

Juridical Review of Money Laundering in Digital Financial Transactions

Septian Uky Kriscahya* ¹, Suwardi ²

1 Septian Uky Kriscahya, Universitas Narotama Surabaya, Indonesia

E-mail: sukriscahya@gmail.com

2 Suwardi, Universitas Narotama Surabaya, Indonesia

E-mail: suwardi@narotama.ac.id

* Corresponding Author : Septian Uky Kriscahya

Abstract: Money laundering is the act of changing or hiding money or assets resulting from crime to appear to have come from a legal source. Haram funds can damage the market and harm honest business actors. The study addresses two main issues: Does digital financial transactions fall into the category of money laundering. Are the rules related to digital transactions included in the crime of money laundering (TPPU)? The research was carried out using the method of juridical analysis, which is to examine the applicable legal rules. The results show that digital transactions have the potential to be used for money laundering, especially through technologies such as digital payments and cryptocurrencies that can disguise transaction traces. Technological advances and lifestyle changes also affect the economic system. Today, electronic money is widely used through e-commerce, online transportation services, and digital merchants. Based on Articles 3, 4, and 5 of the Anti-Corruption Law, anyone who disguises the origin of assets from criminal acts — including through digital transactions — can be sentenced to up to 20 years in prison and a fine of up to Rp10 billion.

Keywords: Money laundering, Digital financial, transactions

1. Introduction

Money laundering is one of the criminal acts that is very detrimental to the state and society. In recent years, the development of digital technology has made it possible for financial transactions to be done online and easier. However, this also opens up opportunities for perpetrators of money laundering crimes to carry out their illegal activities more effectively and are difficult to detect. The latest development that has a great influence on the life of the global community is the development of technology and information, which is marked mainly by the era of information technology that introduces cyberspace with the existence of interconnected networks (internet) that allow paperless communication (paperless documents). The Internet has created a society with a new culture, as relationships between people on a global scale are no longer limited by the country's territorial boundaries (borderless). The existence of the Internet with its various functions and programs such as email, video chat, video conference, and websites (www) allows global communication to occur regardless of national borders. This phenomenon is part of globalization that has hit the world. One of the benefits of the internet is the existence of a digital platform that is used as a place for everyone to communicate, exchange information, trade, and provide services. Digital platforms such as social media have become essential in communicating and sharing information with the public, including audio and video files as well as attractive images. There are actually

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several apps that you can use to make money. Commonly used social media includes WhatsApp, Instagram, Meta (Facebook), YouTube, and Twitter.¹

Social media not only provides an opportunity for social interaction but can also be used to market products to attract consumer attention (social media marketing). Social media is used for marketing purposes and is also commonly used for personal branding. People try to present themselves as best they can on social media to look attractive in the eyes of others, but sometimes reality doesn't match what is shown on social media. In fact, many netizens (a term for internet users, a combination of the words internet and citizen) provide false information on social media just to make themselves look good or attractive. This includes the act of showing off wealth which is currently rampant by artists, celebrities, and many internet users who do it through the use of branded products (brandda) by children, teenagers, and even adults. Bragging on social media seems to have become a culture in the community.²

Symptoms of consumerism and hedonism are rampant in society, with people seeking to improve their social status (becoming advanced) or appearing wealthy. Socialites are actions or deeds that a person performs to improve his or her social status, in other words, actions that are performed to obtain a perception of a higher social status than their actual status in society by establishing similarities in appearance, style, and even lifestyle. Furthermore, this phenomenon of showing off has emerged along with the emergence of terms such as "sultan" and "wealthy" on social media. Many bloggers and content creators use the practice of flaunting luxury as content for their social media pages.³ In Indonesia, the crime of money laundering is regulated in Law No. 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes. However, the rapid development of digital technology has made these regulations need to be updated and strengthened. A juridical review of money laundering crimes in digital financial transactions is very important to be carried out. The purpose of this study is to analyze the applicable laws and regulations in Indonesia related to the crime of money laundering in digital financial transactions, as well as to find out how these regulations can be effectively applied to prevent and eradicate these criminal acts.

2. Preliminaries or Related Work or Literature Review

2.1 Money Laundering Crime

According to article 1 paragraph (1) of Law No. 8/2010, the meaning of money laundering is any act that meets the elements of a criminal act in accordance with the provisions of Law No. 8/2010. This law states that there must be a first criminal offense to meet the elements of criminal cleanup, which have been stipulated in article 2 paragraph (1) of the Anti-Corruption Law.⁴ Money laundering is a process or law that aims to conceal the origin of assets resulting from criminal acts that are received and converted into personal assets as if they were derived from legitimate activities. in connection with Article 2 of Law number 15 of 2002 concerning the non-criminal offence of money laundering which is now amended to Law number 25 of 2003. According to Law Number 8 of 2010, money laundering is all actions that meet the elements of criminal

¹ Fakhriah, Anna. (2017). "Electronic Evidence in the Civil Proof System." Bandung: Refika Aditama.

² Rosadi, Sinta Dewi. (2015). "Cyber Law, Aspects of Data Privacy According to International, Regional and National Law." Bandung: Refika Aditama.

³ Hafidz, Jawade. (2022). "The Phenomenon of Flexing on Social Media in Aspects of Criminal Law." Jurnal Cakrawala Information, Vol. 2, No. 2

⁴ Article 2 of Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes

behavior in accordance with the provisions of the Law. From several definitions of money laundering, it is concluded that money laundering is an activity (a process) carried out by a person or a criminal organization against haram money, namely money derived from crimes, with the intention of hiding the origin of the money from the government or authorities authorized to take action against crimes by entering the money and then withdrawing it from the financial system, then the financial has turned into money legitimate.⁵ Money laundering or money laundering basically involves being an asset (income or wealth) that is disguised so that it can be used without detecting that the asset comes from an illegal purpose. Through Money Laundering, income or wealth derived from unlawful activities is converted into financial assets that appear to come from legitimate or legal sources.⁶

2.2 Elements of Money Laundering in Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes

The Prevention and Eradication of Money Laundering Crimes has been listed in Law Number 8 of 2010, as in Chapter II Article 3 to Article 5. Article after article listed:

- a. The formulation of delik article 3 is:

"Every Person who puts, transfers, transfers, spends, pays, grants, deposits, brings abroad, changes the form, exchanges for currency or securities or other acts of Property that he knows or should suspect is the result of a criminal act as referred to in Article 2 paragraph (1) with the aim of concealing or disguising the origin of Property is convicted of the crime of Money Laundering with the maximum prison sentence for 20 (twenty) years and a maximum fine of Rp10,000,000,000.00 (ten billion rupiah)

- b. The formulation of Article 4 is:

"Any person who conceals or disguises the origin, source, location, designation, transfer of rights, or actual ownership of property that he knows or should suspect is the result of a criminal act as referred to in article 2 paragraph (1) shall be convicted of the crime of money laundering with a maximum prison sentence of 20 (twenty) years and a maximum fine of Rp5,000,000,000.00 (five billion rupiah)". The formulation of Article 5 is:

"Every person who receives or controls the placement, transfer, payment, grant, donation, custody, exchange, or use of property that he knows or reasonably suspects is the result of a criminal act as intended in article 2 paragraph (1) shall be sentenced to imprisonment for a maximum of 5 (five) years and a maximum fine of Rp1,000,000,000.00 (2) The provisions as intended in paragraph (1) shall not apply to the reporting party who carries out the reporting obligation as provided in this Law".

⁵ Pohan, S. (2019). Normative Review of Prosecution Authority by the KPK for Money Laundering Crimes. *DOCTRINE: Journal Of Law*, 2(2), 117-134.

doi:<https://doi.org/10.31289/doktrina.v2i2.2615>

⁶ Fuady, M. (1999). *Modern Banking Law Based on the Law of 1998 First Book*, Bandung: PT. Image of Aditya Bakti.

3. Proposed Method

The type of research conducted in this study is adjusted to the problems studied in it. Thus, the research carried out is juridical analysis research or also called legal analysis, which is research conducted by analyzing the applicable legal principles (Legal Research).⁷ The approach in this study uses the normative juridical approach method and case study, which is to examine the applicable legal principles obtained from secondary data in the form of primary legal materials, secondary legal materials, and tertiary legal materials. as well as written materials related to research and focused on a specific case in terms of this research focused on the Position of the Certificate of Ownership of a lawsuit to be observed and analyzed carefully, It is intended to study intensively about the background of the situational problem.⁸

4. Results of the Discussion

4.1 Digital Financial Transactions Include the Money Laundering Category

Money Laundering is an activity that is carried out by converting money obtained from illegal activities into assets that appear legitimate and legal. Digital financial transactions can be part of money laundering. Technological developments, such as digital payments and cryptocurrencies, can be leveraged to hide traces of transactions. The development of technology in the era of globalization accompanied by lifestyle changes has brought many influences in the system of human civilization. Especially in the economic field, where originally humans only used paper money or cash to transact, now there are several merchants, e-commerce, and online transportation as providers of digital payment tools that offer the use of electronic money. Referring to the definition issued by the Bank for International Settlement, electronic money is "stored value or prepaid products in which a record of the funds or value available to a consumer is stored on an electronic device in the consumer's possession".⁹ Electronic money or also called electronic money ("E-Money") is essentially cash in a form without physical or cashless.¹⁰ In 2019, Bank Indonesia recorded 38 companies that have regulatory licenses, both server-based and card-based. ¹¹ Call it OVO, Shopee Pay, TCASH, Go-Pay, Sakuku, and so on. While economic crime in cyberspace may seem minor compared to other illicit crimes such as drug trafficking, there is currently a strong

⁷ S. H. I. Jonaedi Efendi, S. H. Johnny Ibrahim, and M. M. Se, *Legal Research Methods: Normative and Empirical* (Prenada Media, 2018), p. 15.

⁸ S. H. Djulaeka and S. H. Devi Rahayu, *Textbook: Legal Research Methods* (Scopindo Media Pustaka, 2020), p.30

⁹ Muhaimin. (2017). The Application of the Principle of Opportunity by the Attorney General's Office Is Contrary to the Principle of Legality and the "Rule Of Law." *Journal of De Jure Legal Research*, 17(1), 108–122.

¹⁰ Suharni. (2018). Electronic Money (e-Money) Reviewed from the Perspective of Law and Social Change. *Journal of the Legal Spectrum*, 15(1)

¹¹ Ramdhani, G. (2019). 6 Electronic Money That Is the Mainstay of Today's Millennial Generation. Retrieved May 8, 2021, from Coverage 6 website: <https://www.liputan6.com/bisnis/read/4074871/6-uangelektronik-yang-jadi-andalan-generasi-milenial-zaman-now>

link between organized crime in the real world and internet business crime.¹² The same is true of money laundering cases committed by criminal offenders, which consolidate assets from the proceeds of crime and ultimately embezzle the origin of assets that can be issued by law. The three phases of the money laundering process are banking placement as a place for flows and or investments. The development of today's sophisticated banking systems such as the existence of electronic money is not only stored in the form of chips or cards, but also stored in electronic media that are not real in nature so that the use of electronic money can only be used in cyberspace or online transactions.

4.2 Stages of Money Laundering

Stages of Money Laundering There are 3 (three) stages in money laundering, namely:¹³

a. Placement or Storage Stage

This phase moves haram money from the source from which it was obtained to avoid its trace. Or more simply so that the source of illegal money is not known to law enforcement. The most common method of this "*placement*" is what is referred to as "*smurfing*". Through this "*smurfing*", the need to report cash transactions in accordance with applicable laws and regulations can be tricked or avoided.

b. Layering atau Pelapisan

There has always been a connection between "*placement*" and "*layering*", that is, any "*placement*" procedure that means changing the physical location or the haram nature of the money is a form of "*layering*". A "*layering*" strategy generally involves turning cash into a physical asset, such as buying a motor vehicle, gold jewelry, or expensive gemstones or "*real estate*" etc.

c. Integration atau Penggabungan

Integrating funds by way of legitimacy into the normal economic process, this is done by submitting false reports related to money lending, all acts in the process of money laundering allow these money lords to use such large funds, in order to maintain the scope of their crimes, or to continue to process in the world of crimes that concern, especially narcotics or corrupt officials

One of the elements of the crime of money laundering is the element of placing that is, that the elements mentioned above are alternative, so that in its application it is not necessary to fulfill all the elements, but it is sufficient if one of the elements has been fulfilled. Elements that he knows or should be suspected to be the result of a criminal act is the next element. Furthermore, according to (Ahmad, 2016) it is explained that the consideration of the application of elements is seen from several aspects, namely the aspect of the guilt of the perpetrator of the crime, the aspect of the motive and purpose of committing a criminal act, the aspect of how to commit a criminal act, the

¹² Jones, C. C. (2012). Virtual Economies and Financial Crimes. United Kingdom: Edward Elgar Publishing Limited.

¹³ Ramelan, 2008, Annotated Money Laundering: Case Reports, Pustaka Juanda Tigalima & ELSDA Institute, Jakarta.

aspect of the inner attitude of the perpetrator of the crime, the aspect of the life history and socio-economic situation, the aspect of the attitude and actions of the perpetrator after committing a criminal act, the aspect of criminal influence on the future of the perpetrator, and aspects of public response to criminal acts committed by perpetrators.¹⁴

4.3 Legal Rules on Money Laundering Crimes

Money Laundering can generally be interpreted as an activity to move, use, or carry out other actions in the consequences of a crime. TPPU can not only be born from corruption, but also from other crimes. Some of the criminal acts that cause TPPU besides corruption include bribery, smuggling of goods or labor, narcotics banking, psychotropics, individual trafficking, terrorism and fraud.¹⁵ Regarding criminal acts that can give birth to further criminal acts in the form of TPPU, it has also been mandated by laws related to TPPU. In the first law, namely Law Number 15 of 2002 concerning the Crime of Money Laundering in Article 2, it is stated that there are 15 crimes including corruption, bribery, smuggling of goods, and smuggling of labor, banking, narcotics, psychotropics, slave trade, women and children, illegal weapons, illegal activities, terrorism, fraud.¹⁶

The crime of Money Laundering is formulated in Article 3 paragraph (1), Article 6 paragraph (1) and Article 7.

a. Article 3 paragraph (1)

1) Any person who intentionally:

- a) Placing Assets that he knows or should be suspected of doing is the result of a criminal act into the Financial Service Provider, either in his own name or on behalf of another party.
- b) The Minister of Property Circulation that he knows or should suspect is the result of a criminal act from another Financial Service Provider, either in his own name or on behalf of another party.
- c) Paying or spending Assets that he knows or should be suspected of is the result of a criminal act, whether the act is in his own name or on behalf of another party.
- d) Giving or donating Wealth that he knows or should be suspected is the result of a criminal act, either in his own name or on behalf of another party.
- e) Entrusting Assets that he knows or should suspect is the result of a criminal act, either in his own name or on behalf of another party.
- f) Bringing out of the country Wealth that he knows or should suspect is the result of a criminal act.

¹⁴ Ahmad Redi, Mining and Coal Mining Dispute Settlement Law, Sinar Grafika, Jakarta, 2016

¹⁵ Sjahdeni, Sutan Remy. (2004). "The Ins and Outs of Money Laundering and Terrorism Financing." Jakarta: Pustaka Utama Grafiti.

¹⁶ Law Number 25 of 2003, concerning Money Laundering

- g) Exchanging or other acts of Property that he knows or should suspect is the result of a criminal act with currency or other securities.¹⁷

With the intention of concealing or disguising the origin of the Assets that he knows, or should be suspected to be the result of a criminal act, he shall be convicted of the crime of money laundering with a minimum imprisonment of 5 (five) years and a maximum of 15 (fifteen) years and a fine of at least Rp. 100,000,000.00 (one hundred million rupiah) and a maximum of Rp. 15,000,000,000.00 (fifteen billion rupiah).

b. Article 6 paragraph (1)

1) Any person who receives or controls:

- a) Placement
- b) Transmission
- c) Payment
- d) Grant
- e) Donation
- f) Childcare
- g) Exchange

Assets that he knows or should suspect are the result of a criminal act, shall be punished with imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a fine of at least Rp. 100,000,000.00 (one hundred million rupiah) and a maximum of Rp. 15,000,000,000.00 (fifteen billion rupiah).

c. Article 7

Every Indonesian Citizen and/or Indonesian Corporation located outside the Territory of the Republic of Indonesia who provides assistance, opportunity, means, or information for 644 Legal Journal Vol XXVI, No. 2, August 2011 the occurrence of the crime of money laundering shall be convicted of the same crime as the perpetrator of the crime of money laundering as referred to in Article 3.

5. Conclusions

The discussion that the author has conducted with the title "Juridical Review of the Crime of Money Laundering in Digital Financial Transactions" the author can conclude as follows: Digital financial transactions can be part of money laundering. Technological developments, such as digital payments and cryptocurrencies, can be leveraged to hide traces of transactions. The development of technology in the era of globalization accompanied by lifestyle changes has brought many influences in the system of human civilization. Especially in the economic field, where originally humans only used paper money or cash to transact, now there are several merchants, e-commerce, and online transportation as providers of digital payment tools that offer the use of electronic

¹⁷ Yunus Husein, 2007, Anti-Money Laundering Potpourrith, Books Terrace and Library, Bandung.

money. Based on articles 3, 4, and 5 of the form of regulatory formulation related to digital financial transactions is included in the TPPU "Every Person who puts, transfers, transfers, spends, pays, grants, deposits, brings abroad, changes the form, exchanges for currency or securities or other acts of Property that he knows or should suspect is the result of a criminal act as referred to in Article 2 paragraph (1) with the aim of concealing or disguise the origin of the Wealth is convicted of the crime of Money Laundering with a maximum prison sentence of 20 (twenty) years and a maximum fine of Rp10,000,000,000.00 (ten billion rupiah)".

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