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NOTARY'S OBLIGATION TO ATTACH SUSPICIOUS FINANCIAL TRANSACTIONS AS A FORM OF MONEY LAUNDERING

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ABSTRACT
The involvement of Notaries as public officials in money laundering practices is one of the methods used by criminals to disguise the origin of funds from criminal acts, such as corruption. Notaries are often used to prepare deeds of establishment of legal entities or purchase assets to obscure these illegal transactions. This research elucidates the duties borne by Notaries in conveying indications of atypical financial activities as an instrument for deterring money-laundering offenses. The issues examined encompass: (1) the normative framework governing the obligations and accountability of Notaries in submitting reports on anomalous financial dealings; (2) the delineation of criteria for such transactions that necessitate disclosure; and (3) the juridical repercussions imposed when Notaries neglect to report. The study employs a normative juridical method through a statutory and regulatory approach. Its findings reveal that the mandate to report is anchored in multiple legal instruments, including Law Number 8 of 2010 on the Prevention and Eradication of Money Laundering, the Notary Law, Minister of Law and Human Rights Regulation No. 9 of 2017, and PPATK Regulation No. 6 of 2021. The parameters for identifying suspicious financial transactions are articulated in Article 1 point 8 and Article 8 of Government Regulation Number 43 of 2015. When a Notary fails to submit such reports, they may incur administrative penalties as prescribed in Minister of Law and Human Rights Regulation No. 61 of 2016 and the Notary Law.

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INTRODUCTIONS

Indonesia is a developing country classified as a modern constitutional state with an economy still dominated by the agricultural sector. As a constitutional state, Indonesia faces serious challenges in law enforcement, one of which is money laundering, a type of white-collar crime that has become a matter of international concern (Sibero et al., 2024; Susanto, 2022).

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Initially, money laundering was mostly carried out through banking institutions. However, in line with the tight regulations and supervision of the banking sector in Indonesia, money laundering methods have shifted to the property sector, particularly through real estate sales and purchase transactions. Perpetrators of money laundering often exploit the professional services of notaries to legitimise illicit financial activities. As public officials authorised to prepare authentic deeds, notaries may be misused to mask the true origins of criminal proceeds, whether through the purchase of assets, transfer of ownership, or the establishment of legal entities. This misuse of notarial authority enables illegally sourced funds to appear lawful, thereby facilitating the integration of criminal assets into the formal financial system. The main objective of money launderers is to conceal the existence of illegally obtained assets in order to avoid detection and legal action by law enforcement agencies (Berutu, 2019). Etymologically, money laundering refers to the process of disguising or concealing the origins of proceeds derived from criminal activities so that they appear lawful and legitimate (Ramdania, 2021).

Money laundering offences can have a direct or indirect impact on the stability and economic system of a country (Lubis & Nasution, 2020). Indirect or direct money laundering often exploits the role of public officials, such as notaries, who have the authority to create authentic deeds as legal evidence of legal actions. In practice, money launderers often use the position of notaries to legitimise illegal activities, even involving notaries in the design of fictitious businesses or investments, both domestically and abroad, to make them appear legal. In addition, perpetrators also often grant power of attorney to notaries to carry out various legal acts, such as depositing funds, binding sales and purchases, and investments, in an effort to conceal the existence of criminal assets (Sidik & Sulistyana, 2021).

Notaries have the main duty of being public officials directly appointed by the government to create authentic deeds for legal actions listed in legislation. Deeds created by notaries can be used as legal evidence to guarantee the certainty of a legal event and prevent disputes in the future. Therefore, the contents of the deed must be clearly written and not open to multiple interpretations. Within the framework of money-laundering offences, Law No. 8 of 2010 on the Prevention and Eradication of Money Laundering Crimes, particularly Article 1 point 1 and Articles 3 through 5, stipulates that money laundering encompasses every action that meets the constituent elements of a criminal act as defined in the prevailing statutory provisions.

Money laundering offences originating from predicate offences, such as corruption, are often committed by perpetrators using the services of notaries, particularly through transactions in the property sector, such as the binding sale and purchase of land and buildings. Notaries have a role in drafting deeds related to such transactions, such as deeds of sale and purchase and other supporting documents.

The duty of notaries to submit reports on suspicious transactions is articulated in Article 8 of Government Regulation No. 43 of 2015. By carrying out this reporting obligation, notaries can protect themselves from potential accusations of involvement in money laundering offences.

From the above explanation, the author provides an example: there is an applicant who approaches a notary, a 19-year-old who wants to purchase a house and 1 hectare of land with a transaction value of 5 billion rupiah. In this case, the notary must fill out a list or CDD and EDD data stating the source of the funds. What if a notary does not do this? What if the notary and the parties are considered perpetrators of money laundering? Will the notary also be declared as a person involved? Although numerous inquiries could be explored within this study, the author has elected to concentrate on only three principal issues. Consequently, the author is compelled to investigate and elaborate on the Notary's Obligation to Report Suspicious Financial Transactions as a Manifestation of Preventing Money Laundering Offences.

METHODS

Normative jurisprudence is used in this research for the research method, namely legal research that focuses on secondary data or library materials such as legislation, doctrine, and legal literature. From a normative perspective,

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this method aims to obtain scientific validity based on legal scientific thinking (Meilinda et al., 2024). In addition, this research also uses a conceptual approach, which is based on perspectives and doctrines that have developed in legal science (Marzuki, 2017).

The legal materials in this research include primary legal materials, such as the 1945 Constitution, the Civil Code, the Notary Law, the Money Laundering Criminal Law, Government Regulation No. 43 of 2015, and PPATK regulations related to reporting suspicious transactions. In addition, secondary legal materials were also used, in the form of literature, journals, books, and other legal publications, as well as tertiary legal materials such as legal dictionaries that provide supporting information.

Literature studies and document studies were used as techniques for collecting legal materials, through a snowball search method, classification based on source and hierarchy, and recording in cards or daily notes. The examination of legal materials is undertaken through descriptive and interpretative methods, by construing the substance of statutory provisions in alignment with the research focus, with the objective of attaining the appropriate legal understanding (*rechtsvinding*).

RESULTS AND DISCUSSIONS

Regulations on Notary Obligations in Cases Where They Are One of the Parties Required to Report and Take Responsibility for Suspicious Financial Transactions

In general, legal science focuses on the normative interpretation of an object, where the main focus is to understand human actions or behaviour that are regulated and determined by legal norms. Meanwhile, financial transactions are events within an entity or company that require regular, systematic, and chronological recording because they result in changes in assets, liabilities (debts), and equity (capital).

Financial transactions constitute economic undertakings that transpire within a corporate subsystem or occurrences that arise in one of the structural components of a business entity, where the object of the transaction can be measured using currency units and recorded in an accounting system that can affect the financial records compiled. The command to record financial transactions in Islamic law is a decree from Allah SWT as stated in the Qur'an, Surah Al-Baqarah verse 282, as explained in the following translation:

> *"O you who believe, when you enter into a debt transaction for a specified period, write it down. Let a scribe among you record it fairly and justly. The scribe should not be reluctant to write as Allah has taught him. The debtor must dictate the contents of the agreement and be mindful of Allah, his Lord, and must not reduce anything from the agreement."*

The continuation of the verse also emphasises that one should not be reluctant to record debt agreements, whether the amount is large or small, with a clear time limit. This is considered more just in the sight of Allah, strengthens testimony, and avoids doubt. However, if the transaction is a cash sale, then it is not a problem if it is not recorded.

Meanwhile, non-financial transactions refer to events that are processed through management information systems and have a much broader scope than financial transactions. For example, the signing of a memorandum of understanding (MoU) between two companies regarding the supply of raw materials for production can be recorded in the company's information system as a transaction.

In Indonesia, a large number of suspicious financial transactions are carried out through banking institutions. The stipulations pertaining to the parameters of suspicious transactions are delineated in Article 1 paragraph (5) of the Law on the Crime of Money Laundering and Article 1 paragraph (8) of Government Regulation No. 43 of 2015 concerning Reporting Parties in the Efforts to Prevent and Address Money Laundering Crimes, both of which encapsulate substantially analogous provisions.

Financial transactions that are inconsistent with the profile, characteristics, or normal transaction patterns of the relevant service user.Financial transactions performed by service users suspected of attempting to avoid reporting

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obligations as stipulated in laws and regulations concerning the handling and resolution of criminal acts of money laundering.Financial transactions carried out or cancelled using assets suspected of originating from criminal activities.Financial transactions that must be reported by the reporting party at the request of the Financial Transaction Reports and Analysis Centre (PPATK) as they involve assets suspected of being the proceeds of criminal acts.

The government has re-enacted Law No. 8 of 2010, which aims to protect and resolve money laundering offences. Article 1 paragraph (11) states that the term 'reporter' refers to any individual who is required by law to submit a report to the Financial Transaction Reports and Analysis Centre (PPATK). To reinforce the ML Act, the government also issued Government Regulation No. 43 of 2015, which clarifies that the reporting parties are:
Lawyer (advocate);

Notary;

Official authorised to draw up land deeds (PPAT);

Professionals in the field of accounting and financial planning consultants.

The scope of reporting obligations by Notaries is prescribed by Article 8 paragraph (1) of Government Regulation Number 43 of 2015, which outlines that reporting parties in accordance with Article 3 must submit reports to PPATK if there are Suspicious Financial Transactions carried out directly for the purposes of or in the name of Service Users, which include, among others:

1. Property sale and purchase transactions;
2. Management or operation of funds, activities in the capital market, and/or other financial services.
3. Turnover of current accounts, savings accounts, deposits, and/or securities accounts;

Operation of companies; and/or Purchase and marketing of legal entities.

The obligation of notaries as professionals to report suspicious financial transactions to PPATK is further explained in Article 23 paragraph (1) of PPATK Head Regulation Number 11 of 2016 along with PPATK Regulation Number 6 of 2021 on the subject of Procedures for the Use of the goAML Application by Supervisory and Regulatory Institutions for Compliance Monitoring. The regulation stipulates the mechanism for professions, including notaries, in carrying out their reporting duties on transactions that are indicated as suspicious, as follows:

Notaries shall register using the goAML application, which can be downloaded from the official website goaml.ppatk.go.id, within 7 working days from the effective date of the reporting obligation.

Reports to PPATK can be submitted in two ways:

Electronic: via the goAML application.

Non-electronic: in softcopy form sent via courier, delivery service, or delivered directly to the PPATK office.

Notaries are required to retain all documents related to their services to users for at least five years after the business relationship has ended.

Currently, there are regulatory changes related to reporting by Notaries as part of preventive measures against Money Laundering (TPPU). Notaries who have registered with GRIPS are required to update their data in the goAML reporting system, after previously registering an account with goAML. Beneficial Ownership reporting is carried out through the AHU Online system and is a corporate obligation.

Based on PPATK Regulation No. 3 of 2021, as of 1 February 2021, manual reporting is no longer applicable. However, according to Article 6 of the same regulation, Notaries who are already registered with GRIPS are not required to re-register and update their data on goAML. As reporting professionals, notaries are required to implement the Know Your Client (KYC) principle to combat money laundering originating from various criminal acts such as drugs, corruption, smuggling, illegal mining, and terrorism financing. KYC helps notaries identify clients and monitor suspicious transactions, then report them to PPATK.

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As state-appointed officials, notaries are obliged to uphold the principle of prudential conduct as mandated in Article 16 paragraph (1) letter a of the Notary Position Law (UUJN). This principle compels notaries to act impartially, with integrity, reliability, meticulousness, and institutional independence. Its practical application encompasses verifying the identities of service users, scrutinising documents with due diligence, engaging in inter-agency coordination, and ensuring precise and accurate documentation within authentic deeds. In addition, notaries must implement the Know Your Client Principle (PMPJ), which is regulated in Government Regulation No. 43 of 2015 and Minister of Law and Human Rights Regulation No. 9 of 2017, particularly in certain conditions such as:

Existence of a working/service relationship;
Transactions ≥ IDR 100 million;
Indications of money laundering/terrorism financing;
Unusual user data.

Minister of Law and Human Rights Regulation No. 9 of 2017 also delineates the three phases of money laundering (placement, layering, and integration), within which notaries may inadvertently become involved. Accordingly, notaries must:

Identify and verify the identity and legality of documents;
Monitor transactions carefully;
Investigate further if any irregularities are found.

Notaries have the right to refuse or cancel the creation of deeds if there are doubts about the parties involved. In their role as gatekeepers, notaries are also required to mitigate risks, categorise service users based on their level of financial crime risk, and must flag and report suspicious transactions to the PPATK.

Notaries may not open or maintain accounts in anonymous or fictitious names and must complete the verification process before or as soon as possible after the business relationship begins. Overall, notaries are not only useful as deed makers, but also as supervisors and reporters in efforts to prevent terrorism financing and money laundering offences.

Criteria for Suspicious Financial Transactions Requiring Reporting

Article 16 of the Notary Law (UUJN) stipulates a number of obligations that must be carried out by Notaries in exercising their authority, namely:

1. Act professionally: be trustworthy, impartial, protect the interests of all parties, be independent, thorough and honest.
2. Create and store the Minute Deed, which is an integral component of the Notary Protocol.
3. Place supporting documents and biometric identification of the parties listed in the Minute Deed.
4. Issue the Groose, Duplicate, and Extract of the Deed based on the Minute.
5. Provide legal services, unless there are valid reasons to refuse.
6. Maintain the confidentiality of information in accordance with the binding oath of office in the preparation of deeds.
7. Binding deeds every month, with a maximum of 50 deeds per book.
8. Creating and sending a list of wills to the will registry centre at the Ministry of Law and Human Rights, and recording it in the repertory.
9. Possessing an official seal/stamp containing the state emblem and the Notary's identity.
10. Read the contents of the deed in front of the parties involved and witnesses, then sign it directly at the same time.
11. Accept prospective notaries for internships.

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Violations of notarial obligations may directly result in legal defects in deeds and trigger sanctions against notaries, as these obligations are fundamental requirements for ensuring the authenticity, validity, and evidentiary force of deeds. Sa'adah et al. (2025) indicates that negligence on the part of the Notary in carrying out formal procedures such as reading the deed, verifying identities, or ensuring the intentions of the parties can cause the deed to lose its authentic power and be declared legally invalid by the court. Meanwhile, Putri & Marlyna (2021) emphasises that any violation of the provisions for the preparation of deeds may result in administrative sanctions ranging from warnings to dismissal by the Supervisory Board. In addition, research Qodarrahman et al. (2022) indicates that if the violation involves intentional acts or forgery, the notary may face criminal prosecution, civil, and ethical sanctions simultaneously. Thus, academic analysis consistently proves that a notary's non-compliance with their professional obligations not only undermines the validity of deeds but also has serious legal consequences for the notary themselves.

In addition, drawing on Government Regulation No. 43 of 2015, if a Notary finds a suspicious transaction (as stipulated in Article 8 and Article 1 point 8), he or she is shall report it to the PPATK. This reporting obligation is part of the Notary's role as a reporter in order to handle and eradicate money laundering crimes.

The legal responsibility of a notary arises from their oath of office and the authority granted to them, which must be the main control in carrying out their duties. This situation can occur if a notary, in a transfer of rights transaction such as a deed of sale and purchase, deliberately records a transaction value that is lower than the actual cost (Jurdi, 2019).

Notaries, as public officials, play a strategic role in the civil law system, particularly in the drafting of authentic deeds. With these responsibilities and authorities, notaries are required to carry out their duties professionally, act diligently and comply with applicable laws, including efforts to combat money laundering. The responsibilities of notaries are classified into four types, namely (Anggraini & Putrijanti, 2023):

1. Criminal liability, if the Notary intentionally or negligently causes a crime to occur through the deed that is drawn up.
2. Administrative liability, based on violations of the Notary Regulations.
3. Ethical liability, in the event of violations of the Notary Code of Ethics.
4. Civil liability, for losses arising from negligence or errors in the preparation of deeds.

As a measure to curtail the potential misuse of professional roles in financial offences, notaries are obliged to apply the Know Your Client (KYC) principle as prescribed in Government Regulation No. 43 of 2015 and Law No. 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes (TPPU). KYC encompasses the processes of identifying and authenticating the identity of service users, overseeing transactional activities, and submitting reports to the PPATK upon the detection of any suspicious activity. The hallmarks of suspicious transactions include:

1. Inconsistency with the profile or normal transaction habits of service users;
2. Suspected use of assets derived from criminal activity;
3. Attempts to avoid mandatory reporting;
4. Special requests from the PPATK.

Reports can be submitted electronically via the goAML application by sending them through a telecommunications network that is directly connected to the PPATK database system, or manually (non-electronically) by submitting them directly to the PPATK office (Anggraini & Putrijanti, 2023). Preventive measures that need to be implemented by Notaries in the deed drafting process include, among others:

1. Verify the identity of the parties using official documents;
2. Check the data of the subject and object of the law, including the authenticity of certificates;
3. Allow sufficient time for the preparation of the deed, so as not to rush;
4. Carefully examine the wording in the deed so that it is not open to multiple interpretations;

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5. Comply with formal and material requirements in accordance with the Law on Notaries and the Civil Code.

Notaries, who are known for their integrity and high level of trust in society, must maintain their reputation so that they do not become tools for criminals in committing money laundering. Furthermore, based on data issued by PPATK as of September 2023, there has been a notable escalation in the volume of suspicious transactions, rising by 13.9% compared to the end of 2022, with risk levels heavily concentrated in the regions of DKI Jakarta, East Java, Papua, and North Sumatra.

By adhering to all principles of due diligence and reporting suspicious transactions, notaries not only fulfil their legal obligations but also actively contribute to safeguarding the integrity of the national legal and financial systems from the threat of transnational organised crime.

Legal Consequences if a Notary Public Fails to Report Suspicious Financial Transactions

Notaries are often asked to act as witnesses in cases involving legal forgery, both in relation to substantive law and intellectual property law. An example of intellectual property law forgery is the provision of false information in a notarial deed with the aim of concealing illegal funds believed to originate from money laundering offences (Terina & Renaldy, 2020).

To effectively counter and address offences involving criminally derived assets, notaries bear a crucial duty to uphold the principle of prudence. Pursuant to Article 54 of the UUJN, a notary is permitted to disclose information contained in a deed solely to parties who possess a legitimate and direct interest, unless otherwise mandated by statutory provisions. In addition, notaries are required to preserve integrity and professional conduct as stipulated in Article 16 letter a of the UUJN, which obliges them to act independently, conscientiously, diligently, honestly, and without partiality.

In accordance with Permenkumham No. 9 of 2017 Article 21, Notaries are required to carry out due diligence on transactions, especially if there are indications of suspicious transactions. If the service user refuses to provide additional information or documents, the Notary must terminate the relationship and report the transaction as a Suspicious Financial Transaction (TKM) to the PPATK within 3 days.

Notaries are also required to terminate the application of the principle regarding service users if there are indications of money laundering or terrorism financing, or if it could violate the anti-tipping off principle. Other obligations of Notaries include recording, monitoring, and reporting transactions as well as organising documents of service users and beneficial owners in accordance with Articles 22 and 23 of Regulation of the Minister of Law and Human Rights (Permenkumham) No. 9 of 2017.

The PPATK was established based on the UUTPPU to analyse and provide financial intelligence to assist law enforcement officials in handling and resolving criminal acts of money laundering. Government Regulation (PP) No. 43 of 2015 obligates Notaries to transmit reports of Suspicious Financial Transactions (TKM) to PPATK as an integral component of the national framework for thwarting and addressing Criminal Acts of Money Laundering (TPPU). However, this obligation conflicts with Article 16(1)(f) of the Notary Law, which requires notaries to keep the contents of deeds confidential. This conflict creates legal uncertainty, as there is a contradiction between regulations in a legal system that should be hierarchical and consistent, following the principles of *lex superior derogat legi inferiori*, *lex specialis derogat legi generalis*, and *lex posteriori derogat legi priori*.

Nonetheless, Article 170 paragraph (1) of the Criminal Procedure Code also strengthens the position of Notaries as holders of professional secrecy who can be exempted from the obligation to testify. The principle of professional secrecy is important to maintain public trust in Notaries as trustworthy and neutral public officials. However, practice shows that this secrecy is often used by criminals to cover up crimes behind Notary services. Therefore, Government Regulation (PP) 43/2015 expands the category of Reporting Parties to include Notaries in order to close legal loopholes that enable money laundering.

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However, it should be noted that the TPPU Law itself does not list Notaries as Reporting Parties, but only mentions financial service providers and goods/services. This reinforces the argument that PP 43/2015 can be considered contrary to the above law and has the potential to damage the integrity and position of notaries as parties trusted by their clients.

The obligation for notaries to report suspicious transactions has caused controversy, particularly in relation to the potential for defamation charges against notaries by clients who are reported. However, Articles 29 and 87 of the Anti-Money Laundering Law provide legal protection for reporters, including Notaries, from civil or criminal charges regarding the reports submitted. This protection covers anyone who reports or shares testimony related to suspected money laundering offences.

On the other hand, if a notary fails to fulfil their obligation to ascertain the use of services as stipulated in Article 30 of Permenkumham No. 9 of 2017, they may be subject to administrative sanctions, as specified in Article 17(2) of the Notary Law and Permenkumham No. 61 of 2016, which include:

1. Written warning
2. Suspension or temporary dismissal
3. Honourable dismissal
4. Dishonourable dismissal

Several scholarly inquiries affirm that any lapse by notaries in fulfilling their obligations under the Know Your Client Principle (PMPJ), as mandated in Permenkumham Number 9 of 2017, may engender legal repercussions in the form of administrative sanctions, as delineated in the Notary Position Law and Permenkumham Number 61 of 2016. Prayitno (2017) highlights that fulfilling the obligation to identify and verify service users is an integral part of the duties of a notary, and therefore neglecting this obligation can be classified as a violation of official authority. Umar and Haryanti (2023) found that the implementation of PMPJ by notaries is still not optimal and empirically opens up the possibility of administrative sanctions being imposed by the government due to non-compliance with the obligation to report suspicious transactions. Saputra (2024) also emphasises that PMPJ is a binding legal obligation, so that failure to comply with it can be regarded as a professional violation which, normatively, could potentially result in a reprimand, guidance, suspension or dismissal by the competent authority.

If a notary is directly involved or has a contribution in the criminal act of money laundering, then in addition to administrative sanctions, he or she may also be held criminally liable. However, deeds created by a notary may be automatically null and void, as long as they meet the requirements for a valid agreement based on Article 1320 of the Civil Code, including the agreement of the parties. However, if the object in the deed is the result of a criminal act such as corruption, then the assets may still be confiscated by the state.

CONCLUSION

Notaries bear a juridical duty as reporting entities for suspicious financial transactions, a mandate articulated across multiple regulatory instruments, including Law No. 8 of 2010 on the Crime of Money Laundering, the Notary Profession Law, Regulation of the Minister of Law and Human Rights No. 9 of 2017, PPATK Regulation No. 11 of 2016, and PPATK Regulation No. 6 of 2021 governing the utilisation of the goAML system. The criteria for suspicious financial transactions refer to the provisions of Article 1 point 8 and Article 8 of Government Regulation No. 43 of 2015, including transactions that deviate from the service user's profile, transactions carried out to avoid reporting, transactions involving assets derived from criminal acts, and transactions at the request of PPATK. Forms of suspicious transactions include property purchases, financial account management, establishment or management of business entities, and other similar activities. Should a notary neglect to discharge their reporting obligations, they may incur administrative sanctions as prescribed in Minister of Law and Human Rights Regulation No. 9 of 2017 and

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No. 61 of 2016. These sanctions may encompass written reprimands, temporary suspensions, honourable termination of office, or dismissal with discredit.

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