

Money Laundering and Organized Crime and Impact On The Economic and Business Sector (Including in Pharmaceutical Sector)

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Abstract

The purpose of this article is to analyze various facts and legal basis relating to money laundering (TPPU) in the form of organized crime. In this study, using a normative juridical approach, through a statute approach, a comparative legal approach supported by primary legal material in the form of applicable laws and regulations and other secondary material in the form of 10 articles relevant to the issue of money laundering. One of the facts from previous research shows that in Indonesia arrangements related to money laundering are regulated in Law no. 8 of 2010 concerning Prevention and Eradication of Money Laundering Crimes. Various crimes, both committed by individuals and by corporations within the boundaries of a country or across the borders of other countries, are increasing. These crimes include white collar crimes. The crime has involved or resulted in a very large amount of wealth. In addition, ML is an act of disguising and/or obscuring the origins of money from the proceeds of crime to make it appear as if it is halal money by including the money in the halal business system. Of the many modes used in this ML, there are several factors that actually make this ML a safe choice for criminals to justify their money.

Keywords: Money laundering, juridical approach, organized crime.

INTRODUCTION

The term money laundering has been known since 1930 in the United States, when Al Capone, the greatest criminal in America in the past, laundered black money from his criminal efforts by using Meyer Lansky, a Polansia person, an accountant, laundering Al Capone's crime money through laundry. Money laundering can popularly be explained as the activity of moving, using or committing other acts on the proceeds of criminal acts that are often committed by organized crime or individuals who commit acts of corruption, narcotics trafficking and other criminal acts, (Rahayu et al., 2021).

Previous research presented the facts at subsequent UN conferences on The Crime Prevention and the Treatment of Offenders, successively in 1975 held in Geneva, approving a Declaration on the Protection of All

Persons from Torture and laid the basis for a code of ethics for law enforcement officials. In 1980 it was held in Caracas discussing crime trends and prevention strategies, juvenile justice, crime and the abuse of power and the treatment of prisoners. In 1985 it was held in Milan, agreeing on the Milan Plan of Action calling on the international community to address socio-economic factors relevant to the commission of crime. The 1990s were held in Havana, discussing issues about the theft of archaeological treasures, the dumping of hazardous wastes in oceans, drug trafficking and the link between drug abuse and the rise of AIDS among prisoners. In 1995 it was held in Cairo, discussing measures to combat transnational crime, terrorism and violence against women; conducted an unprecedented debate on corruption of public officials, led by a panel of experts. Finally, it was held in Vienna from 10 to 17 April 2000, with the theme Crime and Justice, meeting the Challenges of the 21st century. Even in the 5th UN Congress on the Prevention of Crime and the Treatment of Offenders held in Geneva from 1 to 12 September 1975 it has focused talks on crime as business at the national and transnational levels which include organized crime, white-

collar crime and corruption. Crime as business is recognized as a serious threat to society and the national economy compared to traditional forms of crime, (Amrullah, 2003).

Another research by (Suparman, 2019), shows the fact that of the various types of money laundering crimes are the most dominant types of crimes or criminal acts carried out mainly through the financial system. In the 2003 International Narcotics Control Strategic Report (INCSR) issued by the United States Department of State, as quoted by Yunus Husein, it was explained that the more developed a country's economy and financial system are, the more attractive it is for criminals to commit their crimes. And the most common crime committed through financial system services in a country is money laundering. The use of financial institutions in money laundering crimes can be in the form of investing and transferring money from the proceeds of criminal acts such as money from corruption, bribery, fraud, crimes in the banking, capital market and others into the form of deposits, purchases of traveler cheques, stocks, bonds, mutual funds and other financial instruments (Sihombing et al., 2022). The increase in money laundering crimes by utilizing the financial system to hide or obscure the origin of funds from further criminal prosecutions will have a negative impact on people's lives, especially in the economic and business sectors. Meanwhile, according to Associated Press, money laundering activities resulting from drug trafficking, prostitution, corruption and other crimes are mostly processed through banks to be converted into legal funds and it is estimated that these activities are able to absorb a value of USD 600 billion per year. This means equal to 5% of GDP worldwide, (Tanya & Gesi, 2017).

Another fact shows that in Indonesia the problem of money laundering is now a major concern in relation to banking institutions, considering that money laundering crimes have reached 2-5%. Therefore, the government has tried to establish a money laundering law (Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering), which is an anticipatory step against public pressure for money laundering crimes, (Tanya & Gesi, 2017).

LITERATURE REVIEW

Money laundering is the act of processing the proceeds of a criminal act to disguise the origin of illegal acts, and turn profits from illegal activities and corruption into ostensibly legal assets. In the context of law enforcement, the term money laundering is not a simple concept, but rather very complicated because the problem is so complex that it is quite difficult to formulate its legal details (criminalization) objectively and effectively. This is reflected in the limitations of understanding which are quite numerous and varied. The relatively unequal (different) boundaries of understanding (definitions) also exist in countries that both have anti-money laundering provisions (Laws). Likewise among competent international institutions and organizations in the field of prevention and eradication of money laundering crimes, (Rahayu et al., 2021). According to Amrullah, (2003), Money laundering is a type of crime that is worldwide and is a part of organized crime. The emergence of this type of crime, is inseparable from the development of society itself. It is therefore natural that there is such a phrase: evil is old in age, but young in the news. That is, from the past until now people have always talked about crimes, ranging from simple (ordinary crimes) to crimes that are difficult to prove, or ranging from crimes committed overtly (rudely) to crimes committed secretly or secretly.

Money laundering is categorized as a crime with international dimensions. This is because this type of crime usually also involves the international financial system so that it is referred to as transnational crime. Due to the magnitude of the negative impact that TOC can have on a country's economy, it has encouraged countries in the world and international organizations to prevent and eradicate Money Laundering. This is because the border area surveillance management system also plays a role in successfully tackling the problem of cross-border crime through a comprehensive and integrative approach, (Fitriyanti, 2014; Rahayu et al., 2021).

The development of money laundering transactions is supported by the existence of financial facilities in the banking world, such as special account number services or nostro accounts provided by Swiss banks since the 1930s. This service identifies the customer with the password number used for the transaction so that the bank does not know who the customer and the counterparty are. Some banks in offshore areas also provide money transfer facilities between countries, fund management and asset protection that facilitate money laundering activities, (Kurniawan, 2017; Naheem, 2016).

At this time, more than ever, money laundering is already a world phenomenon and an international challenge. This money laundering activity has become a transnational crime because the process is not only carried out within a country but has crossed national boundaries (crossborders). Criminals try to hide as far as possible from the source so that they are not easily traced by the law enforcement of the country concerned. Although the criminal act of money laundering has developed in such a way,

until now there is no or no universal and comprehensive definition of what is meant by money laundering, (Kurniawan, 2017; Raihan & Sulistiowati, 2021).

Problems related to money laundering are not only an international threat but also a national problem. Indonesia itself has not escaped from these problems and is still an unresolved national problem. Step by step the government continues to carry out by promulgating Law Number 15 of 2002 which was refined into Law Number 25 of 2003 and is currently amended into Law Number 8 of 2010 for the Prevention and Eradication of Money Laundering Crimes. The establishment of the Money Laundering Law is a form of commitment and political will of the Indonesian state to combat the problem of money laundering. From this problem, the things that need to be studied and researched are about the development of Money Laundering in the era of globalization and how the regulation on Money Laundering in Indonesia, Singapore, and the Philippines compares, (Jaya, 2019; Kurniawan, 2017; Rahayu et al., 2021).

RESEARCH METHOD

This research uses a normative juridical approach, through a statute approach, a comparative legal approach supported by primary legal materials in the form of applicable laws and regulations and other secondary materials in the form of articles relevant to the issue of money laundering raised in this scientific article.

RESULT AND DISCUSSION

In Indonesia, regulations related to Money Laundry are regulated in Law No. 8 of 2010 concerning the Prevention and Eradication of Money Laundering. Various crimes, both committed by individuals and by corporations within the territorial boundaries of a country and committed across the territorial boundaries of other countries are increasing. These crimes include corruption, bribery, narcotics, psychotropics, labor smuggling, migrant smuggling, trafficking in persons, illicit arms trafficking, terrorism, kidnapping, theft, embezzlement, fraud, counterfeiting of money, and gambling, as well as various white collar crimes. These crimes have involved or produced enormous amounts of wealth, (Rahayu et al., 2021).

In the TPPU Law, the proceeds of criminal acts are wealth obtained from criminal acts: corruption, bribery, narcotics, psychotropics, labor smuggling, migrant smuggling, in banking, in the field of capital markets, in the field of insurance, customs, excise, trafficking in persons, illicit arms trafficking, terrorism, kidnapping, theft, embezzlement, fraud, counterfeiting of money, gambling, prostitution, taxation, in the field of forestry, in the field of environment, in the marine and fisheries sector, or other criminal acts that are threatened with imprisonment of 4 (four) years or more, which are committed in the territory of the Unitary State of the Republic of Indonesia or outside the territory of the Unitary State of the Republic of Indonesia and such crimes are also criminal acts according to Indonesian law, (Rahayu et al., 2021).

TPPU is an act to disguise and/or disburse the origin of money from the proceeds of crime into as if it were halal money with the inclusion of the money into the halal business system. Of the many modes carried out in this TPPU, there are several factors that actually make this TPPU a safe choice for criminals to justify their money, namely: Technological advances; What drives money laundering activities the most is technology in the field of information, namely with the advent of the internet and which shows remarkable progress. With the advancement of information technology, the borders of the country become meaningless, and the world becomes a whole without borders (Cavaliere et al., 2021). As a result, organized crime organized by crime organizations becomes easy to carry out across national borders. At this time organizations easily and quickly moved huge amounts of money from one jurisdiction to another. For example, Automatic Teller Machines (ATMs) allow criminals to move funds to accounts in the United States from other countries and almost instantly without knowing who the culprit is can withdraw the funds from ATMs around the world, (Suparman, 2019).

In addition to the act of transferring money using transactions between accounts, if viewed from the Comparison of Laws, then judging from the actual foreign legal elements in a legal matter can be explored and its application is carried out in Indonesia, our country can model what is done by the IRC, then it is natural that related parties such as the OJK are not obliged to know the possibility of money laundering crimes by using Binance Coin as money in every transaction payments, but OJK has seen the Binance Coin digital currency from another point of view, namely by issuing regulations related to things Binance Coin

digital currency as an asset, not just a medium of exchange that can be taxed. Rules from abroad can certainly be used as an example of a comparative study of law that will become a regulation in Indonesia. therefore, every exchange related to the sale of digital currencies must use rules related to the Know Your Customer (KYC) Principle, which can be taken from Bank Indonesia Regulation Number 3/10/PBI/2001 related to the Application of Know Your Customer Principles, (Estikomah, 2020; Pramudiya, 2021).

CONCLUSION

One form of crime that is very disturbing to various countries today is money laundering. Money laundering is the act of processing the proceeds of a criminal act to disguise the origin of illegal acts, and turn profits from illegal activities and corruption into ostensibly legal assets. In the context of law enforcement, the term money laundering is not a simple concept, but rather very complicated because the problem is so complex that it is quite difficult to formulate its legal details (criminalization) objectively and effectively. This is reflected in the limitations of understanding which are quite numerous and varied. The relatively unequal (different) boundaries of understanding (definitions) also exist in countries that both have anti-money laundering provisions (Laws). Likewise among competent international institutions and organizations in the field of prevention and eradication of money laundering crimes, (Rahayu et al., 2021).

In addition, the impact of money laundering on the economic and business sector is mentioned, TPPU which has become a transnational organised crime is carried out transnational crimes / between countries because it involves various non-criminal practices, both predicate crimes in the form of narcotics trafficking, corruption, illegal arms trafficking, human trafficking, illegal fishing, illegal mining, illegal logging and others, as well as the TPPU itself in various forms TPPU through placement, layering and integration of funds generated from these crimes, makes international cooperation in the prevention and eradication of TPPU a necessity, (Suparman, 2019).

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