

Unravelling Legal Issues Related to Financial Transactions in Money Laundering

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Abstract

This study aims to analyze the consistency and effectiveness of the formulation of suspicious financial transactions in legal regulations related to money laundering from the law to the implementing rules. The issue discussed was related to the proposal to reformulate the definition of financial transactions as part of suspicious activity. The urgency of debating this issue is to avoid inconsistencies in the meaning and implementation of indicators of these financial transactions to provide effective prevention for all parties responsible for the anti-money laundering regime. This research uses normative juridical law research, with the object of research in the form of a positive legal inventory. The findings in this study are that efforts to reformulate the formulation of financial transactions in the context of suspicious activities will avoid conflicts of meaning in the context of *lex superior derogat legi inferiori* and will provide the ability to the reporting party to carry out legal obligations and moral obligations for the effectiveness of the anti-money laundering regime in Indonesia.

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Introduction

Suspicious Financial Transactions (hereinafter referred to as SFT) in money laundering is a problem in the general public and includes several professions and other parties later categorized as Gatekeepers. The World Economic Forum defines gatekeepers as essentially those who possess the ability to interrupt or prevent illicit financial flows by withholding specialized services¹, including individuals, entities, or professional associations.² The issue regarding SFT is even more interesting to discuss considering that there is still widespread public incomprehension of SFT, which in this case highlights the event of an SFT report which

¹ World Economic Forum, "The Role and Responsibilities of Gatekeepers in the Fight Against Illicit Financial Flows: A Unifying Framework", https://www3.weforum.org/docs/WEF_A_Unifying_Framework_for_Gatekeepers_Overview.pdf

² World Economic Forum, "The Role and Responsibilities of Gatekeepers in the Fight Against Illicit Financial Flows: A Unifying Framework", June 2021, https://www3.weforum.org/docs/WEF_Gatekeepers_A_Unifying_Framework_2021.pdf

is the responsibility of the Ministry of Finance to conduct the investigation revealed. Differences in the meaning of a nominal number of Rupiah also give rise to differences in claims of this value by other institutions. Related to this, Romli Atmasasmita explained that the problem of reporting on the existence of SFT received widespread attention from the people and stated institutions of the DPR because there had been disparities and confusion in financial transaction data and information contained within the finance ministry.³ It shows that there are problems in understanding the urgency and nature of SFT in money laundering. SFT is intrinsically different from Suspicious Transaction Activity (STA), but its implementation makes it challenging to distinguish practically. This SFT can then be understood as part of a series of transactions called a Suspicious Activity Report (SAR). SAR has objects of activity that are considered suspicious. In contrast, STR has things in the form of transactions, in this case including direct actions on the turnover of funds, such as deposits, transfers from and/or to accounts, and withdrawals of funds. In the laws and regulations related to money laundering, Indonesia prefers the term STR/SFT, but the material and definition are based on SAR. The European Parliament uses the Suspicious Transaction approach but with a meaning that includes activity.⁴ Furthermore, this SAR can include STR, Cash Transaction Report, and Fund Transfer Report, transactions made by service users for goods and services with a certain nominal. Activities and transactions here must be reported when they have reasonable grounds for not following the law, making it suspicious. Suspicious activity is more of a movement to refuse the obligation to carry out the Principles of Recognizing Service Users (hereinafter referred to as PRSU) for Non-Financial Service Provider Reporting Parties or other parties or refusing to carry out the Principles of Recognizing Customers (PRC). Activities and transactions have different objects of suspicion but cannot be distinguished in practice. Conceptually, it can be stated that all transactions are a form of activity. Thus, if the client makes a transaction, at the same time, the client also carries out activities. In the context of this indication of money laundering is in the object of transactions and suspicious activities.

Law of the Republic of Indonesia No. 8/2010 is the legal basis related to anti-money laundering in Indonesia (hereinafter referred to as Law 8/2010), defining SFT as referred to in Article 1 number 5, not edible as a definition, but on parameters. It is difficult to understand what is understood as SFT, as well as confusing parties, referred to as reporting parties, to recognize and analyze a transaction suspected as an SFT. Furthermore, this SFT will correlate with transaction compliance or compliance reporting mechanisms, including the SFT.

Regarding SFT, this is not directly money laundering but a red flag for reporting and analyzing a transaction that is considered suspicious. Considering that money laundering has money laundering legislation in Indonesia regarding Cash Financial Transactions (CFT) and Fund Transfer Financial Transactions (FTFT) other than SFT. Understanding money laundering requires understanding how an underlying transaction should occur, specifically related to financial transactions. Law 8/2010 explains that what is understood by Transactions is essentially all activities that give rise to rights and/or obligations or give rise to legal relations between two or more parties (vide Article 1 point 3). In a sense, this transaction that will justify someone doing something as part of his rights and obligations must have a clear basis, especially when dealing with other parties. The Basel Committee on Bank Supervision Bank of International Settlement⁵ added that about underlying transactions in money laundering, it is necessary to understand the nature or purpose of the underlying transactions. Furthermore,

³ Romli Atmasasmita, "Masalah Transaksi Keuangan yang Mencurigakan", sindonews, April 4, 2023, <https://nasional.sindonews.com/read/1064055/18/masalah-transaksi-keuangan-yang-mencurigakan-1680584683?showpage=all>

⁴ Lebih lanjut baca di dalam The DIRECTIVE (EU) 2015/849 of the European Parliament and of the Council

⁵ Basel Committee On Banking Supervision, *Sound Management of Risks Related to Money Laundering and Financing*, vol. 2014, 2020.

through Article 1 point 4, Financial Transactions are defined in essence as Transactions aimed at doing or receiving some things in the form of placement and or deposit or withdrawal or bookkeeping, transfer, payment, grants, donations custody, exchange of amounts of money, or actions, also can be in the form of other activities related to money. This transaction then allows money laundering (transaction laundering).

Based on the transaction, as explained in the previous section, that is known as SFT, CFT, FTFT, Transactions made by service users for goods or services with a certain nominal. CFT can be understood as a Financial Transaction using money, both in the form of banknotes and coins (vide Article 1 point 6), and the amount provisions are specified in Article 23 paragraph (1) b, paragraph (2), and Article 27 Law 8/2010. Meanwhile, related to TFTF, Law 8/2010 does not provide a definition, but the regulation refers to the provisions of Article 23, paragraph (1) point c, and paragraph (3) of Law 8/2010. Given that Indonesia already has regulations regarding Fund Transfer, *mutatis mutandis* further arrangements will refer to Law No. 3/2011 concerning Fund Transfer. SFT has a different nature and reporting from CFT and TFTF. Otniel Yustitia Kristian explained that the difference lies in the parameters. In essence, CFT or TFTF transactions are not based on the analysis results related to indications of crime or deviation from profile. The parameters used are following those specified in the law.⁶ However, this parameter also has no continuity with the meaning of how to present the parameter in a legal problem related to money laundering. Each parameter must be analyzed as the source or nature of money or wealth. The meaning of money laundering will be related to efforts to obscure and/or conceal the true origin of wealth. Wealth is derived from illegal or illegitimate property. Both SFT, CFT, and TFTF must be able to become clear bases to be used as a clear basis in handling money laundering. He Ping asserted that in 1988, the Basel Committee on Banking Regulations and Supervisory Practices stated the principle to ensure that banks are not used to hide or launder funds derived from criminal activities and that there is no obligation to report suspicious financial transactions. The Basel Committee only requires that banks not offer services or provide active assistance in transactions allegedly related to money laundering. If there are reasonable grounds to suspect money laundering, the bank must terminate relations with the customer and freeze the account.⁷ Therefore, it can be understood that there is a shift in non-reporting obligations from voluntary reporting to mandatory reporting. Demanding this, the issue of reporting suspicious transactions becomes essential and urgent.

Money laundering, which has become a criminal act and is no longer considered a *bedriff risico* as it once was, certainly carries a juridical consequence. Every element of a criminal act must be an element that must be proven, and how it lies against the law must be clear. Therefore, this article will discuss legal issues related to financial transactions in the criminal act of money laundering, with an emphasis on the consistency of the formulation of SFT in legislation in its hierarchy will bring effectiveness in the application of SFT for the prevention and prevention of laundering. The problem of the formulation of SFT in Law 8/2010 has a different manifestation which is intended as a definition in the laws and regulations under the Law will have legal consequences. This article uses the normative juridical method of legal writing, which is based on the study of literature materials, and examines legal rules and principles. The object of this writing is research in the form of an inventory of favorable laws by conducting systematic analytical and logical criticism and harmonization of legislation based on the

⁶ Otniel Yustitia Kristian, *Kajian Hukum Tinjauan Hukum Mengenai Ketentuan Anti Tipping Off Dalam Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang* (Direktorat Hukum Pusat Pelaporan dan Analisis Transaksi Keuangan, 2021), <https://jdih.ppatk.go.id/produk-hukum/detail/211/kajian-hukum-ketentuan-anti-tipping-off-dalam-pencegahan-dan-pemberantasan-tindak-pidana-pencucian-uang>

⁷ He Ping, "The Suspicious Transactions Reporting System," *Journal of Money Laundering Control* 8, no. 3 (2005): 252–59, <https://doi.org/10.1108/13685200510620948>.

principle of *lex superiori derogat legi inferiori*. The approach used is a conceptual approach for money laundering, required financial transactions, and reporting compliance.

Discussion

The Nature and Meaning of Money Laundering

Money laundering is one of the follow-up crimes, essentially aiming to hide the origin of wealth derived from crime. Money launderers try to hide or disguise the basis of their wealth, which is a criminal offense, in various ways and methods, but to make the wealth challenging to trace. The proceeds of the crime are then used for both legitimate and illegitimate activities (vide General Explanation of Law 8/2010). However, what must be prevented is that the proceeds of crime cause distortions and threaten the stability and integrity of the economic and financial system, endangering the joints of national and state life and the state's economic and political life. Vandana Ajay Kumar⁸ also explains how the impact of money laundering, which has a negative effect on economic development, poses a serious threat to the national economy, threatening economic and political stability. Money laundering is also part of economic crimes that have the potential to give rise to other forms of crime. Gjoni and Gjoni added: “the effects that money laundering brings into an economy are numerous and most of the time hazardous to the economy of the state. This process directly effects the financial economy and the financial sector in addition impacts on many other sectors”⁹ Thus, money laundering is a serious threat that must be considered in law enforcement. Money laundering is used as a medium to prevent money from crime obtained by perpetrators to be safe.

This money laundering also has characteristics such as transnational crime and organized criminal offense. For the character of this crime, *Basaria Panjaitan* emphasized that the characteristics of this crime pattern are impeccable, ranging from how to deceive and how to escape from law enforcement officials, how to determine safe houses, how to determine pre or post alibi, liaison actors, bodyguards, clue givers, targets, control, and consolidation, to bleaching the proceeds of crime.¹⁰ Therefore, money laundering will always be understood as a criminal act that has a highly complex nature, with a multi-layered process, because the aim is to obscure the illegal nature of wealth, both from its acquisition to its designation.

Money laundering in the understanding of The UN Convention against Illicit Traffic in Narcotics Drugs and Psychotropic Substance, 1988 (the so-called Vienna Convention) and the UN Convention against Transnational Organized Crime and the Protocols thereto (known as the Palermo Convention) can be understood to include three *actus reus* (criminal acts), namely: (i) conversion or transfer, knowing that the property is the proceeds of crime (ii) concealment or disguise of its true nature, the source, location, disposition, movement or possession or right concerning such property, and (iii) the acquisition, possession or use of such property, knowing, at the time of receipt, that such property is the proceeds of crime. The emphasis of money laundering essentially lies in concealing or obscuring the origin of the proceeds of crime. It requires various analyses of it. *Mens rea* (evil nature) in money laundering must thus be placed on the knowledge that the property is derived from crime, or when receiving, the recipient knows that the property is the proceeds of crime. Law 8/2010 defines money laundering, which is in the form of acts that meet the elements of a criminal offense under the provisions of this Law (vide Article 1 point 1), and in this case, what is meant is the provisions of Article 3, Article 4, and Article 5.

⁸ Vandana Ajay Kumar, “Money Laundering: Concept, Significance and Its Impact” 4, no. 2 (2012): 113–20.

⁹ Mario Gjoni, Albana (Karameta) Gjoni, and Holta (Bako) Kora, “Money Laundering Effects,” no. November (2015): 13–20, <https://doi.org/10.33107/ubt-ic.2015.16>.

¹⁰ Basaria Panjaitan, *Mengungkap Jaringan Kejahatan Transnasional*, 2017, Bandung: Refika Aditama, 7

Conceptually, Benjamin Villanyi¹¹ explains that Money Laundering is a process of conversion of criminal incomes into assets that cannot be traced back to the underlying crime... stress two essential elements: the illicit source of the funds and the process to make them appear legal. Based on this opinion, Money Laundering is converting from crime income into wealth that cannot be traced back to the underlying crime. Another emphasis is on the emergence of two essential elements in money laundering: the illegitimate source of money and the process of making money appear to be a legitimate result. Next, Benjamin Villanyi¹² added an analysis, which essentially relates the contrast between the economic approach and the legal view regarding the focus of money laundering activities, as follows: In contrast with this economic approach, the legal point of view focuses on four distinct groups of activities: the conversion or transfer of property knowing of its illicit sources; the concealment or disguise of its unlawful origin; the acquisition, possession, or use of such property; and any participation in the illegal activities.

Benjamin Villanyi emphasized the existence of four different activities, namely:

- a. Conversion or transfer of wealth by knowing its illegal sources;
- b. Disguising the origin of the illegal property;
- c. Acquisition, possession, or use of property; and
- d. Any other kind of participation in such illegal activities.

Gerry Ferguson¹³ added, *“Because the purpose of money laundering is to conceal the source of illicit funds, it is inherently difficult to measure its global scope... As Beare notes, it is impossible to identify all the laundering possibilities - from cults to marathons and beyond...”* Money laundering makes it impossible to identify money laundering possibilities, as it is challenging to gauge its global scope. Money laundering is an ideal crime chosen to be committed by the perpetrators of these economic crimes.

Money laundering needs to be understood more profoundly, considering its unique nature and characteristics compared to predicate crimes. It also has a different character from the proceeds of crime in general. Money laundering will use the same circle, which in various literature is interpreted as the stage of money laundering, also referred to as the money laundering process. Money laundering does not only discuss the proceeds of wealth derived from criminal acts but further the conduct of criminal acts on assets derived from these crimes. Insofar as such acts are committed to conceal or obscure or disguise the origin, source, and allocation of the proceeds of the crime, the show is referred to as money laundering.

Financial Transactions and Suspicious Activity Report in Money Laundering

In its development, money laundering requires not only the formal use of financial institutions but also the existence of other institutions. It includes other professions that can assist money laundering, but at the same time, must also be asked to participate in carrying out prevention efforts by applying compliance to the report. Gjoni and Gjoni, in this case, explained, *“although money laundering does not require the use of formal financial institutions, the results consistently show that the banks, capital markets and institutions, non-banking financial companies such as insurance, foreign exchange offices, and notaries are a tool to favor clearing illegal funds domestically and internationally”*¹⁴ The General Explanation of Law, 8/2010 in paragraph 4, emphasizes the role of Financial Institutions, which

¹¹ Benjamin Villanyi, “Money Laundering: History, Regulations, and Techniques”, <https://doi.org/10.1093/acrefore/9780190264079.013.708>, published online 26 April 2021

¹² Villanyi.

¹³ Gerry Ferguson, *GLOBAL CORRUPTION: LAW, THEORY & PRACTICE*, 2018, https://dspace.library.uvic.ca/bitstream/handle/1828/9253/Ch.04_April2018_web.pdf?sequence=5&isAllowed=y.

¹⁴ Gjoni, Gjoni, and Kora, “Money Laundering Effects.”

are believed not only to assist law enforcement but also guard against risks, in this case, operational risks, legal risks, the concentration of transactions, and reputation. Financial institutions must break away so that they are not reused as a means and target by criminals to launder the proceeds of crime. In this regard, well-managed risks will impact financial institutions function optimally and maintain financial stability to be more stable and trustworthy. This function that then shifted was not only placed on financial institutions. At the same time, the provisions in Article 23 of Law 8/2010 specifically put the reporting task on Financial Service Providers (hereinafter referred to as FSPs). Based on Article 17, the Reporting Party is meant by FSP, Providers of Goods and/or Other Services (hereinafter referred to as PGS), as well as in paragraph (2), which is followed up in Government Regulation No. 43 of 2015 in conjunction Government Regulation No. 61 of 2021, namely several other parties. The addition of other parties is intended as parties other than those referred to as Financial Service Providers in Article 2 paragraph (1) letter a, which means, among other things, with Article 17 paragraph (1) letter an of Law 8/2010. The added parties are venture capital firms; infrastructure finance companies; microfinance institutions; export financing institutions; information technology-based lending and borrowing service providers; crowdfunding service providers through information technology offerings; and information technology-based Financial Transaction service providers.

Regarding the obligations of PGS, the provisions in Law 8/2010 affirm that these obligations are an obligation to report transactions carried out by Service Users in Rupiah and/or foreign currencies whose value is at least or equivalent to IDR 500,000,000.00 (vide Article 27). Regarding this, the guidelines are more aimed at using a certain nominal amount, with or without the need to relate to the emergence of suspicious aspects of service users. However, the obligation to conduct a PRSU is absolute and always shows a risk-based analysis.

Money laundering puts on a financial transaction, which is defined in the provisions of Article 1 point 4 as confirmed in the previous discussion section. The reporting parties in Law 8/2010 are divided into three major parts as follows:

Table 1. Reporting Parties Group

Parties Groups		
Financial Service Providers	Providers of Goods and Services	Profession
Based on Article 17 paragraph (1) letter an of Law 8/2010; and	Based on Article 17 paragraph (1) point b of Law 8/2010	Article 17 paragraph (2) of Law 8/2010 as stipulated later in Article 3 PP No. 43/2015 jo. PP No. 61/2021
Based on Article 2 paragraph (2) PP 61/2021		

The three major groups of the Reporting Parties have the same task developed based on updating the effectiveness of money laundering prevention, namely reporting, and for that will be monitored compliance. The Supervisory and Regulatory Agency (SRA) further regulates the compliance supervision mechanism. This SRA is in the second part of Law 8/2010 provisions concerning applying the Principle of Recognizing Service Users (PRSU). Article 18 paragraph (1) specifies the duty of the SRA to determine the PRSU, which must be carried out by the Reporting Party (vide Article 18 paragraph (2)). This obligation, which has come to be known as Customer Due Diligence (CDD) and Enhance Due Diligence (EDD), must be carried out when:

- a. Conducting business relations with Service Users
- b. There are financial transactions in the amount or equivalent of IDR 100,000,000.00, both in Rupiah and foreign currencies. In this regard, the FATF Recommendation 2012, Updated

February 2023, no 10, updates the amount threshold to USD / Euro 15,000.

- c. There are SFTs related to money laundering and terrorism financing.
- d. The Reporting Party doubts the veracity of the information reported by service users.

Regarding this CDD obligation, recommendation 10 of the FATF 2012, updated February 2023, also adds that CDD must be carried out in the event of Wire Transfers, as the scope includes Interpretative Note Number 16. The provisions on PRSU/CDD contain, at a minimum:

- a. Identification of Service Users;
- b. Service User Verification; and
- c. Service User Transaction Monitoring

The FATF governing CDD/EDD includes, at least related:

- a. Identification of service users and verification of their identity using reliable, independent source documents, data, or information.
- b. Identification of beneficial owners and taking reasonable steps to verify the identity of beneficial owners so that financial institutions know who the beneficial owners are. For legal entities, the ownership structure and role of service users must be understood.
- c. Understand and obtain information about the purpose and nature of the intended business relationship.
- d. Conduct continuous due diligence on business relationships and supervise transactions to ensure that transactions are carried out consistently based on the institution's knowledge of the service user, its business, risk profile, and source of funds (if needed).

This provision regarding CDD is essential, considering that the basis of money laundering lies in its Transactions, including Financial Transactions. For that, CDD should be done with a preventive procedure. The obligation to identify this CDD must be carried out by the Reporting Party as explained in scheme 1, that there are three groups, namely FSP, PGS, and Profession. Each group of Reporting Parties has a different task in identifying Financial Transactions and making them as a Report. The table below is provided to see the tasks of those Reporting parties:

Table 2. Types of Financial Transactions to Report

Financial Service Providers (as referred to in Article 17 paragraph (1) a Law 8/2010 and Article 2 paragraph (1) PP 61/2021)	Providers of Goods and Services	Profession
SFT	Transactions by Service Users using Rupiah and/or foreign currencies with a limit of at least IDR 500 million.	Transactions carried out by professionals for the benefit of or for and on behalf of Service Users who are known to be reasonably suspected of using Assets allegedly derived from the proceeds of criminal acts referred to as SFT with exceptions for the Advocate Profession based on Article 8 paragraph (3) PP 61/2021
CFT		
FTFT		

Each financial transaction can be understood in the following analysis: regarding SFT, Article 1 point 5 of Law 8/2010 provides categorization, while Article 8 paragraph (2) of PP No. 61/2021 provides the scope of SFT or what can be referred to as SAR. Article 1 number 5 of Law 8/2010 does not provide a definition but a categorization, so it requires a deeper understanding of it. Based on Article 1 point 5, what is meant by SFT is:

- a. Financial Transactions that deviate from the Service User's profile, characteristics, or habits concern Transaction patterns.
- b. Financial Transactions from Service Users that are reasonably suspected to be carried out to avoid reporting Transactions that avoid reporting the relevant Transactions that the Reporting Party must carry out.
- c. Financial Transactions carried out or cancelled using Assets allegedly derived from the Proceeds of Criminal Acts; or
- d. Financial Transactions requested by PPATK to be reported by the Reporting Party because they involve Assets allegedly derived from the proceeds of criminal acts.

In addition to the categories in Law 8/2010, another type of SFT can be added based on PP 61/2021, which determines that Professional Parties as reporting parties must report Transactions carried out by the Profession for the benefit of or for and on behalf of Service Users who are known to be suspected of using Assets allegedly derived from criminal acts regarding the five transaction activities as referred to in PP 61/2021, and parties other than those who have been referred to as FSP in Article 2 paragraph (1) letter an of PP 61/2021, which means among other things with Article 17 paragraph (1) letter an of Law 8/2010, as referred to in the previous section. Regarding SFT obligations for FSP, the Circular Letter of the Head of PPATK No. 3 of 2015 (hereinafter referred to as SE Head of PPATK 3/2015) has provided guidelines on how to identify SFT elements by showing SFT indicators, which are suspicious activities.

Recommendation 20 of the FATF Recommendation 2012, updated February 2023, confirms the reporting of Suspicious Transactions: "If a financial institution suspects or has reasonable grounds to suspect that funds are the proceeds of a criminal activity..." This recommendation emphasizes the existence of suspicion or a solid basis to suspect that property is the result of a criminal act. This suspicion must, of course, have a solid basis. This parameter is essential in integrating reasonable grounds that are the handle for FSP. Regarding this, David Chaikin¹⁵ explained the formulation of suspects and or has a reasonable ground, which is related to 2 (two):

- a. Based on a subjective test of the suspect; in which case one truly believes that the money/funds are related to criminal activity;
- b. Based on reasonable grounds, an objective test refers to circumstantial evidence related to funds/money that would make a reasonable person believe there is criminal activity.

SFT will produce qualitative and quantitative results in law enforcement. Therefore, it combines SFT's reporting with the Reporting Party's compliance to carry out reporting as required in this legal regulation on money laundering. Based on the explanation above, Law 8/2010, among other things, with PP 43/2015 in conjunction with PP 61/2021, formulates SFT by referring to objective tests and, on the other hand, adds reporting obligations to the provisions regarding its PRC/PRSU obligations. Kevin Sullivan¹⁶ explains that the term suspicious itself is nebulous, and no definitive (absolute) answer is related to it. Sullivan used

¹⁵ David Chaikin, "How Effective Are Suspicious Transaction Reporting Systems?," *Journal of Money Laundering Control* 12, no. 3 (2009): 238–53, <https://doi.org/10.1108/13685200910973628>.

¹⁶ Kevin Sullivan, *Anti – Money Laundering in a Nutshell* (Apress Media, 2015).

the term "incident, triggers, and alert". In addition, Kevin Sullivan¹⁷ mentions that the term suspicious highly depends on various variables, which may differ from one country/institution to another. These variables may depend on the user's risk assessment, which considers the user's financial history, geographic location, product offerings, other parties involved, transaction frequency, and the economic impact of the incident. The expertise and experience of the individual (in this capacity, the Reporting Party) play an important role. Therefore, the broader and more robust the net used, the wider the demand for one's knowledge and experience of money laundering. Automated transaction monitoring systems from financial institutions will often generate incidents, triggers, or alerts. System parameters will be set considering each financial institution's specific needs. These parameters are then set differently depending on each jurisdiction's type of financial institution, based on size, demographics, geography, and products offered. In this case, Sullivan explained that an incident might not be reported through the system if it was not a transaction (it might just be an attempted transaction or an app for an account). Through this explanation from Sullivan, it is understandable that the reporting parties, in the context of Indonesian money laundering law, must be able and proficient in recognizing which incidents, triggers, warnings, and which are indeed suspicious transactions. The context that must also be understood correctly is that this is in the context of money laundering, not just about the mere crime of origin.

On the other hand, as a form of translation of the parameters of SFT in Law 8/2010 and its PP, the SE Head of PPATK 3/2015 describes the indicators of 4 (four) categories in the definition of SFT. Furthermore, some formulations regarding SFT from a comparative perspective of several regulations on money laundering are as follows:

Table 3. Comparison of SFT Regulations

Country	Formulation
India Rule 2(1)(g) of PMLA-2002	<i>Suspicious transaction is a transaction, whether or not made in cash, which, to a person acting in good faith- (a) gives rise to a reasonable ground of suspicion that it may involve the proceeds of crime; or (b) appears to be made in circumstances of unusual or unjustified complexity; or (c) appears to have no economic rationale or bona fide purpose, or (d) gives rise to a reasonable ground.</i>
Canada	<i>A suspicious transaction report (STR) is a type of report that must be submitted to FINTRAC by an RE if there are reasonable grounds to suspect that a financial transaction that occurs or is attempted in the course of their activities is related to the commission or the attempted commission of an ML/TF offence.</i>
Thailand Section 3 AMLA BE 2542 (1999)	<i>"Suspicious transaction" means a transaction with reasonable grounds to believe that it is conducted to avoid the application of this Act, or transaction connected or possibly connected with the commission of a predicate offense or terrorist financing offense, notwithstanding the transaction being single or multiple, and shall include an attempt to conduct such a transaction.</i>
Malaysia Anti-Money Laundering and Anti-Terrorist Financing Act 2001	There is no explanation of what suspicious transactions are, but it only regulates the obligation of a reporting institution that is determined to carry out compliance, and must do several things, including reporting suspicious transactions.
Bank Secrecy Act 1970 - USA	Requires Financial Institutions to file Suspicious activity reports; this condition also applies to transactions that meet specific criteria. BSA does not use the term Suspicious Transaction Report in its text

¹⁷ Sullivan.

Based on the description in Table 3, it can be understood that SFT can also refer to suspicious activity, not forgetting that suspicious activity here must refer to the belief that the person committed his money laundering crime, meaning it must be believed that criminal activity has occurred referring to the subjective test and objective test of the parameters of the FATF as tried to be explained by David Chaikin in the previous section, nor is it an incident, trigger, or warning.

Regarding CFT, Article 1 number 6 of Law 8/2010 has given its definition. This CFT then refers to the provisions of Article 23 paragraph (1) letter b, namely with a monetary value of Rupiah and foreign exchange worth or equivalent to IDR 500,000,000.00 (for FSP). In the context of Article 23, FSP must understand the variations in CFT that can occur. Regarding the definition and type of money, adjusting to the new regulation of the kind of money, which is not only Paper Money and/or Coins, including the Digital Rupiah as regulated by Law No. 4/2023 is necessary. The sixth part of Law No. 4/2023 entitles Digital Rupiah, which in Article 10 regulates amendments to Law No. 7/2011 on Currency, specifically in Article 2 paragraph (2) specifies that the type of Rupiah consists of paper Rupiah, metal Rupiah, and digital Rupiah. Regarding this CFT, the Head of PPATK Regulation Number per-21/1.02/PPATK/11/2013 provides guidelines related to CFT reported to PPATK (hereinafter referred to as Perka PPATK 21/2013). The guideline determines that CFT reported to PPATK is CFT of at least IDR 500,000,000.00 or with foreign currency of equivalent value, carried out in one transaction or several transactions in one working day. This provision is then implemented through Article 2 paragraph (2) c of the Head of PPATK Regulation 1/2021 (hereinafter referred to as Perka PPATK 1/2021). The guideline can be interpreted as refining the definition given in Law 8/2010. Furthermore, Article 6 of Perka PPATK No. 1/2021 expands the meaning and definition of CFT, namely:

(1) CFT as referred to in Article 2 paragraph (2) point c in the form of cash Financial Transactions at least IDR 500,000,000.00 or with foreign currencies of equivalent value, carried out either in one Transaction or several times Transactions in one working day

(2) CFT, as referred to in paragraph (1), is a financial Transaction carried out using banknotes and/or coins

If the CFT is fulfilled, the FSP Party obliged to carry out CFT must make a Report on the CFT (called LCFT). Perka 1/2021 added that the LCFT also includes activities in the form of transactions, as referred to in paragraph (3) of Article 6 of Perka PPATK 1/2021. Emphasizing this, Otniel Yustitia Kristian explained: "that the parameters for determining an LCFT transaction or fund transfer transaction from and to abroad are not based on the results of the analysis that the transaction indicates the proceeds of crime or deviates from the profile, but the parameters are following those contained in the Law."¹⁸

Furthermore, based on Perka PPATK 1/2021, Article 7 determines that implementing the obligation to submit CFT reports does not eliminate the duty to report: a. SFT; b. SFT related to terrorism financing; and/or c. FTFT From and Abroad when fulfilling one or more elements of SFT, SFT related to terrorism financing, and/or aspects of FTFT From and Abroad. The provisions of Article 7 of Perka PPATK No. 1/2021 can cause obstacles due to contextual understanding with fundamental differences in SFT, CFT, and FTFT, and each of them must be made a report by the FSP based on the provisions of Article 23 paragraph (1) of Law 8/2010. However, what must be remembered is that cash transactions must think about how to improve compliance from the reporting party on the implementation of CDD and/or EDD both manually and online.¹⁹

¹⁸ Kristian, *Kajian Hukum Tinjauan Hukum Mengenai Ketentuan Anti Tipping Off Dalam Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang*.

¹⁹ Go Lisanawati dan Njoto Benarkah, *Hukum Money Laundering (Pencucian Uang) Dalam Dimensi Kepatuhan*, 2018. Malang: Setara Press, 58

FTFT from and to foreign countries is understood through the regulations in Article 23 paragraph (1) letter c in conjunction with Paragraph (3) of Law 8/2010. Regarding this Fund Transfer, Indonesia already has Law No. 3/2011. However, based on the provisions of Article 23 paragraph (3), the large number of FTFTs that must be reported is regulated in the Regulation of the Head of PPATK. Furthermore, Article 8 of Perka PPATK No. 1/2021 specifies that FTFT includes: a. orders to transfer funds from abroad; and b. overseas fund transfer orders. This FTFT reporting obligation is then specified in Article 12, which stipulates that implementing the obligation to submit FTFT reports does not eliminate the reporting obligation: a. SFT; b. SFT related to terrorism financing; and/or c. CFT, if it meets one or more elements of SFT, SFT related to terrorism financing, and/or CFT elements.

It is related to PGS as stipulated in Article 27 of Law 8/2010, which explains the obligation to submit transaction reports made by Service Users if Service Users make transactions using Rupiah or foreign currency, with a nominal value of at least or equivalent to IDR 500,000,000.00. The report must be submitted to PPATK. Based on this provision, PGS is asked to conduct SFT is not an absolute considering the obligation to report when there are transactions from service users using a currency whose value is at least IDR 500,000,000.00 or foreign currency with an equivalent value. However, that does not mean the PGS does not have to do PRSU. PRSU has always been an absolute must alongside a risk-based analysis. While PGS itself is determined by Law 8/2010, it includes Property companies/property agents; Motor vehicle dealers; Gem and jewellery/precious metals merchants; Art and antique dealers; or Auction houses. Again, the scope of activity of the PGS does not require SFT identification, but if there is a transaction from the Service User to spend a grant or other actions for objects sold or served by the PGS. The SFT charged to the PGS, when attributed to David Chaikin's opinion above, refers more to a subjective test. However, PGS should also be obligated to perform CDD, which means exercising prudence, but not *mutatis mutandis* is the same as identifying SFT. Therefore, PGSs that do not report to PPATK are only subject to the provisions of Article 27 paragraph (3) of Law 8/2010 and do not undertake the obligation to create and maintain a list of excluded transactions as binding for FSP (vide Article 24 paragraphs (2) and (3) of Law 8/2010). This reporting by PGS is carried out directly to PPATK. It is thus clear that the basis for the PGS is not to analyze SFT.

Head of PPATK Regulation No. 2/2021 regulates more about the reporting PGS must carry out based on Article 27 of Law 8/2010. In particular, Perka PPATK No. 2/2021 provides a basis for considering that considering the need to optimize the implementation of reporting obligations by PGS in efforts to prevent and eradicate money laundering and Terrorism Financing; it is necessary to develop the goAML application as a means of submitting reports that have been tailored to the needs and characteristics of PGS. Article 2 of this Perka specifies a new obligation for PGS, which is different from the provisions of Article 27 paragraph (1) of Law 8/2010, namely submitting reports related to:

- a. Transactions made by Service Users in Rupiah and/or foreign currencies whose value is at least or equivalent to IDR 500,000,000.00; or
- b. Financial transactions requested by PPATK to be reported as Suspicious Financial Transactions.

Furthermore, in paragraph (2), PGS must act in the form of not continuing the PRSU procedure if the PGS suspects that there are Financial Transactions related to money laundering or terrorism financing and believes that the PRSU that is being carried out will violate anti-tipping off provisions and terminate business relations with service users in the circumstances as referred to in this Perka PPATK. The conditions referred to in Perka PPATK No. 2/2021 follow the provisions of FATF Recommendation No. 23 that for Designated Non-Financial Business and Profession (DNFBP), it is also required to report suspicious transactions when this DNFBP conducts cash transactions with service users or following nominal limits. It is

essential to be accommodated the meaning of PGS's obligations in Article 27 of Law 8/2010, not only in the form of pouring through regulations in the state of Perka PPATK. It means that it is necessary to reformulate the obligations of the PGS in Law 8/2010.

Through the provisions of Article 3 of Perka PPATK No. 2/2021, there are several things as follows:

- a. Regarding transaction reports, as specified in Article 2 paragraph (1) point a, cover transactions such as buying and selling transactions; Consignment; lease; processing, refining, smelting of precious metals; trade-in; auction; and other types of transactions determined by PPATK (vide Article 3 paragraph (1))
- b. Transactions, as referred to in paragraph (1), are transactions, among others, carried out by Service Users in one working day both with an approach to the transaction value and cumulative amount in one day both in the form of IDR and foreign currencies of at least IDR 500,000,000.00, or done by the Service User who continues the position of the previous Service User. The amount of the transaction value is at least IDR 500,000,000.00 or foreign currency equivalent to that value (vide Article 3 paragraph (2))
- c. The location of the Transaction is in one or several offices in 1 (one) PGS.

In this case, there is a difference between the scope and meaning of CFT limits as referred to in Law 8/2010 with the implementing regulations under the Law, namely, in this case, Perka PPATK. It requires thinking to submit a proposal to revise the provisions in Law 8/2010 for the effectiveness and consistency of the meaning of *lex superior derogat legi inferiori*, which must change due to the demands for adjusting the proliferating money laundering needs.

Related to the Profession as a Reporting Party is a new arrangement, understood as part of the expansion of the Reporting Party regulated in Article 17 paragraph (2) of Law 8/2010. The regulation began to be enforced with PP No. 43/2015 provisions, later amended by PP No. 61/2021. Professional parties who are given the obligation to be reporting parties are Advocates; Notary; Land Deed Making Officers; Accountant; Public Accountant; and Financial Planner. Article 8 paragraph (3) of PP No. 61/2021 determines that SFT must then be included as a scope in the form of Transactions carried out by professionals for the benefit of or for and on behalf of Service Users who are known to be suspected of using Assets allegedly derived from the proceeds of criminal acts regarding: a. purchase and sale of property; b. management of money, securities, and/or other financial service products; c. management of current accounts, savings accounts, deposit accounts, and/or securities accounts; d. operation and management of the company; and/or e. establishment, purchase, and sale of legal entities. Transactions intended as an additional scope of SFT are in the form of transactions carried out by the Profession as the Reporting Party, which conducts transactions for the benefit of or for and on behalf of Service Users. At the same time, the assets used are suspected of coming from the proceeds of criminal acts, and this is known to be reasonably inferred by the Reporting Party on the Service User. The transaction includes letters a to e but is limited to the Advocate Profession acting for the benefit of or for and on behalf of the Service User, in the event of: a. ensuring the legal position of the Service User; and b. handling of a case, arbitration, or alternative dispute resolution.

This scope formulation provides prudent steps for the Professional Party as the Reporting Party in carrying out service relations with its service users and applies a risk-based assessment approach to service users. The analysis is carried out on a transaction requested by the Service User, which is not in accordance with the duties, authorities, and scope of each profession as stipulated in laws or regulations governing the work. PP No. 61/2021 further asks the job to analyze the assets of its Service Users, which is based on allegations that their assets are the results of criminal acts. The knowledge and expertise of the Professional Party as the Reporting Party is placed on the reasonable use of the Property of the Service User, which is suspected to be the result of a criminal act, is essential. The scope of SFT is based on limitations on the scope of use of abuse of professional duties and authorities as referred to in PP No. 43/2015 in the

potential for money laundering committed by its Service Users, in this case, if there is a use of their profession for the benefit of or for and on behalf of Service Users in transaction limitations in letters a to e of PP No. 43/2015. Regarding Professions, Recommendation 23 of the FATF Recommendation adds Other Measures that must be carried out by the Legal Profession, namely the Legal Profession (Advocates, Notaries, and other independent legal professions), and accountants are required to report suspicious transactions when, for the benefit of or on behalf of clients, which causes these professions to carry out financial transactions in the activities intended in FATF Recommendation No 22. Based on this, related to the profession as a reporting party, two things must be done, namely: 1. Conduct CDD when the Profession prepares or carries out transactions with its clients related to activities as referred to in FATF recommendation No. 22 (the equivalent is in Article 8 PP No. 43/2015 jo. PP No. 61/2021), and (2). Conduct STR if these professions conduct transactions for the benefit of or for or on behalf of their Service Users related to these activities. The scope of suspicious understanding here is more aimed at the suspicion of the emergence of Service Users' desire for these professions to make transactions that are not included in their work or profession, not solely based on SFT as referred to in Article 1 point 5 Law 8/2010.

The existence of these professionals in understanding anti-money laundering is known as one of the Gatekeepers groups. Michael Levi²⁰ uses the terms crime enablers for lawyers and other professions and crime facilitators in other parts.²¹ Many other professions have also done analysis. Interestingly on the lawyer part, Michael Levi provides an analysis:

*'Enablers' are negative labels applied to sectors of professionals, whether they (or, more accurately, some of them) consciously assist in disposing of the proceeds of crimes. We sometimes blame lawyers for assisting with money laundering when the bigger problem arguably is national provisions for company and property/beneficial ownership registration, which they use without needing to have conscious involvement with predicate offenders. We pay insufficient attention to how 'normal' or 'abnormal' are lawyers' actions on behalf of clients of whose criminality they may have no knowledge (and perhaps prefer to remain ignorant and talk no clients in ways that avoid actual knowledge of criminality, which would oblige them ethically to stop representing them).*²²

This explanation provides a point of view that placing obligations for the six professions as reporting parties requires arguments that must be reasonable by conducting subjective tests and objective tests, as explained in the previous section. This reasonable location must lead to the occurrence of money laundering, not just incidents, warnings, or triggers.

Perka PPATK No. 3/2021 regulates how to submit SFT reports for Professions through the goAML application, which is in the provisions of Article 2. Meanwhile, the obligations that must be carried out by profession are regulated in the provisions of Article 3 of the Head of PPATK Regulation 3/2021. In the provisions of Article 3 paragraph (3), it is determined: "For the benefit of or for and on behalf of the Service User is carried out based on an agreement either in writing or unwritten". This provision shows the actual intentionality of the profession in the form of knowledge because it agrees with the client (service user) to make transactions for the benefit or for and on behalf of limited to five activities as specified in PP No. 43/2015. In this case, it should no longer need to be formulated as mandatory to report transactions made by service users known to be suspected of using assets presumed to be the proceeds of criminal acts. *Mens rea* here is transparent. The activities contained in PP No. 43/2025 jo. PP No.

²⁰ Michael Levi, "Lawyers as Money Laundering Enablers? An Evolving and Contentious Relationship," *Global Crime* 23, no. 2 (2022): 126–47, <https://doi.org/10.1080/17440572.2022.2089122>.

²¹ David Middleton and Michael Levi, "Let Sleeping Lawyers Lie: Organized Crime, Lawyers and the Regulation of Legal Services," *British Journal of Criminology*, 2015, <https://doi.org/10.1093/bjc/azv001>.

²² Levi, "Lawyers as Money Laundering Enablers? An Evolving and Contentious Relationship."

61/2021 are definitive, which is not in accordance with professional obligations according to the professional laws and regulations that regulate them and are unrelated to ethical issues.

Given the importance of SFT, CFT, and FTFT instruments within a framework of the AML/CFT regime, and which have been adapted to customs and practices in international associations, it is necessary to think about reformulating the meaning of each of these instruments in Law 8/2010 itself to avoid misunderstandings, thus complicating the process of preventing and enforcing money laundering laws in Indonesia. Given that money laundering is part of economic crime, which has the specificity of economic criminal law, it is essential to know what Mulder said, as described by Andi Hamzah, conveying one of them about the nature of regulations in the field of Economic Crime is structured elastically and cannot be placed under *stricta interpretatio*²³ The *stricta interpretatio* provision means that the formulation of the offense must be strict, not dim, so it is a definition. Considering this, it is necessary to formulate the definition of SFT or CFT as stated in Law 8/2010 in accordance with the scope and purpose of each financial transaction in the Perka PPATK that has been discussed.

The existence of regulations regarding the definition and meaning of SFT, CFT, and FTFT provisions in laws and regulations must not contradict each other. *Lex superior derogate legi inferiori* must be upheld without ruling out the need for reform of the law considering the development of increasingly widespread modes and typologies of money laundering crimes, which are more easily accommodated in implementing regulations, in this case, the PPATK Perka and PPATK Circular.

Correlation of Confidentiality of the Position, Anti-Tipping Off, and Reporting Obligations to PPATK in the Anti-Money Laundering Regime

The anti-money laundering regime is indeed built with the awareness that, in general, criminal actors try to hide or disguise the origin of Assets that are the result of a criminal act. The Anti-Money Laundering Regime emphasizes the proceeds of crime as the proceeds of criminal acts and the follow-up actions carried out on the proceeds of these crimes. Money laundering creates difficulties in tracking these assets. Aspalella A. Rahman²⁴ stated: As such, the underlying rationale behind anti-money laundering (AML) Laws is that prosecutions would distance criminals from criminal activities. Rehana Parveen²⁵ reminded the essence that “money laundering is an illegal activity carried out by criminals which occurs outside of the normal range of economic and financial statistics.” Therefore, various approaches must be taken, which are based on not only arrangements in the form of criminalization alone but also ways to lay down obligations in the form of compliance from parties called Reporting Parties. Patricia Godinho Silva²⁶ added, “In order to encompass the fight against terrorist financing and provided more detailed requirements concerning customer identification and verification. The new version also established an important distinction between the situations where a higher risk of money laundering or terrorist financing may justify enhanced measures and those where a reduced risk may justify less rigorous controls” Compliance oversight is vital given the highly complex and complex nature of money laundering, which is not easily understood by the common public.

The Anti-Money Laundering regime established through Law No. 8/2010 has provided a compliance approach. The provisions of Article 1 number 18 regulate Compliance Supervision,

²³ Andi Hamzah, *Kejahatan di Bidang Ekonomi (Economic Crimes)* (2017), Jakarta: Sinar Grafika, 5

²⁴ Aspalella A. Rahman, “The Impact of Reporting Suspicious Transactions Regime on Banks: Malaysian Experience,” *Journal of Money Laundering Control* 16, no. 2 (2013): 159–70

²⁵ Rehana Parveen, “Impact of Anti-Money Laundering Legislation in the United Kingdom and European Union,” *International Journal of Economics and Management Systems* 5 (2020): 118–22.

²⁶ Patricia Godinho Silva, “Recent Developments in EU Legislation on Anti-Money Laundering and Terrorist Financing,” *New Journal of European Criminal Law* 10, no. 1 (2019): 57–67, <https://doi.org/10.1177/2032284419840442>.

which is then described in Article 31 – Article 33 of Law 8/2010. To supervise this compliance, SRA is established based on Article 1 number 17 Law 8/2010 provisions, and other duties and authorities are also given. Compliance supervision begins with the reporting obligations the reporting parties must carry out. In this regard, Go Lisanawati emphasized that a supervisory mechanism to ensure supervisory compliance from all parties, including those who play an essential role in implementing compliance, is essential.²⁷ Regarding reporting obligations based on financial transactions, both SFT, CFT, and FTFT as described in the previous sub-chapter. The implementation of reporting imposed on the three groups of reporting parties, both FSP, PGS, and Professional Parties, must carry out reporting as stipulated in the law. This series of obligations begins with implementing the PRSU as stipulated in Article 18. In paragraph (1), SRA stipulates the provisions of PRSU. Furthermore, the Reporting Party shall implement the PRSU stipulated by each SRA, and the obligation of such PRSU shall be carried out during the conditions referred to in paragraph (3). SRA must supervise the compliance of the Reporting Party in implementing PRSU. This PRSU at least contains a. identification of service users; b. service user verification; c. monitoring of service user transactions. In the explanation of Article 18, this PRSU is called the CDD/EDD obligation.

The CDD provisions in Article 19 are the responsibility of Service Users who make transactions with the Reporting Party, either for themselves or for the benefit of other parties. Furthermore, the provisions of Article 20 and Article 21, which affirm the Reporting Party to ask the Service User to carry out its obligations under Article 19 related to the fulfilment of its documents, and if the Service User does not carry out its responsibilities, the Reporting Party must terminate the business relationship with the Service User. For this reason, the Reporting Party must submit a report to PPATK due to non-implementation of obligations by the Service User and reported as an SFT.

The reporting process is regulated in the third part of Law 8/2010, starting from Articles 23 to 26 for FSP and Article 27 for PGS. Implementing such reporting obligations is protected under Article 28 and Article 29 of Law 8/2010. Article 28 specifies that the implementation of reporting obligations by the reporting party is exempt from the confidentiality provisions applicable to the Reporting Party concerned. The problem of financial crime (including money laundering) becomes highly correlated with this problem of confidentiality. Confidentiality must be breached or exceeded to reduce the number of financial crimes. It does not correlate with eliminating the confidentiality of the data that must be protected. Still, in particular, in the event of money laundering and/or other financial crimes, this confidentiality must be breached. At the same time, Article 29 protects the form of immunity rights for the Reporting Party, its officials, and employees who carry out reporting obligations, that it cannot be prosecuted either civilly or criminally, except in the event of an element of abuse of authority for the implementation of its obligations.

Related to the provisions of Article 29 is the implementation of the provisions of Article 11 and Article 12 of Law 8/2010. Article 11 and Article 12 are in the meaning of other offenses related to money laundering. Article 11 and Article 12 stem from the same interest and purpose of the regulation, namely the vulnerability of transaction transfer that is being reported, investigated, or investigated if reported to a suspected Service User. This provision is referred to as the Anti-tipping off condition. However, in Law 8/2010, this anti-tipping-off provision is only explained to apply to the parties referred to in Article 12, not in Article 11. Article 11 is a form of prohibition to notify these parties. Among other things, with the provisions of Article 11 paragraph (3), this rule applies to parties who must hold confidentiality over a document or information in carrying out their duties. Article 11 deals with the secret of an office because its

²⁷ Go Lisanawati, *Eksistensi dan Peranan Lembaga Pengawas dan Pengatur (SRA) dalam Rezim Anti Pencucian Uang* (2018). Yogyakarta: Graha Ilmu, 37

confidentiality is provided by its laws and regulations. In this case, "and Everyone" can also be applied to the Professional Party recognized as the Reporting Party.

The provisions of Article 11 are more precisely addressed to law enforcement (in this case, PPATK, investigators, public prosecutors, and judges), and everyone who obtains documents or information in the framework of their duties is given the obligation to keep the record or data confidential. It is affirmed in Article 11 paragraph (3), which determines criminal exceptions that can be imposed when the parties referred to in Article 11 disclose secrets if done in order to fulfil obligations under the provisions of laws and regulations. However, the party referred to in Article 11 paragraph (3) does not include Everyone as a party granted an exception. It raises the question of whether inconsistencies obscure meaning or whether a double interpretation can occur that "Everyone" alone does not get an exception. It requires firmness and consistency. This provision has also been protected in Article 28 and Article 29 so that redundancy can be declared.

Anti-Tipping off can be understood as a concept in the AML/CFT legal regime that prohibits related parties from notifying other parties about suspicions of reported transactions or activities related to money laundering that are or will be carried out by the reporting party and the Financial Intelligence Unit (PPATK). The purpose of regulating this anti-tipping-off provision is as explained in the explanation of Article 12 of Law 8/2010, which can be concluded is to maintain:

- a. that Service Users do not transfer their Assets
- b. tracking Assets and Service Users by Law Enforcement does not experience difficulties, so the law enforcement process runs effectively.

Furthermore, considering the provisions of Article 12, which emphasizes STR, while in Perka PPATK No. 1/2021, Perka PPATK No. 2/2021, and Perka PPATK No. 3/2021, which also add the meaning of SFT / STR to a CFT and FTFT, it is also necessary to think about the consistency of objects that are prohibited from notifying as referred to in Article 12 so that it is easy to understand that the nature of CFT and FTFT also includes SFT when things are intended in the PPATK Perka aforementioned.

This set of compliance must be monitored. The provisions of the fourth part, Articles 31 to 33 of Law 8/2010, regulate how the process goes. The Supervisory and Regulatory Agency and/or PPATK are given responsibility by law to do so. This SRA can be in the form of an SRA formed based on the need for supervision of the Reporting Party, but it can also be done by PPATK when there is no SRA. SRA's responsibility is crucial because SRA must establish provisions related to PRSU and supervise compliance with every activity or transaction of the Reporting Party that it knows or reasonably suspects is carried out either directly or indirectly to carry out money laundering as referred to in Article 3, Article 4, and Article 5 (vide Article 33). SRA is also given the task and responsibility to immediately report findings to PPATK when SRA finds SFT not written by the Reporting Party to PPATK (vide Article 32). Keeping in mind the importance of this SRA, this SFT process and the role of the Reporting Party are also necessary.

This series of compliance will then become the basis for PPATK as a Financial Intelligence Unit to conduct a series of analyses and examinations. The products are called Analysis Results Report (ARR) and Examination Results Report (ERR), which will be forwarded to the Investigating Party when strong enough. They can also store themselves when it is not indicated money laundering. Thus, the series of processes carried out in the context of anti-money laundering is quite long. Therefore, if there is strong evidence of indications, the investigator

must carry out a process within his authority. For this reason, optimization must be carried out on the product results of the PPATK examination and analysis.

In 2017, President Joko Widodo issued Presidential Instruction No. 2/2017. The Presidential Instruction regulates optimization utilizing the Analysis Results Report (ARR) and Examination Results Report (ERR) from PPATK. Through the Presidential Instruction, the President instructed the leaders of investigators authorized to investigate trafficking and original crimes, in this case, the Minister of Finance, the Attorney General, the Chief of the Indonesian National Police, and the Head of the National Narcotics Agency to optimally utilize the ARR and ERR submitted by PPATK. The objective to be achieved is, of course, within the framework of the effectiveness of the Anti-Money Laundering Regime itself.

The optimization is carried out through several things, namely:

- a. follow up ARR and ERR from PPATK indicating money laundering and/or other criminal act related to money laundering (vide point two);
- b. submit the results of the follow-up of the ARR and ERR to PPATK (vide point two)
- c. If insufficient evidence is found for the law enforcement process or the investigation or investigation is stopped, then the party appointed in this Presidential Instruction is requested to submit information on the results of the investigation or investigation of the ARR and ERR back to PPATK (vide point three)
- d. On the other hand, it is possible to study potential tax findings on information from investigations or investigations on ARR and/or ERR from PPATK where there is insufficient evidence for law enforcement processes or whose analysis or research is stopped, obtained from PPATK information.

Based on the Presidential Instruction, effectively preventing and eradicating money laundering is necessary to coordinate various efforts with all parties and simultaneously comply with the series of obligations and responsibilities. In providing its analysis PPATK, can be proactive and reactive. Proactive Analysis is an activity to examine STR or other related reports carried out at the initiative of PPATK. At the same time, Reactive Analysis/Inquiry is an analysis process carried out at the request of money laundering investigators.²⁸

Conclusions

The success of a money laundering prevention and/or enforcement regime in Indonesia requires the seriousness of all components of the nation, including the compliance of those who are obliged by law to be at the forefront of the process. The approach taken by Indonesia that provides a portion for the involvement of parties (law enforcement authorities, reporting parties, SRA) and the community in the compliance (compliance) framework is very relevant for optimizing the process. How perpetrators launder their money has also undergone many developments, making it difficult for law enforcement. The virtue of anti-money laundering regime of a country must have a solid legal foundation and have a forward reach without causing bias and double interpretation, which can hinder the regime itself.

The formulation of the meaning of suspicious in SFT requires a deeper understanding. It must be well understood by the Reporting Party, which is at the forefront of this anti-money laundering regime. For this reason, expertise from the Reporting Party is needed, and professionalism grows from it. In addition to suspicious financial transactions, there is also a need to equalize understanding of CFT, transactions that PGS and FTFT must report. For the sake of effectiveness and consistency, the regulation of definitions and meanings that have been regulated in Law 8/2010 must be in line with rules at the level below the law (in this case, Perka PPATK). The PPATK tool is more accommodating and has adapted to the latest needs of countering money laundering, which is overgrowing. The need to accommodate the demands

²⁸ PPATK, "Laporan Semester 1 2017," 2017, 40–41.

of the standards set by the international into Law 8/2010 in this regard needs to be done. Law 8/2010 needs to adjust and redefine SFT, CFT, and transactions made by service users that PGS must report. It requires the development of a consistent anti-money laundering law with no conflict and, at the same time, improving the regulatory structure in Law 8/2010 by adjusting to the philosophical objectives of anti-money laundering regulation in Indonesia.

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