular bank anywhere, anytime via the Internet. Some of the facilities offered include direct payments, e-money transfers, check expenses, securities purchases and account opening and closing. There are several advantages of I-Bank as a tool for money laundering, namely:
   1. It is easily accessible anytime and anywhere.
   2. No need for direct contact between consumers and I-Bank.
   3. I-Bank provides international financial facilities, and each transaction is carried out comfortably and safely.

c. Internet Casino (Internet Gambling);
Currently, many casino sites established in the Caribbean islands. Most of these sites are not regulated or supervised by the government. Even some of them do not ask for consumer identification. Condition is utilized by the perpetrators of money laundering because ever since the emergence of the anti-money laundering in the world, they can no longer wash his money in a traditional casino because the traditional casino has been applying the principles of anti-money laundering.

There are several modus operandi of money laundering by the AS Mahmoedin, which is generally done through means (AS Mahmoedin, 1997: 295), among others:

a. Through capital cooperation; cash proceeds from crime are taken abroad. The money is re-entered in the form of capital cooperation. The profits of the investment are reinvested in various other businesses. The benefits of other businesses are enjoyed as clean money, because it seems to be processed legally, even taxed.
b. Through credit collateral; cash is smuggled abroad, then stored in certain state banks whose banking procedures are too soft. From the bank it is transferred to Swiss banks in the form of deposits. Then do the loan to a bank in Europe by the deposit guarantee. Reinvested the proceeds of crime to the country of origin of the stolen money was.
c. Through overseas travel; cash is transferred abroad through foreign banks in the country. Then the money is disbursed again and brought back to the country of origin by a certain person, as if the money came from abroad.
d. Through domestic business disguise; with the money established a disguise company, it is not disputed whether the money is successful or not, but it seems that the business has produced clean or halal money.
e. Through disguising gambling; with the money the gambling business was set up, it doesn't matter whether it wins or loses, but it will make an impression of winning, so there is a reason for the origin of the money. If in Indonesia there is still a Lottery or others, the owner of illicit money can be offered a winning number at a more expensive price, so that the money gives an impression to the person concerned as a result of the victory of the gambling activity.
f. Through document disguises; The money is not everywhere physically, but its existence is supported by various fake documents or documents that have been fabricated, such as making a double invoice in the sale and purchase and export of imports, to impress the money as a result of foreign activities.
g. Through foreign loans; cash was taken out of the country in various

ways, then the money was put back as foreign loans. This seems to give the impression that the perpetrators obtained credit assistance from abroad.

h. Through engineering foreign loans; money is not everywhere, but then a document is made as if there were assistance or loans from abroad. So in this case there is absolutely no lender. There are only loan documents, which are most likely fake documents.

Although the practice of money laundering is a global phenomenon and its handling through the process of international cooperation, but money laundering actors always find ways and means to grow and develop continuously. The methods and techniques used in the practice of money laundering vary widely, which among others are applied by money laundering in the banking and non-banking sectors by utilizing professional facilitators, the establishment of fake companies, investments in real estate, purchasing insurance products and securities companies, as well as misuse corporate vehicle.

In general there are three methods of money laundering that aim to manipulate and change the status of illegal funds (proceeds of crime) into legal funds. The first is selling and buying which is done through buying and selling transactions of goods and services. For example, other properties can be bought and sold to co-conspirators who agree to buy or sell at a price higher than the actual price in order to obtain a fee or discount. Excess prices are paid with legal funds which are then washed through business transactions. In this way, every asset, item or service can be changed in shape so that it appears to be a legal outcome through a personal or company account in a bank.

The second method is off shore conversions where illegal funds are transferred to tax haven country areas and then stored in banks or other financial institutions in the region. Furthermore, illegal funds are used, among others, to buy assets and investments (fund investments). In such areas tend to have looser tax laws, strict bank secrecy provisions and very easy business procedures that allow protection for the confidentiality of business transactions, the formation of companies and business activities of trust funds. It is this secrecy that provides enough free space for the movement of gross funds through various financial centers in the world. In this case it is usually also assisted by lawyers, accountants and fund managers by utilizing legal loopholes offered by the provisions of bank secrets and company secrets.

While the third method, namely legitimate business conversion that is used through business or legitimate business activities as a means to move and use illegal funds. Criminal proceeds are converted through transfers, checks, or other payment instruments, which are then deposited in a bank account or transferred back to another bank account. This method allows criminals to run a business or cooperate with their business partners and use certain company accounts as a place to collect proceeds of crime. In the era of economic globalization as it is today, it is marked by the integration of the world trade system as one of the implications of the rapid advances in information technology, especially in the financial sector, allowing financial service users to conduct financial transactions easily and quickly beyond jurisdictional boundaries a country. The ease and speed of conducting financial transactions has been used by money laundering agents to hide or disguise the assets they have obtained from proceeds of crime, for example by entering illegal funds into legal business through the international banking system or through business networks in the internet so that its origin becomes difficult to track by law enforcement.

Banking is a form of business that have the flexibility in collecting and distributing funds so it is positioned to be used as a means of laundering money, either through placement, layering and integration. In addition, electronic fund transfers can also

be used by money laundering agents to divert funds quickly and relatively cheaply and safely to other parties' accounts, both at home and abroad (Adrian Sutedi, 2008: 30).

Banking is also very vulnerable to organized crime so it is very strategic to be utilized. Organized criminal acts usually hide behind a company or other name (nominees) by conducting fake and large-scale international trade with the intention of transferring unauthorized money from one country to another. Companies that are used to hide criminal activities usually ask for credit or financing from banks to disguise money laundering activities. Other modus operandi include using fake markup invoices or fake L / Cs in an effort to complicate investigations in the future.

Formally anti-money laundering is based on Law Number 8 of 2010 concerning Prevention and Eradication of Money Laundering Crimes. In preventing and eradicating money laundering at banks, according to Law Number 8 of 2010, namely in Article 18 paragraph (3), banks have an obligation to apply the principle of service users (Know Your Customer) which must be done at the time:

1. Conduct business relations with service users;
2. There are financial transactions with foreign currencies whose value is at least or equal to Rp. 100,000,000 (one hundred million rupiah);
3. There are suspicious financial transactions related to money laundering and terrorism funding crimes; or
4. The complainant doubted the truth of the reported information service users.

There are several general principles regarding service users according to Law Number 8 of 2010 (Muhammad Yusuf, 2011: 389), namely:

a. Service User Identification
   There are several things that need to be considered in identifying financial service users, namely:
   1. If a business relationship, each person is required to provide complete identity to the Financial Service Provider;
   2. Each person making a transaction with the reporting parties are required to provide identity and correct information required by the reporting parties and at least the identity, source of funds and purpose of the transaction by filling out the form to be taken by the complainant and attach supporting documents;
   3. In the case of transactions carried out for the benefit of others, everyone is obliged to provide information on the identity, source of funds and purpose of transactions other party;
   4. Financial service providers must ensure service users act for whom;
   5. The complainant must know that service users conducting transactions with the reporting party acting for themselves or for and on behalf of others;
   6. In the event that a transaction with the reporting party is carried out for itself or for and on behalf of another person, the reporting party is required to request information regarding the identity and supporting documents of the service user and the other person;
   7. In terms of identity and / or supporting documentation was incomplete, the complainant must refuse to deal with the person;
   8. Financial service providers must keep records and documents;
   9. The complainant shall keep records and documents on the identity of the trader for a minimum of five (5) years from the termination of business relationship with the service user.

b. Verification of Service Users
   1. The identity and supporting documents requested by the reporting party must be in accordance with the provisions of legislation stipulated by each

regulatory and regulatory agency;
2. Financial service providers must obtain confidence in the identity of the customer, both individuals and companies, if the customer acts for and on behalf of another party then the identity of the other party must also be requested and verified;
3. The procedure for proof of customer identity applies equally to every product issued by a financial service provider and the financial service provider must have a copy of the document and administer it properly;
4. The financial service provider must decide on the business relationship with the service user if the service user refuses to comply with the principle of recognizing service users and financial service providers to doubt the correctness of the information submitted by the service user;
5. The financial service provider must report it to PPATK regarding the action to terminate the business relationship as a suspicious financial transaction.

c. Analysis of Suspicious Financial Transactions

What is meant by suspicious transactions in Article 1 number 5 of Act Number 8 of 2010, namely:

1. Financial transactions that deviate from the profile, characteristics, or habits of the transaction patterns of the service users concerned;
2. Financial transactions by service users that are reasonably suspected to be carried out with the aim of avoiding the reporting of the relevant transactions that must be carried out by the reporting party in accordance with the provisions of the law;
3. Financial transactions that are carried out or canceled are carried out by using assets that are suspected of originating from the proceeds of crime;
4. The financial transactions requested by the PPATK are reported by the reporting party because they involve assets that are suspected of originating from the proceeds of crime.

According to the attachment to the decision of the Head of PPATK Number 2/1 / Kep.PPATK / 2003 concerning General Guidelines for the Prevention and Eradication of Money Laundering Crime for Providers of Financial Services there are a number of basic things to analyze a transaction, namely:

1. Is the nominal amount and frequency of transactions consistent with the normal activities that have been carried out by the customer.
2. Is the transaction conducted fairly and in accordance with business activities, activities of activities and customer needs.
3. Does the pattern of transactions carried out by customers not deviate from the general transaction pattern for similar customers.
4. If the transaction carried out is international in nature, does the customer have a strong reason to establish a business with parties abroad.
5. Do customers make transactions with customers belonging to high-risk customers.

If there is a suspicious transaction, the financial service provider can postpone the transaction no later than 5 (five) working days after the transaction delay is made. Delay of transactions is carried out in the case of service users:

1. Conduct transactions that should be suspected of using assets originating from the proceeds of crime.
2. Having an account to hold assets that come from the proceeds of crime.
3. It is known and / or deserves to be suspected of using fake documents.

In the implementation of the transaction delay recorded in the minutes of the transaction delay and the financial service provider must provide a copy of

the transaction delay to the service user. Financial service users are also required to report the delay of transactions to PPATK by attaching the minutes of the transaction delay within a maximum period of 24 (twenty four) hours from the time the transaction is postponed and after receiving the PPATK transaction delay report, it is obligatory to ensure that the transaction delay is carried out in accordance with the law money laundering law. In the event that a transaction delay has been made up to the fifth working day, the financial service provider must decide whether to carry out the transaction or reject the transaction.

Banks are required to carry out monitoring activities which at least include the following:

- A continuous effort to identify the correspondence between customer transactions with customer profiles and administer such a document, particularly on the business relationship with the customer transactions and / or the bank of the country program and the anti-laundering were inadequate.
- Analyze all transactions that are not in accordance with the customer's profile.
- If necessary, ask for information about the background and purpose of transactions that do not fit the profile of the customer, subject to anti-tipping-off as stipulated in the law on money laundering.

Continuous monitoring of customer profiles and transactions carried out includes:

1. Ensuring the completeness of customer information and documents.
2. Examine the suitability of transaction profiles with customer profiles.
3. Researching resemblance or similarity in name with the name listed in the database.
4. Researching resemblance or similarity in name with the name of the suspect or defendant published in the mass media or by the competent authority.

According to Bank Indonesia Circular Number 11/31 / DPNP concerning the Standard Guidelines for the Application of Anti Money Laundering and Prevention of Terrorism Funding Programs, all monitoring activities are documented in an orderly manner and based on monitoring results on customer profiles and transactions, banks are required to report suspicious financial transaction reports if the customer complies with the provisions referred to in letter B number 6. The customer whose business relationship is closed because he is not willing to complete the supporting information and documents based on the bank's assessment the transaction made is not fair or suspicious. Customers who are rejected or canceled transactions because they are not willing to complete what is requested by the bank and based on the bank's assessment the transactions made are unnatural or suspicious. Transactions that meet the suspicious criteria referred to in the law concerning money laundering.

According to Article 41 paragraph 1 and 2 of Bank Indonesia Regulation Number 11/28 / PBI / 2009 concerning the Application of Anti Money Laundering and Prevention of Terrorism Funding Programs for Commercial Banks, banks must have an information system that can identify, analyze, monitor and provide reports effectively regarding the characteristics of transactions carried out by bank customers, and banks are also required to have and maintain a customer profile in an integrated manner.

For the purposes of monitoring customer profiles and transactions as regulated by Bank Indonesia Circular Number 11/31 / DPNP concerning the Standard Guidelines for the Application of Anti Money Laundering and Prevention of Terrorism Funding Programs, banks must have an information system that can identify, analyze, monitor and provide reports effectively regarding the characteristics of transactions carried out by bank customers and the information systems that are owned must be able to enable banks to track each transaction, both for internal intelligence and or for

Indonesian banks, as well as in relation to judicial cases. The level of sophistication of the information system to identify suspicious financial transactions is adjusted to the complexity, transaction volume, and risks of the bank. Banks are required to make periodic adjustments to the parameters used to identify suspicious financial transactions.

According to Article 23 of Law on Prevention and Eradication of Money Laundering, every financial service providers are required to report financial transactions if things happen as follows:

1. Suspicious financial transactions.
2. The existence of cash financial transactions in the amount of at least Rp. 500,000,000.00 (five hundred million rupiahs) or with a foreign currency whose value is equal, whether in one transaction or several transactions within 1 (one) working day.
3. The existence of financial transactions transfer funds from within and outside the country.

Based on Article 1 paragraph 5, there are several categories called suspicious financial transactions, including:

1. Financial transactions that deviate from the profile, characteristics or habits of the transaction patterns of the service users concerned.
2. Financial transactions by service users that are reasonably suspected to be carried out with the aim of avoiding the reporting of the relevant transactions that must be carried out by the reporting party in accordance with the provisions of this law.
3. Financial transactions that are carried out or canceled are carried out using assets that are suspected to originate from the proceeds of crime.
4. The financial transactions requested by the PPATK are reported by the reporting party because they involve assets that are suspected of originating from the proceeds of crime.

Submission of suspicious financial transaction reports by financial service providers in this case banking to PPATK banking can be done in two (2) ways (PPATK, 2003: 9), namely:

a. Manual, that is by sending a hard copy of a suspicious financial transaction report in accordance with a sample suspicious financial transaction report form. The procedure for submitting suspicious financial transactions manually is done as follows:
    1. Suspicious financial transaction reports are sent in sealed envelopes with special treatment given the very high level of confidentiality.
    2. In this case, the financial service provider (in this case the banking) must use shipping or expediting services in the delivery of suspicious financial statements, then financial service providers must pay attention to things including:
        - Take actions that can prevent the possibility of misuse of information or errors that can harm financial service providers, customers, and the wider community either directly or indirectly.
        - Paying attention to security aspects in the use of facilities used in packaging reports or documents.
        - Granting power from financial service providers to shipping or expedition companies to submit reports to PPATK.
    3. Financial service providers are required to complete suspicious financial transaction reports with the required data in accordance with the prescribed format.
b. Electronically, the submission of suspicious financial transaction reports online by accessing the PPATK server using the user id or password specified by the PPATK. However, every financial service provider who will submit a suspicious financial transaction report first submits an electronic reporting application via email to helpline@ppatk.go.id.

The procedure for submitting suspicious financial transactions electronically is carried out as follows:

1. Reporting of suspicious financial transactions electronically by financial service providers is done by special treatment, given the very high level of confidentiality.
2. Financial service providers must administer with special treatment of user IDs, passwords, and addresses of suspicious financial transaction reporting servers and enforce other matters (PPATK, 2004: 13-15), including:
    a. Take actions that can prevent the possibility of misuse of the user id, password, and address of the reporting server or errors that can be detrimental to financial service providers, customers, and the wider community either directly or indirectly.
    a. Paying attention to security aspects in the use of facilities used in reporting such as user IDs, passwords, diskettes, computers, print out reports and documents in the context of reporting suspicious financial transactions.
    a. Financial service providers fill out suspicious financial transaction reporting forms with the required data in accordance with the available format.

Reporting on suspicious financial transactions is carried out no later than 3 (three) working days after being discovered by financial service providers. While financial transaction reports conducted in cash are carried out 14 (fourteen) working days from the date the transaction was made. However, the provisions of the reporting obligation are excluded from interbank transactions, transactions with the government, transactions with the central bank, payment of salaries, pensions and other transactions determined by the Head of the PPATK or at the request of financial service providers approved by PPATK.

4. CONCLUSION

The role of banking institutions to prevent and detect the flow of dirty money that tries to enter the financial system. The role of banking institutions is subject to and regulated in the provisions of Law Number 8 of 2010 concerning Prevention and Eradication of Money Laundering Crimes. The obligation of this bank must, among other things, apply the principle regarding service users or consumers and report suspicious financial transactions and cash transactions to PPATK. With the development of the modus operandi method carried out by money laundering actors, the authors have suggested that there is a need for legal awareness of all financial service providers and the public especially bank customers, both in order to comply with the provisions stipulated in Law Number 8 of 2010 concerning Prevention and Eradication Money Laundering Crime. Furthermore, in facing changes in global behavior, it is also expected that the Government will immediately consider the need to improve the Law.

5. REFERENCES

AS Mahmoedin, 1997. Analisis Kejahatan Perbankan, Cetakan Pertama, Rafflesia, Jakarta

Husein, Y., 2003. PPATK: Tugas, Wewenang dan Peranannya dalam Memberantas Tindak Pidana Pencucian Uang, Jurnal Hukum Bisnis.

Moeljatno, 2008. Asas-Asas Hukum Pidana, Rineka Cipta, Jakarta

Muhammad Yusuf, 2011. Ikhtisar Ketentuan Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang, Cetakan I, National Legal Reform Program, Jakarta.

Philips Darwin, 2012. Money Laundering, Cara memahami dengan Tepat dan Benar soal Pencucian Uang, Sinar Ilmu, Jakarta.

PPATK, 2003. Pedoman Tata Cara Pelaporan Transaksi Keuangan Mencurigakan bagi Penyedia Jasa Keuangan, Edisi ke 3, Jakarta.

_____, 2004. Pedoman Tata Cara Pelaporan Transaksi Keuangan Mencurigakan bagi Penyedia Jasa Keuangan, Edisi ke 4, Jakarta.

Soerjono Soekanto dan Sri Mamudji, 2001. Penelitian Hukum Normatif (Suatu Tinjauan Singkat), Rajawali Pers, Jakarta.

Sutedi, Adrian, 2008. Tindak Pidana Pencucian Uang, PT. Citra Aditya Bakti, Bandung

_____, 2010. Hukum Perbankan Suatu Tinjuan Pencucian Uang, Merger, Likuidasi dan Kepailitan, Sinar Grafika, Jakarta.

Waluyo, E., 2009. Upaya Memerangi Tindakan Pencucian Uang *(Money Laundering)* di Indonesia, Jurnal Dinamika Hukum.