

## Forms Of Money Laundering Crimes In The Perspective Of The Money Laundering Crime Law In Indonesia

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**Abstract.** *Today's crimes are increasingly showing increasingly modern patterns, one of which is the crime of money laundering (" money laundering "). The crime of money laundering is understood as the act of hiding the origin of funds which are illegal because they are obtained from a criminal act which appears to be legitimate. Law Number 8 of 2010 concerning Prevention and Eradication of Money Laundering. The stages of money laundering which consist of conversion (" placement "), layering (" layering "), and integration ("integration") in its development are carried out by utilizing cyberspace (" cyber "), so that it constitutes " cyber crime ", the handling of which is increasingly difficult and complex, because this crime can be a transnational crime, even though law enforcement officers in carrying out their authority are limited by jurisdiction. Apart from that, special competence and expertise is also needed in the field of " cyber ". " Cyber money laundering " is an inevitability that must be faced as a form of " white collar crime " in the 21st century era, so that efforts to prevent and eradicate the crime of money laundering can be achieved. implemented optimally.*

**Keywords:** *Money Laundering, Crime, Criminal Act*

### INTRODUCTION

Banking as a financial institution that has the function of collecting and distributing public funds is increasingly gaining an important position in society to advance the people's economy, which directly or indirectly contributes to creating national stability, especially in the economic field.

Banking as a collector and distributor of public funds is likely to be used by some bank service users to store and distribute illegal/unhalal funds because they were obtained from criminal acts, for example the proceeds of corruption and the sale of illegal drugs, in order to hide the origin of the funds so that they cannot be traced by Law Enforcement Officials take certain steps, which are often called money *laundering* . In the 21st century, which is known as the era of technology and information, "money laundering" behavior is increasingly complicated and difficult to track, because perpetrators take advantage of the "cyber world" where to transfer funds they no longer have to go to the bank, but simply use e-banking facilities and other *cyber* means . In this regard, this article tries to explain the act of money laundering (" *money laundering* ") through the *cyber world* , namely " *Cyber Money Laundering* ".

## **RESEARCH METHODS**

This research is descriptive in nature. Descriptive means describing the object being studied. In this research, data collection was carried out by means of library research, namely collecting data by studying scientific journals, seminar papers, research results and laws and regulations related to the problem being studied. All of this will be used as a guide and basis for research. In drawing conclusions from the research results, qualitative data analysis methods are used, namely the data that has been obtained will be arranged systematically and then analyzed qualitatively to achieve clarity of the research objectives that will be discussed .

### **Money Laundering Crime Models**

Money laundering ("money laundering") is an attempt to hide the origin of funds obtained from criminal acts (crimes) through various transactions, usually through banking, with the aim of making it difficult for law enforcement officials to trace these assets, so that it appears that these funds are "deductible" funds. legal". The Viena Convention on Narcotic Drugs, the Council of Europe Convention on Laundering and the OAS Model Regulations state that there are 3 types of criminal acts of money laundering ("money laundering"), namely:

Changing or moving "property" that is known to originate from a crime, with the aim of hiding the dark origins of the "property" or to help someone avoid the legal consequences of their involvement in committing a crime;

Concealing the true condition of the "property" originating from the crime, both from its source, origin, location, placement, distribution, movement/distribution, and rights related to the "property"; Controlling, receiving, possessing, using "property" which is known to originate from a crime or participation in committing a crime. (Barda Nawawi Arief, 2002: 185).

The money laundering process is carried out in 3 stages, namely:

The "placement" stage is the conversion of cash proceeds from crime into various forms of securities such as shares or deposits, as well as exchange and transfer into foreign currency or investment in real estate and so on. The "layering" stage is the "layering" stage by carrying out very complex and complicated transactions, which will make tracking money difficult.

The "integration" stage is the stage of integrating the proceeds of crime with halal money into one unit, which, among other things, is for the development of "real estate", so that the business appears to be "legal".

Anwar Nasution, a national economic expert stated that "money laundering" is carried out in 3 stages, namely: the "immersion" stage, namely the stage of "immersing" the illicit

money through checking accounts, postal money orders, deposits and other legitimate steps, so it is difficult to trace the origin. the proposal by law enforcement officials; the "soaping/laundering" or "laundering" stage, by shuffling and mixing the haram money with halal money; and the "drying" or "repatriation" or "integration" stage, namely the money that has been laundered is returned in a form that according to legal regulations is "legal money" (Nyoman Union Putra Jaya, 2001: 102).

Money laundering is actually a continuation of criminal acts that have been committed previously, including criminal acts of corruption, criminal acts related to banking, criminal acts related to narcotics, misuse of psychotropic substances, economic crimes and the proceeds of other crimes, so that regulations can actually be applied legislation that regulates these criminal acts.

Indonesia has banned "money laundering" through Law Number 15 of 2002 concerning the Crime of Money Laundering. As amended by Law Number 25 of 2003 concerning Amendments to Law Number 15 of 2002 concerning the Crime of Money Laundering, and most recently amended by Law Number 8 of 2010 concerning Prevention and Eradication of the Crime of Money Laundering.

Law Number 15 of 2002 concerning the Crime of Money Laundering as amended by Law Number 25 of 2003 concerning Amendments to Law Number 15 of 2002 concerning the Crime of Money Laundering states that what is meant by money laundering is the act of placing, transferring, paying , giving away, donating and entrusting, taking abroad, exchanging or other actions regarding assets that are known or reasonably suspected to be the result of a criminal act with the intention of hiding or disguising the origin of the assets so that they appear to be legitimate assets.

The definition of money laundering according to Law Number 8 of 2010 concerning Prevention and Eradication of the Crime of Money Laundering is contained in Article 1 paragraph 1 which states that money laundering is any act that fulfills the elements of a criminal act in accordance with the provisions of this law. What is meant by the proceeds of money laundering crimes are assets obtained from criminal acts of corruption, bribery, narcotics, psychotropics, labor smuggling, migrant smuggling, in the banking sector, in the capital markets sector, in the insurance sector, customs, excise, trade. people, illegal arms trafficking, terrorism, kidnapping, theft, embezzlement, fraud, gambling, prostitution, in the field of taxation, in the forestry sector, in the maritime and fisheries sector, as well as other crimes which carry a penalty of 4 (four) years or more.

These provisions are in line with those regulated in the 2015 Draft Criminal Code in the Elucidation of Article 747, which states that what is meant by proceeds from the crime of money laundering are assets obtained from criminal acts: corruption, bribery, smuggling of goods, smuggling of labor, smuggling of immigrants, banking sector, capital markets sector, insurance sector, narcotics, psychotropics, human trafficking, illegal arms trade, kidnapping, terrorism, theft, embezzlement, fraud, money counterfeiting, gambling, prostitution, taxation sector, forestry sector, environmental sector, maritime sector and other criminal acts which are punishable by imprisonment of 4 years or more, which are committed in the territory of the Unitary State of the Republic of Indonesia and these criminal acts are also criminal acts according to Indonesian law.

Article 747 formulates the offense of money laundering ("money laundering") as follows: "Everyone who places, transfers, diverts, spends, pays, gives away, entrusts, takes abroad, changes the form of, exchanges for currency or securities or Any other act involving assets which he knows or reasonably suspects is the result of a crime of money laundering with the aim of hiding or disguising the origin of the assets shall be punished for the crime of money laundering with a maximum imprisonment of 20 (twenty) years and a maximum fine of Category V. Formulation The offense in this article clearly states that the substance of money laundering is hiding or disguising the origin of assets.

The offense of money laundering ("money laundering") is also formulated in Articles 748 and 749 as follows: Article 748: "Any person who conceals or disguises the origin, location, designation, transfer of rights, or actual ownership of assets that knowing or reasonably suspecting that it is the result of a money laundering crime, he will be punished for the crime of money laundering with a maximum imprisonment of 20 (twenty) years and a maximum fine of Category V."

The substance of money laundering in this article is hiding and disguising the origin, source and location of assets." Article 749: Every person who receives or controls the placement, transfer, payment, grant, donation, safekeeping, exchange or use of assets which he knows or reasonably suspects are the proceeds of a money laundering crime shall be punished by imprisonment for a maximum of 5 (five) years and a fine. at most Category IV.

The provisions as regulated in paragraph (1) do not apply to reporting parties who carry out reporting obligations. This article threatens people who receive money from money laundering, while the previous 2 (two) articles threaten people who launder money. The provisions of Articles 747, 748 and 749 are no different from the formulation of the articles contained in Law Number 8 of 2010 concerning the Prevention and Eradication of the Crime

of Money Laundering Articles 3, d and 5, only the threat of a fine is nominalized in rupiah, namely a fine Category V is formulated with a maximum fine of Rp. 10,000,000,000.00 (ten billion) rupiah, while Category IV fines are nominalized to be a maximum fine of Rp. 1,000,000,000.00 (one billion) rupiah.

Cyber crime is one of the new dimensions of 21st century crime that has received a lot of attention from the world community, and is one of the dark sides of advances in information technology that has a negative impact on all aspects of modern life today. Cyber Crime can be interpreted as crime in cyberspace, or according to Barda Nawawi Arief it is called "cybercrime". Cyber Crime is a form of "White Collar Crime", because perpetrators of this type of crime in carrying out their activities require "special competencies" which are the main characteristics of White Collar Crime perpetrators. This special competency is the perpetrator's skill in operating and mastering the cyber world (mayantara). The UN Congress ). (Barda Nawawi Arief, 2002: 258).

Cyber Crime in the narrow sense is a crime against a computer system/network ("against a computer system or network"); while Cyber Crime in the broad sense or "Computer Related Crime" (CRC) is a crime using the means of a computer system/network (" by means of computer system or network") and crimes within a computer system ("in a computer system or network"). "Computer Related Crime" (CRC) according to the UN Congress report outlined in document A/CONF.187/15), as stated by Barda Nawawi Arief includes all new forms of crime aimed at computers, computer networks and their use, and traditional forms of crime that are now committed using or with computer equipment.

Evil acts committed in the electronic environment are quite difficult to overcome, because to handle them requires special expertise, investigative procedures and basic legal powers which law enforcement officials most likely do not yet have. Another difficulty is that "cyber crime" exceeds national boundaries (cross-country), whereas so far law enforcement officers in carrying out their duties are limited by certain territorial areas/jurisdictions.

Masaki Harmano in his article "Comparative Study in the Approach to jurisdiction in Cyberspace", explains the existence of jurisdiction based on traditional principles, which consists of 3 (three) jurisdictions, namely legislative jurisdiction (legislative jurisdiction), judicial jurisdiction ("judicial jurisdiction"). ), and executive jurisdiction (executive jurisdiction"). (Barda Nawawi Arief, 2002:276). The definition of traditional jurisdiction according to Masaki Harmano can be interpreted as relating to the limits of the State's authority in the field of law enforcement ("law enforcement"), namely: the state's authority to make/formulate substantive law, which is also called the authority to make laws or formulative

policies which are owned by legislative body, so it is also called legislative policy. This is a formulative jurisdiction or legislative jurisdiction.

The state's authority to adjudicate or apply the law, which is carried out by the judiciary, is therefore called judicial policy or applied policy, this is judicial jurisdiction; The state's authority to implement and enforce the enactment of laws and execute court decisions, so it is called executive policy. This is executive jurisdiction.

Traditional jurisdiction, which consists of formulative/legislative jurisdiction, applicative/judicial jurisdiction and executive jurisdiction, has certain limits of validity, namely being limited by the state's territorial area, so that it is often questioned in connection with unlimited activities in the "cyber" space.

In this regard, Masaki Harmano differentiates the meaning of "cyber-jurisdiction" from the perspective of "cyberspace" from a legal perspective. "Cyber-jurisdiction" is defined as the power of system operators and users of "cyberspace" to establish rules and implement them on a society in cyberspace/virtual world/cyber. Here apply the rules made of them, by them and for them. They have their own laws that must be obeyed as living law." From a legal perspective, "cyber-jurisdiction" is interpreted as physical government power and court authority over internet users or over users' activities in virtual space ("physical government's power and court's authority over Netusers or their activity in cyber-space" ).

David R. Johnson and David G. Post put forward 4 (four) models of authority in cyber/virtual worlds ("cyber-jurisdiction"), namely: the implementation of control is carried out by the courts that currently exist. ("the exiting judicial forums"); national authorities make international agreements regarding "the governance of Cyberspace"; the formation of a new international organization ("A New International Organization"); and self-regulation by internet users ("self-governance")

Barda Nawawi Arief agrees with Masako Harmano, that traditional jurisdiction does have limitations because it is not easy to reach perpetrators of criminal acts in limitless virtual/cyberspace, but that does not mean that activities in "cyber" space are left without law. Cyber space is actually an extension of the environment and the live environment which needs to be maintained and maintained in quality. Therefore, pollution and destruction of information in cyber/virtual/virtual worlds can be prevented and overcome. Therefore, legislative jurisdiction (jurisdiction to prescribe") can and must still be used to overcome "cyber crime" which is a new dimension of "environmental crime" (Barda Nawawi Arief, 2002: 279).

The problem that arises regarding the relationship between countries in policy/legislative jurisdiction is that the authority of a country in the field of legislative

jurisdiction can be different and even conflict with the authority of other countries. It is very possible for a country to formulate in its legislative policy an act that constitutes a criminal act, whereas in another country its legislative policy does not constitute a criminal act. This has the potential to cause problems in its implementation, especially if the perpetrator is in a country that does not criminalize this act, whose activities are carried out in cyberspace.

The problem becomes increasingly sharp in judicial / adjudication jurisdiction ("jurisdiction to adjudicate" and executive jurisdiction ("jurisdiction to enforce")) because it is closely related to the territorial sovereignty and legal sovereignty of each country. Harmonization between countries needs to be carried out in the form of agreements and cooperation between countries , so that judicial jurisdiction and executive jurisdiction can be carried out on an understanding.

Barda Nawawi Arief is of the view that in dealing with crimes without territorial boundaries in the form of "Cyber Crime" a universal principle should be used, or the principle of "ubiquity", namely the principle which states that the offenses are committed/occur partly in the region. /territorial countries and parts outside the territory of a country, must be able to be brought into the jurisdiction of each country concerned. The 2015 Draft Criminal Code regulates jurisdiction relating to "cyber crime" in Article 4, which is included as part of the "territorial principle", as formulated as follows: Criminal provisions in Indonesian legislation apply to every person who commits:

- a. Criminal acts in the territory of the Republic of Indonesia;
- b. Criminal acts on board an Indonesian ship or aircraft; or
- c. Criminal acts in the field of information technology or other criminal acts whose consequences are felt or occur in Indonesian territory or on Indonesian ships or aircraft.
- d. In the explanation of Article 4 it is stated as follows:
- e. Letter a: This provision contains territorial or territorial principles.

Letter b: This provision contains expanded territorial principles. The expansion of the territorial principle is not only intended to cover criminal acts on Indonesian ships or aircraft, but also to cover criminal acts in cyberspace ("cyber crime") which are committed outside Indonesian territory but whose consequences are felt or occur in Indonesia. This principle applies to anyone, regardless of the nationality of the maker.

Letter c: What is meant by other criminal acts such as assembling bombs abroad which are sent to the territory of the Republic of Indonesia and explode in the territory of the Republic of Indonesia. The virtual/virtual world using open computer networks provides opportunities

for perpetrators (“offenders”) to choose certain countries that have not or do not formulate an act as a criminal act in either the real or virtual world (“CyberCrime”) in its Criminal Law, as “data terminal”, so that “data” remains safe in that country.

Indonesia formulated Cyber Crime through Law Number 11 of 2008 concerning Information and Electronic Transactions. Article I concerning General Provisions, in point 1 states that what is meant by electronic transactions is one or a collection of electronic data not limited to, but not limited to writing, sound, images, maps, plans, photos, electric data interchange (EDI), electronic mail. (“electronic mail”), telegram, telex, telecopy or the like, letters, signs, numbers, access codes, symbols or perforations that have been processed to have meaning or can be understood by people who are able to understand them. Meanwhile, "electronic transactions" are described in point 2, namely legal actions carried out using computers, computer networks and/or other electronic media.

Point 3 describes the meaning of Information Engineering, namely a technique for collecting, preparing, storing, processing, announcing, analyzing and/or disseminating information. Information Systems are described in point 5, namely a series of electronic devices and procedures that function to prepare, collect, process, analyze, store, display, announce, transmit and/or disseminate electronic information.

Further provisions regarding electronic transactions are regulated in Article 17 which basically regulates the implementation of transactions in public and private spaces which must be based on good faith. Article 17 states as follows: Implementation of electronic transactions can be carried out in the public or private sphere;

The parties carrying out electronic transactions as intended in paragraph (1) are required to act in good faith in interacting and/or exchanging electronic information and/or electronic documents during the transaction;

Further provisions regarding the implementation of electronic transactions as intended in the paragraph are regulated by Government Regulation;

Actions prohibited by this Law are formulated from Article 27 to Article 33, namely;

- a. Distributing information that violates decency;
- b. Distributing information containing gambling; Distributing information that defames someone;
- c. Distributing information containing threats/blackmail;
- d. Spreading fake news;
- e. Spreading feelings of hatred and hostility with racial nuances.
- f. Sending information containing threats of violence. Or personally directed scares;

- g. Accessing people's computer data without authorization;
- h. Breaking into computer network security systems;
- i. Entering information or tapping into other people's computer networks without authorization;
- j. Make unauthorized changes to other people's computer networks;
- k. Move or transfer information from another person's computer network;
- l. Carrying out any action that results in disruption of the electronic system, so that it cannot function properly;

Producing and distributing hardware or software for use in carrying out acts prohibited by Articles 27 to 33.

Dispute resolution according to this law can be achieved through 3 (three) channels, namely: Civil route, by filing a lawsuit, as regulated in Article 38; Settlement through arbitration, as regulated in Article 39; and the criminal route, as regulated in Articles 45 to Article 52, with various criminal sanctions, which are threatened cumulatively in the form of imprisonment and/or fines.

If we look closely, there are no acts prohibited by Law Number 11 of 2008 concerning Information and Electronic Transactions related to the use of electronic facilities to carry out "money laundering" in particular and crimes related to economics/monetary/finance in general. For this reason, amendments to this law need to be made, by adding prohibited acts related to "financial transactions" that are unlawful or invalid.

Cyber Money Laundering is money laundering carried out through cyberspace ("mayantara"), so that apart from committing the crime of money laundering ("money laundering") the perpetrator ("offender") has also committed a cyber crime ("cyber crime"), namely committing criminal acts/crimes through computer systems/networks.

Cyber Money Laundering also goes through 3 stages of activity like money laundering, namely placement, layering and integration. Activities are carried out using or through a computer network. Cyber Money Laundering is thus a criminal act that can be subject to Law Number 15 of 2002 concerning the Crime of Money Laundering; which was updated by Law Number 25 of 2003, and most recently amended by Law Number 8 of 2010 concerning Prevention and Eradication of the Crime of Money Laundering. It is regrettable that Law Number 11 of 2008 concerning Electronic Information and Transactions does not yet regulate "cyber crime" which relates to financial transactions that are illegal or against the law.

Cyber Money Laundering is a crime that is possible beyond state territory and is transnational in nature, therefore cooperation between countries to jointly tackle cyber money laundering needs to continue to be pursued, because of its significant impact on the community's economy at both local, regional, national and international levels. and global.

## **CONCLUSION**

Cyber Money Laundering is a White Collar Crime of the 21st century that needs to be anticipated seriously, because it has serious economic consequences at national and global levels. Normatively, cyber money laundering can be caught through Law Number 15 of 2002 concerning the Crime of Money Laundering which was later amended by Law Number 25 of 2003, and most recently amended by Law Number 8 of 2010 concerning Prevention and Eradication of the Act. Money Laundering Crime. Law Number 11 of 2008 concerning Information and Electronic Transactions does not yet accommodate cyber crime related to unlawful or illegal economic and financial transactions. In this regard, the readiness of law enforcement officers is very important, both regarding expertise in operating computers, regarding the ins and outs of finance and banking as well as expertise in carrying out cross-territorial law enforcement, which is related to territorial principles with the scope of legislative, judicial and executive jurisdiction.

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