

# BLOCKING OF OTHER PARTY'S ACCOUNT USED BY SUSPECT OF MONEY LAUNDERING CRIME IN NARCOTICS CASE

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**Abstract:** This study aims to analyze the action of blocking accounts of other parties used by suspects of money laundering crimes in narcotics cases. The research adopts a normative legal approach with a descriptive nature. The focus of this study is on the process and legal implications of blocking accounts of other parties in narcotics cases involving money laundering. The legal approach in this research includes analyzing relevant laws and understanding related legal principles. The findings of this study will provide insights into the practice of blocking accounts in the context of narcotics law enforcement and money laundering, as well as its implications within the criminal justice system. The conclusion of this research will offer a better understanding of how the process of blocking accounts of other parties can contribute to the effective handling of narcotics and money laundering cases.

**Keywords:** blocking accounts; money laundering; enforcement

## 1. INTRODUCTION

The development of narcotics crimes today forces our norms to form comprehensive rules to tackle this transnational crime. In terms of norms, Law Number 35 of 2009 concerning Narcotics has indeed been enacted, which is still not maximally effective when viewed from a sociological perspective with indicators of rampant arrests of traffickers and narcotics addicts.

The abuse and illicit trafficking of narcotics is a major problem that must be faced by many countries. The entry of these illicit goods into Indonesia, because Indonesia is considered a fairly profitable market for dealers and dealers both inside

and outside the country, this is a concern and a serious concern for the government to solve it.

Problems arise when narcotics crimes, especially drug trafficking, are linked to the Crime of Money Laundering regulated in Article 137 paragraphs 1 and 2 of Law Number 35 of 2009 concerning Narcotics and Law Number 8 of 2010 concerning Prevention and Eradication of Money Laundering, namely when the proceeds of narcotics crimes are deposited in a bank that has the principle of customer confidentiality. In general, the above raises a battle of principles, so it is interesting to be considered in the form of research in order to create harmonisation of norms..

Money laundering or in English terms called money laundering, ethnologically money laundering consists of the word money which means money and laundering which means washing. So money laundering is money laundering. Law Number 8 of 2010 concerning the prevention and eradication of the criminal offence of money laundering mentions the term money laundering as money laundering, as stated in the journal of the law and in its articles (Husien & Roberts K, 2018).

The problem that arises sociologically is when a suspect in a money laundering offence whose predicate crime is a drug offence uses another person's account to deposit the money. This often takes a relatively long time to block. Narcotics investigators who work in a matter of minutes may lose momentum in securing the proceeds of narcotics crimes, because they have been successfully "secured" by the TPPU perpetrators. The problem limitation in this discussion is the urgency of blocking other parties' accounts used by suspects of money laundering in narcotics cases.

## **2. METHODS**

The type of research used is normative legal research, which is research that obtains legal materials by collecting and analysing legal materials related to the problems to be discussed. Regarding the nature of research in writing the thesis here is the nature of prescriptive research. The type of research on the vagueness of norms contained in Article 71 paragraph 1 of Law Number 8 of 2010 concerning Prevention

and Eradication of Money Laundering Crime. The researcher uses several approaches Statutory approach and conceptual approach.

### **3. RESULTS AND DISCUSSION**

#### **3.1. Investigation of Money Laundering Offences in Narcotics Cases**

The history of the development of various types of money laundering offences shows that drug trafficking is the most important source and the main crime underlying money laundering offences. Organised crime still uses money laundering methods to hide, disguise or cover up the proceeds of illegal activities so that they appear to be the proceeds of legitimate activities. In general, banking in Indonesia can potentially be a fertile ground for money laundering practices. There are many cases occurring every year with increasingly sophisticated and complicated modes. This transnational crime is indeed a scary money thing for all countries and global banking networks. Banking institutions are utilised by a number of parties to clean the proceeds of their crimes. Money laundering is an effort to clean the proceeds of crime by hiding, disguising, or obscuring through financial or banking institutions (Amrullah, 2004).

In addition, money laundered through drug trafficking is used to commit similar crimes or develop new ones. The growth of drug trafficking, particularly heroin, in some countries has even bottomed out. History also records that the emergence of an international legal regime to combat money laundering began when the international community was frustrated with efforts to eradicate the illegal drug trade.

At that time, the anti-money laundering regime was seen as a new model in combating crime, no longer focusing on the arrest of perpetrators but rather on the confiscation and seizure of assets. As for the description of some of those related to the issues raised, namely Article 2, 3, 4, 5 of Law 8 of 2010 concerning Prevention and Eradication of Money Laundering Crimes.

The logic of focusing on the proceeds of crime is that the motive of the perpetrator will disappear if the perpetrator is prevented from enjoying the proceeds of crime. With the close correlation between drug trafficking crime as a fundamental crime and money laundering crime as a derivative crime, it is clear that the success of drug

trafficking eradication in a country is largely determined by the effectiveness of drug trafficking eradication anti-money laundering regime in this country.

In the Indonesian context, an interesting question is whether the anti-money laundering regime in Indonesia is sufficient to support efforts to prevent and combat illicit drug trafficking in the country (Amrullah, 2004). Regarding the origin of the word "money laundering" itself there are various versions, the well-known version is the version that comes from the case of the Al Capone group in the 1920s, the group was famous for having an illegal drug business and illegal prostitution, he wanted to clean up the money from the proceeds of the illicit business and misleadingly obscure the investigation of law enforcement officials on the results of his business. Money laundering is generally derived from activities (Fuady, 2004):

1. Money from the drug / narcotics trade;
2. Money from tax manipulation;
3. Money from collusion by certain government officials when manipulating the purchase of a government necessity;
4. Money from collusion between government officials and businessmen in handling a project;
5. Money from unauthorised business in the form of monopolies conducted by state officials or their cronies;
6. Money from illegal levies committed by state officials;
7. Money confiscated by the State;

Uncovering a case of money laundering means that the original crime must also be uncovered. This crime of origin in Indonesia is contained in Article 2 of Law No.15 of 2002 on the Crime of Money Laundering as amended by Law No.25 of 2003.

As a transnational crime, money laundering offences are often committed across national borders, and have a negative impact on the financial system and the world economy as a whole.

On the other hand, because money laundering is related to the original crime committed by Organised crime, the development of money laundering will greatly affect the growth and development of various criminal offences that trigger money laundering, such as corruption, illicit drug trafficking, and illegal logging as well as efforts to combat them (Sjahdeini, 2004 : 19).

According to the International Monetary Found (IMF) report, the amount of laundering around the world covering 2% - 5% of Gross Domestic Product or gross income has led to the attention of the international community to combat money laundering crime is increasing, both bilaterally and multilaterally through various international forums such as the United Nations, APEC, ASEAN, ASEM (ASEAN-European Meeting), or ADB (Asia Development Bank). There are even international forums that specialise in combating money laundering such as the Asia Pacific Group on Money Laundering (APG) and Indonesia is also a member of the Financial Action Task Force on Money Laundering (FATF) which is widely known as an organisation that provides international standards in the field of combating money laundering. (Sjahdeini, 2004 : 19)

At first glance, it seems that money laundering does not harm people or the state, but in fact money laundering has caused widespread losses, not only in the economic sector, but also in all sectors of life, ranging from damage to the country's reputation to the increasing number of predicate crimes from money laundering offences. In addition, money laundering offences also have the potential to undermine the financial sector as a result of the large amounts of money involved in these activities. Financial institutions that rely on the proceeds of crime may face liquidity hazards. This can happen, as a large amount of laundered money that has just been placed in a bank can suddenly disappear from the bank without prior notice, as the owner does so through the use of anonymity wire transfer (Sjahdeini, 2004 : 19).

The flow of money through the international banking system by money launderers is intended to sustain their unlawful operations by providing it to criminals. The fresh funds are needed to finance their operations and to purchase more of the goods and services they embrace. If the flow of money back to the criminals can be interrupted, the criminal organisation will grow weaker and eventually die. This is particularly true for drug trafficking groups, which typically trade drugs on consignment.

### **3.2. The Urgency of Blocking Other Parties' Accounts Used by Suspects of Money Laundering Crime**

Bank Indonesia in implementing banking relationships with implementing banks and bank customers must be based on the principle of protectors and banking relationships between implementing banks and bank customers must be based on the principle of partnership (alignment), which is further elaborated through the principle of trust (fiduciary principle), the principle of prudence (prudential principle), and the principle of knowing your customer (know your customer and customer due diligent principle).

According to A. A. Baramuli, only depositors should be protected (Husein, 2003). While on the other hand, according to Rasjim Wiraatmadja, both depositors and borrowers of bank funds must be protected in the provisions of bank secrecy, because if this is not the case, public confidence in the banking world will decrease (Wiraatmadja, 1995). The principle of trust is a principle that states that the bank's business is based on a relationship of trust between the bank and its customers. Banks mainly work with funds from the public that are deposited with them on the basis of trust, so every bank needs to continue to maintain its health while maintaining and maintaining public trust in the bank.

The principle of trust is a principle that states that the bank's business is based on a relationship of trust between the bank and its customers. Banks mainly work with funds from the public that are deposited with them on the basis of trust, so every bank needs to continue to maintain its health while maintaining and maintaining public trust in the bank (Sjahdeini, *Kebebasan Berkontrak dan Perlindungan yang Seimbang bagi para Pihak dalam Perjanjian Kredit Bank di Indonesia*, 1993 : 167).

In its implementation, bank secrecy is intended to provide protection to customers, one of the protections provided is the protection of data from customers stored in banks, so that these data are not misused because customers provide data to banks on the basis of trust that arises between customers and banks.

Banks will be very careful in disclosing information about the financial condition of their customers, considering that bank secrecy has become a guideline in the implementation of banking and is the key to success in becoming a trusted bank in the eyes of the public. Banks will not necessarily provide information to all parties who

request information about the financial condition of their customers. In fact, the main difficulty in the investigation is that the investigator cannot find out financial information from the bank regarding the alleged money laundering offence before the perpetrator in question is named as a suspect.

The act of moving money from one account to another only takes a few seconds, making it difficult for investigators to trace and confiscate the proceeds of criminal offences stored in banks. This has not been fully accommodated in the provisions on bank secrecy. One of the dominant reasons for the emergence of bank secrecy cases is because the regulation is still incomplete. As a result, it does not provide legal certainty for the parties involved.

This uncertainty can lead to inefficiency, due to the many questions and reporting cases involving bank secrecy. The issue of bank secrecy that is also related to the judiciary is the provision of bank secrecy information in a court session open to the public. If the litigants, defendants or their lawyers disclose bank secrecy information, the information can be known by the public because the court session is open to the public.

Criminal court hearings cannot be conducted in private even if the testimony is bank confidential.

To overcome the provisions of bank secrecy that become obstacles and challenges in the enforcement of the Law on Money Laundering and other related criminal offences, based on the analysis of cases that occurred in Indonesia, the actions that can be taken are as follows:

- a. Law No. 8/2010 on the Prevention and Eradication of the Criminal Offence of Money Laundering has provided answers, which are contained in several articles.
- b. The Law on Money Laundering has provided freedom to investigate cases of money laundering practices and no longer requires permission to disclose bank secrets from the Head of Bank Indonesia.
- c. In breaching the bank secrecy provisions to uncover money laundering offences, the Financial Transaction Reports and Analysis Centre (PPATK) has determined the procedures to breach the bank secrecy provisions.
- d. Permission from the Head of Bank Indonesia to breach the provisions of Bank Secrecy Permission from the Head of Bank Indonesia to open the provisions of

bank secrecy is contained in the Banking Law, namely the provisions of Article 41 paragraph (1), Article 42, Article 44.

- e. Guidelines for the Implementation and Eradication of the Crime of Money Laundering.

In the placement phase, the proceeds of the drug trade are put into the financial system by placement through banking institutions (Finckenauer, 2007 : 1). The money is the proceeds of the drug trade in cash. This money is then put into the financial system through banking institutions.

The banking institutions where drug trafficking proceeds are deposited are high risk foreign banks. High risk foreign banks become a means of placing drug trafficking proceeds because they have financial mechanisms and instruments, including (Lilley, 2006):

- a. anonymous bank account;
- b. internet banking and phone banking services
- c. ATM cards and credit cards
- d. ubiquitous availability of banking services
- e. unrestricted cash withdrawals; and
- f. financial transfers without the need to include the sender's name (*anonymity*).

The layering phase of drug trafficking money laundering involves layering, fragmenting or obscuring drug trafficked money within the financial system to make it difficult to detect. Layering activities in laundering drug proceeds include smurfing, money changers and buying stock portfolios on the stock market.

Smurfing is the activity of transferring money to various other accounts in domestic or foreign banks (Reuter, Truman, & Edwin M., 2004 : 30). A certain amount of money from drug traffickers (retail dealers or street dealers) is deposited to the main drug traffickers through cartel financial managers (Grosse, 2001 : 5).

The money is deposited in cash and placed into the financial system through banking institutions. Then, the collected drug trafficking proceeds are broken down into various other cash fractions that are destined for the smurfs. Subsequently, it is these smurfs who layer the drug trafficking proceeds by crediting them to various accounts in several banks. The money is credited with an amount that does not vary much.

Money changer in laundering the proceeds of drug trafficking is the activity of exchanging the amount of money from drug trafficking with foreign currencies. The foreign currency that is widely used by drug traffickers is USD. This money changer mode includes activities, namely a large amount of money from drug trafficking contained in the financial system in banking institutions exchanged for foreign currency. Purchase of foreign currency through electronic financial transaction services and instruments provided by banking institutions. Then, there is a transaction between the proceeds of drug trafficking using local currency which is exchanged for a number of foreign currency. As a result, there is a difference in the value of the currency that has been exchanged. Cases of money changers in money laundering activities resulting from drug trafficking is rampant in Colombia, Panama and Indonesia (Grosse, 2001 : 5).

The stock market is an effective means of money laundering (Lilley, 2006). According to Freddy R. Saragih, this is because various investors, both domestic and foreign, can conduct various financial transactions on the stock exchange (Yuhassarie, 2004 : 212). The money from drug trading is transferred to a broker to be managed on the stock exchange. The money is used to buy a portfolio of shares from companies labelled as infamous companies. In addition, these companies are classified as red flags or red herrings *dotcom companies*.

Integration as the final activity in the process of laundering drug trafficking proceeds no longer has a direct relationship with the original crime. There are three reasons for doing business integration in laundering drug trafficking proceeds, namely (Lilley, 2006, p. 73)

- a. Try not to involve many people in the business;
- b. Having business staff who have employability skills; and
- c. Creating a business that is engaged in trade and has low production value.

Integration in laundering drug trafficking proceeds in the form of investments in restaurants, entertainment, sports and property businesses (*real-estate*).

The restaurant business is a business that has long been run by the Italian mafia in the United States (Finckenauer, 2007 : 1). The restaurant business is a pizza

restaurant or other Italian specialities. In addition, according to Savona and De Foe, drug traffickers in China and Japan have similar businesses (Savona, 2005 : 27).

The property business is conducted by purchasing real estate through affiliated companies. Then, the drug trafficker buys the real estate at a low price and resells it at the market price (Savona, 2005 : 27)

#### 4. CONCLUSIONS

The urgency of blocking the accounts of other parties used by suspects of money laundering in narcotics cases is to prevent the transfer of money from narcotics crimes to other parties. Considering that transactions between accounts are very fast using internet networks such as M-Banking, it is very possible that the perpetrators of narcotics crimes can immediately transfer the proceeds of narcotics crimes to other parties, while the current regulations or norms are still not maximally regulating this problem.

#### 5. SUGGESTION

Article 71 of Law No. 8/2010 on the Prevention of Money Laundering should be revised immediately, by adding provisions regarding the blocking of accounts of other parties who based on the results of the development of investigations by investigators have a strong connection with the proceeds of illicit drug trafficking. This preventive measure is ideal because in the Money Laundering Crime there is a reverse proof system, so please later on the party who feels aggrieved will prove the transactions contained in his account in a court trial.

### REFERENCES

#### Books

Emmy Yuhassarie. (Ed.) 2004. *Tindak Pidana Pencucian Uang: Prosiding Rangkaian Lokakarya Terbatas Masalah- masalah Kepailitan dan Wawasan Hukum Bisnis Lainnya Tahun 2004 (Jakarta, 5-6 Mei 2004)*. Jakarta: Pusat Pengkajian Hukum

- Ernesto Ugo Savona. (Ed.). 2005. *Responding to Money Laundering: International Perspectives*. Amsterdam: Taylor & Francis
- H. Salim HS dan Erlies Septiana Nurbani. 2013. *Penerapan Teori Hukum Pada Penelitian Tesis dan Disertasi*. Jakarta: PT Raja Grafindo Persada
- James Finckenauer. 2007. *The Mafia and Organized Crime: A Beginner's Guide*. Oxford: Oneworld Publications
- James Finckenauer. 2007. *The Mafia and Organized Crime: A Beginner's Guide*. Oxford: Oneworld Publications
- M. Arief Amrullah. 2004. *Tindak Pidana Pencucian Uang*. Malang: Bayumedia Publishing
- Munir Fuady. 2004. *Bisnis kotor: Anatomi Kejahatan Kerah Putih*. Bandung: Citra Aditya Bakti.
- Peter Lilley. 2006. *Dirty Dealing: The Untold Truth About Global Money Laundering, International Crime and Terrorism*. (ed. ke-3). London: Kogan Page
- Peter Reuter & Edwin M Truman. 2004. *Chasing Dirty Money: The Fight Against Money Laundering*. New York: Institute for International Economics
- Peter Reuter & Truman, Edwin M. 2004. *Chasing Dirty Money: The Fight Against Money Laundering*. New York: Institute for International Economics
- Rasjim Wiraatmadja. 1995. *Pelanggaran Rahasia Bank Ditinjau Dari Sisi Hukum Perbankan*. makalah disampaikan pada seminar "Dilema Bankir dan Dunia Usaha", Jakarta 19 April 1995.
- Robert E Grosse. 2001. *Drugs and Money: Laundering Latin America's Cocaine Dollars*. Westport: Greenwood Publishing Group
- Sutan Remy Sjahdeini. 1993. *Kebebasan Berkontrak dan Perlindungan yang Seimbang bagi para Pihak dalam Perjanjian Kredit Bank di Indonesia*. Jakarta: Institut Bankir Indonesia
- Sutan Remy Sjahdeini. 2004. *Seluk Beluk Tindak Pidana Pencucian Uang dan Pembiayaan Terorisme*. Jakarta: Pusat Utama Grafiti
- Yunus Husien dan Roberts K. 2018. *Tipologi dan Perkembangan Tindak Pidana Pencucian Uang*. Depok: Rajawali Press, hlm. 5.
- <https://kliklegal.com/tidak-hanya-indra-kenz-ini-5-kasus-tpu-yang-terjadi-di-indonesia/>.

## Legislations

Kitab Undang-Undang Hukum Acara Pidana (KUHP) atau Undang-Undang Republik Indonesia Nomor 8 Tahun 1981, Lembaran Negara Republik Indonesia Tahun 1981 Nomor 76.

Kitab Undang-Undang Hukum Pidana (KUHP).

Undang-Undang Nomor 10 Tahun 1998 Tentang Perubahan Atas Undang-Undang Nomor 7 Tahun 1992 Tentang Perbankan, Lembaran Negara Republik Indonesia Tahun 1998 Nomor 182.

Undang-Undang Nomor 35 Tahun 2009 Tentang Narkotika, Lembaran Negara Republik Indonesia Tahun 2009 Nomor 143.

Undang-Undang Nomor 8 Tahun 2010 Tentang Tindak Pidana Pencucian Uang, Lembaran Negara Republik Indonesia Tahun 2010 Nomor 122.