

Juridical Review of The Act of Virtual Money

Laundering

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ABSTRACT

The crime of money laundering as one type of white collar crime has actually been known since 1867. Cyber Money Laundering is money laundering carried out through cyberspace ("mayantara"), so that in addition to committing the crime of money laundering ("money laundering") the perpetrator ("offender") has also committed a crime of mayantara ("cyber crime"), namely committing a crime/crime through a computer system/network. This research method is normative research, normative law research using normative case studies in the form of legal behavior products, for example reviewing the Law. Normatively, cyber money laundering can be caught through Law Number 15 of 2002 concerning the Crime of Money Laundering which was later updated by Law Number 25 of 2003, and last amended by Law Number 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering. Law Number 11 of 2008 concerning Information and Electronic Transactions has not accommodated cyber crime related to economic and financial transactions that are against the law or are not legitimate. In this regard, the readiness of law enforcement officers is very important, both regarding expertise in operating computers, the ins and outs of finance and banking as well as expertise in enforcing cross-territorial laws, which are related to territorial principles with legislative, judicial and executive jurisdictions.

Keywords: Juridical Review, Money Laundering.

1. INTRODUCTION

The crime of money laundering (TPPU) is a crime that is very dangerous for the country because it will damage the stability of the country's economy. Meanwhile, TPPU carried out by individuals or individuals will have a negative impact on the country's economic growth which will hamper all government sectors. As is known, the development of science and technology has provided real benefits in the economic sector, especially in supporting business activities and improving financial services to the wider community. In the banking sector, for example, the use of technology has made it possible to offer more varied and attractive financial services, including serving financial transactions that cross national borders. Fund transfer services via wire transfer offered by banks such as internet banking and electronic fund transfer services enable banking customers to move funds from their accounts at one bank to other banks throughout the world in a very short time.

However, the development of this technology is like a "doubleedged sword", on the one hand providing extraordinary benefits to the economy and business, on the other hand it also



increases the risk of misuse of this technology for evil purposes. This is possible considering that the more diverse business activities are carried out by utilizing technological advances, the greater the attraction it creates for criminals to utilize this technology as a means of committing crimes related to economic activities. Some of the types of crimes in the economic sector that utilize technological sophistication are the issuance of fictitious L/Cs, crimes attacking the security of banking information systems, credit card hijacking, account burglary through ATM machines, crimes through counterfeiting securities (bonds and mutual funds) and foreign exchange, and money laundering (money laundering). In carrying out money laundering, the perpetrator does not really consider the results that will be obtained, and the amount of costs that must be incurred, because the main goal is to disguise or eliminate the origin of the money so that the final results can be enjoyed or used safely.

Even though there are various typologies or *modus operandi* of money laundering, basically the money laundering process can be grouped into three stages of activity, namely placement, layering and integration. In practice these three activities can occur separately or simultaneously, but are generally carried out overlapping. Meanwhile, there are three general methods used in money laundering, namely Buy and Sell Conversions, Offshore Conversions, and Legitimate Business Conversions. Of these various methods, the mode that is developing rapidly along with technological developments is converting real currency into digital currency in cyberspace. One of the most famous cases is Costa Rica's digital currency service called Liberty Reserve. Another way to launder money is through online gaming. In a number of online games, people can convert money from the real world into virtual goods or virtual money.

Later virtual money or goods can be converted back into real money. The crime of money laundering as a type of white collar crime has actually been known since 1867. At that time, a pirate at sea, Henry Every, in his last piracy robbed a Portuguese ship of diamonds worth £325,000. pounds sterling (equivalent to IDR 5,671,250,000). The stolen property was then shared with his subordinates, and Henry Every's share was invested in diamond trading transactions where it turned out that the diamond company was also a money laundering company owned by other pirates on land. However, the term money laundering only emerged when Al Capone, one of the big mafia in the United States, in the 1920s, started a Laundromats business (automatic washing place). This business was chosen because it uses cash which speeds up the money laundering process so that the money they obtain from extortion, prostitution, gambling and liquor smuggling is seen as halal money. However, Al Capone was not charged and sentenced to prison for this crime, but rather for committing tax evasion.



Apart from Al Capone, there was also Meyer Lansky, a mobster who made money from gambling activities and covered up his illegal business by establishing a hotel business, golf course and meat packing company. The money from this illegal business was sent to several banks in Switzerland, which prioritize customer confidentiality, for deposit. This deposit was then collateralized to obtain a loan which was used to build his legal business. In contrast to Al Capone, Meyer Lansky was actually free from charges of tax evasion, criminal acts including money laundering.

2. RESEARCH METHOD

Normative legal research uses normative case studies in the form of legal behavioral products, for example reviewing laws. The main point of study is law which is conceptualized as norms or rules that apply in society and become a reference for everyone's behavior. So normative legal research focuses on positive law inventory, legal principles and doctrine, legal discovery in cases in concreto, legal systematics, level of synchronization, legal comparison and legal history. Based on the explanation above, the author decided to use normative legal research methods to research and write discussions as a legal research method.

3. RESULTS AND DISCUSSION

Cyber Money Laundering is money laundering carried out through cyberspace ("mayantara"), so that apart from committing the crime of money laundering ("money laundering") the perpetrator ("offender") has also committed a cyber crime ("cyber crime"), namely committing a criminal act/ crime through computer systems/networks. Cyber Money Laundering also goes through 3 stages of activity like money laundering, namely placement, layering and integration. Activities are carried out using or through a computer network. Cyber Money Laundering is thus a criminal act that can be subject to Law Number 15 of 2002 concerning the Crime of Money Laundering; which was updated by Law Number 25 of 2003, and most recently amended by Law Number 8 of 2010 concerning Prevention and Eradication of the Crime of Money Laundering.

Law Number 11 of 2008 concerning Information and Electronic Transactions, it is very unfortunate that it does not yet regulate "cyber crime" which relates to financial transactions that are illegal or against the law. It is necessary to continue to strive for countries to jointly tackle cyber money laundering, because it has a significant impact on the community's economy at the local, regional, national, international and global levels. The crime of money laundering as a type of white collar crime has actually been known since 1867. At that time, a pirate at sea, Henry



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An example is the confession of a drug mafia, Franklin Jurador, who said that the transfer of money from crime to legal businesses was carried out in various transactions, including fictitious buying and selling of assets or fictitious safekeeping for investment purposes, which involved more parties, not only domestically but also internationally. countries, with more complicated transactions. In fact, the development of money laundering transactions is also supported by financial facilities in the banking world, such as special account number services or nostro accounts provided by Swiss banks since the 1930s.

This service identifies customers by the code number used for transactions so that the bank does not know who the customer is and who the transaction is counterparty to. Several banks in offshore areas also provide intercountry money transfer facilities, fund management and asset protection which makes money laundering activities easier. The United States government began to qualify money laundering as a criminal offense by passing the Money Laundering Central Act. (1986), which was then followed by The Annunzio Wylie Act. and the Money Laundering Suppression Act. (1994).



Meanwhile, the government of the Republic of Indonesia only criminalized money laundering in 2002 by issuing Law Number 15 of 2002 concerning the Crime of Money Laundering. The issuance of Law no. 15 of 2002 by the Indonesian government is basically inseparable from pressure and threats of sanctions imposed by the international community. Based on the decision of the Financial Action Task Force (FATF), a task force formed by the G-7 countries in 1998, Indonesia was declared as one of the countries categorized as NonCooperative Countries and Territories (NCTTs). by the FATF include international banks will cut ties with Indonesian banks, other countries will reject Letters of Credit (L/C) issued by Indonesia and Indonesian financial institutions will be subject to high fees (risk premium) on every transaction carried out with foreign financial institutions.

This threat of sanctions is the second time for Indonesia. The first threat of sanctions was given in 2001 where, based on the results of an evaluation of the level of compliance with FATF recommendations, Indonesia was included in the NCTTs list. At that time, the FATF highlighted several weaknesses in the Indonesian state in preventing and eradicating the crime of money laundering, namely the absence of a law that stipulates money laundering as a criminal offense; the absence of Know Your Customer Principles for non-bank financial institutions; low quality of human resources in handling money laundering crimes, support from experts and lack of international cooperation. Today, more than ever, money laundering is a world phenomenon and an international challenge.

This money laundering activity has become a transnational crime because the process is not only carried out within a country but also crosses national borders. Perpetrators of criminal acts try to hide their sources as far as possible so that they are not easily traced by law enforcement in the country concerned. Even though the crime of money laundering has developed in such a way, to date there is no universal and comprehensive definition of what is meant by money laundering. Prosecutors and criminal investigation agencies, entrepreneurs and companies, developed countries and third world countries, and other international institutions each have their own definitions based on different priorities and perspectives. Welling stated that "money laundering is the process by which one conceals the existence, illegal source, or illegal application of income, and then disguises that income to make it appear legitimate."

Meanwhile, Frazer stated that "Money laundering is quite simply the process through which "dirty" money (proceeds of crime), is washed through "clean" or legitimate sources and enterprises so that the "bad guy" may more safely enjoy their ill'gotten gains". In the United Nations Convention Against Illicit Traffic in Narcotic, Drugs and Psychotropic Substances of 1988



which has been ratified by Law no. 7 of 1997, the term money laundering is defined in article 3 (1) as follows: ""the conversion or transfer of property, knowing that such property is derived from any serious (indictable) offense or offenses, or from act of participation in such offense or offenses, for the purpose of preventing or disguising the illicit of the property or of assisting any person who is involved in the commission of such an offense or offenses to evade the legal consequences of his action; or The concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property; knowing that such property is derived from a serious (indictable) offense or offences or from an act of participation in such an offense or offences”.

Money laundering, which in Law no. 15 of 2002 as amended by Law no. 25 of 2003 (hereinafter referred to as UURL) is translated as money laundering, defined as the act of placing, transferring, paying, spending, donating, donating, entrusting, taking abroad, exchanging or other acts of assets which one knows or reasonably suspects are the result of an act criminal offense with the intention of hiding or disguising the origin of assets so that they appear to be legitimate assets. The development of the criminal act of money laundering has raised international concerns because it is feared that it could disrupt the stability of the economy, especially the business world, due to the rapid circulation of large amounts of funds from one place to another and even from one or more countries to one or more other countries.

The world community generally believes that money laundering activities carried out by criminal organizations or by criminals are very detrimental to society. As is often seen, the sovereignty of a country can sometimes give rise to conflicts between existing countries. This has a lot to do with the authority/jurisdiction that one country has over individuals, objects, etc., for example, a citizen of one country commits a crime in many countries, it can also develop into a problem in other countries, this problem is included in scope of jurisdiction. Although jurisdiction is closely related to territory, this connection is not absolute. Other countries may also have jurisdiction to prosecute an act committed abroad. In addition, there are certain people (legal subjects) who have immunity from the territorial jurisdiction of a country even though they are within that country. Based on the state's position in international law, jurisdiction can be divided into:

- 1) Territorial jurisdiction. According to the principle of territorial jurisdiction, the state has jurisdiction over all issues and events within its territory. This principle is the most established and important principle in international law. According to Judge Lord



Macmillan, a country has jurisdiction over all people, objects, criminal or civil cases within its territorial boundaries as a sign that the country is sovereign.

- 2) Personal Jurisdiction. According to the principle of personal jurisdiction, a state can try its citizens for crimes committed anywhere. On the contrary, it is the state's obligation to provide diplomatic protection to its citizens abroad. This provision has been universally accepted.
- 3) Principle of Universal Jurisdiction. According to this principle, every country has jurisdiction over crimes that threaten the international community. This jurisdiction arises regardless of where the crime was committed or the citizen who committed the crime. The birth of the principle of universal jurisdiction for types of crimes that damage the international community is actually also due to the absence of an international judicial body that specifically tries crimes committed by individuals.

4. CONCLUSION

Normatively, cyber money laundering can be caught through Law Number 15 of 2002 concerning the Crime of Money Laundering which was later amended by Law Number 25 of 2003, and most recently amended by Law Number 8 of 2010 concerning Prevention and Eradication of the Act. Money Laundering Crime. Law Number 11 of 2008 concerning Information and Electronic Transactions does not yet accommodate cyber crime related to unlawful or illegal economic and financial transactions. In this regard, the readiness of law enforcement officers is very important, both regarding expertise in operating computers, regarding the ins and outs of finance and banking as well as expertise in carrying out cross-territorial law enforcement, which is related to territorial principles with the scope of legislative, judicial and executive jurisdiction.

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