



ENSURING LEGAL PROTECTION FOR NOTARIES IN THE REPORTING OF SUSPECTED MONEY LAUNDERING ACTIVITIES

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ABSTRACT

Money laundering poses significant challenges to financial integrity, requiring effective preventive measures involving professionals such as Notaries. This study examines the legal protection of Notaries as reporting parties and their obligation to report suspicious financial transactions, focusing on the tension between the Notary's duty to maintain client confidentiality and the statutory duty to prevent money laundering. The objective is to clarify the scope of legal safeguards and accountability for Notaries in fulfilling their reporting obligations. The study employs a **normative juridical method**, combining conceptual and statutory approaches to analyze relevant laws, regulations, and professional guidelines. The findings show that, under the principle of *lex specialis derogat legi generali*, Notaries are legally obliged to report suspicious transactions even when confidentiality obligations exist. Notaries who report in good faith and comply with procedural requirements are entitled to preventive protection, including guidance and supervision, as well as repressive protection, such as immunity from civil or criminal claims. However, current regulations do not provide clear and detailed mechanisms for ensuring comprehensive legal protection, creating a risk that some Notaries may avoid reporting, thereby weakening anti-money laundering efforts. The study concludes that stronger, explicit regulatory measures are needed to secure Notaries' legal position while enhancing the effectiveness of reporting obligations in combating money laundering.

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INTRODUCTION

A Notary is a public official authorized to draw up authentic deeds and exercise other powers as regulated under Law Number 2 of 2014 on Amendment to Law Number 30 of 2004 regarding Notary Profession (hereinafter referred to as the Notary Law). In performing their duties, Notaries must comply with all provisions set out in the Notary Law.

Article 15 of the Notary Law grants Notaries the authority to draw up authentic deeds concerning all legal acts, agreements, and determinations required by laws and regulations or requested by the parties to be stated in an authentic deed. Notaries also certify the date of the deed, retain the original deed, and issue grosse, copies, and excerpts, as long as such authority is not assigned to other officials by law. This role places Notaries in a crucial position in providing legal certainty, particularly in fulfilling the public need for written evidence with full evidentiary value.

In carrying out their duties, Notaries must act in good faith, honestly, independently, and carefully, while safeguarding the interests of the parties involved, as stipulated in Article 16 paragraph (1) letter a of the Notary Law. The principle of carefulness requires Notaries to act thoroughly and prudently, especially in identifying and verifying the parties appearing before them. However, in practice, not all parties act in good faith.

In certain cases, parties misuse the position of Notaries, including the obligation of confidentiality, to legitimize transactions that are substantively unlawful. As a result, such transactions may appear formally valid despite containing illegal elements. One common form of crime committed through this method is money laundering (Al Qindy, 2023: 466).

The regulation of money laundering in Indonesia began with Law Number 15 of 2002 and was later amended by Law Number 25 of 2003. Due to evolving enforcement needs, the regulation was further updated through Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering. This law aims to strengthen efforts to prevent and combat money laundering more effectively.

To support these efforts, an independent institution known as the Financial Transaction Reports and Analysis Center (PPATK) was established. PPATK receives reports, analyzes suspicious financial transactions, and submits the results to law enforcement authorities. In practice, PPATK cooperates with various public and private institutions, including individuals and business entities, all of whom must report transactions that are known or reasonably suspected to be suspicious (Riski Diba Nadia Cut, 2015: 128).

The increasing use of notarial services in money laundering activities has led to the inclusion of Notaries as Reporting Parties under Article 3 of Government Regulation Number 43 of 2015. As a follow-up regulation, the Ministry of Law and Human Rights issued Regulation Number 9 of 2017 concerning the Application of the Principle of Recognizing Service Users for Notaries. Article 2 paragraph (1) requires Notaries to apply this principle, which includes identifying, verifying, and monitoring service users.

At the same time, Notaries are bound by the obligation of professional confidentiality as stipulated in Article 16 paragraph (1) letter f of the Notary Law. This obligation is also reflected in the Notary's oath of office, which requires Notaries to keep confidential all information obtained in the performance of their duties. A violation of this obligation may result in criminal sanctions under Article 322 of the Criminal Code.

This situation creates a normative tension between the obligation to maintain confidentiality and the obligation to report suspicious transactions. The absence of clear and detailed implementing regulations governing Notaries as reporting parties further intensifies this issue, particularly in relation to the scope and form of legal protection available to Notaries. Previous studies have generally discussed the role of Notaries in preventing money laundering, but have not specifically examined the scope and mechanism of legal protection for Notaries as reporting parties. This gap highlights the importance of further analysis to provide clearer legal guidance and certainty.

Based on the explanation above, there is a potential conflict between the obligation of a Notary to maintain confidentiality and the obligation to report indications of money laundering. This condition creates legal uncertainty regarding the limits of responsibility and the legal protection available to Notaries when fulfilling their reporting obligations. Therefore, this research examines the issue under the title **“Legal Protection of Notaries in Reporting Suspected Money Laundering.”**

METHOD

This research employs a normative juridical method, as it examines issues related to statutory regulations and the construction of legal norms. The study focuses on analyzing legal principles, legal doctrines, and the harmonization of regulations concerning notarial obligations and anti-money laundering reporting duties.

The data used consist of primary, secondary, and tertiary legal materials. Primary legal materials include relevant laws and regulations on notarial office and money laundering. Secondary legal materials comprise legal literature, journal articles,



and expert opinions related to the research topic. Tertiary legal materials include legal dictionaries and other supporting references.

This research is conducted through library research by collecting and reviewing relevant legal materials from legislation, books, and academic publications (Fajar & Achmad, 2017). The collected data are then analyzed qualitatively through systematic interpretation of legal norms and principles.

RESULT AND DISCUSSION

The Authority of Notaries as Reporting Parties for Alleged Money Laundering

The implementation of the notarial office must comply with the provisions stipulated in Law Number 2 of 2014 on Amendment to Law Number 30 of 2004 regarding Notary Profession (hereinafter referred to as the Notary Office Law). Notaries must carry out their duties in accordance with the provisions outlined in this law. Based on Article 15 of the Notary Office Law, a Notary is authorized to draw up authentic deeds concerning any legal act, agreement, and stipulation required by laws and regulations or intended by the parties to be stated in an authentic deed. A Notary is also authorized to certify the date of the deed, retain the original deed, and issue grosse, copies, and excerpts, provided that such authority is not assigned to another official under the law. Therefore, the role of a Notary is essential in fulfilling society's need for legal certainty through evidence with full evidentiary value.

A Notary must act in good faith, honestly, independently, and carefully, while safeguarding the interests of the parties involved, as stipulated in Article 16 paragraph (1) letter a of the Notary Office Law. The principle of carefulness requires thorough identification and verification of the appearers. However, in practice, not all parties act in good faith. Certain parties misuse the position of a Notary, including the obligation of confidentiality, to legitimize transactions that are substantively unlawful. As a result, illegal transactions may appear formally valid and legally acceptable. One common form of such misuse is money laundering (Al Qindy, 2023: 466).

Money laundering refers to activities carried out to conceal or disguise the origin of funds derived from criminal acts by placing them into the financial system, either through banking or non-banking institutions (Amboro & Fandias, 2014: 74). In preventing such practices, the role of gatekeepers, including Notaries, becomes crucial because they are positioned at the initial stage of legal transactions and can detect irregularities early (Ciucă, 2018: 97).

At the international level, efforts to combat money laundering were institutionalized through the establishment of the Financial Action Task Force (FATF) in 1989 by G-7 countries. FATF functions as an intergovernmental body that develops policies and recommendations to strengthen global cooperation in preventing and combating money laundering (MacDonald, 2010: 143).

In Indonesia, the regulation of money laundering began with Law Number 15 of 2002, later amended by Law Number 25 of 2003, and subsequently refined through Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering. An independent institution, the Financial Transaction Reports and Analysis Center (PPATK), was established to receive reports, analyze suspicious transactions, and forward the results to law enforcement authorities (Cut, 2015: 128).

PPATK collaborates with various institutions, including professionals such as Notaries, who are designated as Reporting Parties under Government Regulation Number 43 of 2015, as amended by Government Regulation Number 61 of 2021.

To implement this obligation, the Ministry of Law and Human Rights issued Regulation Number 9 of 2017, which requires Notaries to apply the Principle of Recognizing Service Users. This principle includes identifying, verifying, and monitoring clients and applies in transactions such as property transfers, company establishment, financial management, and other legal arrangements (Pramadanty et al., 2024: 240).

Article 17 paragraph (5) of Ministerial Regulation Number 9 of 2017 grants Notaries the authority to approve or reject service users and beneficial owners categorized as high risk. Notaries may terminate business relationships if clients refuse the implementation of the Principle of Recognizing Service Users. They may also rely on third-party examinations, provided the third party has proper policies and procedures and is supervised by the competent authority, though ultimate responsibility remains with the Notary (Rusli et al., 2024: 1077).



However, practical and legal challenges arise. Indicators of suspicious transactions are often interpretative, and errors in assessment may result in administrative sanctions. Notaries also face operational and financial burdens related to compliance, such as technology systems, training, and infrastructure (Ibrahim & Sudiro, 2022: 190).

Notaries are not investigators or law enforcement officers, they are public officials recording legal acts. Reporting obligations, therefore, create potential legal risks, especially when transactions involve fictitious documents, false identities, or shell companies (Sugiarta & Mahendrawati, 2025: 107). This dual obligation creates a normative conflict between the duty of confidentiality and the obligation to report suspicious transactions.

Legal Protection for Notaries as Reporting Parties

The Law on Notary Office was enacted as a legal basis aimed at providing legal certainty as well as legal protection for Notaries in carrying out their position as public officials authorized to draw up authentic deeds. Therefore, the Notary Office Law regulates various provisions, including forms of legal protection for Notaries in the performance of their duties and authorities (Purwadi & Sulistiyo, 2015).

The forms of legal protection for Notaries, particularly in criminal judicial proceedings under the Notary Office Law, include the following:

Right of refusal and obligation of confidentiality

The right of refusal is regulated in Article 4 paragraph (2), Article 16 paragraph (1) letter f, and Article 54 of the Notary Office Law. Habib Adjie refers to this right as an obligation of confidentiality (*verschoningsplicht*), which is the obligation of a Notary to keep confidential the contents of the deed and all information obtained in the exercise of the office. This obligation forms part of the Notary's oath of office. In providing testimony before a court, a Notary is not permitted to disclose the contents of a deed, either partially or entirely, unless otherwise stipulated by law. A deed drawn up by or before a Notary retains its perfect evidentiary power. A Notary is obliged to maintain confidentiality over all matters known in relation to the drafting of a deed, including information requested by the parties as well as other matters related to the preparation of the deed. This obligation constitutes an inherent part of the notarial office and forms the basis of the right and obligation of refusal in judicial proceedings (Erdi et al., 2020: 15–16).

Attachment of fingerprints to the original deed (minuta)

Article 16 paragraph (1) letter c of the Notary Office Law requires a Notary to attach letters, documents, and the fingerprints of the appearers to the original deed. This provision strengthens the evidentiary aspect and serves as a form of legal protection for the Notary in the event of future disputes concerning the validity of the deed.

Approval of the Notary Honorary Council (MKN)

Article 66 paragraph (1) of the amended Notary Office Law stipulates that the summoning of a Notary or the taking of the original deed for judicial purposes must obtain approval from the Notary Honorary Council (MKN). Before granting approval, the MKN conducts an examination through a hearing to assess whether there is an alleged violation in the performance of the Notary's office. The result of the examination is stated in a decision granting or rejecting the request of investigators, public prosecutors, or judges.

Protection through the professional organization

Article 82 paragraph (2) of the amended Notary Office Law establishes that the official professional organization of Notaries is the Indonesian Notary Association (Ikatan Notaris Indonesia/INI). This organization provides support and protection to its members in order to maintain professionalism and the dignity of the notarial office. INI has also entered into a memorandum of understanding with the Indonesian National Police (POLRI) regulating the mechanism for summoning and examining Notaries, thereby providing procedural certainty (NNP, 2016).

Supervision of the implementation of the office

Legal protection is also carried out through a supervisory system as regulated in Article 67 paragraph (5) of the amended Notary Office Law, which includes supervision of both conduct and the performance of the Notary's office. This supervision aims to prevent violations or abuse of authority. Provisions concerning disgraceful conduct that may degrade the dignity of the Notary's office are regulated, among others, in Article 9 paragraph (1) letter c and Article 12 letter c of the



amended Notary Office Law. The supervisory mechanism is intended to ensure that the performance of the Notary's office remains in accordance with applicable legal provisions.

Preventive legal protection for Notaries is implemented by the Notary Supervisory Council through guidance and supervision in the performance of notarial duties. This guidance and supervision aim to ensure that Notaries exercise their authority in accordance with prevailing laws and regulations as well as the Notary Code of Ethics. The supervisory mechanism therefore functions as an important instrument in preventing violations in notarial practice (Pramadanty et al., 2024: 240).

Preventive legal protection may also be realized by the Notary through the application of the prudential principle in every performance of duty, particularly in drawing up authentic deeds and carrying out other legal actions. This principle is implemented by conducting comprehensive identification of service users before drawing up a deed or performing a legal act. A Notary must carefully identify the parties, verify and validate the data and information provided, and ensure that all formal and material requirements are fulfilled in the deed-making process. Acting carefully, thoroughly, and without haste forms an integral part of this prudential principle. Consistent application of this principle provides a clear basis of responsibility if legal consequences arise in the future, whether in civil or criminal matters. Every legal relationship must be accompanied by a guarantee of legal protection based on the respective rights and obligations of each legal subject. A Notary, as a legal subject who is burdened with the obligation to report suspicious transactions, is therefore also entitled to legal protection in carrying out such obligations (Ibrahim & Sudiro, 2022: 190).

Legal protection for Notaries as reporting parties and witnesses is regulated in the Anti-Money Laundering Law, particularly in Article 83 paragraph (1). This provision grants general protection to reporting parties by requiring officials and employees of PPATK, investigators, public prosecutors, and judges to maintain the confidentiality of the reporter's identity. This regulation establishes a legal obligation for law enforcement authorities to safeguard the identity of a Notary who reports a suspected suspicious financial transaction. Confidentiality is intended to provide a sense of security for the Notary as well as for the Notary's family against potential threats or pressure that may arise as a result of the report. If the obligation to maintain confidentiality as stipulated in Article 83 paragraph (1) is violated, the Notary or his or her heirs have the right to file a claim for compensation through judicial mechanisms in accordance with applicable laws and regulations (Dhaneswara, 2020: 175).

When a suspected suspicious financial transaction indicating money laundering has been reported by a Notary and the case proceeds to trial, the Anti-Money Laundering Law also provides legal protection during court examination. This protection is regulated in Article 85 of the Anti-Money Laundering Law. The provision states that during court proceedings, witnesses, public prosecutors, judges, and other related parties are prohibited from mentioning the name, address, or any other information that may reveal the identity of the reporting party. The judge is required to remind all relevant parties of this prohibition. This regulation demonstrates that the Anti-Money Laundering Law provides protection to Notaries as reporting parties not only at the reporting stage but also throughout the legal process, from investigation to court proceedings (Dhaneswara, 2020: 175).

Notaries who are called as witnesses may exercise their right to refuse testimony. This right is recognized in multiple laws and regulations, which affirm that notaries can invoke the denial of testimony when acting as a witness in civil cases (Maskanah & Oktavia, 2020: 5). Applicable provisions include Article 1909 paragraph (3) of the Civil Code, Article 146 paragraph (1) HIR, and Article 170 of the Criminal Procedure Code, which relate to court proceedings concerning deeds made by or before the notary and all information obtained in the process of making such deeds.

The protection provided under the Anti-Money Laundering Law aims to ensure the safety of the Notary's identity and family. If the identity of the Notary is not kept confidential, there is a possibility of threats from perpetrators of money laundering crimes that may endanger the Notary and his or her family. The law does not only provide protection in the form of confidentiality of identity but also protects Notaries from civil or criminal claims related to the report made, as stipulated in Article 87 of the Anti-Money Laundering Law (Ibrahim & Sudiro, 2022: 190).

The criminal law policy regarding the obligation to identify the source of funds for Notary service users recognizes the Notary as a reporting party that can be given protection under Law Number 13 of 2006 concerning Witness and Victim Protection. Provisions regarding special protection are affirmed in Article 2 of Government Regulation Number 57 Year 2003 concerning Procedures for Special Protection for Reporters and Witnesses for Money Laundering, emphasizing that: "Every

reporter and witness in money laundering cases must be given special protection before, during and after the case investigation process. The specific form of protection includes personal security, protection from threats, property protection, confidentiality, disguising identity, and providing information without face-to-face confrontation with suspects or defendants at each case investigation level” (Mispansyah et al., 2023: 231).

In the steps to prevent money laundering, the role of the Gatekeeper is very important, because they can prevent it earlier (Ciucă, 2018: 97). In 1989, countries as members of the G-7 group (Canada, France, Germany, Italy, Japan, the United Kingdom, and the United States) formed the Financial Action Task Force on Money Laundering (FATF), an intergovernmental body that aims to build international cooperation in dealing with this type of crime (MacDonald, 2010: 143).

Notaries are not law enforcement officers or investigators; rather, they are record-keeping officials who perform administrative functions in legal transactions. Therefore, when notaries are required to report suspicious transactions, they should also be afforded equivalent legal protection, particularly if such reports lead to legal consequences for their clients. This need is increasingly urgent, given that many money laundering cases involve false identities, shell companies, and documents that are formally valid but substantively fictitious. Without robust legal safeguards, the strategic role of notaries in preventing financial crime could become a disproportionate legal liability (Sugiartha & Mahendrawati, 2025: 105–109).

This creates an ethical and legal dilemma, especially when the suspicious transaction indicators are interpretative. According to Article 4 of Permenkumham No. 9/2017, notaries must also establish risk mitigation policies and categorize service users based on risk levels (Ibrahim & Sudiro, 2022: 633). However, this identification process is susceptible to multiple interpretations and demands high accuracy, as reporting errors can trigger administrative sanctions. Not only that, the financial challenges are also significant, as additional costs include software procurement, human resource training, and technological infrastructure capacity building (Rusli et al., 2024: 1066).

Theoretically, legal protection is divided into two forms, namely preventive and repressive. Preventive legal protection aims to prevent disputes from arising by ensuring that notaries perform their duties in accordance with applicable procedures and norms. This can be achieved through guidance and supervision by the Notary Supervisory Council, application of the precautionary principle, and strengthening professional knowledge of service users (Pramadanty et al., 2024: 240). Meanwhile, repressive legal protection is provided if the notary faces legal problems, such as lawsuits or criminal charges, as long as the notary carries out reporting obligations in accordance with the law. This form of protection includes assistance from professional organizations such as the Indonesian Notary Association (INI) and protection in the judicial process (NNP, 2016).

The provision shows that the state not only encourages active participation in suspicious transaction reporting, but also provides a comprehensive guarantee of legal protection for notaries who carry out these obligations properly. This protection includes aspects of identity, personal and family security, and legal immunity for reports reported in good faith (Dhaneswara, 2020: 175).

CONCLUSION

The requirement for notaries to act as Reporting Parties in preventing money laundering creates a legal tension with their duty to maintain professional confidentiality. However, under the principle of *lex specialis derogat legi generali*, the obligation to report prevails. Notaries must identify, verify, and monitor client transactions, including property transfers, company formation, and financial management, in accordance with the Principle of Recognizing Service Users as stipulated in Minister of Law and Human Rights Regulation No. 9 of 2017. As officials responsible for recording legal acts, notaries play a crucial role in detecting and preventing illicit financial activities.

Despite this responsibility, legal protection for notaries who report suspicious transactions remains unclear. Notaries are administrative officials, not law enforcement officers, and therefore require both preventive and repressive protection. Preventive measures include guidance, supervision, and professional training, while repressive protection covers support from professional organizations such as the Indonesian Notary Association (INI) and judicial safeguards. The absence of explicit protection discourages notaries from reporting suspicious transactions due to fear of legal liability, thereby weakening the effectiveness of anti-money laundering measures.



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