

## The Urgency of Using PPATK's Financial Intelligence Report as Evidence in Money Laundering and Terrorism Financing Cases in Indonesia

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### Abstract

The Indonesian Financial Transaction Reports and Analysis Centre (Indonesian: *Pusat Pelaporan dan Analisis Transaksi Keuangan*, or PPATK) has made several efforts to prevent and combat money laundering and terrorism financing. The main outputs of PPATK are financial intelligence reports known as Analysis Results and Examination Results. To date, these financial intelligence reports cannot be categorized as evidence that can be used by law enforcement officers in investigations or prosecutions. This study uses the Normative Juridical Dogmatic research method, aiming to provide legal arguments regarding the importance of the status of PPATK's financial intelligence reports in investigations/prosecutions as evidence. The novelty of this research lies in how the author attempts to prove that financial intelligence reports can be used as evidence in criminal cases, whereas previous studies have only stated that financial intelligence reports cannot be used as evidence in criminal cases. The findings of this study indicate that PPATK's financial intelligence reports should be admissible as evidence in handling criminal cases, but this is currently hindered by the existing laws on money laundering and terrorism financing. These regulations need to be revised promptly to strengthen the role of PPATK, particularly in the status of financial intelligence reports in supporting criminal cases.

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## Introduction

R. Subekti once argued that proof convinces the judge of the truth of the things postulated in a dispute. In the case of criminal cases, 'truth' refers to the principle of seeking material truth,<sup>1</sup> the real truth.<sup>2</sup> This principle has not escaped its application to criminal law enforcement in Indonesia. In 1979, through the discussion of the Criminal Procedure Code (Indonesian: *Kitab Undang-Undang Hukum Acara Pidana*, or KUHAP), the government affirmed once again that the purpose of implementing the criminal procedure law was at least to try to find the closest truth to the complete truth.<sup>3</sup> Departing from this spirit, the evidentiary mechanism in criminal cases in Indonesia should be able to accommodate the most optimal truth discovery. However, various criminal cases still do not find a bright spot because of the difficulty of the evidentiary process in reaching the material truth.

Some of the criminal cases that still require special attention are Money Laundering (ML) and Terrorism Financing (TF). The approach to prevent and eradicate both criminal acts is carried out in two ways, namely through conventional means by tracing the suspected party (following the suspect)<sup>4</sup> and through a newer approach, which is to follow-the-money.<sup>5</sup> However, existing approaches have not been proven to optimally provide the evidentiary tools needed to combat trafficking and TF. This is evident from the data presented by Bank Indonesia that from 2015 to 2020, there were 29 cases regarding ML and TF in Indonesia, of which 24 were ML cases and five others were TF cases.<sup>6</sup>

One case that shocked the community some time ago was a fraud committed by Indra Kenz or Indra Kesuma. Indra Kenz deceived many people under the guise of investment and convinced the public that his investment and trading were legal. Not only that, he even created a Trading Course PT to provide education and trading class courses. Indra Kenz has harmed the community up to IDR 83,365,707,894. As a result, Indra Kenz, along with his sister and partner, were charged with Article 5 and Article 10 of Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering (ML Law).<sup>7</sup>

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<sup>1</sup> R. Subekti, *Hukum Pembuktian [Law of Proof]*, Jakarta: Pradnya Paramita, 1. 2008.

<sup>2</sup> Johari J, Kebenaran materil dalam kajian hukum pidana [Material truth in the study of criminal law],” *Reusam: Jurnal Ilmu Hukum*, 8.2 (2021): 119 <https://doi.org/10.29103/reusam.v8i2.3811>.

<sup>3</sup> Lonna Yohanes Lengkong, Pembuktian Perdata [Civil Proof], *Jurnal Hukum to-ra*, 3.1 (2017), 89

<sup>4</sup> Kepala PPAATK, “Profile - Pusat Pelaporan Dan Analisis Transaksi Keuangan [Profile - Indonesia Financial Transaction Report and Analysis Center],” 2022, hal. 2020 <<https://www.ppatk.go.id/home/menu/2/profile.html>>..

<sup>5</sup> Ni Komang Sutrisni dan A Ketut Sukranata Anak Agung Ketut Sukranatha, Pendekatan follow the money dalam penelusuran tindak pidana lain [Follow the money approach in tracing other crimes]. *Kertha Semaya. Journal Ilmu Hukum*, 1.2 (2013): 1–5.

<sup>6</sup> Doni Primanto Joewono, Filianingsih Hendarta, dan Fitria Irmu Triwasti, *Kajian tipologi tindak pidana pencucian uang, tindak pidana pendanaan terorisme dan pendanaan proliferasi senjata pemusnah massal [A study of the typology of money laundering, terrorism financing and financing of weapons of mass destruction proliferation]*, 2021. <https://www.bi.go.id/id/publikasi/kajian/Documents/Kajian-Tipologi-Kasus-TPPU-TPPT-PPSPM-Tahun-2021.pdf>.

<sup>7</sup> Pengadilan Negeri Tangerang, *Putusan Pengadilan Negeri Tangerang Nomor 1240/Pid.Sus/2022/PN.Tng* [Tangerang District Court Decision Number 1240/Pid.Sus/2022/PN.Tng], 2022. Catatan Tim Penulis: bahwa saat dikeluarkannya putusan ini, belum dilakukan pencabutan sebagian melalui UU No. 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana [Note from the Author Team: that at the time of the issuance of this decision, it had not been partially revoked through Law No. 1 of 2023 concerning the Criminal Code.].

Not all ML and TF cases can be resolved, like in the case of Indra Kenz. There are still many cases that are difficult to eradicate and find bright spots because the evidence is very easy to eliminate.<sup>8</sup> Proof of suspicious transactions is carried out in three stages, namely the placement stage, the layering stage, and the integration stage. At these stages, there is still enormous room for omitting data and information that could prove suspicious transactions. Even before the proof stage, the eradication of ML and TF is often hampered in reporting and investigation by financial institutions and Law Enforcement Agency (LEA). This can happen because ML and TF actors generally do not carry out their actions individually but involve several people, banks, and other entities.<sup>9</sup>

One way the government has eradicated the rampant cases of ML and TF in Indonesia is by establishing the Indonesian Financial Transaction Reports and Analysis Centre (Indonesian: *Pusat Pelaporan dan Analisis Transaksi Keuangan*, or PPATK). The main function of PPATK is to prevent and eradicate ML and TF through the submission of a Financial Intelligence Report to LEA. The submission of the Financial Intelligence Report from PPATK has made a massive contribution in disclosing various ML and TF cases in Indonesia, such as:

1. Identifying Suspicious Transaction Reports (STR) in constructing the National Road Project connecting two provinces in Eastern Indonesia, involving 33 public officials with a total project value of IDR 573,028,662,867.36.
2. Identify cases of lobster seed smuggling, with state losses of IDR 164.83 billion in 2018 and IDR 50.7 billion until March 2019.
3. Identify 537 STR related to the use of General Election campaign funds with a total nominal value of IDR 802,542,499,179.
4. Identify financial transactions indicated by corruption and trafficking in the palm oil and coal sector, involving individuals and corporations across jurisdictions, in collaboration with Thailand's Financial Intelligence Unit (FIU) (AMLO) and Singapore's FIU (STRO).

The concrete evidence of this success is very unfortunate that the Financial Intelligence Report from PPATK has not been utilized optimally because the Financial Intelligence Report is considered an intelligence report that cannot be categorized as evidence as stipulated in Article 184 paragraph (1) of the Criminal Procedure Code. As a result of the weak utilization of the Financial Intelligence Report, it was found that the follow-up of LEA on the Financial Intelligence Report delivered by PPATK was less than 50%. This can be seen in 2018; out of 4155 PPATK reports submitted to LEA, only 1958 reports were followed up because of obstacles to LEA finding sufficient preliminary evidence of what was submitted in the Financial Intelligence Report.<sup>10</sup>

At the same time, the low follow-up on the Financial Intelligence Report is exacerbated because legal tools that can help eradicate ML and TF are currently inadequate. This fact is evidenced by the status of the Bill on Asset Forfeiture for Criminal Acts and the Bill on Restriction of Currency Transactions, which has not been shown in a bright spot on the legislative table. This resulted in PPATK, as an intelligence agency that has carried out its functions, still unable to maximize the prevention and eradication of ML and TF because it was hampered in the investigation and evidence process. If all Financial Intelligence Reports from

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<sup>8</sup>Dian Edina Rae, *Penanganan kejahatan ekonomi belum optimal - pusat pelaporan dan analisis transaksi keuangan* [Handling economic crime is not optimal - Indonesia Financial Transaction Report and Analysis Center]. Jakarta. <https://www.ppatk.go.id/news/read/1126/kepala-ppatk-penanganan-kejahatan-ekonomi-belum-optimal.html>.

<sup>9</sup>Herlina Halim Harahap, "Pemberantasan Tindak Pidana Pencucian Uang Berdasarkan Undang-Undang No. 8 Tahun 2010 [Eradication of Money Laundering Crimes Based on Law No. 8 of 2010]," *Jurnal Hukum Ekonomi Syari'ah*, 1.1 (2017), 11 <<http://jurnal.uinsu.ac.id/index.php/iblr/article/view/1363/1108>>.

<sup>10</sup>DPR RI, *Catatan Rapat Dengar Pendapat Komisi III DPR RI dengan Pusat Pelaporan dan Analisis Transaksi Keuangan (PPATK)* [Minutes of the Hearing Meeting of Commission III of the House of Representatives with the Center for Financial Transaction Reporting and Analysis (PPATK)], 2018.

PPATK are followed up properly by LEA, it will increase Indonesia's success in eradicating ML and TF and can indirectly support the realization of Indonesia's aspiration to become a member of the Financial Action Task Force (FATF) in 2023.

This research is compared with other studies that discuss the Financial Intelligence Report from PPATK, namely a study entitled “*The Possible Use of PPATK Analysis Results as Evidence in Handling Money Laundering Cases*” written by Fuad Hasan in 2022.<sup>11</sup> This study only contains the probability of whether the results of the PPATK analysis can be used as evidence in ML cases. There was no discussion of the Examination Results for TF and no explanation so far of law enforcement's efforts to make Financial Intelligence Report available as evidence in the trial. Furthermore, research from Oci Senjaya in 2020 entitled *A Juridical Review of Evidence in Combating Money Laundering*.<sup>12</sup> This study discusses the position of evidence in ML; there is a discussion of HA PPATK, but it is only limited to stating that the Financial Intelligence Report is not evidence. The two studies that have been discussed have not been able to provide evidence that the Financial Intelligence Report from PPATK can be used as evidence. This study seeks to prove how the Financial Intelligence Report from PPATK can be used as evidence to find material truth about the ML and TF law enforcement process.

### **Limitations of PPATK Function on Eradication of ML and TF in Indonesia**

One of the main functions of PPATK is to prevent and overcome cases of trafficking in Indonesia. Money laundering and terrorism financing are classified as highly organized white-collar crimes that make it often difficult to locate the original crime. To overcome this, PPATK has an important role, assisted by several parties, namely whistleblowers and law enforcement officials.

#### *Reporting Party*

Article 1, paragraph (11) of the ML Law states that the Reporting Party is any person who, according to the law, is obliged to submit a report to the PPATK. The Reporting Party, according to Article 17 paragraph (1) of the ML Law, is a financial service provider and includes providers of other goods and/or services. In assisting the implementation of PPATK duties, as many as 35,875 Reporting Parties in Indonesia as of February 2023 have been actively registered with goAML.<sup>13</sup>

Reporting parties, such as financial service providers, are required to submit reports to PPATK, including suspicious financial transactions or cash financial transactions, in which the implementation of suspicious financial transaction reporting must be carried out no later than 3 working days after the financial service provider is aware of the elements of suspicious financial transactions, while for cash financial transactions and financial transactions fund transfers from and to foreign countries are carried out no later than 14 working days after the transaction is

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<sup>11</sup> Fuad Hasan, Kemungkinan atas Digunakannya Hasil Analisis PPATK sebagai Alat Bukti pada Penanganan Perkara Pencucian Uang [*Possibility of Using PPATK's Financial Intelligent Report as Evidence in Handling Money Laundering Cases*], *AML CFT Journal* 1(1) (2022): 53-66, <https://doi.org/10.59593/amleft.2022.v1i1.26>

<sup>12</sup> Oci Senjaya, Suatu tinjauan yuridis terhadap alat bukti dalam penanggulangan tindak pidana pencucian uang [A juridical review of evidence in countering the crime of money laundering],” *Jurnal Ilmiah Hukum De'jure : Kajian Ilmiah Hukum*, 1.1 (2016): 1–23. <https://doi.org/https://doi.org/10.35706/dejure.v1i1.413>.

<sup>13</sup> Pasal 23 ayat (1) UU TPPU, GoAML atau Go Anti Money Laundering merupakan aplikasi pelaporan yang dikembangkan oleh *The United Nations Office on Drugs and Crime* bagi lembaga intelijen keuangan dari anggota Perserikatan Bangsa-Bangsa, dimana para Pelapor wajib untuk menyampaikan laporan pada aplikasi tersebut [Article 23 paragraph (1) of the Anti-Money Laundering Law, GoAML or Go Anti Money Laundering is a reporting application developed by The United Nations Office on Drugs and Crime for financial intelligence agencies from United Nations members, where Whistleblowers are required to submit reports on the application].

made.<sup>14</sup> For providers of goods and/or other services, they are required to submit transaction reports made by service users in rupiah and/or foreign currencies whose value is at least or equivalent to IDR 500,000,000.00 at PPATK and submitted no later than 14 working days since the transaction is made.<sup>15</sup> STR submitted by the Reporting Party is important for PPATK in implementing the Financial Intelligence Report. When the Reporting Party submits and analyzes STR, there is indeed an indication of ML or TF; the Financial Intelligence Report issued by PPATK will be forwarded to LEA for follow-up.

*PPATK (Indonesia Financial Transaction Report and Analysis Center, or INTRAC)*

PPATK is an independent body tasked with preventing and eradicating ML and TF in Indonesia. Being independent here means that PPATK is free, has the right to refuse any interference from any party, and is only responsible to the President for his duties. The functions of PPATK in carrying out its duties based on Article 40 of the ML Law are:

- a. Prevent and eradicate ML and TF,
- b. Manage data and information that has been obtained by PPATK itself,
- c. Supervise compliance from the Reporting Party, and
- d. Analyze and check reports or information on ML and TF.

The authority of PPATK, according to Article 41 of the ML Law in preventing and eradicating ML, namely:

- a. Request and obtain data or information from government agencies or private institutions authorized to manage data and information, including for government agencies or private institutions that receive reports from certain professions,
- b. Establish guidelines for identifying suspicious financial transactions,
- c. Coordinate anti-trafficking prevention measures with relevant agencies,
- d. Provide recommendations to the government on anti-trafficking prevention efforts,
- e. Represent the government of the Republic of Indonesia in international organizations and forums regarding the prevention and eradication of trafficking,
- f. Organize education and training programs on anti-money laundering, and
- g. Organize socialization of anti-trafficking prevention and eradication.

PPATK has the right to obtain and request reports and information on suspicious financial transactions from the Reporting Party, both at the request of law enforcement agencies and partners from abroad, to produce Financial Intelligence Report. Apart from the Reporting Party, PPATK can also get reports or information on allegations from the public. However, PPATK cannot work optimally if it still has limited functions because it can only make Financial Intelligence Report and forward it to investigators.

*Law Enforcement Agencies (LEA)*

LEA also plays an important role in preventing and eradicating ML and TF, where after PPATK has finished making the Financial Intelligence Report, it will be forwarded to investigators to explore and look for evidence to solve the case. To prevent and eradicate ML and TF, each party, both whistleblowers, PPATK, and LEA, must optimally realize their respective duties, functions, and authorities and remain synergistic. However, PPATK is faced with the problem of the lack of follow-up from LEA to the Financial Intelligence Report that has been submitted. When viewed from LEA's point of view, the lack of follow-up can occur because LEA has difficulty finding sufficient preliminary evidence of what is conveyed in the Financial Intelligence Report. Sufficient preliminary evidence itself will only be considered

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<sup>14</sup> Pasal 25 UU TPPU [Article 25 of the Anti-Money Laundering Law].

<sup>15</sup> *Ibid*, Pasal 27 [Article 27].

fulfilled if at least 2 pieces of evidence have been found following Article 183 of the Code of Criminal Procedure.<sup>17</sup>

ML and TF cases involve the dynamics of asset movements that are very fast, and eliminating their track records is even very easy. It will be natural if LEA finds it difficult to meet the demands of these 2 pieces of evidence. If ML and TF cases are carried out with the right mechanism, the use of Financial Intelligence Report as evidence in court will greatly help overcome the problem of handling ML and TF cases and will cut a stage of investigation that can make it easier for investigators to determine the status of trafficking and trafficking suspects. Furthermore, investigators can immediately secure any assets suspected of proceeding from criminal acts. The use of Financial Intelligence Report as evidence in court related to asset security indirectly can be an alternative solution to the problem of not passing the Bill on Asset Forfeiture for Criminal Acts and the Bill on Restriction of Currency Transactions, which has so far caused investigators difficulty in securing all assets and evidence that can be used in proving ML and TF. Currently, PPATK, as an independent institution that serves as a bridge between the Reporting Party and LEA, includes PPATK in the type of administrative FIU. This type of FIU brings 2 consequences for PPATK, namely:

1. The type of administrative FIU causes the dissemination process to investigators not to be followed up quickly because PPATK is not under any LEA, so there are gaps that arise in the delivery of information before entering the investigation process.
2. The administrative FIU type will produce a much better-quality report because it gains greater trust from the Reporting Party, making the information received much more credible and can be analyzed by PPATK more optimally.

Looking at the advantages possessed by PPATK in producing the Financial Intelligence Report, it would be unfortunate if an appropriate mechanism is not sought to encourage the use of the Financial Intelligence Report as evidence in court, considering that the current status quo can be classified as an obstacle and challenge to the prevention and eradication of ML and TF, where the limited function of PPATK in terms of investigation will only create complexity and encourage the accumulation of cases that are not Resolved. The report stacking is further strengthened by the PPATK Performance Effectiveness Report 2022 results, which state the same results, whereas the reports received by PPATK are not all actionable. Conversely, various reports lack data and clarity of evidence, so they cannot bring positive participation to eradicating ML and TF. This can be seen clearly from the number of reports received by PPATK in November 2022, which was 2.26 million reports, equivalent to 1.01 reports every second.

The abundance of reports PPATK receives does not necessarily guarantee convincing evidentiary results to eradicate ML and TF. The same performance effectiveness report also states that PPATK's reports often contain incomplete information, ranging from incomplete reports to non-conformity in submitting reports with applicable regulations. This increases the risk of false positives being born or transaction circumstances that are reasonable but found to be unnatural. More deeply related to the dimensions of report results for ML cases, there is information that is difficult to provide to support the Financial Intelligence Report, namely the provision of the latest customer profile determination, determination of suspicious financial transaction indicators, and determination of beneficial owners. This again proves that the Financial Intelligence Report PPATK can often not solve ML and TF cases because of the many reports that enter the PPATK without complete data or valid evidence to follow up on the reports.

The current situation is muddled by facts related to the limited authority of PPATK in terms of investigation. In line with the function of PPATK previously explained, PPATK does not have a function as an investigator in ML and TF cases. This limitation of PPATK's function has implications for the obligation and necessity for PPATK to continue its Financial Intelligence Report to LEA and authorized bodies to follow up on reports. This section is no less crucial in

eradicating ML and TF, where when PPATK has finished formulating the Financial Intelligence Report, ML and TF cases cannot immediately meet their final path but must go through the trial process to prove before the law. In the trial process, the investigators are LEA, such as the police and public prosecutors. Therefore, obstacles in eradicating ML and TF often occur because of limited investigative functions not owned by PPATK, so they must wait for LEA follow-ups.

### **Efforts to Realize the Use of PPATK's Financial Intelligence Report as Evidence in Court in the Context of Eradicating ML and TF in Indonesia**

The prevention and eradication of ML and TF are less than optimal due to the limited function of PPATK. Looking at the empirical facts mentioned, it is appropriate for the Financial Intelligence Report to be encouraged to become evidence in the trial to optimize the prevention and eradication of ML and TF. Currently, the Financial Intelligence Report cannot be used as evidence in court not because the results of the Financial Intelligence Report are insufficient for the eligibility of the required data but because they are hampered by regulations and regulations around the confidentiality of data in Financial Intelligence Report, which eliminates the opportunity to be used in trials that are open to the public. Financial Intelligence Report as evidence in court is not a mere necessity. Some obstacles that rule out the possibility for the Financial Intelligence Report to be used as evidence in court are:

a. Financial Intelligence Report is classified as an intelligence report

Regulations specifically stipulating that intelligence reports cannot constitute evidence in court do not exist. However, these obstacles can be seen in real terms through the nature and position of the intelligence report itself. First, intelligence reports are more viewed as reports that are supportive in nature to find or obtain preliminary evidence of a criminal act, in accordance with the Terrorism Law in Article 26 paragraph (1), which reads, "*To obtain sufficient preliminary evidence, investigators may use any intelligence report.*" Second, the position of intelligence reports is an obstacle to their use as evidence in trials because they must go through a verification process or processes in other special circumstances. When the Financial Intelligence Report is classified as an intelligence report, its position can be said to support preliminary evidence only and not evidence to prove ML and TF before the court.

b. Some of the data contained in the Financial Intelligence Report are the results of international studies

PPATK, in writing the Financial Intelligence Report, often includes data obtained from international organizations that collaborate with PPATK. This can be a double-edged knife; on the one hand, cooperation with international organizations can increase or expand the range of information and data needed; on the other hand, it can hinder the use of Financial Intelligence Reports in trials, where there is confidentiality that must be maintained, especially related to the acquisition of international data. It does not necessarily matter if the Financial Intelligence Report gets approval to be disseminated through open trial. Information that can help prove ML or TF may not be allowed to be used as evidence in court.

c. Financial Intelligence Report is not classified as evidence regulated in the Criminal Procedure Code

The use of the Financial Intelligence Report as evidence in the trial is prohibited by no specific provision in the Criminal Code. However, at the same time, there is ambiguity in classifying a Financial Intelligence Report as evidence recognized by the applicable criminal procedure law in Indonesia; Article 184 paragraph (1) of the Criminal Procedure Code states that valid evidence is witness statements, expert statements, letters, instructions and statements of the accused. Reports issued by government agencies, such as the Financial Intelligence

Report by PPATK, are not included as valid evidence in criminal evidence. This differs from expert testimony by PPATK, which is still possible to use as evidence in criminal trials.

d. Prohibitions in the ML Law and its implementing regulations

No statement on the ML Law expressly prohibits using Financial Intelligence Reports as evidence in court. Article 11 paragraph (1) of the ML Law states that "*PPATK officials or employees, investigators, public prosecutors, judges, and any person who obtains documents or information in the context of carrying out their duties according to this law must keep documents or information confidential, except to fulfill obligations.*" This is a special prohibition for Financial Intelligence Report PPATK to be used as evidence in the trial because of the obligation to maintain the confidentiality of the documents and information used in the relevant report, considering that every evidence in the court will be open to the public. This provision can still be set aside referring to Article 11 paragraph (3) of the ML Law, which provides an exception that the obligation to maintain information in the context of carrying out duties does not apply if it is carried out to fulfill obligations by the provisions of laws and regulations.

The ban reappears in Article 65 Paragraph (1) and Paragraph (6) of PPATK Regulation Number 15 of 2021 concerning Procedures for Requesting Information to the Financial Transaction Reporting and Analysis Center (PPATK Regulation No. 15/2021), which states that the information provided by PPATK is highly confidential and cannot be used as evidence in court. The *Lex Superior Derogat Legi Inferiori* principle can be applied to these two regulations, which state that lower regulations must not conflict with higher regulations. If necessary, the use of the Financial Intelligence Report with the right mechanism can be said to be valid to be used as evidence in court, considering that the non-use of the Financial Intelligence Report as evidence itself is not due to its inappropriateness but only due to confidentiality rules. Financial Intelligence Report to be used as evidence in trials is urgent because it can shorten bureaucracy and resolve ML and TF cases effectively and efficiently; it will also help reduce the buildup of STR and improve the quality of STR to be reported.

One of the efforts that can be made to optimize the performance of PPATK can be seen through the expansion of functions already owned by the Indonesian Financial Services Authority (OJK). OJK, in handling cases regarding financial services, is not only authorized to supervise but also has the function of conducting investigations and examinations. By adding the investigation function owned by the OJK, it is proven that in 2022, the OJK succeeded in uncovering 20 cases in the financial services sector that were declared complete by the public prosecutor. Furthermore, OJK investigators from 2014 to 2022 have solved 99 cases, consisting of 78 Banking cases, 5 Capital Market cases, and 16 Non-Bank Financial Industry cases. Even on November 24, 2022, OJK was awarded the Best Investigator from the National Police Criminal Investigation for law enforcement achievements in the financial services sector during 2022.<sup>18</sup>

The implementation of the investigation function by OJK does not move alone; it is done through coordination with various LEAs, be it the National Police, the Indonesian Prosecutor's Office, PPATK, or the Deposit Insurance Corporation.<sup>19</sup> Currently, OJK has 17 investigators consisting of 12 Police investigators and 5 Civil Servant (Pegawai Negeri Sipil, or PNS) investigators. The great authority that the OJK already must conduct investigations is further strengthened through the presence of Government Regulation Number 5 of 2023 concerning Investigation of Criminal Acts in the Financial Services Sector (PP 5/2023); namely, President Joko Widodo provides an additional 15 investigative authorities to the OJK.

The investigative authority possessed by OJK can be used as a solution to be implemented by PPATK, noting that OJK and PPATK have something in common, namely being independent institutions, and moreover, the cases analyzed and handled by PPATK are at the level of extraordinary crimes because ML and TF cases not only threaten the stability of the

national economy and the integrity of the financial system in Indonesia, but it also endangers the life of the nation and state. If juxtaposed with OJK, PPATK should also be given extraordinary enforcement by adding a function to conduct direct investigations in cases with indications of ML and TF. The weak function of PPATK in prosecuting ML and TF in Indonesia is not caused by the inability of PPATK itself but because of the limitations of the Financial Intelligence Report, which cannot be used as evidence in court. This had a considerable domino effect on LEA, where LEA proved to have difficulty finding sufficient preliminary evidence to conduct further investigations into the Financial Intelligence Report submitted, resulting in many ML and TF cases not being followed up optimally.

Adding authority to PPATK, especially in conducting investigations, is an urgent thing to overcome the limitations of the PPATK function and encourage the use of the Financial Intelligence Report as evidence in court. The mechanism that PPATK can prepare to improve this solution can be done through:

1. Expansion of PPATK Investigation Function in Relevant Regulations

As a follow-up to the addition of the investigation function to the PPATK, it is necessary to carry out several legal efforts in the form of revision and the formation of new regulations that can legitimize the addition of this PPATK function. The settings referred to can be made on:

a. ML Law and TF Law

Article 1 of the ML Law and the TF Law need to be explained that henceforth, what will be intended as an investigator is to include PPATK, who cooperates with LEA and is authorized to conduct investigations. It also added an investigative function to PPATK in Article 40 of the ML law, which must be followed by changes to other articles related to the mechanism for submitting reports in the ML and TF investigation process framework.

b. Establish PPATK regulations as implementing regulations

Article 65, paragraph (6) of PPATK Regulation No. 15/2021, regulates the prohibition of the use of information from PPATK to be used in court hearings. As a follow-up to the revision of the ML and TF Law, PPATK can revoke this regulation and form a new PPATK regulation to regulate the use of information in the form of Financial Intelligence Report that has been proven to regulate the use of information in the form of Financial Intelligence Report that has been proven to indicate ML or TF from the results of official investigations, can then be used in court as a form of exception in the public interest.

2. In collaboration with LEA

Article 1 point 1 of the Criminal Procedure Code states, "*Investigators are police officials of the Republic of Indonesia or civil servants who are given special authority by law to conduct investigations.*" PPATK can first cooperate with all LEA, which can be stated in a Memorandum of Understanding or other cooperation agreements that can strengthen the relationship between the two parties. Where, just like OJK investigators consisting of police members and civil servants, PPATK can also use investigators from relevant LEA parties, considering the expertise possessed by PPATK on ML and TF issues must indeed be supported by the presence of investigators following the provisions in the Criminal Procedure Code.

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<sup>18</sup>. Otoritas Jasa Keuangan, Siaran pers\_perkembangan tugas penyidikan OJK [Financial Services Authority, Broadcast *pers\_perkembangan* OJK investigation task]. <https://ojk.go.id/id/berita-dan-kegiatan/siaran-pers/Pages/Perkembangan-Tugas-Penyidikan-OJK.aspx>.

<sup>19</sup>. Komisi Pemberantasan Korupsi, Kepolisian Republik Indonesia, Kejaksaan Agung Republik Indonesia, dan Pusat Pelaporan dan Analisis Transaksi Keuangan [Corruption Eradication Commission, National Police of the Republic of Indonesia, Attorney General of the Republic of Indonesia, and Financial Transaction Reporting and Analysis Center], Indonesia's Money Laundering Risk Assessment on Corruption," *ojk.go.id*, 2017. [https://www.ojk.go.id/apu-ppt/id/berita-dan-kegiatan/publikasi/Documents/2017\\_SRA\\_of\\_Corruption\\_Edited\\_Ind\\_Version.pdf](https://www.ojk.go.id/apu-ppt/id/berita-dan-kegiatan/publikasi/Documents/2017_SRA_of_Corruption_Edited_Ind_Version.pdf).

### 3. Strengthening the role of PPATK in the international scope

Internationally, PPATK is known as FIU (Financial Intelligence Unit).<sup>20</sup> FIU is a national body responsible for providing, requesting, analyzing, and forwarding information/analysis results to law enforcement agencies and competent authorities regarding allegations of trafficking and trafficking. PPATK has successfully signed 52 Memorandums of Understanding (MoU) with overseas FIUs and is a member of 2 international organizations, namely the Asia Pacific Group on Money Laundering and The Egmont Group of Financial Intelligence Units. Through this collaboration, PPATK benefits from exchanging information between countries to eradicate ML and TF.

No rules implicitly prohibit the use of information in court as evidence. So, concerns related to the use of data from abroad can still be resolved, especially now that PPATK has actively responded to requests from abroad for various information they need to eradicate ML and TF. Furthermore, PPATK can form an MoU that can regulate more clearly and firmly regarding the agreement to use the information exchange results as evidence in court, considering that many FIUs still have not signed an MoU with PPATK. In the end, the role of PPATK Indonesia here is not as the main FIU but requires many other FIUs to assist in PPATK Analysis and Examination of the potential occurrence of ML and TF.

The addition of the investigation function, which will be followed by various improvement mechanisms, can provide confidence that the obstacles experienced by both PPATK, whistleblowers, and LEA in eradicating ML and TF in Indonesia can be overcome because later, the Financial Intelligence Report will be directly used in investigations handled directly by PPATK

so that the element of confidentiality will be maintained. If the investigation results have been proven to show a large indication of ML or TF later, the use of the Financial Intelligence Report as evidence in court will automatically become legitimate, considering that it has come from the results of official investigations.

This provision will simultaneously overcome the prohibition in Article 11 paragraph (1) of the ML Law because Article 11 paragraph (3) of the ML Law itself has provided an exception that the obligation to maintain information in the context of carrying out duties does not apply if it is carried out to fulfill obligations following the provisions of laws and regulations. The use of the Financial Intelligence Report that has passed the investigation results will fully meet the requirements of the public interest, where the Indonesian state always places the public interest as the highest interest that must be prioritized.

## Conclusion

PPATK, to carry out its function of preventing and eradicating ML and TF, is faced with several problems that hinder its performance. The problem that arises is related to the lack of follow-up from LEA on the Financial Intelligence Report that has been submitted by PPATK and the prohibition of the use of the Financial Intelligence Report as evidence in court. The use of the Financial Intelligence Report as evidence in court will greatly assist in handling ML and TF cases because it can cut the investigation stage and facilitate the determination of suspect status and security of assets suspected of proceeds of crime.

The problems faced by PPATK arise because of the limited functions it owns. When viewed from other independent institutions, namely OJK, which already has the authority to conduct investigations, it is appropriate that PPATK is also given the same authority to conduct investigations because both OJK and PPATK are independent institutions that must handle extraordinary crimes.

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<sup>20</sup>.Pusat Pelaporan dan Analisis Transaksi Keuangan, 2016  
[https://www.ppatk.go.id/luar\\_negeri/read/45/pendahuluan.html](https://www.ppatk.go.id/luar_negeri/read/45/pendahuluan.html)

The expansion of PPATK's function as extraordinary enforcement follows the nature of PPATK, which handles extraordinary crime cases. The mechanism that can be carried out by PPATK to optimize its performance can be realized by regulating the addition of PPATK functions in various relevant regulations, revising the ML Law and TF Law, establishing PPATK regulations as implementing regulations, collaborating with LEA and strengthening the role of PPATK in the international scope.

Adding the PPATK function will help handle ML and TF cases in Indonesia more optimally. The Financial Intelligence Report from PPATK should be able to be used as evidence in handling criminal cases, but it is hindered by the ML Law and the TF Law, which are still in force. The ML Law and TF Law must be revised immediately to strengthen the role of PPATK, especially in the position of Financial Intelligence Report in criminal cases.

## References

- DPR RI, Catatan Rapat Dengar Pendapat Komisi III DPR RI dengan Pusat Pelaporan dan Analisis Transaksi Keuangan (PPATK) [*Minutes of the Hearing Meeting of Commission III of the House of Representatives with the Center for Financial Transaction Reporting and Analysis (PPATK)*], 2018.
- Hamzah, Chandra M, Penjelasan Hukum Tentang Bukti Permulaan Yang Cukup, Jakarta: Pusat Studi Hukum dan Kebijakan Indonesia (PSHK) [*Legal Explanation of Sufficient Preliminary Evidence, Jakarta: Center for Indonesian Law and Policy Studies (PSHK)*], 2014.
- Harahap, Herlina Halim, "Pemberantasan Tindak Pidana Pencucian Uang Berdasarkan Undang-Undang No. 8 Tahun 2010 [*Eradication of Money Laundering Crimes Based on Law No. 8 of 2010*]," *Jurnal Hukum Ekonomi Syaria'ah*, 1.1 (2017): 11 <http://jurnal.uinsu.ac.id/index.php/iblr/article/view/1363/1108>.
- Fuad Hasan, Kemungkinan atas Digunakannya Hasil Analisis PPATK sebagai Alat Bukti pada Penanganan Perkara Pencucian Uang [*Possibility of Using PPATK's Financial Intelligent Report as Evidence in Handling Money Laundering Cases*], *AML CFT Journal* 1(1) (2022): 53-66, <https://doi.org/10.59593/amlcft.2022.v1i1.26>.
- J, Johari, Kebenaran Materil dalam kajian hukum pidana [*Material Truth in the Study of Criminal Law, Reusam: Journal of Law*], *Reusam: Jurnal Ilmu Hukum*, 8.2 (2021): 118. <https://doi.org/10.29103/reusam.v8i2.3811>.
- Joewono, Doni Primanto, Filianingsih Hendarta, Fitria Irmu Triwasti, Kajian Tipologi Tindak Pidana Pencucian Uang, Tindak Pidana Pendanaan Terorisme dan Pendanaan Proliferasi Senjata Pemusnah Massal [*A Study of the Typology of Money Laundering, Terrorism Financing and Financing of the Proliferation of Weapons of Mass Destruction*], 2021. <https://www.bi.go.id/id/publikasi/kajian/Documents/Kajian-Tipologi-Kasus-TPPU-TPPT-PPSPM-Tahun-2021.pdf>.
- Kepala PPATK, Profile-Pusat Pelaporan dan Analisis Transaksi Keuangan [*Profile-Financial Transaction Reporting and Analysis Center*], 2022, 2020 <https://www.ppatk.go.id/home/menu/2/profile.html>.
- Komisi Pemberantasan Korupsi, Kepolisian Republik Indonesia, Kejaksaan Agung Republik Indonesia, dan Pusat Pelaporan dan Analisis Transaksi Keuangan [*Corruption Eradication Commission, National Police of the Republic of Indonesia, Attorney General of the Republic of Indonesia, and Financial Transaction Reporting and Analysis Center*], "Indonesia's Money Laundering Risk Assessment on Corruption", *Ojk.Go.Id*, 2017. [https://www.ojk.go.id/apu-ppt/id/berita-dan-kegiatan/publikasi/Documents/2017\\_SRA\\_of\\_Corruption\\_Edited\\_Ind\\_Version.pdf](https://www.ojk.go.id/apu-ppt/id/berita-dan-kegiatan/publikasi/Documents/2017_SRA_of_Corruption_Edited_Ind_Version.pdf).

- Lengkong, Lonna Yohanes, Pembuktian Perdata [*Civil Proof*], *Jurnal Hukum to-ra*, 3.1 (2017), 479–93.
- Marzuki, Peter Mahmud, *Penelitian Hukum [Legal Research]*. Jakarta: Kencana Prenada Media Group, 2010.
- Otoritas Jasa Keuangan, Siaran Pers\_Perkembangan Tugas Penyidikan OJK [*Financial Services Authority, Broadcast Pers\_Perkembangan OJK Investigation Task*]. <https://ojk.go.id/id/berita-dan-kegiatan/siaran-pers/Pages/Perkembangan-Tugas-Penyidikan-OJK.aspx>.
- Pengadilan Negeri Tangerang, Putusan Pengadilan Negeri Tangerang Nomor [*Tangerang District Court, Tangerang District Court Decision Number*] 1240/Pid.Sus/2022/PN.Tng, 2022.
- Pusat Pelaporan dan Analisis Transaksi Keuangan [*Financial Transaction Reporting and Analysis Center*], 2016 [https://www.ppatk.go.id/luar\\_negeri/read/45/pendahuluan.html](https://www.ppatk.go.id/luar_negeri/read/45/pendahuluan.html).
- Rae, Diana Edina, Penanganan Kejahatan Ekonomi Belum Optimal - Pusat Pelaporan dan Analisis Transaksi Keuangan [*Handling Economic Crime Is Not Optimal - Financial Transaction Reporting and Analysis Center*]. Jakarta. <https://www.ppatk.go.id/news/read/1126/kepala-ppatk-penanganan-kejahatan-ekonomi-belum-optimal.html>.
- R. Subekti, *Hukum Pembuktian [Law of Proof]*, Jakarta: Pradnya Paramita, 2008, 1.
- Senjaya, Oci, Suatu Tinjauan Yuridis Terhadap Alat Bukti Dalam Penanggulangan Tindak Pidana Pencucian Uang [A Juridical Review of Evidence in Countering Money Laundering Crimes], *Jurnal Ilmiah Hukum DE'JURE: Kajian Ilmiah Hukum*, 1.1 (2016): 1–23. <https://doi.org/10.35706/dejure.v1i1.413>.
- Sutrisni, Ni Komang, dan A Ketut Sukranata Sukranatha, Anak Agung Ketut, Pendekatan Follow The Money Dalam Penelusuran Tindak Pidana Lain [Follow the Money Approach in Tracing Other Crimes]. *Kertha Semaya. Journal Ilmu Hukum*, 1. 2 (2013): 1–5.