

■ Submitted: 04 Okt 2020

■ Revised: 02 Nov 2021

■ Accepted: 27 Nov 2021

THE DEVELOPMENT OF THE CRIME OF MONEY LAUNDERING AND ITS IMPACT ON THE ECONOMIC AND BUSINESS SECTOR

Abdul Kadir, Reza Doris Perdana, Paiz Arif Rahman, Sandih, Rifqi Satya Anggoro, Ar Ridho M Akbar

Faculty of Law Universitas Muhammadiyah Tangerang

Jl. Perintis Kemerdekaan No 1/33 Cikokol Kota Tangerang, Banten

Correspondence Email: abdulkadir.usman87@yahoo.com

ABSTRACT One of the criminal acts of money laundering is known as a white collar crime that has been committed since 1867. This crime has a negative impact on the lives of people engaged in the economic and business sectors, where this crime is committed by using the financial system, namely criminal act and eliminating the origin of proceeds from criminal acts. Criminals can take advantage of financial institutions such as investing and transferring money from money laundering obtained through corruption, committing fraud, buying traveler's checks, mutual funds, bribes, crimes in banking, capital markets, stocks and financial instruments. The crime of money laundering has a tremendous impact and even threatens the country's economic stability. In this study, information on developments related to the crime of money laundering and its impact on the economic and business sectors is informed.

Keywords: Crime, Money Laundering, Business Economics

INTRODUCTION

In many countries, including Indonesia, money laundering is a crime with new international influence.(E. S. Nasution, 2015) These actions have a negative impact on the country's economy, thus encouraging a country or international organization in the world to pay serious attention to preventing and eliminating this problem.(Kurniawan, 2012) This is simply because money laundering activities affect the economic system, and this effect has a negative impact on the economy.(E. S. Nasution, 2015)

This is because many funds are not used optimally, and this is because money laundering practitioners often use "sterile investments", for example in the form of real estate investments in a country that is considered safe and low-income.(B. Nasution, 2005)

Money Laundering or better known in Indonesian, Money laundering is the act of changing and hiding cash or assets obtained from criminal acts, which appear to have been obtained from legitimate sources.(Amalia, 2016) Illegal funds are unlike the rest of the world, as they will disrupt markets, harm legitimate market participants, and will never contribute to long-term economic development and market stability in hidden areas.(Eleanora, 2021)

The issue of money laundering is now being discussed a lot, the English term is "money laundering", because the scale and meaning of the problem of money laundering violates national borders and has attracted international attention.(Bayuaji, 2019) As a phenomenon of crime, especially involving the criminal world, it is called "organized crime." The facts prove that some parties enjoy the benefits of money laundering but do not know the impact of the losses.(Tadhery, 2013)

Legal change begins with a gulf between conditions, events and relationships in society and the laws that govern these conditions.(Usman, 2015) However, the rule of law cannot be separated from the cases it regulates. When events that should be monitored change like this, so the law needs to be adjusted (adapted) so that supervision remains effective.(Ali, 2008)

As we all know, the development of science and technology has provided genuine benefits to the economic sector, with the aim of providing support for business activities and also providing improved financial services to the wider community.(Mike, 2019) However, in the development of technology, it gives connotations like a "double-edged knife". On the one hand it continues to provide enormous benefits for the economy and business, and on the other hand it also increases the risk of misuse of this technology for criminals.(Djanggih & Qamar, 2018; Sari, 2019)

Various kinds of organized crime continue to increase in a country and are committed by individuals or groups of people.(Zaidan, 2021) This action is carried out in a structured manner with the participation of all parties. Meanwhile, the existence of territorial boundaries is no longer an obstacle to the development of these criminal acts.(Nurhadiyanto, 2010)

Given the diversification of commercial activities carried out by technological advances, it is increasingly attractive for criminals to use this technology as a means to commit crimes related to economic activities, which may be perpetrated.(Supaijo, 2010)

Money laundering is the most important type of crime, or crimes committed primarily through the financial system. As quoted by Yunus Husein, the 2003 "International Narcotics Control Strategy Report" issued by the US Department of State explains that the more advanced a country's economic and financial system is, the more attractive criminals will be. crime.(Husein, 2006) The most common crime committed by a country through the services of the financial system is money laundering.(Fitriyanti, 2015; Utami, 2021)

Empowerment of a financial institution in the crime of money laundering can be done by: investing and transferring money from criminal acts such as corruption, bribery, fraud, banking, capital markets, and other criminal activities in the form of depositing and purchasing financial instruments by transferring, traveler's checks, stocks, bonds, mutual funds, and other financial instruments.(Doma, 2013)

Based on the description in the previous introduction, the problem that will be discussed in this paper is "How is the Development of Money Laundering and What Is Its Impact on the Economic and Business Sector?"

METHODOLGY

The nature of the research in this paper is descriptive which is carried out with a normative juridical approach. The types and sources of data used are secondary data. Data collection is carried out mainly by document study techniques (library research and online research) by taking an inventory of the required secondary data, both in the form of primary secondary and tertiary legal materials, then conducting historical searches and synchronization between these legal materials.(Gunawan, 2013)

RESULTS AND DISCUSSION

By using the financial system to cover up or hide the source of funds resulting from criminal acts, the increase in money laundering crimes is increasingly having a negative impact on people's lives, especially in the economic and commercial fields.(Kristian, 2018) Because the crime of money laundering is very large, it can even pose a threat to the economic stability of a country. In the economic sector, money laundering can have a negative impact on the legal private sector, because basically the crime is committed using the services of a front-end company, combining illegal funds with legitimate funds. compete with the company.(E. S. Nasution, 2015)

Continuing consequences with an increase in crimes in terms of finance and create additional high social costs, especially in the costs used to improve prevention, prevention, and law enforcement efforts.(Supriyo & Suwardi, 2020)

Crime has developed and attracted international attention because it is feared that it will shake the economy, especially in the business world, because large amounts of money flow quickly from one place to another or can also come from several places. country to one or more other countries. In general, the international population believes that money laundering activities carried out by criminal organizations or criminals are very detrimental to society. John McDowell and Gary Novis of the Bureau of International Narcotics and Law Enforcement Affairs of the U.S. The State Department stated: "Money laundering has potentially devastating economic, security, and social consequences.(Kurniawan, 2012)

Criminal Act

Crime is translated from the term strafbaar feit or delict. Strafbaar feit consists of three words, namely straf, baar, and feit, literally, the word "straf" means criminal, "baar" means can or may and "feit" is an act. The term staff has a complete relationship with the word law and is generally translated from the word recht as if the meaning of straf is the same as recht. For the word "baar", there are two words that can be used, namely may and can. While the word "feit" has four terms which mean acts, events, violations, and deeds.(Chazawi, 2005)

Roeslan Saleh expressed his views on the definition of criminal behavior, namely that criminal law defines it as prohibited behavior.(Saleh, 1981) Marshall in Andi Hamzah's book states that a criminal act is an attitude or omission that is prohibited by law with the aim of providing protection to the community by providing law in accordance with applicable legal procedures.(Hamzah, 2017)

According to Moeljatno, criminal acts are also explained by the definition of an activity that is prohibited by law, prohibited activity and imposed a threat (sanction) in the form of a criminal act. Moeljatno believes: "Criminal acts are prohibited by the rule of law and must be punished, with the consideration that the punishment for the prohibited act is directed at an act, namely a situation or event that was committed due to negligence and the threat of punishment is aimed at the person who caused the incident.(Kansil, 2004)

Money Laundering

The term money laundering emerged from English, with the meaning of Money Laundering. The definition of Money Laundering is not explained in a general or universal way because each developed country or third world country has its own meaning based on priorities and also different perspectives, either in terms of legal experts or written clearly in the regulations of each country.(Supriyo & Suwardi, 2020)

Yenti Ganarsih defines money laundering in general as the stage of changing the results of criminal acts originating from criminal acts of corruption, narcotics crime, gambling, smuggling and other serious crimes, so that the results of these crimes seem to come from the origin. from legal activities Results are disguised or hidden. The motivation for this money laundering is at least because some people are worried that the perpetrators will face lawsuits by tax officials, law enforcement, and even confiscation of the proceeds of criminal acts.(Garnasih, 2017)

The word money laundering in Indonesia has the meaning of money laundering which can be categorized as a crime, which can be carried out by individuals or legal entities or corporations. In Henry Campbell Black's Black's Law Dictionary (1990), money laundering is defined as follows.(B. Nasution, 2005)

“Term used to describe investment or other transfer of money flowing from racketeering, drug transaction, and other illegal sources into legal channels so that its original source cannot be traced.”

By looking at the interpretation above, it can be illustrated that in fact money laundering is an activity of depositing or investing money or other forms originating from the transfer of money generated from extortion, narcotics transactions, or other sources that are legally illegitimate through legal channels. , which makes the money proposal untraceable.

The Development of the Crime of Money Laundering

Since 1867, money laundering has been criminalized as a white-collar crime. At that time, the last pirate activity of the Henry Every pirates hijacked a Portuguese ship

with diamonds worth £325,000. (Equivalent to IDR 5,671,250,000). He then divided the loot with his accomplices, and Henry Every's share was invested in the diamond trade. It turned out that the diamond company was also a money laundering company owned by other pirates on land.(Steel, 2009)

The act of laundering was not categorized as a crime before 1986. It was even proven in the 1980s where the proceeds of millions of money obtained from the proceeds of crime were not categorized as illegal business and other economic ventures. Even the practice of money laundering is no longer as simple as that of Al Capone or Meyer Lansky.(Steel, 2009)

The United States government began to categorize money laundering as a criminal offense with the Money Laundering Central Act in 1986.(Ismaidar & Yudi, 2019) This was followed by The Annunzio Wylie Act. and the Money Laundering Suppression Act. (1994). Meanwhile, the government of the Republic of Indonesia began to categorize the crime of money laundering or Money Laundering as non-criminal in 2002 by issuing Law Number 15 of 2002 concerning the Crime of Money Laundering.(Jahja, 2012)

At present, the act of money laundering has become a challenge and a phenomenon on the international scene.(E. Nasution, 2011) The act of money laundering has been declared a transnational crime because the limit of this crime is not only carried out in one country but can cross national boundaries (crossborder).(Fakih, 2021) To make it difficult to track down the law enforcement agencies of the country concerned, criminals can try to hide the proceeds of money laundering as far as possible from the source.(Hamdi, 2021)

Impact on Economy and Business

Besides being able to be carried out by corporations or institutions, this criminal act of laundering can also be carried out by individuals. The Republic of Indonesia is one of the developing countries and is very focused on economic development with the private sector dominated by corporations. The influence of this criminal act of laundering also develops with the progress of technological developments that are increasingly advanced. With a note that this action is carried out by corporations with the aim of obtaining wealth or results in large quantities.

Money laundering does not have a direct negative impact on companies or individuals. When viewed at a glance, it can be concluded that the victim did not involve the victim. This criminal act is not the same as robbery, theft or murder that involves the victim and has a direct impact on the victim. Money laundering, according to Billy Steel, is "it seem to be a victimless crime".(Steel, 2009)

The impact that can be generated from money laundering or Money Laundering is the loss of state revenue from the source of tax payments. This crime can eliminate government taxes, resulting in losses to honest taxpayers. This also results in tax collection by the government which is increasingly difficult. With the loss of income, it can be interpreted that the level of tax payments that will be received by the state tends to be lower than the normal level of payment provided that there is no laundering of the tax money.(Afandi, 2013)

In the current global economic era, countries in the world, including the Republic of Indonesia, are not willing to lose their reputation due to money laundering. Money laundering and financial crimes (financial crimes) can have the effect of eroding market confidence. If the country fails to maintain a good reputation, it can have an impact on opportunities for foreign investors to enter the country which makes this an obstacle in building and growing the social economy.(Antoni, 2019; Wirawan, 2017)

The crime of laundering will have an impact on the stability of the financial system and the economy as a whole. These crimes are transnational in nature and often involve large sums of money. The crime of money laundering or Money Laundering requires intervention from each country so that it can provide a form of regional or international cooperation through bilateral and multilateral forums.(Supriyo & Suwardi, 2020)

CONCLUSION

At present, the crime of money laundering or money laundering can be said to be an international phenomenon and obstacle. This crime has become a transnational crime because the activities that can be carried out can cross the border of the country of origin (crossborder). Money laundering practitioners try to hide the source of the proceeds of money so as to give difficulties to the law enforcement agencies of the country concerned and do so as far as possible from the source.

Money laundering is a crime that has an international dimension and is new in several countries, including the Republic of Indonesia. The negative impact caused is very large on the economic sector of a country and can encourage countries in the world as well as international organizations to pay more attention to the prevention and handling of this problem.

Money laundering can be carried out by utilizing financial institutions by investing and transferring money from the proceeds of the crime committed. The proceeds of criminal acts in question are money from corruption, financial crimes in the banking sector, in the capital market, fraud, bribery and others, in the sale and purchase of shares, mutual fund bonds and other financial instruments.

The crime of money laundering can develop by using the financial system to hide or eliminate the origin of the proceeds of criminal acts which will have a more negative impact on the lives of the people of a country, especially in the economic and business sectors. In addition, the impact that can be generated from this crime is that it can become a threat to the economic stability of a country.

BIBLIOGRAPHY

- Afandi, Z. A. (2013). Dampak Money Laundering di Dunia Perbankan Terhadap Perekonomian di Indonesia. *Jurnal Akuntansi AKUNESA*, 1(3).
- Ali, A. (2008). Mengungkap tabir hukum. *Bogor: Ghalia Indonesia*.
- Amalia, R. (2016). Pertanggungjawaban korporasi dalam tindak pidana pencucian uang menurut hukum Islam. *Jurnal Hukum Pidana Islam*, 2(2), 385–407.
- Antoni, J. (2019). *Peran Pusat Pelaporan Terhadap Transaksi Keuangan (Ppatk) Dalam Tindak Pidana Pencucian Uang*.
- Bayuaji, R. (2019). *Prinsip Hukum Perampasan Aset Koruptor Dalam Perspektif Tindak Pidana Pencucian Uang*. Laksbang Justisia.
- Chazawi, A. (2005). *Pelajaran Hukum Pidana Bagian 3*.
- Djanggih, H., & Qamar, N. (2018). Penerapan Teori-Teori Kriminologi dalam Penanggulangan Kejahatan Siber (Cyber Crime). *Pandecta Research Law Journal*, 13(1), 10–23.
- Doma, H. (2013). *An Appraisal of Law as an Instrument for Combating Money Laundering In Nigerian Banks*.

- Eleanora, F. N. (2021). Tindak Pidana Pencucian Uang. *Jurnal Hukum*, 26(2), 640–653.
- Fakih, A. M. I. A. (2021). *Penggunaan Instrumen Anti Pencucian Uang Dalam Penanggulangan Tindak Pidana Korupsi= Use Of Anti-Money Laundering Instruments In Corruption Committing* [PhD Thesis]. Universitas Hasanuddin.
- Fitriyanti, R. (2015). Dampak Globalisasi terhadap Perluasan Money Laundering dan Drugs Trafficking di Indonesia. *JIPSI-Jurnal Ilmu Politik dan Komunikasi UNIKOM*, 4.
- Garnasih, Y. (2017). Penanganan Kejahatan Aliran Dana Perbankan, Korupsi dan Pencucian Uang. *Legalitas: Jurnal Hukum*, 4(1), 22–34.
- Gunawan, I. (2013). Metode penelitian kualitatif. *Jakarta: Bumi Aksara*, 143.
- Hamdi, Z. (2021). *Peran Perbankan Dalam Pencegahan Tindak Pidana Pencucian Uang (Studi Pada Kantor Pusat PT. Bank Mestika Dharma, TBK)* [PhD Thesis].
- Hamzah, A. (2017). *Hukum Pidana Indonesia*. Sinar Grafika.
- Husein, Y. (2006). Pembangunan Rezim Anti Pencucian Uang Di Indonesia Dan Implikasinya Terhadap Profesi Akuntan. *Padang: Fakultas Ekonomi Universitas Bung Hatta*.
- Ismaidar, I., & Yudi, P. (2019). Kajian Hukum dalam Penerapan Undang-Undang Tentang Pencucian Uang dalam Rangka Pemberantasan Tindak Pidana Korupsi di Indonesia Berbasis Nilai Keadilan. *JURNAL JUSTIQA*, 1(1).
- Jahja, H. J. S. (2012). *Melawan money laundering!: Mengenal, mencegah, & memberantas tindak pidana pencucian uang*. Visimedia.
- Kansil, C. S. (2004). *Pokok-pokok hukum pidana: Hukum pidana untuk tiap orang*. Pradnya Paramita.
- Kristian, S. H. (2018). *Tindak Pidana Perbankan Dalam Proses Peradilan di Indonesia*. Kencana.
- Kurniawan, I. (2012). Perkembangan Tindak Pidana Pencucian Uang (Money Laundering) dan Dampaknya Terhadap Sektor Ekonomi dan Bisnis. *Jurnal Ilmu Hukum*, 4(1).
- Mike, E. (2019). Perlindungan Hukum Hak Kekayaan Intelektual Terhadap Tindakan Pelanggaran Pembajakan Buku Elektronik Melalui Media Online. *AL IMARAH: JURNAL PEMERINTAHAN DAN POLITIK ISLAM*, 2(2).
- Nasution, B. (2005). *Rejim anti-money laundering di Indonesia*. BooksTerrace & Library.

- Nasution, E. (2011). Memahami Praktik Pencucian Uang Hasil Kejahatan. *Dokumen KPK*.
- Nasution, E. S. (2015). Pertanggungjawaban Pidana Korporasi dalam Tindak Pidana Pencucian Uang. *Jurnal Mercatoria*, 8(2), 132–144.
- Nurhadiyanto, L. (2010). Pola Pencucian Uang Hasil Perdagangan Narkoba dan Pembalakan Liar. *Indonesian Journal of Criminology*, 4198.
- Saleh, R. (1981). *Perbuatan pidana dan pertanggung jawaban pidana: Dua pengertian dasar dalam hukum pidana*. Aksara Baru.
- Sari, N. W. (2019). Kejahatan Cyber Dalam Perkembangan Teknologi Informasi Berbasis Komputer. *Jurnal Surya Kencana Dua: Dinamika Masalah Hukum Dan Keadilan*, 5(2).
- Steel, B. (2009). *Money Laundering: A Brief History, Billy's Money Laundering Information Website*.
- Supaijo, S. (2010). Penegakan Hukum Pidana dalam Kejahatan Perbankan. *ASAS*, 2(1).
- Supriyo, D. A., & Suwardi, K. (2020). Dampak Tindak Pidana Pencucian Uang Terhadap Sektor Ekonomi Dan Bisnis. *Jurnal Media Komunikasi Pendidikan Pancasila dan Kewarganegaraan*, 2(1), 133–143.
- Tadhery, C. F. (2013). *Kebijakan Hukum Pidana Terhadap Pembalikan Beban Pembuktian Tindak Pidana Pencucian Uang Pasca KAK 2003 (Konvensi PBB Anti Korupsi)* [PhD Thesis]. Universitas Islam Indonesia.
- Usman, A. H. (2015). Kesadaran Hukum Masyarakat Dan Pemerintah Sebagai Faktor Tegaknya Negara Hukum Di Indonesia. *Jurnal Wawasan Yuridika*, 30(1), 26–53.
- Utami, S. (2021). Tindak Pidana Pencucian Uang Terhadap Uang Virtual Money Laundering on Virtual Money. *Al-Adl: Jurnal Hukum*, 13(1), 1–27.
- Wirawan, A. I. (2017). *KEBIJAKAN PERTANGGUNGJAWABAN PIDANA KORPORASI DALAM TINDAK PIDANA PENCUCIAN UANG DI BIDANG PASAR* [PhD Thesis]. Fakultas Hukum UNISSULA.
- Zaidan, M. A. (2021). *Kebijakan Kriminal*. Sinar Grafika (Bumi Aksara).