
NOTARY'S OBLIGATIONS TO PREVENT SUSPICIOUS FINANCIAL TRANSACTIONS IN MONEY LAUNDERING CRIMES



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Abstract

Notaries don't have guidelines and guidance to prevent the occurrence of money laundering crimes that are faced with various types and characteristics of their opponents. The ambiguity of the norms in Article 16 paragraph (1) letter a of the Notary Law should be able to state the obligations of Notaries in carrying out their duties, must act in a trustworthy, honest, fair, independent, impartial manner and protect the interests of the parties involved in legal acts. This type of research is normative juridical using 3 (three) types of approaches, namely the statutory approach, the conceptual approach and the comparative approach. Based on the results of the study, it can be concluded that Notaries are required to apply the Principle of Recognizing Service Users (PMPJ) as part of implementing the principle of prudence, at least including identification of Service Users, verification of Service Users and monitoring of Service User transactions. This application applies to Notaries in providing services when preparing and conducting transactions for the benefit of or for and on behalf of Service Users, regarding the purchase and sale of property, management of money, securities, and/or other financial service products, management of checking accounts, savings accounts, deposit accounts, and/or securities accounts, operation and management of companies and/or establishment, purchase, sale of legal entities. Notaries can implement applications such as Data Banks for their parties who will create PPJB Deeds and Powers of Attorney for Sale and Purchase that are in accordance with KTP and KK, so as to minimize the occurrence of money laundering. Especially related to land, the land ownership limit must not exceed 20 hectares + 5 hectares.

Keywords: Notary's Obligation; Financial Transactions; Money Laundering

INTRODUCTION

Crime is said to be old in age but young in news. This means that crime has long been closely related to society, both ordinary crimes and crimes that are difficult to prove, in other words, both crimes that arise openly to crimes that are committed secretly. Crime can also arise from the insistence or desire of someone who consciously wants something more, such as the crime of Money Laundering, or abbreviated as TPPU. TPPU is categorized as a process where someone hides or disguises the identity or origin of funds obtained illegally so that it appears to come from a legitimate source (UNODC, 2005). The aspect of major criminality that is driven can be individual or organized.

Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes letter a explains that money laundering crimes not only threaten the stability of the economy and the integrity of the financial system but can also endanger the joints of community, national, and state life based on Pancasila and the 1945 Constitution of the Republic of Indonesia. This is evidence of a threat to the entire financial system that will cause new long-term problems. Meanwhile, institutions and even professions are very vulnerable to being used as media or distribution fields for money laundering crimes through various transaction systems.

Service Providers with the professions of advocates, notaries, land deed officials, accountants, public accountants, and financial planners are likely to be vulnerable to being used as conduits for crime, so these professions are known as "Gatekeepers" who, according to Habib Adjie S.H., M.H., are categorized as people who have special knowledge and expertise. Therefore, Gatekeepers are very important because their activities seek to return all state assets stolen by potential or suspected perpetrators of money laundering crimes (Adjie, 2014).

Any person who hides or disguises the origin, source, location, designation, transfer of rights or ownership which is actually or reasonably suspected to be the result of a criminal act as referred to in Article 2 paragraph (1) of the TPPU Law may be punished with the crime of money laundering with a maximum prison sentence of 20 (twenty) years and a maximum fine of IDR 5,000,000,000.00 (five billion rupiah). In similar activities, Notaries are directly confronted with various backgrounds of the parties. It is explained in Article 1 paragraph (1) of the Notary Law that Notaries are public officials who have the authority to make authentic deeds and have other authorities as referred to in this law, which means that it is emphasized that Notaries have the authority granted by the state.

Furthermore, Article 15 explains the authority of a Notary to make an authentic Deed regarding all acts, agreements and determinations required by statutory regulations and/or desired by the interested parties to be stated in the Deed, guaranteeing the certainty of the date of making, storage of the Deed and others as long as the making of the Deed is not transferred or excluded to another official as determined by law, Due to his involvement in various Deed making, the authority shows that the Notary becomes a witness in financial transactions involving the parties. Other things are also done, especially the Notary's responsibility to ensure and carefully check the identity of the parties and the authenticity of the documents of the parties.

If we recall the existence of Gatekeepers involving Notaries, efforts to prevent suspicious financial transactions were formed by the Financial Action Task Force or

abbreviated as FATF. FATF is a forum or intergovernmental body whose purpose is to build international cooperation in responding to types of money laundering crimes (Amrullah, 2024). The FATF's duties and functions include determining steps and policies to prevent the crime of money laundering in the form of recommendations that can help governments and countries implement effective anti-money laundering programs (Wahyuningrum, 2017).

Reporting suspicious financial transactions in an institution, if it is suspicious and there is a strong reason to be suspicious, then it is mandatory to report the suspicion (The FATF Recommendations, 2023). As a reference for Notaries to report, Government Regulation Number 43 of 2015 concerning Reporting Parties in the Prevention and Eradication of Money Laundering Crimes was formed as a reference for policies issued by the Financial Transaction Reports and Analysis Center, or abbreviated as PPATK, an independent institution tasked with breaking down and eradicating money laundering and terrorism financing crimes.

According to the FATF recommendations regarding the Reporting Party, there are several professions consisting of Advocates, financial consultants, Notaries, Land Deed Officials, and public accountants (Amrullah, 2015). It is emphasized that the Reporting Party based on the provisions of Article 3 of Government Regulation Number 43 of 2015 concerning the Reporting Party in the Prevention and Eradication of Money Laundering Crimes, states that the Reporting Party in addition to those referred to in Article 2 includes advocates, notaries, land deed officials, accountants, public accountants and financial planners.

The addition is also mentioned in Article 8 of Government Regulation of the Republic of Indonesia Number 61 of 2021 concerning Amendments to Government Regulation Number 43 of 2015 concerning Reporting Parties in the Prevention and Eradication of Money Laundering Crimes. As the Reporting Party referred to in Article 3 is required to submit or report to the PPATK that the transaction activities as carried out by categories with non-financial business and professional jobs are intended for the benefit of the Service User whose actions are reasonably suspected or strongly suspected of using assets from the proceeds of crime and are reported as suspicious financial transactions. The urgency for a Notary to study the Principles of Recognizing Service Users or abbreviated as PMPJ is very necessary and is considered quite important because it has been determined by each Supervisory Institution as an effort to prevent money laundering crimes related to suspicious transactions.

Based on Article 16 paragraph (1) letter f, in carrying out his/her obligations, a Notary must keep confidential everything regarding the Deed he/she has made and all forms of information obtained to make the Deed, following the oath/promise of office, unless the law determines otherwise. Meanwhile, based on Article 18 paragraph (3) letter b of Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes, the mandatory reporting provisions for suspicious financial transactions to be carried out by a Notary as one of the categories of the Reporting Party's profession are only set at IDR 100,000,000.00 (one hundred million rupiah). The amount/value of the transaction is still relatively small, so that, in the provisions of the law, it is actually contrary to the Notary Law if the transaction value is reported.

REVIEW OF LITERATURE

Legal Certainty Theory

Legal Certainty is a description of facts that have justice, produced through lawful means, and given to the rightful party. Anything related to law, of course, promises certainty, especially for written legal norms. If the law is without certainty, it will lose direction and meaning because of the reduced sense of trust in assessing legal behavior. Laws that are built regularly will produce certainty, will encourage people to behave fairly and orderly in community life (Rasjidi, et.al., 1993). Positive law is indeed aimed at prioritizing society, but it must also be accompanied by certainty. Benefit (*zweckmaeszigkeit*) to have an impact on society, the aim is to produce pleasure as a law provides concrete evidence of events experienced by society, for example, providing legal services (Afdhali, et.al., 2023).

Based on the explanation above, legal certainty is a picture of how the Notary profession ensures that it does not conflict with higher laws, then each other is always harmonious, but confront each other, they do not conflict and are explained. This theory of legal certainty can be used if faced with a situation to overcome legal problems and protect a job, and for the interests of the state, such as the Notary profession carries out its duties, professional authority, and obligations.

Theory of Criminal Responsibility

Criminal liability has emerged since the time of the French Revolution; at that time, not only humans could be held accountable for criminal acts, even animals or inanimate objects could be held accountable for criminal acts. A person is not only responsible for the criminal acts he has committed, but the actions of other people can also be held accountable because at that time the punishment was not only limited to the perpetrator himself, but also imposed on the perpetrator's family or friends, even though they did not commit a crime. The punishments imposed and the types of acts vary greatly due to the absolute authority of a Judge to determine the form and amount of punishment.

Criminal Liability, or in Indonesian, means criminal responsibility (*Toerekenbaarheid*) is the obligation of an individual or corporation to bear the consequences of their actions because they have committed a detrimental crime (Saleh, 2015). An act can be categorized as a crime and can be accounted for must meet the elements of *mens rea* and *actus reus*. *Mens rea*, in general, is interpreted as the bad intention of a person or corporation to commit a crime, meaning that a person consciously commits a crime. While *Actus reus*, an act resulting from *Mens rea*, refers to a physical act that violates the law in the form of active acts such as killing, stealing, and negligence, there must be a causal relationship between the perpetrator's actions.

It is not enough for someone to be convicted of an act that is against the law or is against the law. So even though the act fulfills the formulation of a crime in the law and is not justified, it does not yet fulfill the requirements for imposing a criminal sentence. For that reason, the punishment still needs to have the condition that the person who committed the act has made a mistake or is declared guilty (*subjective guilt*). Also applicable is the so-called crime without fault (*Geen straf zonder schuld*) or (*Nulla poena sine culpa*) in the broad sense, including intent.

Concept of Notary Position

A notary is a public official who is trusted to listen and provide solutions to those who appear to express their intentions and goals, then read the contents of the deed in front of the people who appear, sign the deed and carry out a series of other obligations (Dewi & Permana, 2022). One of the obligations of a notary is based on Article 16 Paragraph (1) letter f that a notary must keep confidential everything regarding the deed he has made and all information obtained, meaning that only those determined by law can a notary disclose confidential information about the contents of the deed and must be known directly by the notary (Permana et al., 2022). Thus, keeping the contents of the deed confidential has become an obligation for a notary, but a notary can exercise the right to deny if it is deemed necessary for the interests of the law, however, the right to deny is only absolute, meaning that it is only used for certain interests, used for the interests of investigation and legal interests (Permana et al., 2024).

If based on Article 66 Paragraph (1) letters a and b, for the judicial process, investigators, public prosecutors or judges must have the approval of the Notary's Honorary Council with the authority to take photocopies of the Minutes of the Deed and the letters attached to the Minutes of the Deed, the Notary Protocol in the Notary's custody, and can summon the Notary to be present at the examination of the Deed up to the Notary Protocol depending on the needs of the legal interests (Subari & Kurniawan, 2023). Based on Article 66 Paragraph (1) letters a and b, based on Article 16 letter e, Notaries provide services following the provisions in the Notary Law unless there is a reason to refuse it. If we pay attention to this research, Notaries are categorized as a profession related to the Reporting Party regarding indications of suspicious financial transactions in money laundering crimes, of course this is also stated in Government Regulation Number 43 of 2015 concerning the Reporting Party in the Prevention and Eradication of Money Laundering Crimes and, Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes.

The existence of these regulations makes Notaries entitled to use their right of denial obligation for the interests of the Government and legal interests, by excluding the obligation to keep everything confidential regarding the Deed (Hadi & Permana, 2022). And Notaries are required to reject clients or their opponents if, in this case, they suspect criminal activities in the form of suspicious financial transactions, especially money laundering, following the TPPU law, to immediately report to the PPAATK through the portal provided by the PPAATK (Siska, 2022). The right of denial instrument is the right of a Notary as one of the duties inherent in the position of a Notary. Although Notaries are given the right to explain all matters relating to the Deed when an examination is carried out, so far, not many Notaries have used this right in order not to harm the trust of those appearing before them in the Notary profession.

Concept of Money Laundering Crime

Money laundering is categorized as the most serious crime because it is one type of crime that has the potential to threaten interests, not only on a national scale but also on an international scale (Amrullah, 2024). Based on the book by M. Arief Amrullah, explained by Bambang Setijoprodjo, who quoted the opinions of Prof. Dr. M Giovanoli and Mr. J. Koers, each of them gave the opinion that money laundering (Amrullah, 2024):

1. Money Laundering is a process in which assets obtained from criminal acts are manipulated in such a way that the assets appear to come from a legitimate source.

2. Money laundering is a way of circulating the proceeds of crime into a legitimate circulation and covering up the origin of the money.

According to FATF Recommendation 12 (d), non-financial businesses and professions consisting of lawyers, notaries and other legal professions as well as accountants are prohibited from conducting transactions with their parties or clients for activities including buying and selling real estate, managing shares and other assets owned by clients, managing banks, savings and shares, arranging donations for company operations and establishing legal entity operations and arranging the buying and selling of business entities.

Government Regulation Number 43 of 2015 Concerning Reporting Parties in the Prevention and Eradication of Money Laundering Crimes. Thus, the statement of the article is put forward to qualify the Reporting Party based on Article 3 consisting of advocates, Notaries, land deed officials, accountants, public accountants, and financial planners. Meanwhile, because of its nature which is vulnerable to being exploited by perpetrators of money laundering crimes, it is therefore important to apply the Principle of Recognizing Service Users.

Service Users are individuals with activities to use certain professional services consisting of advocates, notaries, land deed officials, accountants and others for various legal purposes. One of those mentioned is a Notary, thus it is mandatory for Notaries to apply the Principle of Recognizing Service Users at least for the benefit of conducting any transaction, such as buying and selling property, managing finances, securities and/or financial service products, managing savings and other accounts, conducting company activities, establishing, purchasing and selling legal entities. This needs to be applied when conducting business relations with Service Users when carrying out legal acts, to protect the name or profession if it is suspected or strongly suspected of being suspected of suspicious financial transactions. In addition, it can also protect Notaries if there is doubt about the information reported by Service Users.

RESEARCH METHOD

The research uses a normative legal research method, meaning that the problems to be studied, discussed, and described focus on applying positive legal rules or norms. The type of normative legal research is carried out by studying various formal legal rules, such as laws, literature that is theoretical in nature, and then connected to the main problem of discussion (Marzuki, 2016). The problem approach in this study uses 3 (three) types of approaches, namely the legislative approach, the conceptual approach, and the comparative approach. The sources of legal materials for research are divided into two types, namely primary legal sources and secondary legal sources. If it has legally binding power, it is categorized as a primary legal source (primary source), while if it does not have binding power, it is categorized as a secondary data source (secondary source).

RESULTS AND DISCUSSION

Criminality is still one of the types of crime that is developing, but the legal instruments to prevent and eradicate criminality itself are still considered inadequate and far behind, so that various types of crimes, starting from those committed by individuals, groups,

or even corporations, still easily occur and result in large losses (Tubagus, 2006). The first case example, Banda Aceh High Court Decision Number 163/PID/2016/PT-BNA, Supreme Court Decision of the Republic of Indonesia Number 250 K/PID.SUS/2018. It is known that the Defendant has been conducting an illegal narcotics business from 2011 to 2015, then the Defendant committed the act of placing, paying, spending, depositing, exchanging, hiding, disguising, investing, saving, granting, bequeathing, or transferring the funds to mix legitimate assets with the proceeds of narcotics crimes. Through savings in several banks, the purchase of movable and immovable assets such as land, buildings, the Defendant asked for the assistance of a Notary to make an authentic Deed of the land assets he purchased. In this case, it is known that the Defendant owns 308 hectares of land. The garden land which should have supervision or control from authorized officials to be reported to the National Land Agency, because it is contrary to Article 7 of the Basic Agrarian Law concerning restrictions on land ownership and control, as stated in Article 2 paragraph (2) of the Government Regulation in Lieu of Law Number 56 of 1960 concerning the Determination of the Area of Agricultural Land concerning the limit of land ownership may not exceed 20 hectares.

The second case example is the Decision of the Supreme Court of the Republic of Indonesia Number 250 K/PID.SUS/2018. The defendant committed Money Laundering through the layering stage, which involved eliminating traces of the origin of the proceeds of the crime through various fund transfers to several accounts from one country to another many times, dividing the amount of funds through banking, and obscuring its origin and making transfers in the form of foreign currency. The defendant also purchased assets in the form of land and buildings. In both cases, the Principle of Recognizing Service Users in Banking for the sake of prudence should be applied because the Defendant had multiple accounts from one Bank to another Bank with the identity of a person who owns several accounts. Based on the description of the case above, the crime of money laundering is a crime that has distinctive characteristics. This crime is not a single crime but a multiple crime that can be carried out in groups and networks. This form of crime may be a continuing crime (follow-up crime), while the main crime is called a predicate offense or core crime or the state calls it an unlawful activity, namely the original crime that produces funds and then carries out the laundering process.

Criminal developments in corporations can be identified because of the occurrence of losses that are then accounted for. The question is, how is the corporation responsible? Given that in the Criminal Code, the subject of criminal law is only a natural person (*natuurlijke person*). This view adheres to the principle of *sociates delinquere non potest*, where a legal entity is considered unable to commit a crime (Rivardy, 2017). So the development of corporations as subjects of criminal acts occurred outside the Criminal Code with the issuance of special laws. The crime of money laundering was officially recognized in 2002 with the issuance of Law Number 15 of 2002 concerning the Crime of Money Laundering, as amended by Law Number 25 of 2003, as amended again by Law Number 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering.

According to Yenti Ganarsih, criminal or criminal policy is a rational effort by a country to combat crime. According to her, this policy is an integral part of efforts to protect society aimed at achieving prosperity (Ganarsih, 2019). Basically, money laundering activities consist of three steps, each of which stands alone but is often carried out together,

namely placement, layering, and integration. Placement is defined as an effort to place cash funds originating from criminal acts into a financial system called the Financial System, or an effort to place demand deposits such as bank drafts, deposits, through real estate/stocks, and convert to foreign currency in the banking system. This activity is usually followed by applying for credit, depositing funds to several Service Providers instead of paying credit for trial audits, smuggling funds to other countries, financing or buying shares as if involved in a legitimate business and buying luxury goods.

Transfer (Layering), is defined as an effort to move assets derived from criminal acts, which are successfully received by Financial Service Providers to disguise the origin of the source of funds, namely by transferring to several accounts or allocating as a result of placement. This activity makes it difficult for perpetrators to be traced or to deceive even though they have cooperated with law enforcement nationally to internationally. Using assets (Integration), is defined as an effort to use assets resulting from criminal acts with various activities through the financial and banking system that appear to come from halal activities, but are actually used to finance criminal activities.

Money laundering practices can be done by someone without having to travel abroad, for example. This can be achieved with technological advances through the cyberspace system (internet), where financing through banks electronically (cyberpayment) can be done. Likewise, a money launderer can deposit dirty money (hot money) into a bank without listing his identity. If Indonesia has Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes, Singapore also handles money laundering, regulated in the Corruption, Drugs Trafficking and Other Serious Crime Act, or abbreviated as CDSA (Rahayu, 2021). CDSA contains criminal liability by companies and liability to individuals. The State of Singapore appoints the Attorney General to prosecute money laundering crimes. Singapore has an agency that handles money laundering crimes, namely the Department of Commercial Affairs, just like the Singapore police. Officers involved in investigating types of money laundering crimes are the Narcotics Bureau and the Corrupt Practices Investigation Bureau. These institutions assist in investigations without any time limit for perpetrators of money laundering crimes to be prosecuted.

If the person commits the crime individually, he/she will be fined \$500,000 or imprisoned for 10 years or both. If the person commits the crime not as an individual, he/she will be fined not exceeding \$1,000,000. Criminal acts under the CDSA are generally carried out through the legal court process. However, after the enactment of the Criminal Justice Reform Bill, which was enacted on March 19, 2018, certain crimes related to sections 43, 44, 46, and 47 can be resolved through a deferred prosecution agreement. This is only enforced when the High Court has approved by making a statement in the interests of the court, and the requirements submitted meet the elements of fairness, proportionality, and legality. After approval, it will then be published publicly. Money laundering, based on the regulations of the Philippines, is regulated in the Republic of the Philippines Code Number 9160 on the Anti-Money Laundering Act of 2001, or abbreviated as AMLA.

The implementation of this reporting obligation is emphasized in Article 28 of Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes that the implementation of mandatory reporting carried out by the Reporting Party is exempted from the provision of keeping all information of the person facing it confidential; this applies only to the Reporting Party. Unless as long as he carries out his duties, there is

an element of abuse of authority, then the Reporting Party and its officials and employees will not be prosecuted criminally or civilly according to this Law. The Reporting Party is mentioned in Article 3 of Government Regulation Number 43 of 2015 concerning the Reporting Party in the Prevention and Eradication of Money Laundering Crimes, including advocates, notaries, land deed officials, accountants, public accountants, and financial planners. The articles listed in the regulation are addition to those mentioned in Law Number 8 of 2010. The Notary profession is a profession to serve the community, meaning that those who practice the profession live from the profession and are essentially willing to serve others (Anshori, 2009).

Based on FATF Recommendations, reporting suspicious financial transactions occurs if a financial or non-financial institution suspects or has strong reasons to suspect that the funds are the result of criminal activities, terrorism financing, then by law the institution is required to report to the financial intelligence unit (FIU). In principle, a notary only fulfills the wishes of the client/parties; therefore, what is stated in the Deed is what is desired by the client/parties. Indications of money laundering, taking advantage of opportunities for personal gain by committing crimes such as forging signatures, valuable checks, identities, and things needed by the Notary that should be conveyed by the client/parties to be stated in the Deed.

Reporting procedures outlined in the Regulation of the Head of PPATK Number 11 of 2016 Concerning Procedures for Submitting Suspicious Financial Transaction Reports for the Profession. The reporting obligation addressed to Notaries regarding the analysis of Suspicious Financial Transactions is carried out for the benefit of the Service User. The interests are regarding the purchase and sale of property, money management, financial service products, managing checking accounts, savings, deposits, securities accounts, operating companies, as well as establishing, buying, and selling legal entities. The professional reporting application, namely the Gathering Report Information Processing System or abbreviated as GIRPS, is a website-based software, which PPATK expects this application to be used to register the Reporting Party and carry out reporting obligations to PPATK. The reporting obligation by the Profession has been implemented in many countries and has a positive impact on the prevention and eradication of money laundering. In addition, the regulation of the Reporting Party and the implementation of the reporting obligation by the Reporting Parties are intended to protect them from lawsuits, both civil and criminal.

Consideration of including notaries as reporting parties in the prevention and eradication of money laundering crimes in Indonesia. Based on the research results of the Financial Transaction Reports and Analysis Center (PPATK), notaries are vulnerable to being exploited by perpetrators of money laundering crimes to hide or disguise the origin of assets resulting from money laundering crimes by hiding behind the confidentiality provisions held by notaries as public officials (Andhika, 2016). The issuance of Government Regulation Number 43 of 2015 concerning Reporting Parties in the Prevention and Eradication of Money Laundering Crimes, as Article 3 of this Government Regulation requires notaries to be reporting parties for suspected criminal acts against deeds made by or before a notary. As has been stated, the existence of a Notary is very important and vital in order to provide legal certainty for business transactions carried out by the parties, based on the authentic nature of the deeds made by the Notary as an implementation of the form of legal certainty for the parties to the transaction.

Money laundering crimes often take advantage of various transactions with parties such as Service Providers, namely Notaries. The activity of taking advantage of this requires a process and indicates the occurrence of Suspicious Financial Transactions. The perpetrators or Service Users may act through land and/or building sales and purchase activities, then use the services of a Notary as a maker of written evidence in the form of an authentic Deed and certificate. As we know, the price of land and/or buildings is currently quite high every year. As a Notary, it is not his business to know and guess the social status or origin of the source of wealth of his clients/parties just like that, so the Notary's responsibility as a form of effort to give trust to the community, especially the responsibility of reporting obligations to the state, Notaries can be responsible as witnesses, if deemed necessary for the needs of the investigation. Investigators of predicate crimes include the Indonesian National Police, the Prosecutor's Office, the Corruption Eradication Committee, the National Narcotics Agency and the Directorate General of Taxes, the Directorate General of Customs and Excise, and the Ministry of Finance of the Republic of Indonesia (Amrullah, 2024).

The obligation of Notaries to prevent and eradicate money laundering crimes must first apply the Principle of Recognizing Service Users (PMPJ). This is done because of their involvement in carrying out legal or business relations with many Service Users, who are none other than Service Users who will often make transactions. The provisions of Law Number 8 of 2010 explain Financial Transactions in rupiah and/or foreign currency with a minimum value of Rp. 100,000,000.00 (one hundred million rupiah), meaning that Service Providers can only receive funds from their work. The Principle of Recognizing Service Users must at least identify Service Users, verify Service Users, and monitor transactions carried out by Service Users (Amrullah, 2024). The concept of prevention and eradication can start by focusing on socialization in the form of economic and social, and providing limitations on crime prevention as an action whose purpose is specifically to reduce the scope of criminal acts through efforts that influence the community, which emotionally and potentially can become one of the perpetrators of criminal acts.

Based on the provisions of Article 2 of the Regulation of the Minister of Law and Human Rights Number 9 of 2017 concerning the Principles of Recognizing Notary Service Users, it is stated that notaries are required to apply the principle of recognizing Service Users which at least includes identification of Service Users, verification of Service Users and monitoring of Service User Transactions. This application applies to notaries in providing services in the form of preparing and conducting transactions for the benefit of or for and on behalf of Service Users, regarding the purchase and sale of property, management of money, securities, and/or other financial service products, management of checking accounts, savings accounts, deposit accounts, and/or securities accounts, operation and management of companies; and/or establishment, purchase, and sale of legal entities. When conducting business relations with service users, Notaries are required to understand the profile, intent, and purpose of the business relationship, and transactions carried out by Service Users and Beneficial Owners through identification and verification (Rahma, 2018).

Based on the implementation of this regulation, Notaries are required to have policies and procedures to manage and mitigate the risks of money laundering and/or terrorism financing identified in accordance with the risk assessment and also conduct risk assessments and group Service Users based on the level of risk of money laundering and terrorism financing based on analysis of profiles, businesses, countries and products. indicators of

notary prudence for customers in financial transactions to prevent money laundering include identifying the identity of the person appearing, carefully verifying the data of the subject and object of the person appearing, giving a grace period in the processing of deeds, acting carefully, carefully and precisely in the process of processing deeds, fulfilling all technical requirements for making deeds and reporting if there is an indication of money laundering in transactions at the notary, forms of prudence principles like this should be mandatory for notaries to implement so that later notaries can prevent legal problems from arising regarding authentic deeds they make in the future (Malela, 2019).

If the customer is suspected and/or strongly suspected of being involved in a Suspicious Financial Transaction, the party will be able to immediately report to the PPATK as the Financial Intelligence Unit (Yustiavandana, 2010). After the transaction is indicated and strongly suspected to be categorized as a Suspicious Financial Transaction, the PPATK must report to the authorities for investigation. It is expected that the authorities will immediately take the necessary actions to stop the spread of money laundering. Accountability is an action that is responsible for the consequences of actions and attitudes that are risky or have consequences arising from an incident. Notaries can be held criminally responsible based on demands and violations of the law. From the beginning, the Notary is faced with the parties to the legal relationship; the Notary can only record facts or information submitted by the parties, without adding any opinions. Notaries are experts and careful in creating legal certainty, as well as legal protection for the community from the Deeds and agreements they make.

Notarial Deed, called an authentic Deed, made before a Notary according to the form and procedures stipulated by the Notary Law. Notarial Deed is the most perfect evidence to be accounted for as testimony before the Court, if there is doubt about its credibility (PP INI, 2008). Implementing compliance with positive legal norms and the Notary Code of Ethics, it has become a Notary's need so that his services become the trust of the community, then his signature, and all his stamps will provide legal guarantees and evidence of testimony. As a Notary, he will also not take sides, and will remain a legal advisor to provide solutions to Service Users making Deeds and other agreements, this is to protect the profession he is currently pursuing (Lubis, 2020).

The position of a witness carried out by a Notary to fulfill the requirements is determined based on Article 38 paragraph (4) letter c of the Notary Law and Article 40 paragraph (1). "A Notarial Deed is said to be complete if all formal requirements are met so that the Notarial Deed has perfect evidentiary value and the existence of witnesses to the deed in the Notarial Deed can be legally accounted for". Based on this, the power of the Notary's witness responsibility is limited only to the formality of the Deed. However, the contents of the Deed are the responsibility that is mandatory for the Notary to keep all information regarding the Deed confidential, so as not to reduce the Notary's credibility as a public official. Only the Notary understands what is stated in the authentic Deed of the parties (Lubis, 2020).

The application of the principle regarding Service Users (PMPJ) for Notaries is considered very necessary to anticipate the occurrence of Suspicious Financial Transactions in money laundering crimes. Legal protection for Notaries in implementing the principle of recognizing Service Users is by acting as Gatekeepers to become the vanguard in eradicating money laundering crimes. The reporting obligation by Notaries will be exempted from the

confidentiality provisions applicable to the Reporting Party concerned. Article 16, paragraph (1), letter f of the Notary Law actually provides a loophole for other regulations to require Notaries to be reporters, but this becomes an overlap that provides unclear relevant laws for Notaries in acting based on their duties and authorities. In the Law regulating Notaries, criminal sanctions are not mentioned in substance, only civil and administrative sanctions.

The right of denial held by a Notary based on the provisions of Article 16 paragraph (1) letter e and Article 44 paragraph (2) of the Notary Law, can only be exercised if the law excludes the provision of information with the involvement of the Notary in preventing and eradicating the crime of money laundering based on Government Regulation Number 43 of 2015 concerning the Reporting Party in the Prevention and Eradication of the Crime of Money Laundering, According to PPATK, this category is a Gatekeeper to identify perpetrators of Suspicious Financial Transactions who hide or disguise the origin of Assets resulting from criminal acts, by utilizing the provisions of Notaries to keep confidential information about the parties in the Deed.

Implementation of Government Regulation Number 43 of 2015, which states that Notaries are Reporting Parties, is not easy to implement. Although the category of indications of Suspicious Financial Transactions in money laundering crimes has been explained, Notaries must carry out their obligations based on the provisions of Law Number 8 of 2010. According to Habib Adjie, Notaries are a position of trust that should be in line with those who carry out the duties of a Notary. As a Notary, it is not okay if the position they hold is no longer trusted by the public (Adjie, 2009). It has also been explained that in addition to prioritizing the interests of the public, Notaries must also prioritize the interests of the state. The obligation to submit a report of Suspicious Financial Transactions is carried out only as an order. Therefore, Notaries have guaranteed legal protection as Reporting Parties and in court to later become witnesses. Although there are obstacles, Notaries are at risk of being accused of defamation and becoming subjective views if the reported party is not proven to have committed a crime, but because they are classified as Gatekeepers, Notaries have legal protection supported by the government to regulate this interest. Notaries can report clients who are considered suspicious when dealing with other Notaries. Provisions regarding reporting include the form, type, and procedures for submitting reports for reporting parties as referred to in Article 3.

The Reporting Party must register through the GIRPS application on the page <https://grips2.ppatk.go.id>. This is certainly an effort to provide preventive protection, especially for Notaries who are one of the Reporting Parties, so that in the event of a crime, Notaries can be held criminally responsible in court (Rosdiana, 2022). This Government Regulation is an implementation of the provisions of Article 17 paragraph (2) of Law Number 8 of 2010, but the regulation on this matter should be directly stated in the TPPU law, not only in the form of a derivative in the form of Government Regulation Number 43 of 2015. Submission of reports on suspicious financial transactions can be done in two ways, namely electronically and non-electronically. Meanwhile, reporting that can be done electronically can be done by sending a report through the Reporting Application to a telecommunications network that is directed directly to the PPATK database. A Notary is seen as a figure whose statements can be relied on and trusted, whose signature and seal (stamp) provide a guarantee and strong evidence in the deeds he makes. As long as a Notary implements the provisions consistently, the Notary will be able to guarantee the implementation of precautionary

measures for themselves as a public official. In this regard, PPATK has issued PPATK Regulation Number 3 of 2021 concerning Procedures for Submitting Suspicious Financial Reports Through the GoAML Application.

Notaries are not only vulnerable to corruption and terrorism, but they are also vulnerable to money laundering. At the time of the revision of Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering, there was an opinion stating the obligation of Notaries to report transactions that were considered suspicious or unusual from their clients. However, at that time, the Indonesian Notary Association organization, called INI, did not agree with this opinion. Notaries as one of the Reporting Parties are based on recommendations issued by the Financial Action Task Force (FATF), namely Recommendations 23, Recommendations 26, Recommendations 27 and Recommendations 28 which state that certain professions that carry out Suspicious Financial Transactions for the benefit of or for and on behalf of Service Users are required to report the Transactions to the Financial Intelligence Unit (in this case PPATK). The reporting obligation by the profession has been implemented in many countries and has had a positive impact on the prevention and eradication of money laundering. In addition, the regulation of the Reporting Parties and the implementation of reporting obligations by the Reporting Parties are intended to protect them from legal claims, both civil and criminal.

CONCLUSION

Notaries are required to implement the principle of recognizing Service Users (PMPJ) as a form of protection and analyze parts of the precautionary principle that at least contain identification of Service Users, verification of Service Users, and monitoring of Service User Transactions. This application applies to Notaries as Service Providers to be able to distinguish transactions for the benefit of or for and on behalf of Service Users, both for the purchase and sale of property, management of money, securities, and/or other financial service products, management of checking accounts, savings accounts, deposit accounts, and/or securities accounts, operation and management of companies and/or establishment, purchase, and sale of legal entities. The involvement of Notaries with Financial Service Providers, namely national banks, banks can also help identify by determining the purchase and sale of land and buildings with complete identity such as KTP, Family Card and other identities that support the fulfillment of the terms and conditions and determine the limit of land and building ownership must not exceed 20 hectares or 5 hectares.

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