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FORM OF APPLICATION OF THE PRINCIPLE OF RECOGNIZING SERVICE USERS (PMPJ) BY LAND DEED MAKING OFFICIALS IN THEIR DUTIES AND AUTHORITIES

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Abstract: Based on the provisions in Article 4 of Government Regulation Number 43 of 2015 and Article 2 of the Head of Financial Transaction Reports and Analysis Center (PPATK) Regulation Number 11 of 2017, Land Deed Officers, hereinafter referred to as PPATs, have a crucial role as reporting parties. They have an obligation to carry out Service User Recognition Procedures (PMPJ), including identification, verification, and monitoring of transactions to ensure conformity with the profile of the individuals involved. The results of this PMPJ must be reported to PPATK for the benefit of the state. In addition, PPATs must also comply with ethical responsibilities, such as maintaining the confidentiality of client deeds and transactions; violating these obligations can lead to sanctions or violations. However, in practice, PPATs face challenges due to the lack of clear reporting forms from the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency in short

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ATR/BPN, creating a confusing legal vacuum. Therefore, research on the implementation of PMPJ principles by PPATs is important to find appropriate solutions and ensure compliance with applicable regulations. The purpose of this research is to analyze and formulate the role of PPAT as a reporting party in the application of the Principle of Recognizing Service Users (PMPJ) in accordance with Government Regulation Number 43 of 2015 concerning Reporting Parties in the Prevention and Eradication of Money Laundering Crimes, as well as identify and explore the practical application of the Principle of Recognizing Service Users (PMPJ). The research method used is normative juridical research, to evaluate legal certainty regarding assessment in the implementation of PMPJ reporting by PPAT. The conclusion obtained from this research is that PPAT has an obligation as a reporting party in the implementation of the principle of recognizing service users to prevent and eradicate Money Laundering Crime (TPPU) in accordance with Government Regulation Number 43 of 2015. In this context, PPATs are directly responsible for identifying, verifying and monitoring service user transactions related to the purchase and sale of property, as well as engaging in a series of preventive measures to ensure compliance with the regulation.

Keywords: Money Laundering, Financial Transaction, Land Official, Land Deed

Introduction

Money laundering poses a serious threat to the economic stability and security of the country.¹ It not only creates economic inequality, but also involves the use of illegal funds to support criminal activity. According to experts, namely Sutan Remy Sjahdeini, money laundering is a series of activities which is a process carried out by a person or organization against illicit money, namely money originating from crime, with the intention of hiding data and disguising the origin of the money from the government or authorities authorized to take action by entering money into the financial system, either utilizing bank or non-bank services.²

¹ Fandias Fandias, "Juridical Review of Money Laundering Crime in Corruption Crime in Indonesia" (International University of Batam, 2015), <https://repository.uib.ac.id/217/>.

² Sultan Remi Syahrani, *The Ins and Outs of Money Laundering and Terrorism Financing*, 2004.



Furthermore, according to Harkristuti Harkrisnowo, as one of the criminal law experts, views money laundering as a crime that seeks to hide the origin of money so that it can be used as money obtained legally.³ Money laundering is a white collar crime in the banking sector. The reason is that this crime is committed by people who have high education and social and economic levels such as government and legislative examples, as well as employees of State-Owned Enterprises (BUMN)/Region-Owned Enterprises (BUMD). In its development, the criminal act of Money Laundering is increasingly complex, and uses an increasingly varied mode, utilizing institutions outside the financial system, and has even penetrated into various sectors. To anticipate this, the Financial Action Task Force (FATF) on Money Laundering has issued international standards that become a measure for each country in the prevention and eradication of criminal acts of money laundering and criminal acts of terrorism financing known as Revised 40 Recommendations and 9 Special Recommendations (Revised 40+9) FATF, among others regarding the expansion of reporting parties.⁴

The handling of money laundering in Indonesia has shown positive developments since the enactment of Law No. 15 of 2002 on Money Laundering, which was later amended by Law No. 25 of 2003. This development is reflected in the increased awareness of the implementers of the Law, such as financial service providers in reporting, supervisory institutions in making regulations, PPATK in analysis, and law enforcement in prosecution and sanctions. Nevertheless, these efforts are still considered not optimal due to the existence of diverse interpretations of regulations, legal loopholes, inaccuracy in sanctioning, not maximizing the shift in the burden of proof, limited access to information, limited scope of reporting, and lack of clarity of duties and authority of the Act's implementers.⁵ To meet national interests and international standards, Law 8 of 2010 on Prevention and Eradication of Money Laundering was drafted as a replacement for Law No. 15 of 2002. This law

³ Harkristuti Harkrisnowo, "Criminalization of Money Laundering: A " *Proceedings-Cooperation of the* , 2003.

⁴ Fandias, "Juridical Review of Money Laundering Crime in Corruption Crime in Indonesia."

⁵ Fandias.



regulates the imposition of criminal and administrative sanctions, expansion of reporters, types of reporting by goods and services providers, and expansion of agencies entitled to receive analysis results from PPATK.⁶

In Indonesia, efforts to prevent money laundering transactions are regulated in Law No. 8/2010 on the Prevention and Eradication of Money Laundering. The law explains that money laundering refers to a process or action that aims to hide or disguise the origin of money or assets obtained from criminal acts, then transformed into assets that appear to come from legitimate activities, with the aim of preventing money laundering, identifying perpetrators and proceeds of criminal acts through tracing, and returning the proceeds of criminal acts to the rightful owner or seizing them for the state.⁷ If the proceeds of crime can be confiscated or seized from perpetrators or organizations that commit crimes, this can reduce the crime rate. Philosophically, the prevention and eradication of ML requires a strong legal basis to ensure legal certainty, the effectiveness of law enforcement, and the tracing and return of criminal proceeds, which is related to Article 28 D paragraph (1) of the 1945 Constitution.

The presence of the Anti-Money Laundering Law is believed to help eradicate these illegal actions. Therefore, an independent institution must be established specifically to handle legal issues related to suspicious transactions, such as the establishment of the Financial Transaction Reports and Analysis Center (hereinafter referred to as PPATK). In addition, it is also explained in Article 39 of the Anti-Money Laundering Law, namely that PPATK has the responsibility to prevent and eradicate acts related to suspicious transactions or money laundering, then as a form of carrying out its obligations and capacity, PPATK assists a number of agencies / institutions / groups both from the private sector and the government, as well as including people or companies that serve related to goods and services and financial matters, which later they are the parties who must report any transaction processes that are deemed incorrect or inappropriate to PPATK.⁸

⁶ Republic of Indonesia, *Law of the Republic of Indonesia Number 8 of 2010 Concerning the Prevention and Eradication of the Crime of Money Laundering*, 2010.

⁷ SH Adrian Sutedi, *Banking Law: A Review of Money Laundering, Mergers, Liquidation, and Bankruptcy* (Sinar Grafika, 2023).

⁸ Cut Nadia Diba Riski Dian Ayu, Victoria Septiana, and Eka Pradata, "Correlation of the Authority of the Financial Transaction Reporting and Analysis Center (Ppatk) with



The government in order to support the Prevention and Eradication of Anti-Money Laundering/Prevention of Financing of Terrorism (hereinafter referred to as AML/CFT) as mandated in the Anti-Money Laundering Law for PPAT is by implementing the obligation of the Principle of Recognizing Service Users (hereinafter referred to as PMPJ), this is regulated in Government Regulation Number 43 of 2015 as amended by Government Regulation Number 61 of 2021 concerning Reporting Parties in the Prevention and Eradication of Money Laundering Crimes (hereinafter referred to as PP 43/2015), as well as in the Financial Transaction Reports and Analysis Center Regulation Number 11 of 2017 concerning the Application of the Principle of Recognizing Service Users for Land Deed Officials (hereinafter referred to as Perka PPATK 11/2017) issued by the Head of the Financial Transaction Reports and Analysis Center directly to PPAT.

PPAT is obliged to conduct PMPJ to report and submit to PPATK regarding transactions carried out by the profession for the benefit of or for and on behalf of Service Users. This is done to avoid the possibility of money laundering, because in practice in the field, the PPAT profession is sometimes used as a medium or tool to commit ML by criminals who try to hide or disguise the proceeds of crime. The characteristic of economic-related criminal offenses, in this case ML, is the desire of the perpetrator to be able to enjoy the proceeds of crime comfortably. Tend to cover the assets owned so as not to be traced through PPAT services.⁹

ML is considered to be very dangerous to the economic system and financial system. This is because the assets resulting from criminal acts are difficult to trace by law enforcement officials. The perpetrators of money laundering can freely utilize their assets for legal or illegal activities.¹⁰ From these legal issues, it is mandatory for a PPAT to implement PMPJ in accordance

Supervisory and Regulatory Institutions (Lpp) Against the Crime of Money Laundering," *Gema* 27, no. 50 (2015): 62144.

⁹ Rendi Safitra, Nuzul Rahmayani, and Anggun Lestari Suryamizon, "Implementation of the Principle of Recognizing Service Users by Notaries," *Sakato Law Journal* 1, no. 1 (2023): 91-98.

¹⁰ Satrio Sakti Nugroho, "Implementation of Customer Due Dilligence and Enhanced Due Dilligence in Preventing Money Laundering Crime," *Unnes Law Journal* 3, no. 1 (2014), <https://doi.org/10.15294/ulj.v3i1.3633>.



with article 4 of PP 43/2015 and be appointed as a reporting party to prevent the eradication of Money Laundering Crime.¹¹

In connection with the authority of PPAT other than in making authentic deeds regarding land, PPAT in carrying out its duties and authorities is regulated based on Government Regulation Number 24 of 2016 concerning amendments to Government Regulation Number 37 of 1998 concerning Regulations on the Position of Land Deed Officials (hereinafter referred to as PJPAT-P). In its authority, PPAT, which is a confidential official in its duties and authority, is obliged to keep confidential the transactions carried out by PPAT with clients and this is a code of ethics of a PPAT itself. The legal basis for the PPAT to keep his position confidential is stated in the contents of the PPAT's oath of office, the PPAT in carrying out his position must take an oath.¹²

Discussing the mandate of the Anti-Money Laundering Law, if we look at the provisions in PP 43/2015 in relation to this regarding other obligations of PPAT as well by reporting to PPATK, it has been mentioned in detail in article 8 of Government Regulation Number 61 of 2021 concerning amendments to Government Regulation Number 43 of 2015 concerning Reporting Parties in the Prevention and Eradication of Money Laundering Crimes (hereinafter referred to as PP 61/2021), namely:

"(1) The Reporting Party as referred to in Article 3 must submit to PPATK 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 suspected of originating from the proceeds of criminal acts regarding:

- a) property buying and selling;
- b) management of money, securities, and/or other financial services products;
- c) management of current accounts, savings accounts, deposit accounts, and/or securities accounts;

¹¹ Ananda Muhammad Risqullah and Yoni Agus Setyono, "The Role of Notary in Preventing Illegal Transactions through Goaml," *Kertha Semaya Journal*, 2022, <https://doi.org/10.24843/KS.2022.v10.i06.p18>.

¹² Zhafira Aulia Rahmi and R Imam Rahmat Sjafi'i, "The Obligation of Land Deed Officials in Reporting Suspicious Financial Transactions Related to Money Laundering by Clients," *Scientific Journal of Pancasila and Citizenship Education* 4, no. 1 (2019): -197-206, <http://dx.doi.org/10.17977/um019v4i1p197-206>.



- d) operation and management of companies; and/or establishment, purchase and sale of legal entities."

As the mandate of the PP above, the Ministry of Finance of the Republic of Indonesia issued the Regulation of the Center for Financial Transaction Reports and Analysis Number 11 of 2017 concerning the Implementation of the Principles of Recognizing Service Users of Land Deed Officials (hereinafter referred to as Perka PPATK 11/2017) issued by the Head of the Center for Financial Transaction Reports and Analysis which is concretely intended for PPAT, namely regarding detailed regulations regarding PPAT's obligations in implementing PMPJ, which are regulated in article 2 paragraph 1, namely "PPAT must apply the principle of recognizing Service Users". Furthermore, regarding further arrangements in article 2 paragraph 2 of Perka PPATK 11/2017, it has been explained that there are 3 (three) things that need to be in PMPJ, namely¹³ :

- a) Service User Identification,
- b) Service User Verification,
- c) Service User Transaction Monitoring.

The above actions apply to PPAT in providing services in the form of preparing and conducting transactions for the benefit of or for and on behalf of Service Users. According to Perka PPATK 11/2017 regarding the implementation of PMPJ for PPAT itself also regulates matters regarding PPAT can classify related transactions classified as Suspicious Financial Transactions, which is contained in article 1 of Perka PPATK 11/2017, namely¹⁴ :

- a) Financial Transactions that deviate from the profile, characteristics, or habitual transaction patterns of the Service User concerned;
- b) Financial Transactions by Service Users that should be suspected of being carried out with the aim of avoiding the reporting of the relevant transactions that must be carried out by the Reporting Party

¹³ West Java Regional Office of the Ministry of Law "and Human Rights" August 2021, <https://jabar.kemenkumham.go.id/berita-kanwil/berita-utama/sudjonggo-selama-notaris-patuhi-aturan-dan-kode-etik-notaris-maka-pmpj-mudah-dilakukan>.

¹⁴ Ricky Wie Lawa, "Legal Protection for Notaries Who Practice the Principle of Recognizing Service Users," *Proyuris Law Journal* 3, no. 1 (2021): 262-72.



- in accordance with the provisions of laws and regulations governing the prevention and eradication of money laundering criminal acts;
- c) Financial Transactions conducted or canceled using assets suspected of originating from the proceeds of a criminal offense; or
 - d) Financial transactions requested by PPATK to be reported by Notary because they involve assets suspected of originating from the proceeds of a criminal offense.

The enactment of Perka PPATK 11/2017 aims to assist the state in eradicating and preventing ML. PPAT as one of the Reporting Parties is expected to be obliged to implement PMPJ which aims to identify and verify service users to avoid money laundering practices.¹⁵ Based on what has been described above, the PPAT as a reporting party in conducting PMPJ is obliged to identify, verify, and monitor to ensure transactions are in accordance with the profile and information data of the person in the transaction and report it to the competent authority in this case for the benefit of the state. Philosophically, as Indonesian citizens, they are obliged to obey the law and government in accordance with Article 27 paragraph (1).

(1) of the 1945 Constitution reads: "all citizens shall be equal before the law and government and shall uphold the law and government with no exception." And this is an obligation of PPAT in obeying a regulation, and if it does not apply it, it will get administrative and criminal sanctions for the PPAT. If observed carefully, this becomes a problem for PPAT because in article 4 of PP 43/2015 and article 2 of Perka PPATK 11/2017 PPAT is a reporting party in conducting PMPJ must identify, verify and monitor to ensure transactions are in accordance with the profile of the person transacting and report them to PPATK for the benefit of the state.¹⁶ And on the other hand, PPAT in carrying out its duties PPAT is also required to be professional, namely carrying out tasks always prioritizing expertise based on the code of ethics and applicable regulatory provisions, PPAT is obliged to keep transactions made by clients

¹⁵ Qonitah Annur Aziza, Ferina Yola Damayanti, and Indrawati, "Obligations of Notaries in Implementing the Regulation of the Minister of Law and Human Rights on the Implementation of the Principle of Recognizing Service Users for Notaries," *Notaire* 5, no. 2 (June 27, 2022): -297-312, <https://doi.org/10.20473/ntr.v5i2.36445>.

¹⁶ kemenkumham, "Sudjonggo, As Long as Notaries Obey the Rules and Code of Ethics of Notaries, PMPJ is Easy to Do."



confidential because it is a code of ethics, namely the official secret of a PPAT itself.

Looking at the provisions of the PMPJ obligation for PPAT with the PPAT's obligation in the regulations and PPAT's code of ethics in maintaining the confidentiality of the deed, there are differences of opinion that occur, like two pictures of different sides of the coin but have the same value¹⁷, namely on the other hand PPAT is obliged to carry out according to the nature of PPAT related to confidentiality officials where PMPJ is not in line with the provisions of PPAT this is because for the sake of his position, and one considers that the obligation is in line with the provisions, because PMPJ is applied to PPAT to extend the State.¹⁸

Specific Challenges in Combating Money Laundering in Indonesia

Despite these legal frameworks, Indonesia faces significant challenges in effectively combating money laundering:

- (1) **Corruption:** Pervasive corruption within governmental and financial institutions undermines the enforcement of anti-money laundering regulations.
- (2) **Lack of Resources:** Insufficient financial, human, and technological resources constrain the capacities of agencies tasked with combating money laundering.
- (3) **Weak Law Enforcement:** Inefficiencies and lack of coordination among law enforcement agencies hamper the effectiveness of anti-money laundering measures.

In the fact of its implementation, the PPAT profession can be used as a medium or tool to commit ML by criminal offenders who try to hide or disguise the proceeds of criminal acts. In the end, PPAT can be an easy target for law enforcement officials such as lawyers because of the risk of the profession, there are characteristics of recognizing service users in the practice of the PMPJ

¹⁷ Qonitah Annur Aziza, Ferina Yola Damayanti, and Indrawati, "Obligations of Notaries in Implementing the Regulation of the Minister of Law and Human Rights on the Implementation of the Principle of Recognizing Service Users for Notaries."

¹⁸ Notary/PPAT, Pre-survey interview with Notary/PPAT FF, August 2023.



principle of suspicious financial transactions that have characteristics, among others:

- (1) Carrying excess cash can amount to Rp. 500,000,000 or more in one transaction or several transactions in one working day;
- (2) Inconsistency between the profile of the confrontant and the data of the documents carried (KTP);
- (3) Funds are transferred to other people's accounts and not to personal accounts, this is done in order to avoid reporting the relevant transactions that must be carried out by the reporting party to avoid checking the eradication of money laundering crimes;
- (4) who are related to perform legal actions (e.g. exchange);
- (5) The object is in a legal action. Thus, these characteristics are suspicious about service users in PMPJ practices for financial transactions.¹⁹

However, PPAT has difficulty in carrying out the PMPJ obligation, this is based on interviews conducted because in its implementation there are differences in obligations that occur. So that seeing the problems in the background of the author, this needs to be studied and become a concern in order to create harmonization in the implementation of the law. In the Notary regulation, the form given to carry out PMPJ has been regulated, the form is given by the Ministry of Law and Human Rights (hereinafter referred to as Kemenkumham), namely the Customer Due Delligence (CDD) Form, while in PPAT itself there is no reporting provided by the Ministry of ATR / BPN.

Departing from the above issues, this causes differences in obligations that occur, in this case causing a dilemma for PPATs who run it. So that it causes a legal vacuum because in its implementation the form of assessment in reporting PMPJ PPAT is not yet available.

THEORETICAL BASIS

Theory of Legal Authority

The word authority comes from the root word authority which is defined as authority, the right and power to do something. It is also stated that authority is formal power, power granted by law or from administrative executive power. The opinion is added that there is actually a big difference

¹⁹ Notary/PPAT.



between the notion of authority and authority, authority (authority gezag) is what is called formal power, power derived from the power granted by law, while authority (competence bevoegheid) only concerns a certain "onderdeel" (part) of authority. It is explained that authority itself also contains powers (rechtsbevoegdheden).²⁰ This is what then underlies how the law is related because authority is the scope of public law action, the scope of government authority. Therefore, authority does not only include making government decisions (bestuur), but includes authority in the context of carrying out tasks, and providing authority and distribution of authority primarily stipulated in laws and regulations.

It can be concluded that Authority consists of at least three components, namely: influence, legal basis and legal conformity. First, the influence component is intended, that the use of authority aims to control the behavior of legal subjects; Second, the legal basis explains how the authority should be based on clear law; Third, legal conformity requires that the authority must have clear standards (for general authority), and specific standards (for certain types of authority).²¹

Theory of Legal Certainty

The theory of legal certainty is one of the objectives of law and it can be said that legal certainty is part of an effort to be able to realize justice. Legal certainty itself has a real form, namely the implementation and enforcement of a law against an action that does not look at who the individual is doing. Through legal certainty, everyone is able to predict what he will experience if he takes a certain legal action.

Legal certainty is also needed to realize the principles of equality before the law without discrimination. From the word certainty, it has a close meaning with the principle of truth. That is, the word certainty in legal certainty is something that can be strictly syllogized in a formal legal way. With legal certainty, it will ensure that a person can carry out a behavior in accordance with the provisions in the applicable law and vice versa. Without legal

²⁰ S.P. Atmosudirdjo, *State administrative law*, 10th c., revised ed. (Jakarta: Ghalia Indonesia, 1994).

²¹ Indroharto Indroharto, "An Attempt to Understand 'State' Administrative" *Jakarta: Pustaka Sinar Harapan*, 2002.



certainty, an individual cannot have a standard provision to carry out a behavior. In line with this goal, Gustav Radbruch also explained that legal certainty is one of the goals of the law itself.²²

Legal Protection Theory

Legal protection is the protection of dignity, as well as recognition of human rights owned by legal subjects based on legal provisions from arbitrariness or as a collection of rules or rules that will be able to protect one thing from another.²³ Legal protection is a narrowing of the meaning of protection, in this case only protection by law. The protection provided by law is also related to the existence of rights and obligations, in this case owned by humans as legal subjects in their interactions with fellow humans and their environment. As a legal subject, humans have the rights and obligations to carry out a legal action.²⁴ According to Muchsin, legal protection is an activity to protect individuals by harmonizing the relationship of values or rules that incarnate in attitudes and actions in creating order in the association of life between fellow human beings.²⁵

RESEARCH METHODS

The research method used in writing this thesis is normative juridical research. According to Peter Mahmud Marzuki, legal research is normative research:

"...a process to find a rule of law, legal principles, or legal doctrines to answer the legal problem at hand Normative legal research is conducted to produce new arguments, theories or concepts as prescriptions in solving the problem at hand."²⁶ the legal problem at hand Normative legal research is conducted to produce new arguments, theories or concepts as prescriptions in solving the problem at hand.' The research approach uses a statutory approach, approach and conceptual. This approach was chosen in accordance with the construction of the researcher's thinking, namely the first statutory approach

²² HS Salim and Erlies Septiana Nurbani, "Application of Legal Theory to Thesis and Dissertation Research/Salim HS," 2017.

²³ M Hadjon Philipus, "Legal Protection for the People of Indonesia," *Bina Ilmu*, Surabaya 25 (1987).

²⁴ C.S.T. Kansi, *Introduction to Indonesian Law and Legal System*, 1989.

²⁵ Muchsin Muchsin, *Protection and Legal Certainty for Investors in Indonesia* (Sebelas Maret University, 2003).

²⁶ Mahmud Marzuki, *Legal Research: Revised Edition* (Prenada Media, 2017).



serves to examine all relevant legal products, the conceptual approach serves to reconstruct gaps that are not accommodated by law by offering new concepts.

RESULTS AND DISCUSSION

The Position of PPAT as a Reporting Party in the Implementation of the Principle of Recognizing Service Users (PMPJ) based on Government Regulation No. 43 of 2015 concerning Reporting Parties in the Prevention and Eradication of Money Laundering Crime

Currently, efforts to commit the crime of money laundering have been carried out in a very planned and organized manner. Money laundering often involves certain professionals taking on the role of "gate keeper". Gatekeeper is a term commonly used to describe a financial or legal professional with specialized skills, knowledge and access to the global financial system whose services are used to hide assets belonging to their clients. These professional skills are often utilized by criminals to hide the true ownership of illegal assets.²⁷

Money laundering is a structured criminal act, often carried out by individuals with the aim of disguising the origin of illegal funds to make it look as if they were obtained from legal business activities. Looking at the general explanation of the provisions contained in PP 43/2015 as amended by PP 61/2021, it states that ML is a criminal act committed by the perpetrator by trying to hide or disguise the origin of Assets that are the proceeds of criminal acts in various ways so that the Assets resulting from criminal acts are difficult to trace by law enforcement. Therefore, the crime of money laundering not only threatens the stability and integrity of the financial system and economic system, but can also endanger the life of the nation and state.²⁸

In the prevention and eradication of ML, the role of related parties in reporting indications of criminal acts is required, including as reporting parties in their authority to recognize service users. One of the reporting parties in the prevention of ML is the Land Deed Official as stipulated in Article 3 of GR 43/2015. The basis of the authority possessed by the Land Deed Official is

²⁷ Soerjono Soekanto and Sri Mamudji, *Normative Legal Research* (Jakarta: Rajawali Pers, 2006).

²⁸ Republic of Indonesia, *Government Regulation No. 43 of 2015 on the Reporting Party in the Prevention and Eradication of Money Laundering Crime*, 2015.



inseparable from its activities in making authentic deeds regarding certain legal acts regarding land rights or Property Rights Over Flat Units. With which the legal actions include sale and purchase, exchange, grants, entry into the company (inbreng), division of joint rights, granting Building Rights / Use Rights on land of Property Rights, granting Mortgage Rights, and granting power to charge Mortgage Rights.²⁹

The reporting party is an important party in the prevention and eradication of ML, considering that it is the reporting party who is directly dealing with criminals who want to commit money laundering. The important role played by the reporting party in the eradication and prevention of ML is because the Anti-Money Laundering Law provides several main obligations that must be carried out by the reporting party, the first obligation is that the reporting party is obliged to apply the principle of recognizing service users (Know Your Consumer). Through the application of the Know Your User Principle, the reporter is obliged to identify and verify the User, the second obligation imposed on the reporting party is the obligation for the reporting party to report if there is a suspicious financial transaction made by the service user.

The principle of recognizing service users for Reporting Parties applies *mutatis mutandis*, which means that the necessary changes to the application of the principle of recognizing Service Users for Parties also apply. In this context, a Reporting Party usually refers to an institution or entity that has a legal obligation to identify and report certain transactions or activities to the relevant authorities, for example in the prevention of money laundering or financing of terrorism. The concept of "*mutatis mutandis*", derived from Latin, literally means "with the necessary amendments" or "changing those things that need to be changed". This implies that the principle of recognizing service users is not applied rigidly and uniformly to all situations and instead, it allows for adjustments based on the specific context of each Reporting Party and its service users.

In the principle of recognizing service users for the passporting party applies *mutatis mutandis* as mentioned earlier, regulated in the provisions of Article 18 of the Anti-Money Laundering Law, which states as follows:

²⁹ Republic of Indonesia, *Government Regulation Number 37 of 1998 concerning Land Deed Officials*, 1998.



- 1) Supervisory and Regulatory Institutions stipulate the principle of recognizing Service Users.
- 2) The Reporting Party shall apply the principle of recognizing Service Users determined by each Supervisory and Regulatory Institution as referred to in paragraph (1).
- 3) The obligation to apply the principle of recognizing Service Users as referred to in paragraph (2) is carried out at the time:
 - (a). Conducts business relationships with Service Users;
 - (b). There are Financial Transactions with rupiah currency and/or foreign currency with a value of at least or equal to Rp100,000,000.00 (one hundred million rupiah);
 - (c). There are Suspicious Financial Transactions related to criminal acts of Money Laundering and criminal acts of terrorism financing; or
 - (d). The Reporting Party doubts the truth of the information reported by the Service User.
- 4) Supervisory and Regulatory Institutions shall supervise the compliance of the Reporting Party in applying the principle of recognizing Service Users.
- 5) The principle of recognizing Service Users at least contains:
 - a. Service User Identification;
 - b. Service User Verification; and
 - c. Service User Transaction Monitoring.
- 6) In the event that there is no Supervisory and Regulatory Institution, provisions regarding the principle of recognizing Service Users and their supervision are regulated by Regulation of the Head of PPATK.

As stipulated in Article 18 of the Anti-Money Laundering Law above, the principle of recognizing service users, which generally includes other parties appointed by laws and regulations, namely PPAT, is potentially used for transactions related to money laundering. This principle underlies preventive measures and early identification of potential money laundering offenses by ensuring that institutions understand and accurately identify the identity of their clients, the source of funds, and the nature of the transactions to be carried out.



The Anti-Money Laundering Law explains that the reporting parties only include financial service providers and the provision of goods and/or other services. As stipulated in Article 18 paragraph (5) of the Anti-Money Laundering Law above, states that the principle of recognizing service users, at least includes identification of service users, verification of service users, and monitoring of service user transactions. These three things are part of the activities to prevent money laundering.

By looking at the policy on the principle of recognizing service users for reporting parties, the government then issued PPATK Regulation 11/2017, as the authority regarding the principle of recognizing service users for PPAT is contained in Article 2 of PPATK Regulation 11/2017. The meaning of the PPAT's obligation to report suspicious financial transactions made by clients can also be said to be the authority of a PPAT because the authority is a legal action regulated and given to an office based on applicable laws and regulations and regulates the position concerned, in this case a PPAT.³⁰

Then, as stated in the provisions of Article 3 of PP No. 43/2015, it explicitly mentions various entities included in the definition of Reporting Parties, which are obliged to submit suspicious financial transaction reports and large financial transaction reports to PPATK. By linking the role of PPATs to Article 3, PPATs, as part of the reporting parties, are required to identify, monitor, and report transactions they conduct or facilitate that could be indicative of money laundering. This includes property transactions involving large payments or unusual payment structures, which may be aimed at concealing the illicit origin of the funds. The underpinnings of the article require PPATs to have adequate systems in place to detect suspicious transactions, including being equipped with sufficient knowledge of the characteristics of money laundering transactions and the means used by criminals.

PPATs must be able to conduct due diligence on clients and their transactions, which involves gathering sufficient information on the identity of the client, the source of funds, and the purpose of the transaction. The involvement of PPATs in accordance with Article 3 of PP No. 43/2015 emphasizes the importance of transparency and accountability in property

³⁰ Rahmi and Sjafi'i, "Obligations of Land Deed Officials in Reporting Suspicious Financial Transactions Related to Money Laundering by Clients."



transactions and the vital role they play in the financial system to prevent money laundering. It also underscores the importance of cooperation between PPAT with PPATK and other law enforcement agencies in a joint effort to identify, prevent, and eradicate money laundering, which ultimately helps in maintaining the integrity and stability of the financial system.

With so many legal actions or legal acts as the authority that has been owned by PPAT, it must have the ability to recognize service users so that there is no unlawful action from service users. This is because service users who utilize the authority possessed by PPAT are very diverse, such as in the making of property sale deeds where transactions often involve large amounts of money and can be considered as a "legitimate" way to invest money. In the process, users of this service may conduct transactions at values far below the market price, pay in unusual ways such as using large amounts of cash, or involve parties whose identities are difficult to trace. PPATs, who have the authority to make authentic deeds related to property transactions, can be unknowingly used to give legality to such transactions. Therefore, it is very important for PPATs to be aware of indications of suspicious transactions and conduct due diligence on the parties involved in the transaction to prevent involvement in ML.

The inclusion of PPAT as one of the reporting parties can help the government to prevent and eradicate money laundering in Indonesia. Of course, this can be realized if the obligation of PPAT to report to PPATK if there are allegations of criminal acts of laundering runs effectively.³¹ The legal basis for the reporting obligation by PPAT, apart from the provisions of PP No. 43/2015 later amended in PP 61/2021, is also contained in the provisions of PPATK Regulation 11/2017. PPATK Regulation No. 11/2017 reflects a serious effort in combating money laundering in the property sector, requiring PPAT to proactively identify its clients. This not only reduces the risk of being involved in illicit transactions but also enhances the integrity of the property sector as a whole as the PPAT has the authority to do so.

³¹ Indrawati Pratiwi Natsir, Muhammad Said Karim Karim, and Muhammad Ilham Arisaputra Arisaputra, "Application of the Principle of Recognizing Service Users by Land Deed Officials" 17, no. 2 (2022): -234-48, <https://doi.org/10.26858/supremasi.v17i2.37245>.



Such regulations mandate that financial and non-financial institutions, including PPATs as part of non-financial institutions, must report suspicious transactions to PPATK. This reporting obligation relies heavily on the PPAT's ability to identify indicators of money laundering, such as transactions of unusual value, the use of large amounts of cash, or complex transaction structures for no apparent reason. Timely and accurate reporting by PPATs to PPATK enables authorities to take necessary investigative actions, thereby cutting off the flow of illicit funds and hampering money laundering operations.

³²As PPAT's obligation in recognizing service users, there are several points that must be considered in recognizing service users, including service user identification, service user verification and service user transaction monitoring. Service user identification is the first step in which the PPAT must collect basic information about the individual or entity using its services, with the aim of ensuring that the parties involved in the transaction are true and accountable. Furthermore, service user verification is a follow-up process to identification, where the PPAT must ensure the authenticity and validity of the information provided by the service user. This can involve physically checking the documents, validating the data through available databases, or even confirming directly with PPATK. The last point is service user transaction monitoring, where the PPAT ensures that no suspicious or unusual activities occur throughout the transaction period.

The application of the principle of recognizing service users by PPAT is not only as compliance with regulations, but also as an effort to improve the integrity and security of property transactions, ensure that every transaction is carried out legally, transparently, and responsibly and the prevention and eradication of ML can be carried out in advance, and can be reported to PPATK. Thus, the purpose of this principle is to provide vigilance or caution that must be owned by PPAT by being obliged to understand the profile, purpose and objectives of business relationships, and transactions carried out by service users and beneficial owners through identification and verification.

³² Republic of Indonesia, *Regulation of the Financial Transaction Reports and Analysis Center Number 11 of 2017 concerning the Implementation of the Principle of Recognizing Users of Land Deed Official Services*, 2017.



The next obligation of the PPAT is to obtain information on the beneficial owner of some of these service users. The collection of information is carried out by examining the formal correctness of the service user's identity documents with the obligation to meet directly or face-to-face with the service user. Direct or face-to-face meetings with service users allow PPAT to obtain a direct impression and make an assessment of the credibility of service users. Face-to-face meetings give the PPAT the opportunity to clarify the information provided and allow for additional checks if necessary. This step can help build trust and ensure that the service user understands all legal aspects related to the transaction.

Transactions that are suspected of being the proceeds of criminal acts as in some of the points mentioned above, are reported as Suspicious Financial Transactions. Such reports are very important activities that must be carried out by PPATs, because PPATs, as officials authorized to make deeds related to land rights and transactions related to land, are in a strategic position to identify unusual or suspicious transactions that could be related to money laundering.

The suspicious financial transaction report provided by PPAT as the reporting party to PPATK is the first step for PPATK to trace the perpetrators involved in money laundering and trace the flow of funds made by TPPU perpetrators. Knowing the flow of funds of suspicious financial transactions is also very helpful for law enforcement officials to reveal the actors behind the money laundering crimes committed by criminals. Apart from that, transactions from service users that have fulfilled the elements of unlawful acts can be quickly indicated by periodic transaction reports from PPAT. And behind such reporting obligations, it must be able to provide legal protection to PPAT, considering that as a mere reporting party is not in a safe position.

Then, in the application of PMPJ, the availability of customer or Service User data, track records and various transactions carried out, as well as good administration or administration of information documents, can be utilized to conduct various studies (research) including research on the business development of the Reporting Party industry. Good data accuracy and data processing methods will produce important material for management in making accurate and professional decisions.



This reporting obligation also requires PPATs to be more careful and thorough in verifying the identity and background of the parties involved in the transaction. However, the provisions of this regulation also pose challenges, especially related to PPAT's capacity and understanding of the aspects of suspicious financial transaction monitoring. Therefore, a joint effort is needed from the government, PPATK, and PPAT associations to provide adequate training and build an efficient and effective reporting system, so that the role of PPAT in identifying and reporting suspicious financial transactions can be optimized. On the other hand, data protection and information confidentiality are critical aspects in this process. PPATs must ensure that all data collected and reported are kept confidential and used only for the purpose of preventing and handling ML. This demands a clear and strict framework for the management and protection of personal data.

In line with this, the implementation of PMPJ in general has important meanings, among others:

- (1) By knowing the background and identity and monitoring transactions made by service users, it will provide added value to the Reporting Party, especially in fostering good relationships with service users that are beneficial from a business aspect. Prospective service users will always be maintained and improved;
- (2) Can create a healthy industry, as it avoids operational, legal, and reputational risks, and concentrates transactions;
- (3) Able to report Suspicious Financial Transactions.

By reporting suspicious transactions, PPATs are obliged to contribute to collective efforts in identifying, preventing, and cracking down on money laundering practices, ensuring that the property sector is not utilized as a means to legitimize ill-gotten wealth. This reflects the commitment and responsibility of PPATs in maintaining public trust and the integrity of their profession, while supporting the principles of transparency and fairness in economic and financial transactions. To that end, PPATs not only act as service providers in property transactions, but also as supervisors who must be proactive in identifying and reporting suspicious transactions.

The inherent position of the PPAT as a reporting party in the prevention and eradication of ML, bases the PPAT's obligations on the same legal principles as those applied to financial institutions, with adjustments to the context of property transactions. The PPAT acts as a gatekeeper in property



transactions, ensuring that all parties are properly identified and the origin of the funds used in the transaction is clear and does not come from activities that are not authorized by law.³³

Thus, the position of PPAT in the application of the principle of recognizing service users is very important to ensure that all transactions that occur under its supervision are carried out legally and transparently, protect the interests of all parties involved, and help prevent illegal activities that can harm the community and the state. And PPATs are responsible for ensuring that all transactions under their supervision are conducted based on legal principles that are legitimate and transparent, verifying the identity of all parties involved, and tracing the origin of funds used in the transaction. These actions not only protect the interests of the parties to the transaction, but also help prevent the use of the property sector for illegal activities.

By looking at the position of PPAT as a reporting party in recognizing the principle of service users, namely identifying, verifying and monitoring service user transactions. The authority as a reporting party owned by PPAT is also owned by notaries as contained in the provisions of Article 3 point (b) of PP No. 43/2015. Provisions for notaries in implementing PMPJ are contained in a special regulation of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 9 of 2017 concerning the Implementation of the Principles of Recognizing Service Users for Notaries (Permenkumham No. 9/2017). Article 2 of Permenkumham No. 9/2017 states that the Principle of Recognizing Service Users for notaries at least contains identification of Service Users, verification of Service Users; and monitoring of Service User Transactions. Article 2 Permenkumham No. 9/2017 states that "Notaries who conduct business relationships are obliged to understand the profile, purpose and objectives of the business relationship, as well as Transactions carried out by Service Users and Beneficial Owners through identification and verification". The elaboration of the article explains that the Notary must work actively in the identification and verification of a transaction carried out by the confronters.

³³ Muhammad Raditya Pratama Ibrahim and Amad Sudiro, "The Obligations of Notary as a Party Reporting Suspicious Transactions" (3rd Tarumanagara International Conference on the Applications of Social Sciences and Humanities (TICASH 2021), Atlantis Press, 2022), 633-38.



The Notary must actively examine further the profile of the confronters, the purpose and objectives of the business relationship and the transactions carried out by the confronters, which is another way of recognizing service users for Notaries that is more material. Identification of service users by only using personal identity in the form of KTP or other documents is a formal identification where KTP is a formal identity of a person. Permenkumham No. 9/2017 in carrying out the identification of service users so that it is not only a formality through KTP, but more material such as further identification of transactions made by the service user.

On the other hand, the principle of recognizing service users for Notaries stipulated in the provisions of Permenkumham No. 9/2017 is not followed by the granting of authority to Notaries to obtain further information about transactions carried out by their service users through obligations placed on relevant agencies such as Banks, Population and Civil Registry Offices, and others. Notaries cannot work actively if they are not given this authority which must be assisted by parties related to this matter.

Some of the authorities mentioned above on the position of Notary in implementing PMPJ in reporting the Prevention and Eradication of ML has the same position in implementing PMPJ by PPAT which is both as a legal subject "reporting party" with at least several policies in implementing PMPJ, namely, identification of Service Users, verification of Service Users, and monitoring of Service User Transactions. However, what becomes the basis for differentiating these positions is the legal basis that provides the basis for regulating Notaries and PPATs. Notary itself is contained in a special regulation under the Minister of Law and Human Rights of the Republic of Indonesia, while PPAT is based on regulations issued by the Head of the Financial Transaction Reporting and Analysis Center.

By looking at the basis of the rules that become the authority of public officials between Notary and PPAT in implementing PMPJ as a reporting party in the Prevention and Eradication of ML, then in the author's view the basis that provides provisions for PPAT should be under the authority of the Minister of Agrarian and Spatial Planning / Head of the National Land Agency, This is based on the fact that PPAT has an institutional relationship under the Minister of Agrarian and Spatial Planning/Head of the National Land Agency as a supervisory and regulatory institution for PPAT, as stated in the provisions of Article 11 of the Regulation of the Minister of Agrarian and Spatial



Planning/Head of the National Land Agency of the Republic of Indonesia Number 17 of 2020 concerning Organization and Work Procedures of the Regional Office of the National Land Agency and the Land Office.

Regulation of the Minister of ATR/BPN of the Republic of Indonesia Number 17 of 2020 on the Organization and Work Procedures of the Regional Office of the National Land Agency and the Land Office confirms the institutional relationship of the PPAT with the Minister of ATR/BPN as a supervisor and supervisor. In the context of PMPJ, this means that PPATs have an obligation to report and prevent ML in transactions related to land and real estate, in line with the supervisory role contained in the Minister of ATR/BPN regulation.

Provisions that regulate the obligations of PPAT Officials in preventing ML have an important role in the legal system and land institutions in Indonesia. PPATs, as officials authorized to make deeds related to land rights and rights to apartment units, are in a strategic position to detect and prevent suspicious transactions, which could be part of money laundering efforts. Therefore, it is logical that clearer and more explicit regulations and guidelines related to this obligation are placed under the authority of the Minister of Agrarian and Spatial Planning/National Land Agency (ATR/BPN).

The Minister of ATR/BPN is responsible for land-related policies and regulations, and thus has the capacity to ensure that PPATs operate within an adequate legal framework to prevent ML. By placing such provisions explicitly under the Minister's authority, better synergy between land policy and money laundering prevention efforts can be expected. This allows for clear guidelines for PPATs in carrying out their duties, as well as effective supervision and enforcement mechanisms to ensure compliance with the regulation.

Thus, it can be emphasized by the author that provisions governing the obligations of PPATs in preventing ML should explicitly fall under the authority of the Minister of ATR/BPN, given the specific position of PPATs in the land institutional structure. This will strengthen the existing legal framework and ensure that ML/TF prevention measures in land transactions are specifically and comprehensively regulated, in line with the role and function of PPAT in Indonesia's land law system. Furthermore, by requiring a specific legal basis under the regulation of the Minister of ATR/BPN to regulate



PPAT as a reporting party in the application of the principle of recognizing service users in the prevention and eradication of ML, it will provide a stronger legal basis by being issued by the supervisor and regulator of PPAT directly.

Form of Implementation of the Principle of Recognizing Service Users (PMPJ)

The essence of the principle of recognizing service users by PPAT is as stated in the provisions of Article 2 paragraph (2) of the Head of the Financial Transaction Reporting and Analysis Center Regulation Number 11 of 2016 concerning Procedures for Submitting Suspicious Financial Transaction Reports for Professions (Perka PPATK 11/2016), which includes Service User Identification, Service User Verification, and Service User Transaction Monitoring. The reporting party must always identify the service user base, and verify the transactions carried out by the service user. Issues regarding new or old clients must also continue to be followed by maximum efforts to monitor these transactions.

In implementing PMPJ, PPAT as the reporting party must be able to understand the procedures for making reports to PPATK in recognizing service users. In general, the procedure for making suspicious financial transaction reports for the profession to PPATK as an independent institution established in order to prevent and eradicate ML is contained in Article 3 paragraph (1) of PPATK Regulation 11/2016.³⁴

By regulating in detail the aspects of transactions that need to be reported, Article 3 paragraph (1) of PPATK Regulation No. 11/2016 is a regulation that must be considered in strengthening supervision and prevention against ML. This reporting obligation creates an effective monitoring mechanism, forcing professional actors involved in financial transactions to play an active role in the early detection and prevention of money laundering. This not only strengthens the integrity of the financial sector, but also helps in maintaining public confidence in the financial system and financial institutions.

Contractual provisions in reporting obligations by the reporting party are some of the obligations that must be considered especially by the

³⁴ Republic of Indonesia, *Regulation of the Head of the Financial Transaction Reports and Analysis Center Number 11 of 2016 concerning Procedures for Submitting Suspicious Financial Transaction Reports for Professionals*, 2016.



profession, because in its provisions there are several authorities, especially those given by PPATK to the profession by carrying out its obligations in carrying out reports related to service users in eradicating and preventing ML. Apart from that, the provisions of the procedures for making reports for reporting parties in recognizing service users vary by profession, based on the provisions of the legal basis of the supervisory and regulatory institutions.

The notary as a reporting party in implementing PMPJ is specifically stated in the provisions of Permenkumham No. 9/2017. The procedure for making PMPJ reports for notaries must implement PMPJ which consists of identifying Service Users, verifying Service Users, and monitoring Service User Transactions. service user identification is a step included in making reports in PMPJ, namely by collecting information about Service Users carried out on service users including individuals, corporations and other legal arrangements.

The process of identification, verification and monitoring of Service User Transactions by notaries is an essential step that is directly related to efforts to prevent illegal activities. Initial identification can provide information related to the data of the service user, then an in-depth verification of the documents submitted by the Service User ensures that all information and documents that form the basis of the transaction are valid and authentic. This is the first step to identify potential money laundering or terrorism financing risks that may be hidden behind seemingly ordinary transactions. By requesting additional supporting documents when in doubt, notaries add a layer of security to ensure that they are not inadvertently assisting or facilitating illegal activities.

With then, that the procedure for making reports in implementing PMPJ for notaries is based on the process of identifying Service Users, verifying Service Users, and monitoring Service User Transactions. So after the steps for making reports have been carried out in implementing PMPJ, then to facilitate notaries in reporting service users, there is a Customer Due Diligence form for notaries which is then a form of making reports in implementing PMPJ.

The thorough and responsible completion of PMPJ reports is an important step in strengthening the supervisory framework. Through this practice, it can also combat and prevent ML and terrorism financing. This not only enhances confidence and security in transactions conducted by service users but also supports integrity and sustainability in strengthening the legal



system. Therefore, in-depth understanding and consistent implementation of PMPJ obligations is a shared responsibility that must be improved continuously in the business and financial spheres.

Furthermore, as a step towards the profession's obligation as a reporting party, the details of the transaction must be determined by containing details of the report including a). type, value/nominal (currency used), transaction date; b). account used (if any); c). additional information on the TKM; and attachments supporting the TKM. And equipped with other information including the source of funds (salary / business / other sources), the purpose of the transaction and the identity of the beneficial owner of the individual / corporation (if any). Such measures are made with the aim of making it easier to recognize service users, other things that their implementation must be closely monitored and policies that allow effective exchange of information between the reporting party and the competent authority. Without this, there is a risk that the obligation becomes an ineffective administrative burden, rather than a powerful tool in the fight against illegal activities.

CONCLUSION

With the obligation of PPAT as a reporting party in implementing the principle of recognizing service users in preventing and eradicating ML, therefore there is a position of PPAT as a reporting party in PP No. 43/2015, namely as a legal subject who has direct responsibility by identifying service users, verifying service users, and monitoring service user transactions in providing services in the form of preparing and conducting transactions for the benefit of or subject to and on behalf of service users regarding the purchase and sale of property. The position of the PPAT in this case is placed in the context of being part of a broader "Reporting Party", which also includes financial institutions and a number of other non-financial entities that are considered at risk of money laundering activities. PPATs are required to carry out a series of preventive measures mandated by GR No. 43/2015.

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