

**ELUCIDATION OF  
LAW OF THE REPUBLIC OF INDONESIA  
NUMBER 8 YEAR 2010  
CONCERNING  
PREVENTION AND ERADICATION  
THE CRIME OF MONEY LAUNDERING**

**I. GENERAL**

In general, the perpetrators endeavor to hide or disguise the origin of the wealth that is the result of criminal acts by a variety of ways to make the property is difficult to trace its proceeds of crime by law enforcement officials so that they are free to use such assets either for legitimate or illegitimate activities. Therefore, money laundering not only threatens the stability and integrity of financial systems and economic systems, but also can endanger the life aspects of the society, nation and the state based on Pancasila and the 1945 Constitution of the Republic of Indonesia.

In the concept of anti money laundering, a perpetrator and the proceeds of criminal acts can be traced and subsequently those proceeds are confiscated for the state or returned to the beneficiary. When assets originating from proceeds of criminal acts controlled by a perpetrator or a criminal organization can be seized and confiscated, it will automatically result in a decline in crime rate. To this end, law enforcement in money laundering crimes needs to be conducted effectively.

Generally tracing of Assets derived from proceeds of criminal acts is carried out by financial institutions through a standard mechanism of laws and regulations. For this purpose financial institutions play an important role, particularly in the implementation of Know Your Customer Principles and to report certain Transactions to authorities (*financial intelligence units*) for analysis and subsequently are submitted to investigators for use in the further legal process.

The financial institution not only takes part in assisting in law enforcement but also in protecting itself against various risks, namely risk in operations, legal, concentration of Transactions, and reputation as it will no longer be used by criminals as a means and target to launder their proceeds from

criminal acts. With good risk management, a financial institution will be able to perform its function well so that in turn the financial system becomes stable and credible.

In its development, money laundering crimes have become increasingly complex, cross-border and its modus increasingly expanded as it utilizes institutions outside of the financial system, and have even entered various formal and non-formal sectors. In anticipation hereof the Financial Action Task Force on Money Laundering (FATF), has issued an international standard which has become a reference for every country in the prevention and eradication of money laundering crimes and the financing of terrorism known as the Revised 40 recommendations and 9 special recommendations (revised 40+9 FATF). FATF, among others, expands reporting parties that include traders of precious stones and jewelry/precious metals and car dealers. In the prevention and eradication of the crime of money laundering, it is necessary to enter into regional and international cooperation through bilateral or multilateral forums that the intensity of criminal acts generating or involving assets in the significant amount may be minimized.

Handling of money laundering crimes in Indonesia started with the enactment of Law Number 25 of 2003 concerning Amendment of Law Number 15 of 2002 concerning the Crime of Money Laundering has shown a positive direction. This is reflected in the increasing awareness of those involved in the implementation of Laws pertaining to money laundering crimes such as the financial services providers in complying with reporting obligations, the Regulating and Monitoring Institution in issuing regulations, the Financial Transaction Reports and Analysis Center (PPATK) in performing analysis, and law enforcement agencies in following up those analysis leading to court convictions of criminal sanctions and/or administrative sanctions.

However, these efforts do not appear to be optimal, among others because the prevailing laws and regulations still leave room for differences in interpretation, legal gaps, inaccuracy of sanctions, no shifting of the burden of proof, limited access to information, limited scope of reporting parties and the type of report, as well as lack of clarity regarding the duties and authorities of the parties involved in the implementation of this law.

In order to fulfill the national interest and to adapt with international standards as explained above, there is a need to develop a Law concerning the Prevention and Eradication of the Crime of Money Laundering as an improvement and replacement of Law of the Republic of Indonesia Number 15 of 2002 concerning the Crime of Money Laundering as amended by Law of the Republic of Indonesia Number 25 of 2003 concerning Amendment of Law Number 15 Year 2002 concerning the

Crime of Money Laundering. The material contents stipulated in this Law are among others:

1. Redefining the meaning of terminology used in money laundering crimes;
2. Improving criminalization of money laundering crimes;
3. Regulation regarding the imposition of criminal sanctions and administrative sanctions;
4. Application of Know Your Customer principles;
5. Expanding the Reporting Parties;
6. Establishing the type of reports for providers of goods and/or other services;
7. Regulate the compliance monitoring and audit.
8. Granting authority to Reporting Parties to suspend;
9. Extend the authority of the Directorate General of Customs and Excise regarding carrying cash currency and other negotiable instruments inside and outside of the customs area;
10. Granting authority to the investigator of the predicate crime to investigate suspected money laundering crimes (*multi investigator*);
11. Expanding institutions authorized to obtain the result of analysis or examination of the PPATK;
12. Reorganizing the institution of PPATK;
13. Expanding authorities of the PPATK including to perform the suspension of transactions;
14. Rearranging legal framework on the criminal procedure of the crime of money laundering; and
15. Regulating the seizure of Assets originating from proceeds of criminal acts.

## II. ARTICLE BY ARTICLE

### Article 1

Self-explanatory

### Article 2

#### Paragraph (1)

##### Sub-paragraph a

Self-explanatory

##### Sub-paragraph b

What is meant by “bribery” in this provision is bribery as defined in Law concerning the Crime of Bribery.

##### Sub-paragraph c

Self-explanatory

##### Sub-paragraph d

Self-explanatory

##### Sub-paragraph e

What is meant by “labor smuggling” in this provision is labor smuggling as stipulated in Law concerning Placement and Protection of Indonesian Migrant Workers in other countries.

##### Sub-paragraph f

What is meant by “smuggling of immigrants” in this provision is the smuggling of immigrants as stipulated in the Immigration Law.

##### Sub-paragraph g

Self-explanatory

##### Sub-paragraph h

Self-explanatory

Sub-paragraph i

Self-explanatory

Sub-paragraph j

Self-explanatory.

Sub-paragraph k

Self-explanatory.

Sub-paragraph l

What is meant by “human trafficking” in this provision is trading in persons as stipulated the Indonesian Penal Code and Law concerning the Eradication of the Crime of Trafficking in Persons.

Sub-paragraph m

What is meant by “illegal arms trade” in this context is the illegal trade in arms as stipulated in the Emergency Law Number 12 of 1951 concerning the amendment of "ORDONNANTIE TIJDELIJKE BIJZONDERE STRAFBEPALINGEN" (State Gazette of 1948 Number 17) and the Law Number 8 Year 1948 concerning Registration and Licensing for Using Fired Arms.

Sub-paragraph n

Self-explanatory.

Sub-paragraph o

What is meant by “kidnapping” in this provision is kidnapping as stipulated in the Indonesian Penal Code.

Sub-paragraph p

Self-explanatory.

Sub-paragraph q

Self-explanatory.

Sub-paragraph r

Self-explanatory.

Sub-paragraph s

Self-explanatory.

Sub-paragraph t

Self-explanatory.

Sub-paragraph u

What is meant by "prostitution" in this provision is prostitution as stipulated in the Indonesian Penal Code and Law concerning the Eradication of the Crime of Trafficking in Persons.

Sub-paragraph v

Self-explanatory.

Sub-paragraph w

Self-explanatory.

Sub-paragraph x

Self-explanatory.

Sub-paragraph y

Self-explanatory.

Sub-paragraph z

Self-explanatory.

By virtue of this provision, in determining Proceeds from Criminal Acts, this Law adopts the principle of double criminality.

Paragraph (2)

Self-explanatory.

Article 3

Self-explanatory.

Article 4

Self-explanatory.

Article 5

Paragraph (1)

What is meant by "reasonably suspected" is a condition that meets at least the knowledge, desire, or purpose at the time the transaction is known which suggests the existence of violations of law.

Paragraph (2)

Self-explanatory.

Article 6

Paragraph (1)

A corporation also includes an organized group i.e. a structured group consisting of three (3) or more persons, existing for a certain period of time, and acting for the purpose of committing one or more crimes as stipulated in this Law, with the objective to obtain material or financial profit, directly as well as indirectly.

Paragraph (2)

Self-explanatory.

Article 7

Self-explanatory.

Article 8

Self-explanatory.

Article 9

Self-explanatory.

Article 10

Self-explanatory.

Article 11

Paragraph (1)

This provision is included in the provision regarding the secrecy of office.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

Article 12

Paragraph (1)

This provision is known as "*anti-tipping off*". The provision in this paragraph is meant to prevent the Services User from moving his Assets, which would impede law enforcement in tracking the Services User and the relevant Assets.

Paragraph (2)

Self-explanatory.



Paragraph (3)

This *"anti-tipping off"* provision also applies to officials and employees of PPATK and officials or employees of the the Regulating and Monitoring Institution to prevent a Services User suspected of being a criminal from escaping and transferring his Assets which would impede the criminal investigation process.

Paragraph (4)

Self-explanatory.

Paragraph (5)

Self-explanatory.

Article 13

Self-explanatory.

Article 14

Self-explanatory.

Article 15

Self-explanatory.

Article 16

Self-explanatory.

Article 17

Paragraph (1)

Sub-paragraph a

Any person who provides financial services or other financially related services, both formal and informal, is included in the term financial services provider.

Sub-paragraph b

Providers of goods and services as referred to in this provision shall include those licensed and unlicensed.

Paragraph (2)

Self-explanatory.

Article 18

Paragraph (1)

Self-explanatory.

Paragraph (2)

Included in the implementation of Know Your Customer Principles are Customer Due Diligence (CDD) and Enhanced Due Diligence (EDD) as referred to in the Recommendation 5 of the Financial Action Task Force (FATF) on money laundering.

Paragraph (3)

Self-explanatory.

Paragraph (4)

Self-explanatory.

Paragraph (5)

Sub-paragraph a

“Identification of the Services User shall include updating data of the services users

Sub-paragraph b

Self-explanatory.

Sub-paragraph c

Self-explanatory.

Paragraph (6)

Self-explanatory.

Article 19

Self-explanatory.

Article 20

Self-explanatory.

Article 21

Paragraph (1)

Self-explanatory.

Paragraph (2)

Self-explanatory.

Paragraph (3)

What is meant by “the provisions of laws and regulations” among other are regulations issued by the Supervisory and Regulatory Agency such as Bank Indonesia Regulation (PBI) and Regulations of the Minister of Finance (PMK).

## Article 22

### Paragraph (1)

What is meant by “business relationship” including a relationship of [bank] accounts.

### Paragraph (2)

Self-explanatory.

## Article 23

### Paragraph (1)

#### Sub-paragraph a

In principle, a Suspicious Financial Transaction commences from the following Transactions:

- 1) does not have a clear economic or business purpose;
- 2) uses cash currency in relatively large amounts and/or carried out in unreasonable repetitions; or
- 3) Customer’s transaction activity is abnormal and unreasonable.

If the transactions are not uncommon within the criteria as referred to in Article 1 number 5, these transactions can be classified as suspicious financial transactions that must be reported. While on the transaction or activity out of character and fairness, as mentioned above, financial service providers were asked to give special attention to all transactions that are complex, unusual large quantities, and all unusual patterns of transactions, which have no clear economic reason and not there are legitimate purposes. Background and purpose of such transactions should, as far as possible, be examined, the findings are established in writing, and is available to help competent authorities and auditors.

Sub-paragraph b

Self-explanatory.

Sub-paragraph c

Self-explanatory.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

Paragraph (4)

Sub-paragraph a

What is meant by "Transactions with the government" in this provision are Transactions using a government account, and carried out for and on behalf of the government, i.e. the national government, the regional government, departments, non-departmental government institutions or other government bodies. It does not include Commissions and Enterprises owned by the national or regional government.

Sub-paragraph b

Self-explanatory.

Sub-paragraph c

What is meant by "other transactions" are Transactions which are exempted because in line with their characteristics and always involve cash currency in large amounts, for example routine deposits made by toll-road managers or supermarket managers.

Other than based on the type of Transaction, the Head of PPATK may determine other transactions

that are exempted based on the size of the Transaction, the form of certain financial services providers, or work area of certain financial services providers. Implementation of these exemptions may be for an indefinite period (permanent) or for a certain period of time (temporary).

Paragraph (5)

Self-explanatory.

Article 24

Paragraph (1)

This provision is intended that the data or information about transactions that are exempted can be investigated or examined by the PPATK for analysis purposes.

Details list of transactions that must be prepared and stored essentially the same as cash transactions that should be reported to the PPATK. Lists can be created in electronic form insofar it can be guaranteed that all data or information is not easily lost or damaged.

Paragraph (2)

Self-explanatory.

Article 25

Paragraph (1)

The intention of this provision is for the financial services provider to report a Suspicious Financial Transaction as soon as possible so that both the Assets suspected of being proceeds of criminal acts, and the money laundering perpetrator can be tracked immediately. Elements in a Suspicious Financial Transaction are as referred to in Article 1 Number 5 sub-paragraph a, sub-paragraph b, sub-paragraph c, and sub-paragraph d.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

Paragraph (4)

Self-explanatory.

Paragraph (5)

Self-explanatory.

## Article 26

Paragraph (1)

Self-explanatory.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

Paragraph (4)

Self-explanatory.

Paragraph (5)

Self-explanatory.

Paragraph (6)

This means that the longest delay on the fifth working day of the transactions, financial service providers have decided to carry out transactions or reject the transaction.

Article 27

Self-explanatory.

Article 28

Self-explanatory.

Article 29

What is meant by "civil suit" is among others an indemnity claim.

What is meant by "criminal charge" is among others charges of defamation.

Article 30

Self-explanatory.

Article 31

Paragraph (1)

Thus, to the Reporting Party who has the Supervisory and Regulatory Institution shall have 2 (two) doors of Compliance Oversight, namely by the Supervisory and Regulatory Agency and/or the PPATK.

Paragraph (2)

Self-explanatory

Paragraph (3)

Self-explanatory

Paragraph (4)

Self-explanatory



Article 32

Self-explanatory

Article 33

Self-explanatory

Article 34

Paragraph (1)

Bearer Negotiable Instruments shall include checks, traveler checks, promissory notes or payment orders known as '*bilyet giro*'.

Paragraph (2)

Self-explanatory

Paragraph (3)

Self-explanatory.

Article 35

Self-explanatory.

Article 36

Self-explanatory.

Article 37

Paragraph (1)

Self-explanatory.

Paragraph (2)

Self-explanatory.

Paragraph (3)

What is meant by "conducting any form of intervention" shall be acts or activities by any person whatsoever resulting in diminishing of PPATK's freedom in performing its functions and tasks.

Paragraph (4)

Self-explanatory.

Article 38

Self-explanatory.

Article 39

Self-explanatory.

Article 40

Sub-paragraph a

Self-explanatory.

Sub-paragraph b

Self-explanatory.

Sub-paragraph c

Compliance monitoring performed by the PPATK on the Reporting Party who has not had the Regulating and Monitoring Institution, or on the Reporting Party whose monitoring has been transferred by the Regulating and Monitoring Institution to the PPATK.

Sub-paragraph d

Self-explanatory.

Article 41

Paragraph (1)

Sub-paragraph a

What is meant by "government agencies" such as the Directorate General of Tax and the Accounting Supervisory Center and Appraisal Service of the Ministry of Finance, Directorate General of General Legal Administration of the Ministry of Justice and Human Rights, National Land Agency (BPN).

What is meant by "private institutions", among others, advocate associations, associations, notaries, accountants and associates.

The definition of "certain professions" such as lawyers, financial consultants, notaries, government officials who made the land deed, and the independent accountants.

Sub-paragraph b

Self-explanatory.

Sub-paragraph c

Self-explanatory.

Sub-paragraph d

Self-explanatory.

Sub-paragraph e

Self-explanatory.

Sub-paragraph e

Self-explanatory.

Sub-paragraph g

Self-explanatory.

Paragraph (2)

Submission of data and information by government agencies and/or private institutions do not require anyone's permission.

Paragraph (3)

Self-explanatory.

Article 42

What is meant by "maintaining an information system" shall among others include:

- a. building, developing, and maintaining an application system;
- b. building, developing, and maintaining a computer network infrastructure and data base.
- c. manually and electronically collecting and evaluating data and information received by the PPATK;
- d. storing and maintaining data and information in the data base
- e. presenting information for analyzing purposes;
- f. facilitating exchange of information with relevant agencies, national as well as international; and
- g. promoting socialization of the use of the application system to Reporting Parties.

Article 43

Sub-paragraph a

Self-explanatory.

Sub-paragraph b

Self-explanatory.

Sub-paragraph c

Special audits may be performed on:

1. providers of financial services whose compliance monitoring for the reporting obligations for financial service providers concerned shall be conducted by the Institute of the Regulating and Monitoring Institution and/or the PPATK;
2. financial services providers on request the competent institution or agency requesting information to the PPATK in accordance with the provisions of laws and regulations.

Sub-paragraph d

Self-explanatory.

Sub-paragraph e

Self-explanatory.

Sub-paragraph f

Recommendation of sanctions regarding mandatory reporting shall be stipulated in the PPATK Guidelines.

Sub-paragraph g

Self-explanatory.

Article 44

Sub-paragraph a

Self-explanatory.

Sub-paragraph b

Self-explanatory.

Sub-paragraph c

Self-explanatory.

Sub-paragraph d

A request of information from law enforcement agencies or business partners overseas in these provisions shall be conducted insofar do not interfere with national interests along with the notice provisions of legislation in the field of foreign relations and international agreements.

Sub-paragraph e

Self-explanatory.

Sub-paragraph f

Self-explanatory.

Sub-paragraph g

A request for information from the Reporting Party and other parties related to alleged money laundering can be performing a special audit by the PPATK or conducted themselves together with the Regulating and Monitoring Institution.

Sub-paragraph h

Self-explanatory.

Sub-paragraph i

The PPATK shall request to financial service providers to temporarily suspend all or part of transactions that are known or suspected to constitute proceeds of crime, carried out for examination.

Sub-paragraph j

Self-explanatory.

Sub-paragraph k

Self-explanatory.

Sub-paragraph l

Self-explanatory.

Paragraph (2)

Self-explanatory.

Article 45

What is meant by “secrecy” is among others bank secrets and non-bank secrets etc.

Article 46

Self-explanatory.

Article 47

Paragraph (1)

Self-explanatory.

Paragraph (2)

In order to exercise supervision authority, the House of People's Representatives has the right to obtain PPATK report at anytime.

Article 48

Self-explanatory.

Article 49

Self-explanatory.

Article 50

Self-explanatory.

Article 51

Sub-paragraph a

Self-explanatory.

Sub-paragraph b

Self-explanatory.

Sub-paragraph c

Self-explanatory.

Sub-paragraph d

Self-explanatory.

Sub-paragraph e

Self-explanatory.

Sub-paragraph g

Self-explanatory.

Sub-paragraph h

What is meant by 'other occupations' is other work/positions that have the potential of influencing the performance and may give rise to conflict of interest.

Sub-paragraph i

Self-explanatory.

Article 52

Self-explanatory.

Article 53

Self-explanatory.



Article 54

Self-explanatory.

Article 55

Self-explanatory.

Article 56

Self-explanatory.

Article 57

Self-explanatory.

Article 58

Self-explanatory.

Article 59

Self-explanatory.

Article 60

Self-explanatory

Article 61

Self-explanatory

Article 62

Self-explanatory

Article 63

Self-explanatory

Article 64

Paragraph (1)

Self-explanatory.

Paragraph (2)

Reports from the PPATK shall be submitted to the Indonesian Police and the Attorney General of the Republic of Indonesia and other investigators with copies submitted to the appropriate authority under this Law.

Paragraph (3)

In this provision, coordination between criminal investigators to obtain results of examination of the PPATK shall also be conducted.

Article 65

Paragraph (1)

What is meant by "suspend all or part of the Transaction" is not carrying out transactions that are known or suspected to constitute proceeds of crime.

Paragraph (2)

Self-explanatory.

Article 66

Self-explanatory.

Article 67

Self-explanatory.

Article 68

Self-explanatory.

Article 69

Self-explanatory.

Article 70

Self-explanatory.

Article 71

Paragraph (1)

The order issued by an investigator, a public prosecutor or a judge shall be conform with the authority vested according to the respective phase of examination, i.e. during the investigation phase it shall be the authority of the investigator, during the prosecution phase the authority of the public prosecutor, and the judge's authority during the trial phase in a court of law.

Paragraph (2)

A written request to freeze sent to the Financial Services Provider must be signed by:

- a. coordinating investigator/head of the investigation team during the investigation phase;

- b. The District Attorney during the prosecution phase;
- c. Chief Judge of the Panel of Judges at the trial stage in a court of law.

Paragraph (3)

Self-explanatory.

Paragraph (4)

Self-explanatory.

Paragraph (5)

Self-explanatory.

Paragraph (6)

Self-explanatory.

Paragraph (7)

Self-explanatory.

Article 72

Paragraph (1)

Self-explanatory.

Paragraph (2)

What is meant by "the provisions of legislation" also includes provisions regarding confidentiality that apply to the reporting party.

Paragraph (3)

Self-explanatory.

Paragraph (4)

Self-explanatory.

Paragraph (5)

In the absence of the Chief of the Indonesian National Police or the Chief of the Regional Police, or the management of agencies or institutions or commissions, or the Attorney General of the Republic of Indonesia or the Head of the Provincial Attorney's Office, signing may be delegated to an appointed official.

Paragraph (6)

Self-explanatory.

Article 73

Self-explanatory.

Article 74

What is meant by the "investigator of the predicate crime" shall be an official from an agency who by virtue of the Law has been vested with the authority to investigate the predicate crime, such as the Indonesian National Police, the Attorney General, the Corruption Eradication Commission (KPK), the National Narcotics Agency (BNN), and the Directorate General of Taxes, the Directorate General of Customs and Ministry of Finance of the Republic of Indonesia.

Criminal investigators can conduct an investigation of the crime of money laundering if discovered initial enough evidence of money laundering during a criminal investigation of the predicate crime according to their authority.

Article 75

Self-explanatory.

Article 76

Self-explanatory.

Article 77

Self-explanatory.

Article 78

Self-explanatory.

Article 79

Paragraph (1)

The purpose of the provision is to ensure the smooth implementation of efforts for the prevention and eradication of money laundering crimes in the judiciary process even though the defendant has lawfully and appropriately subpoenaed to appear in court and does not appear at the court proceedings without a valid reason, the case can be tried without the defendant's attendance.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

Paragraph (4)

The purpose of the provision in this paragraph is to prevent the heirs of the defendant from controlling or possessing the Assets derived from proceeds of criminal acts. In addition, it is part of an effort to recover state assets in the event that the crime has caused losses to the state.

Paragraph (5)

Self-explanatory.

Paragraph (6)

Self-explanatory.

Article 80

Paragraph (1)

Self-explanatory.

Paragraph (2)

What is meant by "should be done directly by the defendant" is that the accused shall be present and sign the deed of declaration of appeal in the district court decided such case.

Article 81

Self-explanatory.

Article 82

Self-explanatory.

Article 83

Paragraph (1)

The definition of "reporter" is any person having good intentions and voluntarily submitted reports of suspected money laundering.

Paragraph (2)

Self-explanatory.

Article 84

Self-explanatory.

Article 85

Self-explanatory.

Article 86

Self-explanatory.

Article 87

Self-explanatory.

Article 88

Paragraph (1)

What is meant by "formal cooperation" is the existence of a memorandum of understanding.



Paragraph (2)

Self-explanatory.

Article 89

Self-explanatory.

Article 90

Self-explanatory.

Article 91

Paragraph (1)

What is meant by "prevailing laws and regulations" in this provision are Law concerning Mutual Legal Assistance In Criminal Matters and Law and Law concerning International Agreements.

Paragraph (2)

Self-explanatory.

Article 92

Self-explanatory.

Article 93

The intention of this provision is to enable PPATK and relevant agencies to establish provisions in line with developments in international conventions and international recommendations in the prevention and eradication of money laundering crimes, such as regulations/guidelines concerning the implementation of an anti money laundering program for financial services providers.

Article 94

Self-explanatory

Article 95

Self-explanatory

Article 96

Self-explanatory

Article 97

Self-explanatory

Article 98

Self-explanatory

Article 99

Self-explanatory

Article 100

Self-explanatory

SUPPLEMENT TO THE STATE GAZETTE OF THE REPUBLIC OF INDONESIA  
NUMBER 5164

