

Understanding the Crime of Money Laundering in the Concept of Criminal Law in Indonesia

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Article Info

Received:2022-10-10

Revised:2023-03-09

Accepted:2023-06-20

Keywords:

Money Laundering;

Modus Operandi;

Economic Law;

Criminal Law.

Abstract

Nowadays, the patterns and behaviors of Money Laundering constitute efforts to conceal or disguise the origin of money or wealth resulting from criminal activities through various financial transactions, making the money or wealth appear as if it comes from legal activities. Several common or frequent actions are taken in the process of committing money laundering to "cleanse" the proceeds of crime. Firstly, the money generated from criminal activities is transformed into a form that arouses little or no suspicion through placement into the financial system using various methods. The second step involves engaging in complex, layered, and anonymous financial transactions with the aim of separating the proceeds of crime from their source into various accounts, making it difficult to trace the origin of the funds, essentially hiding or disguising the origin of the wealth resulting from criminal activities (layering). The final step is where the perpetrator reintroduces the funds that have been obscured in their origin into legitimate wealth, whether to be enjoyed directly, invested in various forms of material or financial wealth, used to finance legitimate business activities, or to fund further criminal activities (integration).

1. Introduction

The economic life between one country and another is becoming increasingly interdependent, making legal provisions in the field of international trade and transnational business more necessary. Corporate crimes, which are becoming more sophisticated in both form and nature, as well as their modus operandi, often transcend national boundaries (transborder crime) and are also frequently influenced by other countries due to the era of globalization.

Money laundering is a crime that has a distinctive characteristic, namely, it is not a singular offense but a dual crime. This crime is marked by the fact that money laundering takes the form of a follow-up crime or a subsequent offense, while its main crime or original offense is referred to as a predicate offense or core crime, or in some countries, it is formulated as an unlawful activity – the original crime that generates money that is then subjected to the money laundering process.¹

Money laundering is an act intended to conceal or disguise the origin of money/funds or wealth resulting from criminal activities through various financial transactions, making the money or wealth appear as if it comes from legitimate/legal activities. This practice originated in America in the 1930s when crime syndicates purchased laundry businesses as a means to launder money from their criminal proceeds. It is from this context that the term "money laundering" developed.² Previously, in the 1900s, Alphonso Capone, better known as Al Capone, the notorious criminal of America's past, laundered illicit money from his criminal activities using the genius Meyer Lansky, a Polish individual. Lansky, an accountant, laundered the criminal proceeds of Al Capone through a laundry business. This is how the term "Money Laundering" originated³.

Such developments undeniably bring very positive impacts on the quality of financial services, providing greater security, convenience, transaction speed, and flexibility for the public. However, it also leads to unfavorable consequences, with an increased risk in various business activities. Similar sentiments were expressed by Yunus Husein, stating that the advancement of sophisticated technology is like a "double-edged sword." On one hand, it offers extraordinary benefits to the quality of financial services, but on the other hand, it elevates risks due to the growing variety of financial instruments/products, attracting criminals to exploit financial institutions as both means and targets for their criminal activities. In various cases, money laundering crimes are predominantly carried out through the financial system. The more advanced a country's financial system becomes, the more appealing it becomes for criminals to engage in illicit activities.⁴

The advancement of knowledge and technology is directly proportional to the evolution of criminal practices and forms of crime, such as the growth of

¹ Andi Marlina, Imron Rizki A, and Safri Salam, 'Penegakan Hukum Terhadap Tindak Pidana Pencucian Uang Oleh Jasa Umrah Abu Tours', *DELICTUM: Jurnal Hukum Pidana Dan Hukum Pidana Islam*, Mei (2023).

² Ali Geno Berutu, 'Tindak Pidana Kejahatan Pencucian Uang (Money Laundering) Dalam Pandangan KUHP Dan Hukum Pidana Islam', *Tawazun: Journal of Sharia Economic Law*, 2.1 (2019), 1–18.

³ Richan Simanjuntak, 'Aspek Histori Dan Perkembangan Undang-Undang Tentang Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang', *JIMPS: Jurnal Ilmiah Mahasiswa Pendidikan Sejarah*, 8.4 (2023), 5429–47 <<https://doi.org/https://doi.org/10.24815/jimps.v8i4.27376>>.

⁴ Budi Bahreisy, 'Implementasi Undang-Undang Tindak Pidana Pencucian Uang Terhadap Kerugian Negara Dari Tindak Pidana Korupsi', *Jurnal Legislasi Indonesia*, 15.2 (2018), 103–15 <<https://doi.org/https://doi.org/10.54629/jli.v15i2.63>>.

Money Laundering (TPPU) in line with developments in the business world supported by technological advancements, as described in the paragraph above, as a white-collar crime. Money Laundering, as one of the criminal activities utilizing business activities that currently have broad coverage, is becoming increasingly complex, crossing jurisdictional boundaries, and using more varied *modus operandi*. It exploits institutions outside the financial system and has even penetrated various sectors, causing significant negative impacts on the lives of the community, especially in the economic and business sectors.

Although at a glance, Money Laundering may seem like a crime without a direct victim, unlike other crimes such as murder, theft, embezzlement, fraud, narcotics, and other criminal activities that leave tangible victims, it, however, has substantial impacts on the economic and business sectors. Despite this, Money Laundering, in turn, significantly affects the economic and business sectors, bringing about significant negative consequences.⁵

The development of technology has driven the increase of various crimes, both committed by individuals and corporations, within the boundaries of a country and across international borders. These crimes include corruption, bribery, smuggling of goods, human trafficking, immigrant smuggling, banking crimes, drug and psychotropic substance trafficking, human and child trafficking, illegal arms trade, kidnapping, terrorism, theft, embezzlement, fraud, and various white-collar crimes.⁶

Money laundering is an attempt to conceal the origin of wealth acquired through criminal activities by various means and introducing it into the financial system to make the ill-gotten wealth appear legal. Therefore, to ensure that the gains from criminal activities can be utilized within a legal financial system and to maintain the reputation or social status of an individual or a group, perpetrators engage in money laundering.

According to Munir Fuady, the activity of Money Laundering is universally classified as a White Collar Crime. In cases of Money Laundering, the process of legitimizing money is carried out clearly through illegal means. Money laundering, as described by Sarah N. Welling, starts with illicit or dirty money obtained through tax evasion and the acquisition of wealth by violating the law.⁷

Several types of Money Laundering crimes in a criminal act employ the principle of *ultimum remedium*, as *ultimum remedium* is the last resort that must be taken in the judicial process of Money Laundering crimes. Because the

⁵ Yonathan Sebastian Laowo, 'Kajian Hukum Tindak Pidana Pencucian Uang (Money Loundring)', *Jurnal Panah Keadilan*, 1.1 (2022), 70–87.

⁶ Muhamad Chaidar and Arief Syahrul Alam, 'Urgensi Penerapan Tindak Pidana Pencucian Uang Terhadap Pelaku Pencurian', *Wijaya Putra Law Review*, 2.1 (2023), 61–76 <<https://doi.org/10.38156/wplr.v2i1.90>>.

⁷ Mohamad Nasichin and Nanda Putri Nofita, 'Pertanggungjawaban Pidana Korporasi Dalam Tindak Pidana Pencucian Uang', *Jurnal Pro Hukum : Jurnal Penelitian Bidang Hukum Universitas Gresik*, 10.1 (2021), 36–45 <<https://doi.org/10.55129/jph.v10i1.1434>>.

ultimum remedium principle in Money Laundering crimes serves as the determinant of criminal sanctions in the law for a criminal action, as law enforcement or Law No. 8 of 2010 is no longer in harmony.

The process of Money Laundering crimes using the ultimate tool, or the ultimum remedium principle, to enforce Criminal Law and determine sanctions in the law for specific actions must be carried out carefully. If law enforcement tools or other sanctions are no longer in harmony, the ultimum remedium principle is applied for Money Laundering crimes.⁸

The ultimum remedium principle is a last resort taken in the judicial process. The application of the ultimum remedium principle in Money Laundering crimes is because this principle in criminal law serves as the ultimate tool for upholding the law. It is important to note that criminal law is the ultimum remedium, considering the provisions in formulating criminal threats, the establishment of laws, in addition to questioning whether other legal aspects have provided sufficient protection for the relevant interests, and whether criminal sanctions are indeed necessary for such matters.

The ultimum remedium principle also serves as a determinant of criminal actions in the law for specific actions, which must be carried out carefully, as law enforcement tools or other sanctions are no longer in harmony or are not applicable. Types of criminal actions viewed through the ultimum remedium principle can include violations related to:

1. Civil law norms.
2. Constitutional law.
3. Administrative law.
4. Religious law.
5. Customary law or customary practices.⁹

The ultimum remedium principle is applied in Money Laundering crimes due to certain limitations in an action that violates legal norms, where there is no need for criminal provisions. However, if the violation exceeds a certain limit, then the ultimum remedium principle needs to be applied for Money Laundering crimes.

Furthermore, the scope of the criminal law, whether concerning money laundering or criminal law in general, can apply to anyone committing Money Laundering crimes. This can be seen and regulated in Article 2 of the Criminal Code (KUHP), which discusses criminal provisions in legislation related to Money Laundering crimes in Indonesia, applicable to anyone committing Money Laundering crimes within the territory of the Republic of Indonesia. Thus,

⁸ Iriansyah, Irfansyah, and Rezmia Febrina, 'Kewenangan Pusat Penelitian Dan Analisis Transaksi Keuangan (PPATK) Dalam Menerobos Rahasia Bank Berdasarkan Undang-Undang Nomor 8 Tahun 2010 Tentang Tindak Pidana Pencucian Uang', *Jurnal Hukum Respublica*, 20.2 (2021) <<https://doi.org/10.31849/respublica.v20i2.7226>>.

⁹ Mas Putra Zenno, 'Penerapan Prinsip Ultimum Remedium Dalam Tindak Pidana Korupsi', *Jurnal Yudisial*, 10.3 (2017), 257 <<https://doi.org/10.29123/jy.v10i3.266>>.

criminal provisions in Indonesia apply to all Indonesian residents, including both Indonesian citizens and foreigners residing in Indonesia.¹⁰

In general, perpetrators of criminal acts attempt to conceal or disguise the origin of wealth resulting from criminal activities in various ways to make it difficult for law enforcement authorities to trace the ill-gotten wealth. This allows them to freely utilize the wealth for both legal and illegal activities. Therefore, Money Laundering (TPPU) not only threatens the stability and integrity of the economic and financial systems but also poses a danger to the foundations of societal, national, and state life based on Pancasila and the Constitution of the Republic of Indonesia of 1945.¹¹

Given the significant losses caused by money laundering practices, efforts to prevent money laundering have been undertaken by various countries. The war against money laundering activities by criminal organizations and individuals not associated with criminal organizations has reached a much more serious level than 15 years ago. The first international cooperation body is The Financial Action Task Force on Money Laundering (FATF), established at the G7 Summit in France in July 1989. It addresses the expansion of Reporting Parties, including gem and jewelry merchants, precious metal dealers, and motor vehicle dealers.

In Indonesia, efforts to prevent money laundering have led to the issuance of several regulations aimed at curbing the proliferation of money laundering crimes in the country. These include Law Number 15 of 2002 on Money Laundering Crimes, Law Number 25 of 2003 concerning Amendments to Law Number 15 of 2002 on Money Laundering Crimes, and Law Number 8 of 2010 on the Prevention and Eradication of Money Laundering Crimes.¹²

2. Research Method

The methodology in research is an essential element, as emphasized by Soekanto: "Methodology is an absolute necessity in research and the development of knowledge." Ibrahim also highlighted two crucial aspects before conducting scientific research: first, mastering the fundamentals of the field to be studied, and second, understanding the methodology of the scientific discipline to be investigated. This type of research, according to Marzuki, is termed

¹⁰ Nur Ainiyah Rahmawati, 'Hukum Pidana Indonesia: Ultimum Remedium Atau Primum Remedium', *Recidive*, 2.1 (2013), 39–44 <<https://doi.org/https://doi.org/10.20961/recidive.v2i1.32002>>.

¹¹ Diva Yohana Margaretha Marbun and others, 'Penerapan Sistem Anti Pencucian Uang Dalam Penanganan Perkara Tindak Pidana Pembalakan Liar', *Jurnal Poros Hukum Padjadjaran*, 4.2 (2023), 197–220 <<https://doi.org/https://doi.org/10.23920/jphp.v4i2.1226>>.

¹² Mariano Adhyka Susetyo and Supanto Supanto, 'Perampasan Aset Tindak Pidana Pencucian Uang Hasil Korupsi', *Recidive*, 12.1 (2023), 80–89.

normative juridical research.¹³ The author employs two approaches: firstly, the statutory approach, which involves examining laws and regulations related to the legal issues under consideration. Secondly, the conceptual approach, which utilizes perspectives and doctrines within the field of law that shape the understanding of legal science, legal concepts, and legal principles. To analyze the research problem formulation, legal materials are required, both in the form of primary legal materials and secondary legal materials. Primary legal materials are authoritative and possess authority, consisting of legislation, legislative drafting reports, and judicial decisions. Meanwhile, secondary legal materials encompass all publications on law that are not official documents, such as textbooks, legal journals, and commentaries on judgments. The secondary legal materials for this research consist of law books, journals related to the research problem.¹⁴

3. Results and Discussion

Money Laundering Modus Operandi from the Perspective of Economic Law

As outlined at the beginning, Money Laundering (TPPU) is an action aimed at concealing and/or obscuring the origin of money obtained from criminal activities to make it appear as if the money is legitimate by integrating it into the lawful business system. Among the many methods employed in Money Laundering, there are several factors that make it a safe choice for criminals to legitimize their money, namely:

1. Technological advancements: The most significant driver of money laundering activities is technology in the field of information, particularly the emergence of the internet, showcasing remarkable progress. The progress in information technology renders national borders virtually insignificant, creating a borderless world. Consequently, organized crimes orchestrated by criminal organizations become easily executed across international borders. In the present era, criminal organizations can swiftly and effortlessly transfer substantial amounts of money from one jurisdiction to another. For instance, Automatic Teller Machines (ATMs) enable criminals to transfer funds to accounts in the United States from other countries almost instantly and without revealing the perpetrator, allowing them to withdraw the funds from ATMs worldwide.¹⁵

¹³ Ani Purwati, *Metode Penelitian Hukum: Teori Dan Praktek* (Surabaya: CV. Jakad Media Publishing, 2020).

¹⁴ Peter Mahmud Marzuki, *Penelitian Hukum: Edisi Revisi* (Jakarta: Prenada Media, 2017).

¹⁵ Fadhil Raihan and Nurnita Sulistiowati, 'Kebebasan Pencucian Uang Dipengaruhi Oleh Keahlian Pidana Menguasai : Placement, Layering, Dan Integration (Suatu Kajian Studi Literatur Manajemen Sumberdaya Manusia)', *Jurnal Ekonomi Manajemen Sistem Informasi*, 2.6 (2021), 694–701 <<https://doi.org/10.31933/jemsi.v2i6.610>>.

2. Stringent bank secrecy regulations: In connection with tax reform, European Union countries, including the United Kingdom, held a meeting of Finance Ministers. During this meeting, there was an appeal to eliminate the strict bank secrecy regulations. According to the UK delegation, if the European Union is serious about combating tax evasion, it should consider abolishing provisions related to bank secrecy.
3. Possibility of keeping funds under aliases or anonymously: As an example, Austria, known as a base for money laundering activities by corrupt individuals and organizations involved in drug trafficking, allows individuals or organizations to open accounts using aliases.¹⁶
4. Emergence of electronic money or E-money: Money laundering conducted through the internet, known as cyber laundering. Developed E-money products are primarily designed for use over open computer networks rather than face-to-face transactions where the buyer and seller are physically present at the point of sale. Such systems provide goods and services through the internet, which money launderers exploit through cyber laundering. As E-commerce conducted through networks increases, observers predict a corresponding growth in E-money. E-money is a generic term for the concept of digitally signed currency issued by an institution using private encryption keys and transmitted to individuals. This currency can then be electronically negotiated with other parties as payment for goods or services anywhere in the world.¹⁷
5. Permissibility of layering practices: Layering can be a contributing factor to the proliferation of money laundering activities because it makes the individuals depositing funds in a bank (customers or bank depositors) not the actual owners of those funds. Depositors merely act as agents or trustees on behalf of others who assign them to deposit their money in a bank. It often happens that the assigning party is not the actual owner of the funds but has been entrusted by the real owner to deposit the money. In other words, the fund depositor also does not know who the actual owner of the funds is, as they only receive authorization from the owner's agent. It even occurs frequently that the person instructing the fund depositor utilizing

¹⁶ Constance Gikonyo, 'Detection Mechanisms under Kenya's Anti-Money Laundering Regime: Omissions and Loopholes', *Journal of Money Laundering Control*, 21.1 (2018), 59–70
<<https://doi.org/10.1108/JMLC-06-2017-0023>>.

¹⁷ Suryadi M. Saraha, 'Prinsip Kehati-Hatian Dan Prinsip Mengenal Nasabah Sebagai Upaya Perbankan Mencegah Tindak Pidana Pencucian Uang', *Lex Et Societatis*, 6.10 (2018), 95–104
<<https://doi.org/https://doi.org/10.35796/les.v6i10.22832>>.

the money in the bank turns out to be just one layer before reaching the actual owner. In other words, there are multiple layers of relay. Through layering activities, detection becomes challenging for law enforcement authorities.¹⁸

6. Confidentiality of the lawyer-client relationship: Funds deposited in banks are often held in the name of law firms, and the relationship between clients and lawyers is protected by law. Therefore, lawyers who store funds in banks on behalf of their clients cannot be compelled by authorities to disclose their clients' identities.
7. Lack of sincerity in combating money laundering by the state: This is because the concerned state intentionally allows money laundering practices to continue, as the state benefits from the placement of illicit funds in its financial institutions. The accumulated funds in banking institutions are crucial for financing development or enabling banks to profit significantly from the disbursement of these funds, ultimately contributing substantial taxes to the state.
8. Absence of money laundering criminalization: In some countries where there is no legislation on money laundering in their criminal legal system, money laundering practices thrive. The lack of regulations addressing the prevention of money laundering in those countries is often due to a genuine reluctance by the state to earnestly combat money laundering. As known, Indonesia only enacted money laundering regulations in 2002, so it is not surprising that before that, Indonesia was considered one of the havens for money launderers.¹⁹

From various factors contributing to the prevalence of Money Laundering (TPPU), various patterns or modus operandi/typologies of TPPU have emerged, ranging from depositing money in banks, purchasing properties, conducting international transfers, insurance premiums, and injecting company capital (imbreg). From these various typologies of TPPU, generally and as a common practice, TPPU typologies can be grouped into three forms, namely; Placement, Layering, and Integration. Billy Steel illustrates these three typologies as follows:²⁰

¹⁸ Surya Chandra, Joni Emirzon, and Annalisa Yahanan, 'Perlindungan Hukum Bagi Nasabah PT Bank Mandiri (Persero) TBK Sebagai Pengguna Fasilitas Layanan Mandiri Online', *Lex LATA*, 1.2 (2019) <<https://doi.org/http://dx.doi.org/10.28946/lexl.v1i2.496>>.

¹⁹ I Ketut Sukawati Lanang Putra Perbawa, 'Tindak Pidana Pencucian Uang Dalam Sistem Perbankan Indonesia', *Jurnal Advokasi*, 5.1 (2015), 41–57.

²⁰ Aal Lumanul Hakim and Abraham Yazdi Martin, 'Tindak Pidana Pencucian Uang Dan Modusnya Dalam Perspektif Hukum Bisnis', *DE'RECHTSSTAAT*, 1.1 (2015), 33–46.

<i>Placement Stage</i>	<i>Layerig Stage</i>	<i>Integration Stage</i>
<i>Cash paid into bank (sometimes with staff complicity or mixed with proceeds of legitimate business).</i>	<i>Wire transfers abroad (often using shell companies or funds disguised as proceeds of legitimate business).</i>	<i>False loan repayments or forged invoices used as cover for laundered money.</i>
<i>Cash exported.</i>	<i>Cash deposited in overseas banking system.</i>	<i>Complex web of transfers (both domestic and international) makes tracing original source of funds virtually impossible.</i>
<i>Cash used to buy high value goods, property or business assets.</i>	<i>Resale of goods/assets.</i>	<i>Income from property or legitimate business assets appears</i>

Determination of the Modus Operandi of Money Laundering Crimes in the Concept of Criminal Law

The definition of Money Laundering (TPPU) can be seen in Article 1 of Law Number 8 of 2010, which explains that Money Laundering is any act that meets the elements of a criminal offense according to the provisions of this law. In Article 3, it is explained that the crime of money laundering is a form of offense committed intentionally by an individual and/or corporation, placing, transferring, diverting, spending, paying, donating, depositing, taking abroad, altering, exchanging for currency or securities, or other actions involving wealth known or reasonably suspected to be the proceeds of a criminal act, with the aim of hiding or disguising the origin of that wealth, including those who receive and manage it.

The application of criminal provisions in Indonesia, as described in Article 3 of Law No. 8 of 2010 concerning the Prevention and Eradication of Money Laundering, has been expanded with the principle of territorial expansion:

1. Indonesian criminal rules will be applied to Criminal Acts committed on Indonesian ships or aircraft that are abroad. Criminal provisions in Indonesian Law apply to any person outside Indonesia regulated in Article 4 of the Criminal Code (KUHP) committing crimes as stipulated in Articles 104, 106, 107, 108, 110, 111bis paragraph 1, 127, and 131 of the Criminal Code related to crimes against the security of the State.
2. Article 7 of the Criminal Code states that criminal provisions in Indonesian Law apply to Indonesian civil servants, state civil servants, Indonesian national military or police (PNS and TNI or POLRI) who are outside

Indonesia regarding any crime stipulated in Chapter XXVIII, Book II of the Criminal Code concerning Crimes committed in office.

3. Article 8 of the Criminal Code applies to Indonesian ship captains who are outside Indonesia committing a crime stipulated in Chapter XXIX in Book II of the Criminal Code concerning maritime crimes and Chapter IX in Book III of the Criminal Code concerning Service Violations.²¹

Exceptions to the provisions stipulated in Articles 2, 5, 7, and 8 of the Criminal Code mentioned above are those recognized by International Law. Article 88 of Law Number 8 of 2010 expands its scope, encompassing any individual (individual or corporation) outside the territory of Indonesia who provides assistance, opportunities, means, and information for the occurrence can be subject to criminal sanctions as stipulated in Article 3 of Law Number 8 of 2010.

According to the provisions of Article 2 of Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering categorized as Money Laundering Crimes include the following: corruption; bribery; narcotics; psychotropics; smuggling of labor; migrant smuggling; in the banking sector; in the capital market sector; in the insurance sector; customs; excise; human trafficking; arms trafficking; terrorism; kidnapping; theft; embezzlement; fraud; counterfeiting money; gambling; prostitution; in the taxation sector; in the forestry sector; in the environmental sector; in the marine and fisheries sector; or other crimes punishable by imprisonment of 4 (four) years or more carried out 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 the offense is also a criminal act according to Indonesian law. Wealth known or reasonably suspected to be used and/or used directly or indirectly for terrorism activities, terrorist organizations, or individual terrorists are equated as the proceeds of the criminal act referred to in paragraph (1) letter n.²²

The forms of punishment for perpetrators of Money Laundering (TPPU) are regulated in Articles 3-10 of Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering, as follows:

1. Anyone who places, transfers, transfers, spends, pays, donates, deposits, takes abroad, changes the form, exchanges for currency or securities, or takes any other action on wealth that they know or reasonably suspect is the result of a criminal act as referred to in Article 2 paragraph (1) with the aim of hiding or disguising the origin of the wealth shall be punished for the crime of Money Laundering with imprisonment for a maximum of 20 (twenty) years and a fine of up to IDR 10,000,000,000.00 (ten billion rupiahs).

²¹ Romli Atmasasmita, 'Analisis Hukum Undang-Undang Nomor 8 Tahun 2010 Tentang Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang', *PADJADJARAN Jurnal Ilmu Hukum (Journal of Law)*, 3.1 (2016), 1–23.

²² Berutu.

2. Anyone who hides or disguises the origin, source, location, purpose, transfer of rights, or actual ownership of wealth that they know or reasonably suspect is the result of a criminal act as referred to in Article 2 paragraph (1) shall be punished for the crime of Money Laundering with imprisonment for a maximum of 20 (twenty) years and a fine of up to IDR 5,000,000,000.00 (five billion rupiahs).
3. Anyone who receives or controls the placement, transfer, payment, grant, donation, deposit, exchange, or use of wealth that they know or reasonably suspect is the result of a criminal act as referred to in Article 2 paragraph (1) shall be punished with imprisonment for a maximum of 5 (five) years and a fine of up to IDR 1,000,000,000.00 (one billion rupiahs).
4. The provisions referred to in paragraph (1) do not apply to Reporting Parties who fulfill reporting obligations as stipulated in this Law.
5. In the event that the crime of Money Laundering as referred to in Article 3, Article 4, and Article 5 is committed by a Corporation, the punishment shall be imposed on the Corporation and/or Personnel Controlling the Corporation.
6. Punishment is imposed on the Corporation if the crime of Money Laundering:
 - a. is committed or ordered by Personnel Controlling the Corporation;
 - b. is carried out in order to fulfill the Corporation's purposes and objectives;
 - c. is carried out in accordance with the duties and functions of the perpetrator or the giver of orders; and
 - d. is carried out with the intention of benefiting the Corporation.²³

In cases of money laundering, the authorities authorized to investigate and examine these cases are the police, the public prosecutor's office, and finally, the Corruption Eradication Commission (KPK), mandated to investigate and examine these cases since October 2010. Among these law enforcement agencies, the police and the public prosecutor's office receive the most reports. Another independent institution under the President of the Republic of Indonesia tasked with preventing and combating money laundering is the Financial Transaction Reports and Analysis Center (PPATK). Individuals are required to report their wealth, facilitating PPATK in monitoring suspicious transactions.

In general, the money laundering process can be grouped into three stages. First is placement, which involves placing cash originating from criminal

²³ Syahrijal Syakur, *Kewenangan Penyidikan Tindak Pidana Pencucian Uang Yang Penyidikan Tindak Pidana Asalnya Dilakukan Oleh Penyidik Lain* (Jakarta: Pusat Pelaporan dan Analisis Transaksi Keuangan (PPATK), 2021).

activities into the financial system, especially the banking system. In this process, there is a physical movement of cash, including smuggling cash from one country to another and combining cash from illegal activities with funds obtained from legitimate activities.

According to Adrian, the forms of activities during the placement stage include:

1. Placing funds in a bank, sometimes accompanied by applying for a loan or financing;
2. Depositing money with Financial Service Providers (PJK) as payment for a loan to obscure the audit trail;
3. Financing a business that appears legitimate from one country to another;
4. Financing a business that appears to be legal or related to a legitimate business through loans or financing;
5. Purchasing valuable items for personal use, buying expensive gifts as a reward or gift to others, with payments made through Financial Service Providers.²⁴

Second, layering refers to the effort to transfer wealth derived from criminal acts (dirty money) that has successfully entered the financial system through placement. In this process, there is engineering to separate the proceeds of crime from its source by transferring funds from the placement to several other accounts through a series of complex transactions. Layering can also be carried out through international network transactions, either through legitimate businesses or companies with legal names and entities but without any actual activities. The forms of activities in layering include:

1. Transferring funds from one bank to another and/or between regions or countries.
2. Using cash deposits as collateral to support legitimate transactions.
3. Moving cash across international borders through networks of legitimate business activities or shell companies.²⁵

Third, using wealth (integration), an effort to utilize wealth originating from criminal activities that has successfully entered the financial system through placement or layering, making it appear as if it is legitimate wealth (clean money) for lawful business activities or to finance criminal endeavors.

The regulation of Money Laundering Crimes in Indonesia has been legally stipulated in the Republic of Indonesia Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes. In this context, money laundering can be distinguished into three criminal acts:

²⁴ Yuni Priskila Ginting and Astrid Athina Indradewi, 'Transaksi Keuangan Mencurigakan Dari Uang Elektronik Pada Masa Pandemi Covid 19', *Seminar Nasional Hukum Universitas Negeri Semarang*, 7.2 (2021), 455–76 <<https://doi.org/https://proceeding.unnes.ac.id/index.php/snh/article/view/724>>.

²⁵ Raihan and Sulistiowati.

1. Active money laundering crime, which applies to anyone who places, transfers, diverts, spends, pays, donates, deposits, takes abroad, changes the form, exchanges with money or securities, or performs other actions on wealth that they know or have reason to suspect is the result of a criminal act as referred to in Article 2 paragraph (1) with the aim of concealing or disguising the origin of the wealth. (Article 3 of the Republic of Indonesia Law No. 8 of 2010).
2. Passive money laundering crime, applied to anyone who receives or controls the placement, transfer, payment, grant, donation, deposit, exchange, or use of wealth that they know or reasonably suspect is the result of a criminal act as referred to in Article 2 paragraph (1). This is also considered equivalent to money laundering. However, this exemption does not apply to Reporting Parties who fulfill reporting obligations as stipulated in this law. (Article 5 of the Republic of Indonesia Law No. 8 of 2010).
3. In Article 4 of the Republic of Indonesia Law No. 8 of 2010, it is also imposed on those who enjoy the proceeds of money laundering, applied to anyone who conceals or disguises the true origin, source, location, purpose, transfer of rights, or actual ownership of wealth that they know or reasonably suspect is the result of a criminal act as referred to in Article 2 paragraph (1). This is also considered equivalent to money laundering.

The sanctions for perpetrators of money laundering crimes are quite severe, starting with a maximum prison sentence of 20 years and a maximum fine of 10 billion Indonesian Rupiah.²⁶

4. Conclusion

According to the provisions of Article 2 of Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering, the crimes categorized as Money Laundering include: corruption; bribery; narcotics; psychotropics; smuggling of labor; smuggling of migrants; in the banking sector; in the capital market; in the insurance sector; in customs; excise; human trafficking; illicit arms trade; terrorism; kidnapping; theft; embezzlement; fraud; counterfeit money; gambling; prostitution; in taxation; in forestry; in environmental; in maritime and fisheries; or other crimes punishable by imprisonment of 4 (four) years or more carried out within 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 the offense is also considered a criminal

²⁶ Perbawa; Raihan and Sulistiowati; Berutu.

act according to Indonesian law. Wealth that is known or suspected to be used directly or indirectly for terrorist activities, terrorist organizations, or individual terrorists is equated as a result of criminal acts as referred to in paragraph (1) letter n.

Money Laundering (TPPU) as a criminal act is a white-collar crime that, from a business law perspective, becomes one of the business crimes that has a very negative impact on the economic development of a country, which in turn can disrupt economic and business stability. In addition to the impacts on the economic and business fields, money laundering, which has become a transnational organized crime involving various non-criminal practices, both in the form of predicate crimes such as drug trafficking, corruption, illegal arms trade, human trafficking, illegal fishing, illegal mining, illegal logging, and others, as well as money laundering itself in various forms of placing, layering, and integrating funds generated from these criminal activities, necessitates international cooperation in the prevention and eradication of money laundering.

Refrences

- Atmasasmita, Romli, 'Analisis Hukum Undang-Undang Nomor 8 Tahun 2010 Tentang Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang', *PADJADJARAN Jurnal Ilmu Hukum (Journal of Law)*, 3.1 (2016), 1–23
- Bahreisy, Budi, 'Implementasi Undang-Undang Tindak Pidana Pencucian Uang Terhadap Kerugian Negara Dari Tindak Pidana Korupsi', *Jurnal Legislasi Indonesia*, 15.2 (2018), 103–15
<<https://doi.org/https://doi.org/10.54629/jli.v15i2.63>>
- Berutu, Ali Geno, 'Tindak Pidana Kejahatan Pencucian Uang (Money Laundering) Dalam Pandangan KUHP Dan Hukum Pidana Islam', *Tawazun: Journal of Sharia Economic Law*, 2.1 (2019), 1–18
- Chaidar, Muhamad, and Arief Syahrul Alam, 'Urgensi Penerapan Tindak Pidana Pencucian Uang Terhadap Pelaku Pencurian', *Wijaya Putra Law Review*, 2.1 (2023), 61–76 <<https://doi.org/10.38156/wplr.v2i1.90>>
- Chandra, Surya, Joni Emirzon, and Annalisa Yahanan, 'Perlindungan Hukum Bagi Nasabah PT Bank Mandiri (Persero) TBK Sebagai Pengguna Fasilitas Kayanan Mandiri Online', *Lex LATA*, 1.2 (2019)
<<https://doi.org/http://dx.doi.org/10.28946/lexl.v1i2.496>>
- Gikonyo, Constance, 'Detection Mechanisms under Kenya's Anti-Money Laundering Regime: Omissions and Loopholes', *Journal of Money Laundering Control*, 21.1 (2018), 59–70 <<https://doi.org/10.1108/JMLC-06-2017-0023>>
- Ginting, Yuni Priskila, and Astrid Athina Indradewi, 'Transaksi Keuangan Mencurigakan Dari Uang Elektronik Pada Masa Pandemi Covid 19', *Seminar Nasional Hukum Universitas Negeri Semarang*, 7.2 (2021), 455–76

- <<https://doi.org/https://proceeding.unnes.ac.id/index.php/snh/article/view/724>>
- Hakim, Aal Lumanul, and Abraham Yazdi Martin, 'Tindak Pidana Pencucian Uang Dan Modusnya Dalam Perspektif Hukum Bisnis', *DE'RECHTSSTAAT*, 1.1 (2015), 33-46
- Iriansyah, Irfansyah, and Rezmia Febrina, 'Kewenangan Pusat Penelitian Dan Analisis Transaksi Keuangan (PPATK) Dalam Menerobos Rahasia Bank Berdasarkan Undang-Undang Nomor 8 Tahun 2010 Tentang Tindak Pidana Pencucian Uang', *Jurnal Hukum Respublica*, 20.2 (2021)
<<https://doi.org/10.31849/respublica.v20i2.7226>>
- Laowo, Yonathan Sebastian, 'Kajian Hukum Tindak Pidana Pencucian Uang (Money Loundring)', *Jurnal Panah Keadilan*, 1.1 (2022), 70-87
- Marbun, Diva Yohana Margaretha, Fikri Triandhika, Gita Mega Andriani Pasaribu, and Wanodyo Sulistyani, 'Penerapan Sistem Anti Pencucian Uang Dalam Penanganan Perkara Tindak Pidana Pembalakan Liar', *Jurnal Poros Hukum Padjadjaran*, 4.2 (2023), 197-220
<<https://doi.org/https://doi.org/10.23920/jphp.v4i2.1226>>
- Marlina, Andi, Imron Rizki A, and Safri Salam, 'Penegakan Hukum Terhadap Tindak Pidana Pencucian Uang Oleh Jasa Umrah Abu Tours', *DELICTUM: Jurnal Hukum Pidana Dan Hukum Pidana Islam*, Mei (2023)
- Marzuki, Peter Mahmud, *Penelitian Hukum: Edisi Revisi* (Jakarta: Prenada Media, 2017)
- Nasichin, Mohamad, and Nanda Putri Nofita, 'Pertanggungjawaban Pidana Korporasi Dalam Tindak Pidana Pencucian Uang', *Jurnal Pro Hukum : Jurnal Penelitian Bidang Hukum Universitas Gresik*, 10.1 (2021), 36-45
<<https://doi.org/10.55129/jph.v10i1.1434>>
- Perbawa, I Ketut Sukawati Lanang Putra, 'Tindak Pidana Pencucian Uang Dalam Sistem Perbankan Indonesia', *Jurnal Advokasi*, 5.1 (2015), 41-57
- Purwati, Ani, *Metode Penelitian Hukum: Teori Dan Praktek* (Surabaya: CV. Jakad Media Publishing, 2020)
- Rahmawati, Nur Ainiyah, 'Hukum Pidana Indonesia: Ultimum Remedium Atau Primum Remedium', *Recidive*, 2.1 (2013), 39-44
<<https://doi.org/https://doi.org/10.20961/recidive.v2i1.32002>>
- Raihan, Fadhil, and Nurnita Sulistiowati, 'Kebebasan Pencucian Uang Dipengaruhi Oleh Keahlian Pidana Menguasai : Placement, Layering, Dan Integration (Suatu Kajian Studi Literatur Manajemen Sumberdaya Manusia)', *Jurnal Ekonomi Manajemen Sistem Informasi*, 2.6 (2021), 694-701
<<https://doi.org/10.31933/jemsi.v2i6.610>>
- Saraha, Suryadi M., 'Prinsip Kehati-Hatian Dan Prinsip Mengenal Nasabah Sebagai Upaya Perbankan Mencegah Tindak Pidana Pencucian Uang', *Lex Et Societatis*, 6.10 (2018), 95-104
<<https://doi.org/https://doi.org/10.35796/les.v6i10.22832>>

- Simanjuntak, Richan, 'Aspek Histori Dan Perkembangan Undang-Undang Tentang Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang', *JIMPS: Jurnal Ilmiah Mahasiswa Pendidikan Sejarah*, 8.4 (2023), 5429–47
<<https://doi.org/https://doi.org/10.24815/jimps.v8i4.27376>>
- Susetyo, Mariano Adhyka, and Supanto Supanto, 'Perampasan Aset Tindak Pidana Pencucian Uang Hasil Korupsi', *Recidive*, 12.1 (2023), 80–89
- Syakur, Syahrijal, *Kewenangan Penyidikan Tindak Pidana Pencucian Uang Yang Penyidikan Tindak Pidana Asalnya Dilakukan Oleh Penyidik Lain* (Jakarta: Pusat Pelaporan dan Analisis Transaksi Keuangan (PPATK), 2021)
- Zenno, Mas Putra, 'Penerapan Prinsip Ultimum Remedium Dalam Tindak Pidana Korupsi', *Jurnal Yudisial*, 10.3 (2017), 257
<<https://doi.org/10.29123/jy.v10i3.266>>