

Notary Efforts in the Prevention of Money Laundering



Hikmah Rizkayanti Rahmat¹, Helmi², Mispansyah³

¹Master of Notary, University of Lambung Mangkurat

^{2,3}Faculty of Law, University of Lambung Mangkurat

ABSTRACT: In addition to having rights and obligations as stipulated in the Notary Office Law, notaries are also given additional obligations in the context of preventing and eradicating money laundering, namely as reporting party and must report deeds that tend to be a process of money laundering. However, there is a legal issue of conflicting norms because as we know that a Notary is obliged to maintain the confidentiality of the deeds of service users. So that the purpose of this legal scientific research article is to find out whether all deeds must be reported by a Notary in the prevention of Money Laundering Crimes and how the position of a Notary as a reporter is seen from the point of view of the principle of confidentiality in his position. The results of this legal scientific research article state that first, Deeds that must be reported by a Notary to the authorized official are the Financial Transaction Reports and Analysis Center, namely Sale and Purchase Agreements, Deeds of Sale and Purchase of Shares, Deed of Sale and Purchase of Assets, Deed of Establishment of a Limited Liability Company, Deed of Binding of Sale and Purchase, Deed of Establishment of Foundations, Deed of Establishment of Cooperatives, also Authorization of Selling and Authorization of Directors, which are in essence closely related to the crime of money laundering. Second, the principle or principle of secrecy as stipulated in Article 16 paragraph (1) letter f does not have absolute force, because there is a norm which explains that "unless the law determines otherwise". Notaries are expected to be able to identify authentic deeds that have a high risk or tendency of money laundering and for deeds that have allegations of money laundering. Notaries are expected not to hesitate to report to Indonesian Financial Transaction Reports and Analysis Center or INTRAC to prevent money laundering.

KEYWORDS: Notary; Prevention; Money Laundering Crime.

A. INTRODUCTION

Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering as an *ius constitutum* that regulates money laundering, does not provide a clear and concrete legal definition related to what Money Laundering is, which, in the Law on the Prevention and Eradication of Money Laundering, only regulates that Money Laundering is a criminal act that meets the elements as regulated in the related *Ius Constitutum*.¹ Money laundering as a form or type of criminal act to cover up the results of previous crimes, so that this offense has a high risk of threatening the sustainability or civilization of the nation or state, so that in the international context this offense can cross the boundaries of the state, becoming a transnational offense.² As a result of Money Laundering, it also directly or indirectly impacts a country's economic system.³ Therefore, the G-7 countries consisting of Canada, France, Germany, Italy, Japan, the United Kingdom, and the United States in 1989 formed an institution specifically to combat money laundering, namely the Financial Action Task Force on Money Laundering (FATF). The main task of the FATF is to set policies, encourage war and fight against money laundering practices. The category of professions, especially Notaries and Land Deed Officials, is not categorized as reporting parties as specified in article 17 paragraph (1) of the Prevention and Eradication of Money Laundering Law. Even though countries such as France, Romania, Canada, Belgium, Spain, Italy, Australia, and even the Netherlands have expanded the scope of the reporting party to professions including Notaries and Land Deed Officials. In these countries, notaries and Land Deed Officials are required to report suspicious financial transactions made by users of goods or services to law enforcement officials.⁴

¹ R. Wiyono, *Pembahasan Undang-Undang Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang* (Jakarta: Sinar Grafika, 2014).

² Erman Rajagukguk, "Anti-Money Laundering Regime and Money Laundering Law" (Anti-Money Laundering, Medan: Faculty of Law, University of North Sumatra, 2005).

³ Bismar Nasution, *Anti-Money Laundering Regime in Indonesia* (Bandung: Books Terrace & Library, 2008).

⁴ Adrian Sutedi, *Tindak Pidana Pencucian Uang* (Bandung: PT. Citra Aditya Bakti, 2008).

Notary Efforts in the Prevention of Money Laundering

Based on article 17 paragraph (2) of the Prevention and Eradication of Money Laundering Law which states "provisions regarding the Reporting Party other than as referred to in paragraph (1) are regulated by Government Regulation" juncto Government Regulation Number 43 of 2015 of the Reporting Party in the Prevention and Eradication of Money Laundering Crime where Article 3 states that Notaries and Land Deed Officials is one of the reporting parties who can report suspicious transactions. Notaries as one of the reporting parties as referred to in Government Regulation Number 43 of 2015 concerning Reporting Parties in the Prevention and Eradication of Money Laundering Notaries must apply the principle of recognizing service users. The principle of recognizing Service Users as referred to at least contains the identification of service users; service user verification; and monitoring of service user transactions.

Then the Regulation of the Minister of Law and Human Rights Number 9 of 2017 concerning the Application of the Principle of Recognizing Services for Notaries has the intention to prevent and eradicate money laundering crimes, the principle of recognizing service users must be applied by the reporting party in accordance with the provisions of laws and regulations. Then the Ministry of Law and Human Rights issued Regulation of the Minister of Law and Human Rights Number 15 of 2019 concerning Procedures for Implementing the Principle of Recognizing *Beneficial Ownership* of Corporations. It is stated that a beneficial owner is an individual who can appoint or dismiss directors, board of commissioners, management, trustees or supervisors in the corporation, has the ability to control the corporation, is entitled to and/or receives benefits from the corporation either directly or indirectly is the actual owner of the funds or shares of the corporation and/or meets the criteria as referred to in the laws and regulations.

The inclusion of Notaries and Land Deed Officials as whistleblowers for suspicious transactions indirectly Notaries and Land Deed Officials play a direct role in realizing a clean, peaceful, and prosperous country. In addition, directly reports of Suspicious Financial Transactions carried out by notaries and Land Deed Officials have a positive impact on Notaries and Land Deed Officials themselves. The first positive impact is that reports of Suspicious Financial Transactions carried out by Notaries and Land Deed Officials can restore the image of Notaries and Land Deed Officials who have been underestimated by the public. The positive impact that is clearly felt by notaries and Land Deed Officials who are categorized as reporting parties is the existence of legal protection from the state because in the provisions of Article 29 of the Prevention and Eradication of Money Laundering Law says that the reporting party in carrying out its duties cannot be prosecuted either civilly or criminally unless there is an element of abuse of its authority.

Notaries in carrying out their duties and positions do not only refer to the provisions of laws and regulations, but must also refer to morals, ethics and values that live in society. This is because in carrying out his position, a Notary has a moral responsibility that must be carried out considering that the Notary profession is a noble profession (*Officium Nobile*). Notaries and their products in the form of authentic deeds can be interpreted as state efforts to support the creation of legal certainty and protection for all levels of society. Notary Position Law which is a formal legal source that guides the implementation of their duties and positions. In addition, Notaries are also bound by the Code of Ethics because Notaries are a legal profession. Code of Ethics is a guide, guidance or moral or moral guide for a particular profession or is a list of obligations in carrying out a profession compiled by the members of the profession itself and binding them in practicing it.

Notaries deal with various parties, ranging from interested persons so that their will is stated in an authentic deed and also deals with the government as a regulatory holder. The Notary position in the middle allows Notaries to know various kinds of legal actions, ranging from agreements, statements, transactions, and others. On this basis, Notaries have a central position to participate in countermeasures against violations and smuggling of the law. It does not rule out the possibility that the violation has implications for the occurrence of a criminal act if in connection with the deed he made there is an indication of a criminal act. The effects of Money Laundering, so preventive efforts are needed from all parties and circles, especially from the Notary profession which in fact is a public official who oversees a business transaction or other legal acts and declares it in the form of an authentic deed. To support law enforcement against Money Laundering, there needs to be active and strategic efforts that have also been regulated by the government in the form of laws.

So the purpose of this legal scientific research article is to add analytical material related to the efforts or efforts of Notaries in the context of preventing and eradicating money laundering crimes. What distinguishes this legal scientific research article from other legal scientific research articles that are related and closely intertwined based on the theme of this analysis is that no one has analyzed specifically and concretely related to Notaries as reporting parties to suspected money laundering crimes and various deeds that must be reported to overcome money laundering crimes and the Notary's own position as a whistleblower for criminal acts Money laundering. Such as a scientific research article conducted by Hanifah which analyzes how the limits of notary authority to dig up information about beneficiaries based on Presidential Regulation Number 13 of 2018 and what are the legal consequences for notaries who do not explore the truth of information, regarding who are the beneficiaries of a Corporation according to Article

Notary Efforts in the Prevention of Money Laundering

18 of Presidential Regulation Number 13 of 2018.⁵ Another legal scientific research article is by Hidayat who analyzes how the position of Notaries in the relationship between money laundering and legal protection of Notaries in the relationship between money laundering crimes.⁶ So that the formulation of the problem in this study is whether all deeds must be reported by Notaries in the prevention of Money Laundering Crimes and how the Notary's position as a whistleblower is seen from the point of view of the principle of confidentiality in his position. The purpose of this study is also to analyze the various deeds that must be reported by Notaries in the prevention of Money Laundering and to analyze related to the Notary's position as a whistleblower from the point of view of the principle of confidentiality in his position.

B. METHOD

This research uses a type of normative *law* research, which is research to test a norm or applicable provision. It can also be said to be research conducted by researching library materials or secondary data.⁷ The type of research used is *doctrinal research*.⁸ The nature of this research is *prescriptive analytical*, that is, research that describes a particular object and explains things related to or systematically describes the facts or characteristics of a particular population in a particular field factually and meticulously.⁹ The approach used is a statute approach and a conceptual approach.¹⁰ So that this study is analyzed to find out how the efforts or efforts of Notaries in the context of preventing and eradicating money laundering crimes.

C. RESULT AND DISCUSSION

DEED THAT MUST BE REPORTED BY A NOTARY IN THE PREVENTION OF MONEY LAUNDERING

Types of Deeds Registered with a Notary Public

The notary profession has long been known in Indonesia, even long before Indonesia became independent, namely during the Dutch colonial government. Initially, the existence of notaries was a necessity for Europeans in Indonesia to create authentic deeds. The existence of a notary is increasingly needed in making authentic written evidence of a legal act carried out by the community. Some laws and regulations require certain legal acts to be made in authentic deeds. Notaries and their deed products can be interpreted as state efforts to create legal certainty and protection for members of the public.¹¹ According to Irfan Fachruddin, Article 1868 of the Civil Code implicitly contains an order to lawmakers to say a law regulating the matter of General Officials, to which it must be determined to whom the public can ask for help if the legal act is to be stated in an authentic deed.¹²

In making this authentic deed, many parties who can violate the rules will ask for the help of notaries to commit the crime they want to commit. One of them is the crime of money laundering. Money laundering can be said to be a continuous crime, because it has the characteristics of a single crime that is implicitly shaped as a double crime, but there is an original crime by having a certain form of money income generated or obtained by fighting rights, then the process of money laundering is carried out.¹³ Judging from the importance of this notary profession and the prevention and eradication of money laundering crimes, the government made and enforced Government Regulation Number 43 of 2015 concerning Reporting Parties in the Prevention and Eradication of Money Laundering Crimes. The modes of money laundering that have recently been often used by perpetrators are by buying real estate/house property by utilizing the professional facilities of Notaries and Land Deed Officials. Perpetrators of money laundering crimes on behalf of others as a means of hiding and disguising the origin of these assets. Notaries need to be careful in making deeds related to buying and selling, in international cooperation, international contracts, investment deeds, which are made by notaries have implications that have the potential for corruption with the mode of Money Laundering. As stipulated in

⁵ Muhammad Abu Hanifah, "Peran Notaris Dalam Menggali Informasi Mengenai Penerima Manfaat Berdasarkan Peraturan Presiden Nomor 13 Tahun 2018" (Tesis, Banjarmasin, Universitas Lambung Mangkurat, 2019).

⁶ Muhammad Rizky Hidayat, "Kedudukan dan Perlindungan Hukum Notaris Terkait Tindak Pidana Pencucian Uang" (Tesis, Banjarmasin, Universitas Lambung Mangkurat, 2020).

⁷ Burhan Ashshofa, *Metode Penelitian Hukum* (Jakarta: Rineka Cipta, 2013), <https://opac.perpusnas.go.id/DetailOpac.aspx?id=850013>.

⁸ Dyah Ochtorina Susanti dan A'an Efendi, *Penelitian Hukum* (Jakarta: Sinar Grafika, 2014).

⁹ Sarifuddin Azwar, *Metode Penelitian*, Cetakan Kesembilan (Yogyakarta: Pustaka Pelajar, 2009).

¹⁰ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2008).

¹¹ Hartanti Sulihandari dan Nisya Rifiani, *Prinsip-Prinsip Dasar Profesi Notaris (Berdasarkan Peraturan Perundang-Undangan Terbaru)* (Jakarta: Dunia Cerdas, 2013).

¹² Irfan Fachruddin, *Kedudukan Notaris dan Akta-aktanya Dalam Sengketa Tata Usaha Negara* (Jakarta: Ikatan Hakim Indonesia, 1994).

¹³ Andi Muhammad Rahmat, "Perlindungan Hukum terhadap Notaris yang Beritikad Baik Membuat Akta Jual Beli Saham dalam Kasus Tindak Pidana Pencucian Uang," *Lentera Hukum* 6, no. 1 (28 April 2019): 97–116, <https://doi.org/10.19184/ejllh.v6i1.9669>.

Notary Efforts in the Prevention of Money Laundering

Article 1870 of the Civil Code and Notary Office Law Number 2 of 2014, because it can be charged with participating in money laundering activities.

There are several authentic deeds from Notaries that have the potential to be misused for money laundering, namely the Sale and Purchase Binding Agreement; Deed of Sale and Purchase of Shares; Deed of Sale and Purchase of Assets. The Sale and Purchase Binding Agreement or Sale and Purchase Binding Deed becomes a binding sign of the sale and purchase transaction while waiting for repayment. Sale and Purchase Binding Agreement is made in 2 (two) ways, namely the new Sale and Purchase Binding Agreement is a promise because the price has not been paid off; and the Sale and Purchase Binding Deed whose payment has been made in full, but cannot be carried out to make the sale and purchase deed before the Land Deed Officials because there is still something that has not been completed.¹⁴

The Deed of Sale and Purchase of Shares itself is a legal act to transfer rights to shares of a company, in which the transfer of rights to shares due to legal actions consists of buying and selling and grants, while the transfer of rights to shares due to law is for example inheritance and wills. The legal action in question is the act of the shareholder to transfer the rights to his shares. The provisions for buying and selling shares implied in Article 56 paragraph 1 of the Limited Liability Company Law, the transfer of rights to shares is carried out by means of a deed of transfer of rights. This research focuses on the legal action of transferring rights through buying and selling shares.¹⁵ For the Deed of Sale and Purchase of Assets in the context of Limited Liability Company assets, the assets come from the assets of the company whose wealth is recorded. Sale and Purchase of the Company's Assets by transferring assets by sale for various reasons, one of which is that the asset has depreciated in value because it is old enough so that the company intends to transfer these assets by sale.¹⁶

The Ministry of Law and Human Rights also appealed to Notaries to be careful in issuing share sale and purchase deeds, because there is a strong tendency for money from crime to be laundered in Limited Liability Companies by purchasing shares. This mode can make it easier for money laundering criminals to move their money. If it is in the form of shares, then automatically the money from the crime will be legally formally seen to be legitimate, so it is transferred according to the wishes of the perpetrators of money laundering crimes. Therefore, Notaries as the registrar of the amount of capital and shares in the deed of establishment of Limited Liability Companies become the spearhead in the context of selecting company establishments that are considered suspicious.¹⁷ This is because Notaries are considered capable of estimating based on data or information owned or based on general custom can judge that a sum of money or assets is the result of a criminal act. If the Notary or Land Deed Officials knowingly assists in money laundering by making the authentic deed, this can drag the Notary into the criminal realm and tarnish the dignity and code of ethics of the Notary.¹⁸

Notary Authority in Making and Managing Deeds

Notaries as general officials appointed by the government have the authority to make and manage deeds, as stated and regulated in Law 30 of 2004 concerning Notary Positions juncto Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Positions. In essence, Notaries have the authority that if classified there are 3 (three) authorities, namely general authority; Special Authorities and Other Authorities to be Regulated Later.¹⁹ According to Article 15 paragraph (1) of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Positions, it is explained that:

“Notaries are authorized to make authentic Deeds regarding all deeds, agreements, and stipulations required by laws and regulations and / or desired by interested parties to be stated in authentic Deeds, guarantee the certainty of the date of making the Deed, store

¹⁴ Alusianto Hamonangan, Mhd Taufiqurrahman, dan Rosma Mediana Pasaribu, “Perjanjian Pengikatan Jual Beli (PPJB) Dalam Transaksi Peralihan Hak Atas Tanah Dan Atau Bangunan,” *JURNAL RECTUM: Tinjauan Yuridis Penanganan Tindak Pidana* 3, no. 2 (9 September 2021): 239–55, <https://doi.org/10.46930/jurnalrectum.v3i2.1180>.

¹⁵ Liffia Feby Wulandari, “Kepastian Hukum Pengambilalihan Saham (Akuisisi) Perseroan Terbatas Tertutup Dengan Akta Jual Beli Saham,” *Recital Review* 3, no. 2 (31 Desember 2021): 232–56, <https://doi.org/10.22437/rr.v3i2.12939>.

¹⁶ Yati Nurhayati, “Jual Beli Aset Perseroan Terbatas,” *Jurnal Yudisial* 15, no. 3 (3 April 2023): 405–22, <https://doi.org/10.29123/jy.v15i3.509>.

¹⁷ Rahmat, “Perlindungan Hukum terhadap Notaris yang Beritikad Baik Membuat Akta Jual Beli Saham dalam Kasus Tindak Pidana Pencucian Uang.”

¹⁸ Andi Khamisah Ayu Isnaini, Aminuddin Ilmar, dan Syamsuddin Muchtar, “Kewenangan Notaris dalam Pencegahan Tindak Pidana Pencucian Uang Melalui Pembelian Saham,” *Analisis* 3, no. 2 (Desember 2014): 132–37.

¹⁹ Syamsul Bahri, Annalisa Yahanan, dan Agus Trisaka, “Kewenangan Notaris Dalam Mensertifikasi Transaksi Elektronik Dalam Rangka Cyber Notary,” *Repertorium: Jurnal Ilmiah Hukum Kenotariatan* 8, no. 2 (29 November 2019): 142–57, <https://doi.org/10.28946/rpt.v0i0.356>.

Notary Efforts in the Prevention of Money Laundering

the Deed, give grosse, copies and quotations of the Deed, all of that as long as the making of the Deed is not also assigned or exempted to other officials or other persons stipulated by law.”

The article explains the general authority of the Notary, which is essentially to make an authentic deed because the Notary is a general official who is authorized to do so. Special authorities are described in paragraph (2) of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Positions, namely:

“In addition to the authority as referred to in paragraph (1), the Notary Public is also authorized:

- a. certify the signature and establish the certainty of the date of the letter under the hand by registering in a special book.
- b. Book a letter under hand by registering in a special book.
- c. make a copy of the original letter under hand in the form of a copy containing the description as written and described in the letter concerned.
- d. provide legal counseling in connection with the preparation of Deeds.
- e. make Deeds relating to land; or make a Deed of auction minutes.

We can read and understand in its entirety Article 15 paragraph (2) of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Position gives special authority to Notaries such as registering authentic deeds into special books and making certain authentic deeds. Other authorities as referred to as authorities other than general and special authorities are regulated in other laws and regulations that give authority to Notaries, as in Article 15 paragraph (3) of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Positions:

“In addition to the authority referred to in paragraph (1) and paragraph (2), Notaries have other authorities regulated in laws.”

One example of other authority that can be possessed by a Notary is such as certifying transactions carried out electronically (*cyber notary*). The purpose of electronic transaction certification is to ensure certainty, order, and legal protection for the public in technological advances and the need for authentic evidence regarding legal deeds, agreements, determinations, and events made before or by authorized officials. The amendment and inclusion of provisions regarding electronic transaction certification due to several provisions in Law Number 30 of 2004 concerning Notary Positions juncto Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Positions, are no longer in accordance with legal developments and community needs so changes need to be made. Notaries as public officials who carry out the profession of providing legal services to the public, need to get protection and guarantees to achieve legal certainty.²⁰ Article 15 paragraph (1) intends to say that not all authentic deeds are made by a notary. Other officials besides Notaries who can make authentic deeds include sub-districts, Land Deed Officials, Religious Affairs Offices, and Ambassadors.²¹

Notaries who have the authority to make an authentic deed are making a deed of establishment of a business entity, both legal and unincorporated. In the context of the deed of establishment of the Commanditaire Vennootschap, the notary's authority in making the deed of establishment of the Commanditaire Vennootschap over shares in realizing legal protection for allies of the commanditer is as stated in Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Positions. Notaries cannot arbitrarily make deeds, deeds made by or before the Notary must be in a standard form or have been determined in accordance with applicable laws and regulations. Regarding the contents of the deed made by the Notary Public does not have to be standard, but still adjusts the requests and agreements of the parties facing; And the benefit of making a notarial deed that regulates the establishment and management of a private partnership over shares is that the notarial deed as evidence in order to have perfect evidentiary power if all provisions of the procedure or procedure for making a deed are met. If there are procedures that are not fulfilled and such procedures that are not fulfilled can be proven, the deed by court proceedings can be declared as a deed that has the power of proof as a deed under hand. If it is already in such a position, the evidentiary value is left to the judge.²²

Based on Article 1 point 1 of the Notary Position Law, it is stated that a notary is a general official who is authorized to make an authentic deed, regarding all duties and authorities of the notary determined by laws and regulations and / or desired by those interested to be stated in the authentic deed. The goal is that the deed can be used as strong evidence if at any time there is a dispute between the parties or there is a lawsuit from the other party. The notary is a semi-private person because he cannot act freely like a private person. He must uphold his dignity; therefore, he is allowed to receive service money (honorarium) for every service he renders. In addition, the notary as an official who facilitates the parties to express their will in a written deed must have good faith behavior; impartial; Uphold the value of justice for legal certainty; Uphold the value of the agreement as a consensus of the parties in order to achieve expediency; Uphold the principle of treaty law; Provide the best service with the principle of prudence; Uphold professionalism in accordance with the notary office code of ethics; Uphold the moral value of Pancasila and practice it; Maintain

²⁰ *Ibid.*

²¹ Denico Doly, “Kewenangan Notaris dalam Pembuatan Akta yang berhubungan dengan Tanah,” *Negara Hukum: Membangun Hukum untuk Keadilan dan Kesejahteraan* 2, no. 2 (4 Agustus 2016): 269–86, <https://doi.org/10.22212/jnh.v2i2.217>.

²² Ayu Ratnawati, “Peranan Notaris untuk Pembuatan Akta Pendirian (CV) dalam Mewujudkan Kepastian Hukum,” *Jurnal Repertorium* 2, no. 2 (t.t.): 154–60.

Notary Efforts in the Prevention of Money Laundering

public trust; Exercise authority in Notary Position Law (formal authority); Always increase knowledge, skills and cooperation links in their fields.²³

Notary as the Reporting Party in the Principle of Recognizing Service Users

Gatekeeper based on the FATF (Financial Action Task Force on Money Laundering) can be interpreted as a legal and financial profession, including Lawyers, Auditors, Notaries, and Financial Consultants who make their profession and use their special expertise to help carry out crimes actively to disguise the proceeds of crime obtained from the original crime into a clean treasure. This practice causes losses that are not only about financial or economic losses of the country but also losses to the ethics of the legal and banking professions.²⁴ Gatekeeper is a term that refers to professionals who are involved or have a hand in the commission of money laundering crimes.²⁵ According to Paku Utama, *gatekeepers* are various professionals in finance or law with special expertise, knowledge, and access to the global financial system, who utilize their expertise to hide the proceeds of criminal acts.²⁶ Gatekeeper is a term often used in international associations in money laundering practices to refer to professions in the field of law and finance with special expertise, access, networks and knowledge of global finance, but this expertise is used against the law and used in the wrong way, namely they use expertise to assist criminals in hiding the proceeds of crime.²⁷

The legal reason why Notaries are included as gatekeepers is that they follow the money paradigm in combating money laundering is less effective if it is not supported by reports of suspicious financial transactions carried out by the reporting party. This Suspicious Financial Transaction Report is one of the most effective elements in the prevention and eradication of Money Laundering Crimes. The Suspicious Financial Transaction Report provided by the reporting party to INTRAC is the first step for INTRAC to trace the perpetrators involved in money laundering and trace the flow of funds carried out by the perpetrators of Money Laundering Crimes. Knowing the flow of funds for Suspicious Financial Transactions is also very helpful for law enforcement officials to uncover the actors behind money laundering crimes committed by criminals. The impact of Notaries and Land Deed Officials who are not categorized as reporting parties is that Notaries and Land Deed Officials are not obliged to report suspicious financial transactions carried out by service users. Even though the mode of money laundering using the mode of buying and selling real estate is rife in Indonesia. By not reporting suspicious financial transactions, law enforcement officials will find it difficult to prevent and eradicate money laundering. In fact, the development of a strong anti-washing regime requires cooperation between the reporting party, the community, and law enforcement officials.²⁸

The government in this context, namely the executive, already has a legal instrument related to the notary's position as a *gatekeeper* which is then regulated as a reporting party in the context of preventing and eradicating money laundering crimes, namely Ministerial Regulation Number 9 of 2017 concerning the Principles of Recognizing Service Users, this is intended to implement Government Regulation Number 43 of 2015 concerning the Reporting Party in the Prevention and Eradication of Acts Money Laundering Crime, which states Notary as one of the whistleblowers in the Money Laundering Act. This is also a form of reactivity from the Government on the inclusion of Indonesia in the list of NCCTs (*Non-Cooperative Countries and Territories*) by the FATF in June 2001. The inclusion of Indonesia in the list of uncooperative countries has an impact on the Government of Indonesia must establish a national government institution called INTRAC which cooperates with the Corruption Eradication Commission. This is done to find out suspected suspicious financial transactions from someone or several people early on. This can also be done both by the police, the Corruption Eradication Commission, the Prosecutor's Office, and in the context of this thesis, especially notaries.²⁹

²³ Ari Latif Pratama, Ridwan Ridwan, dan Elmadiantini Elmadiantini. 2018. "Analisis Hukum Tentang Wewenang Notaris Dalam Pembuatan Akta Ikrar Wakaf". *Jurnal Ilmiah Hukum Kenotariatan* 4, No. 1. hlm. 61–78.

²⁴ Isma Nurillah dan Nashriana. 2019. "Gatekeeper Dalam Skema Korupsi Dan Praktik Pencucian Uang". *Jurnal Simbur Cahaya*. hlm. 215.

²⁵ Irwan Hadiwinata dan Fenni Yolandani. 2021. *Kewajiban Advokat sebagai Gatekeeper untuk Melaporkan Transaksi Keuangan Mencurigakan (Suatu Terobosan Hukum dalam Rangka Pencegahan & Pemberantasan Tindak Pidana Pencucian Uang di Indonesia)*. Bandung: CV. Pranacitra Publishing. hlm. 48.

²⁶ *Ibid.*, hlm. 49.

²⁷ Isma Nurillah and Nashriana Nashriana. 2020. "Gatekeeper Dalam Skema Korupsi Dan Praktik Pencucian Uang,". *Jurnal Simbur Cahaya* 26, no. 2. hlm. 207–229.

²⁸ Reynaldi Putra Rosihan. 2020. "Analisis Yuridis Notaris Sebagai Pihak Pelapor Dalam Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang (Studi Pasal 3 Huruf (b) PP RI Nomor 43 Tahun 2015 Tentang Pihak Pelapor Dalam Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang)," *Jurnal Hukum Kaidah: Media Komunikasi Dan Informasi Hukum Dan Masyarakat* 20, no. 1. hlm. 26–35.

²⁹ Rahmat, "Perlindungan Hukum terhadap Notaris yang Beritikad Baik Membuat Akta Jual Beli Saham dalam Kasus Tindak Pidana Pencucian Uang."

Notary Efforts in the Prevention of Money Laundering

Notaries are one of the main whistleblowers in tackling money laundering crimes, because with the increasing number of money laundering crimes and the vulnerability of involving Notaries in carrying out money laundering crimes, there are obstacles because Notaries have the obligation to maintain the confidentiality of deeds, namely as general officials who based on Article 16 paragraph (1) point f of the Notary Position Law must maintain the confidentiality of the deed and all information that He obtained it in the process of making a deed. This obstacle or obstacle occurs because the two government regulations, namely Ministerial Regulation Number 9 of 2017 concerning the Principle of Recognizing Service Users and Government Regulation Number 43 of 2015 concerning the Reporting Party in the Prevention and Eradication of Money Laundering Criminal Acts in a hierarchical manner the laws and regulations are still under Law Number 30 of 2004 concerning Notary Positions jo. Law Number 2 of 2014 concerning Amendments to Law Number 30 Year 2004 concerning Notary Position. However, the role of notaries must also maintain the interests of the state (*social goal*), namely detecting the use of notary services by perpetrators of Money Laundering Crimes. then notaries are required to apply the Principles of Recognizing Service Users in their professional activities and the two government regulations are derivative regulations or implementation of Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering. SehinNotaries should be able to prioritize the Government Regulation in the context of safeguarding the interests of the state (social goals).

The application of the Principles of Recognizing Service Users for Notaries is part of an effort to detect the use of notary services by perpetrators of money laundering crimes by identifying and verifying and monitoring transactions on profiles, sources of funds and identity documents on Notary service users as makers of evidence in the form of aentic deeds. Notaries carry out identification by collecting information and identity documents of service users including individual service users, jobs, Taxpayer Identification Numbers, sources of funds and business relationships or the purpose of transactions carried out by service users with notaries. Identification of corporate service users includes the identity of corporate service users, sources of funds, business relationships or purposes of transactions that will be carried out by service users with a notary, information that the appointed party has the authority to act for and on behalf of the corporation and beneficial owners of the corporation.³⁰

THE NOTARY'S POSITION AS A WHISTLEBLOWER IS SEEN FROM THE POINT OF VIEW OF THE PRINCIPLE OF CONFIDENTIALITY IN HIS POSITION

Notary as a Whistleblower in the Prevention of Money Laundering

According to the explanation of Article 16 paragraph (1) letter e affirms that the obligation to keep confidential everything related to the deed and other papers is to protect the interests of all parties related to the deed. However, there is a norm that needs to be underlined, namely "unless the law specifies otherwise", which in the context of this study is the Notary as the Reporting Party in the prevention of money laundering crimes. A notary is a state official appointed by the Ministry of Law and Human Rights to act as an extension of the government for the benefit of the state. Their role is very important and essential in people's daily lives. However, as previously stated, Notaries are obliged to maintain the confidentiality of information contained in notarial deeds, unless ordered by law to do otherwise and provide relevant information related to the deed.³¹

Other decisive laws in the context of this study are Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering; Government Regulation Number 43 of 2015 concerning the Reporting Party in the Prevention and Eradication of Money Laundering; Presidential Regulation Number 13 of 2018 concerning the Application of the Principle of Recognizing Beneficial Owners of Corporations in the Framework of Prevention and Eradication of Money Laundering and Terrorism Financing Crimes; and Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 9 of 2017 concerning the Application of the Principle of Recognizing Service Users for Notaries is another Legislation that excludes this and the position or position of the Laws and Regulations on Money Laundering.

Perpetrators of money laundering crimes in carrying out it by hiding the proceeds of crime in the financial system or in various other forms of efforts. The act of concealing the proceeds of crime or funds obtained from criminal acts is intended to obscure the origin of wealth. The practice of money laundering is a very difficult crime to prove because its activities are very complex and diverse, but experts have managed to classify this money laundering process into three stages, each of which stands alone but often also carried out together, namely by placement, layering and integration. There are various modes to smuggle money from certain crimes so that they are not easily detected by INTRAC, for example by investing money from certain crimes in the form of business sectors, namely in the form of share ownership in corporations or companies, whether it is investing shares or capital in the establishment of a Limited Liability Company, buying shares in existing Limited Liability Companies, or stock investment in the capital market. Money laundering with the mode of purchasing shares requires Notary services in terms of making

³⁰ Mutia Karina Norman. 2023. "Penerapan Prinsip Mengenali Pengguna Jasa (PMPJ) bagi Notaris dalam Rangka Mutual Evaluation Review (Mer) Financial Action Task Force (FATF) terhadap Indonesia," *JISIP (Jurnal Ilmu Sosial dan Pendidikan)* 7, no. 1. hlm. 824–33.

³¹ Mispansyah, Nurunnisa Nurunnisa, dan Diana Haiti. 2023. "Notary's Rule and Anti-Money Laundering Under Indonesian Law," *Jurnal Russian Law Journal* 11, no. 3. Banjarmasin. hlm. 226–233.

Notary Efforts in the Prevention of Money Laundering

deeds and in the company's articles of association determined how to transfer rights to shares according to applicable laws and regulations.³²

Notaries are one of the professions that are subject to mandatory reporting to INTRAC if they find suspicious financial transactions. If it is related to the provisions of Article 18 of Law Number 8 of 2010, it is stated that the reporting party must apply the principle of recognizing Service Users, this is also confirmed in Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes, that to implement the provisions of Article 17 paragraph (2) regarding provisions regarding the Reporting Party other than as referred to in paragraph (1) regulated by Government Regulations, therefore, in response to this article, Government Regulation of the Republic of Indonesia Number 43 of 2015 concerning the Reporting Party in the Prevention and Eradication of Money Laundering Crimes was issued.³³

In the function of Notaries as reporting parties in the prevention of money laundering crimes, there is one principle that must be carried out by Notaries, namely the Principle of Recognizing Service Users or Benefits, as one of the steps to prevent and eradicate money laundering crimes. Notaries as parties who play a role in the establishment of corporations play a role in identifying the Beneficial Owners of a corporation in Indonesia. One form is the establishment of the deed of establishment of a Limited Liability Company. A corporation is an organized collection of persons and/or wealth, whether it is a legal entity or a non-legal entity. Corporations in Article 2 paragraph (2) of Presidential Regulation Number 13 of 2018 concerning the Application of the Principle of Recognizing Beneficial Owners of Corporations in the Framework of Prevention and Eradication of Money Laundering and Terrorism Financing Crimes, service users or beneficial owners of these corporations include limited liability companies, foundations, associations, cooperatives, private partnerships, firm partnerships, and other forms of corporations.³⁴

The provisions regarding the principle of recognizing Service Users for the Reporting Party as stipulated in the Law apply mutatis mutandis to the application of the principle of recognizing Service Users for the Reporting Party as referred to in Article 2 paragraph (2) and Article 3 of the Government of the Republic of Indonesia Number 43 of 2015 concerning the Reporting Party in the Prevention and Eradication of Money Laundering Crimes. As a follow-up or implementing regulation of the Government Regulation of the Republic of Indonesia Number 43 of 2015 concerning the Reporting Party in the Prevention and Eradication of Money Laundering Crimes, the implementing rules were issued, namely the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 9 of 2017 concerning the Application of the Principle of Recognizing Service Users for Notaries. In Article 2 paragraph (1) of this regulation reaffirms that Notaries must apply the principle of recognizing Service Users, and in paragraph (2) the principles of recognizing Service Users as referred to in paragraph (1) at least contain the identification of service users; service user verification; and monitoring of service user transactions.³⁵

The reporting party according to Article 3 of Government Regulation Number 43 of 2015 includes several professions such as advocates, notaries, land deed making officials, accountants, public accountants, and financial planners, other than those stipulated in Article 2. Furthermore, Article 4 explains that the reporting party mentioned earlier has an obligation to apply the principle of recognizing service users. The principle of recognizing service users is an additional obligation for Notaries to recognize service users in depth. Notaries, with their legal knowledge and intellect as an official must be good at logically and critically analyzing letters or formal evidence submitted to Notaries by the parties. This concept of responsibility when associated with the Notary Department, the Notary Public can be held accountable for errors and omissions in the implementation of their duties and positions.³⁶

Notary Confidentiality Obligations in Their Position

There is an obligation for Notaries to keep the contents of the deed confidential and all information obtained in making this deed aims to protect the interests of the parties related to the deed. If it turns out that the Notary Public who is summoned in the examination reveals secrets and provides information that should be kept secret, then the party who feels aggrieved can complain the Notary to the authorities. One of the formal requirements that must be present in the Notary Deed is the presence of 2 (two) witnesses whose identities are expressly stated at the end of the deed. This is expressly stated in Article 40 paragraph (1) of the Notary Position Law which reads "Every Deed read by a Notary Public is attended by at least 2 (two) witnesses, unless the laws and

³² Ridho Ilham, Elwi Danil, dan Yoserwan Yoserwan. 2020. "Penerapan Prinsip Mengenali Pengguna Jasa Oleh Notaris Dalam Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang," *Unes Journal of Swara Justisia* 3, no. 4. hlm. 390–402.

³³ Marthinus Mesak Mandala. 2021. "Prinsip Mengenali Pengguna Jasa Bagi Notaris Menurut Peraturan Menteri Hukum Dan Hak Asasi Manusia Nomor 9 Tahun 2017," *Officium Notarium* 1, no. 2. hlm. 317–326.

³⁴ Michael Nugroho Widjaja, "Peran Notaris dalam Penerapan Prinsip Mengenali Pemilik Manfaat dalam Pendirian Korporasi," Jakarta: *Universitas Indonesia*. hlm. 1–24.

³⁵ Mandala. "Prinsip Mengenali Pengguna Jasa Bagi Notaris Menurut Peraturan Menteri Hukum Dan Hak Asasi Manusia Nomor 9 Tahun 2017." *Loc.cit.*

³⁶ Ilham, Danil, dan Yoserwan, "Penerapan Prinsip Mengenali Pengguna Jasa Oleh Notaris Dalam Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang." *Loc.cit.*

Notary Efforts in the Prevention of Money Laundering

regulations specify otherwise". Within the scope of notariality, two types of witnesses are known, namely familiar witnesses and instrumental witnesses. Notary deed witnesses are witnesses who participate in making the deed (instrument), therefore it is called instrumentair witness (instrumentaire getuigen). If the Notary is trusted by the parties to be able to keep confidential and keep all information or statements of the parties that have been given before the Notary relating to the making of the deed. According to this provision, a Notary Public must keep everything confidential about the deed he makes, and all information obtained for the preparation of the deed in accordance with the oath or promise of office.³⁷

In the notary's position as a witness (civil case), the notary may request to be exempted from the obligation to make testimony because his position according to the law is required to keep it secret. In accordance with article 1909 paragraph (3) of the Civil Code. In this case, the notary has an obligation to disobey not for the notary's own interests but for the benefit of the parties who have entrusted the making of the Deed to the notary. Article 54 of the Notary Office Law reads "Notaries may only give, show or notify the contents of the deed, Grosse Deed, Copy of Deed and Quotation of Deed to persons directly interested in the deed, heirs or persons who have rights, unless otherwise provided by laws and regulations." From the article it has been ordered to the notary not to give, show or notify. Contents of the Deed except to those directly interested. Like when the party related to the deed has a dispute and there is another party who wants to get news and then meets the notary who made the deed, then the notary must use his Right of Disobedience in order to safeguard the interests of the facers. In determining the extent of the denial rights of notaries, it shall be departed from the obligation of notaries not to speak about the contents of their deeds, in the sense both of those contained in their deeds and of those notified or conveyed to him in his position as a notary, even before the court, except in matters where there is a higher interest or in matters where it is notary by some regulation The law expressly exempts him from his secret oath of office.³⁸

The relationship between notary and proof is very strong because every authentic deed made by a notary is a valid proof tool in civil court proceedings if something or a problem occurs about the parties listed in the deed. As for what is meant by authentic deed according to Article 1868 of the Civil Code, which is a deed in the form prescribed by law, made by or before a public employee authorized for it, at the place where the deed is made. Authentic deeds have three kinds of powers, namely:

1. The power of outward proof, that is, the ability of the deed itself to prove itself as an authentic deed.
2. The power of formal proof, that is, as far as the official deed is concerned, the deed proves the truth of what is witnessed, namely what is seen, heard and also done by the notary himself as a general official in carrying out his obligations.

Over time, and one after other cases occur, in certain cases the litigants (can be represented by lawyers), prosecutors, judges, or parties concerned in court who feel the need to present a notary as a witness, related to the deed they made. The existence of a notary as a witness if it is related to the existence of his position in the field of law, obliged to support the smooth running of the judicial process, may not be a problem. In other words, it is only natural for notaries to act as witnesses in a judicial process. In this case of a dispute, the authentic deed is the strongest and fullest evidence tool in making a real contribution to the resolution of the case cheaply and quickly.³⁹

As previously explained, in Law Number 30 of 2004 concerning Notary Position juncto Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Position explains that one of the principles upheld by Notaries is their obligation to maintain the confidentiality of authentic deeds made as a form of service for their clients, so that Notaries have the right to disobey. However, with the existence of Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering; Government Regulation Number 43 of 2015 concerning the Reporting Party in the Prevention and Eradication of Money Laundering; Presidential Regulation Number 13 of 2018 concerning the Application of the Principle of Recognizing Beneficial Owners of Corporations in the Framework of Prevention and Eradication of Money Laundering and Terrorism Financing Crimes; and Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 9 of 2017 concerning the Application of the Principle of Recognizing Service Users for Notaries, making Notaries as reporting parties in the context of preventing money laundering crimes, because many and often perpetrators of money laundering crimes utilize the Notary Confidentiality Principle so that Notaries are used to launch money laundering crimes committed.

As has also been explained, it can be ascertained that Notaries must better comply with Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes in the context of being a reporting party to prevent money laundering crimes, and the principle of notary confidentiality can be set aside, because the principle of confidentiality of position as stipulated

³⁷ Rahmida Erliyani, Muhammad Hadin Muhjad, dan Lia Audia Puspita. 2021. "Kewajiban Untuk Menjaga Kerahasiaan Akta Oleh Notaris Dan Karyawan Notaris Dalam Perspektif Hukum," *Jurnal Hukum Dan Kenotariatan* 5, no. 1. hlm. 1–17.

³⁸ Prasetya Agung Laksana. 2016. "Batas-Batas Kewajiban Menjaga Kerahasiaan Notaris Dalam Kaitannya Hak Ingkar Notaris Berdasarkan Undang-Undang Tentang Jabatan Notaris," *Jurnal Akta* 3, no. 4. hlm. 1–8.

³⁹ Tubagus Akhmad Rama Fauzi, "Tinjauan Yuridis Kewajiban Notaris Menjaga Kerahasiaan Informasi Berkaitan Dengan Akta Dalam Pemberian Saksi Pada Proses Peradilan Pidana," *Novum: Jurnal Hukum* 2, no. 2 (15 April 2015): 43–53, <https://doi.org/10.2674/novum.v2i2.14270>.

Notary Efforts in the Prevention of Money Laundering

in Article 16 paragraph (1) point f does not have absolute force, Because there is a norm that explains that "unless the law specifies otherwise". So that the function of the Notary as the reporting party by providing reports related to authentic deeds to authorized officials, namely INTRAC does not conflict with the principle or principle of confidentiality of the position.

Report Obligation and Notary Confidentiality Obligation in Prevention of Money Laundering

Notaries in carrying out the confidentiality of deeds have the Right to Disobey Notaries where the right aims not for the personal interests of Notaries but for the benefit of the community. Notary Disobedience Rights are other than beneficial rights for parties who make deeds where Notary Disobedience Rights are guarantees and more value of Notaries than ordinary people as trustworthy people. However, since the enactment of the regulation on the application of the principle of recognizing service users for Notaries who then proceed to report the confidentiality of deeds, it can be known that there are limitations to the implementation of Disobedience Rights owned by Notaries.

Indirectly, the Notary's right to keep the deed secret is not carried out if the Notary recognizes the user of Notary services which is a service user classified as information related to it must be reported. Also, indirectly for parties who make Notary deeds, reduced guarantees and surplus value of Notaries as trustworthy people since the enactment of regulations applying the principle of recognizing users of Notary services. However, as has also been affirmed, Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering; Government Regulation Number 43 of 2015 concerning the Reporting Party in the Prevention and Eradication of Money Laundering; Presidential Regulation Number 13 of 2018 concerning the Application of the Principle of Recognizing Beneficial Owners of Corporations in the Framework of Prevention and Eradication of Money Laundering and Terrorism Financing Crimes; and Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 9 of 2017 concerning the Application of the Principle of Recognizing Service Users For Notaries, Notaries must comply with Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering; Government Regulation Number 43 of 2015 concerning the Reporting Party in the Prevention and Eradication of Money Laundering; Presidential Regulation Number 13 of 2018 concerning the Application of the Principle of Recognizing Beneficial Owners of Corporations in the Framework of Prevention and Eradication of Money Laundering and Terrorism Financing Crimes; and Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 9 of 2017 concerning the Application of the Principle of Recognizing Service Users for Notaries, and Notaries have immunity, namely Notaries cannot be sued by parties who feel aggrieved for reporting financial transactions indicated as money laundering.

In general, the money laundering process can be grouped into three stages, namely *first*, placement, which is an effort to place cash originating from criminal acts into the financial system, especially the banking system. In this process there is a physical movement of cash through the smuggling of cash from one country to another, the merging of cash derived from crime with money obtained from the proceeds of legitimate activities. *Second*, layering, which is an effort to transfer assets derived from criminal acts (*dirty money*) that has successfully entered the financial system through placement. In this process, there is an engineering to separate the proceeds of crime from the source through the transfer of funds from *placement* to several other accounts with a series of complex transactions. *Layering* can also be done with international network transactions either through legitimate businesses or companies that have names and legal entities but do not have any activities. *Third*, using wealth (*integration*), which is an effort to use assets derived from criminal acts that have successfully entered the financial system through placement or layering so that it seems to be halal assets (*clean money*) for halal business activities or to finance criminal activities.

The Notary Officer and the Center for Financial Transaction Reporting and Analysis can and should cooperate with each other in the context of the Notary Public providing its clients with documents about its financial transactions. Article 41 paragraph (1) letter a of Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering states that in carrying out the prevention and eradication of money laundering, the Financial Transaction Reporting and Analysis Center is authorized to request and obtain data and information from government agencies and / or private institutions that have the authority of government agencies and / or private institutions that receive reports from certain professions. The norms of Article 41 paragraph (1) of Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering are understood to mean that the Financial Transaction Reporting and Analysis Center has the authority to intervene notaries in carrying out their obligations as general officials in accordance with Law Number 30 of 2004 concerning Notary Positions juncto Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Positions. In this case, the Financial Transaction Reporting and Analysis Center is authorized to request data and information related to service users who indicate suspicious transactions. Likewise, based on Article 11 of Government Regulation Number 43 of 2015 concerning the Reporting Party in the Prevention and Eradication of Money Laundering Criminal Acts, it states that compliance supervision of obligations for the reporting party is carried out by supervisory

Notary Efforts in the Prevention of Money Laundering

and regulatory agencies and/or INTRAC. Based on these provisions, Notaries in carrying out their obligations to report suspicious transactions are supervised by other agencies.⁴⁰

Supervision of Notaries as Reporting Parties is carried out by Supervisory and Regulatory Institutions, which in this case are the Directorate of Civil Affairs, Directorate General of General Legal Administration, Ministry of Law and Human Rights; Regional Office of the Ministry of Law and Human Rights; and Notary Supervisory Panel. Supervisors should adopt a full risk-based approach to monitoring and imposing dissuasive monetary sanctions when other actions cannot improve compliance in a timely manner. Supervisors should advise entities on reports on implementing institutional risk assessments and risk-based approaches, and, where appropriate, improve their understanding of the risks of Money Laundering/Terrorism Financing and Anti-Money Laundering/Countering the Financing of Terrorism obligations. Notaries also have legal protection in carrying out their duties as executors of the principle of recognizing service users or benefits. According to Government Regulation Number 57 of 2003 concerning Special Protection Procedures for Whistleblowers and Witnesses of Money Laundering Crimes, special protection as a form of protection provided by the state to guarantee a sense of security for whistleblowers or witnesses from possible threats that endanger themselves, lives, and/or property including their families. What is interesting is that this special protection is not only in the form of personal security of the whistleblower and witnesses from physical and mental threats, but also includes the security of assets and the immediate family. In addition, their identities can be disguised.

As public officials, Notaries/Land Deed Officials should obey the law, oath of office, code of ethics. Notary / Land Deed Officials in carrying out their profession must have professional behavior and participate in national development, especially in the field of law. The use of Notary / Land Deed Officials services in the launch of money laundering crimes by money laundering actors to smooth their actions to launder money money obtained from the proceeds of crime. By being used as a means of money laundering either directly or indirectly makes the image of the Notary/Land Deed Officials profession tarnished. In addition to damaging the personal image of the notary, the use of Notary/Land Deed Officials also damages the image of the Notary/Land Deed Officials. In addition to being able to ensnare money laundering perpetrators, law enforcement officials can also ensnare parties who are involved or participate in assisting in carrying out the money laundering process carried out by perpetrators.

D. CONCLUSION

Not all authentic deeds must be reported by a notary in the prevention of Money Laundering. Only authentic deeds that have a high risk or tendency of money laundering must be reported by a Notary Public to the Financial Transaction Reporting and Analyst Center such as Sale and Purchase Binding Agreement, Share Sale and Purchase Deed, Asset Sale and Purchase Deed, Limited Liability Company Establishment Deed, Sale and Purchase Binding Deed, Foundation Establishment Deed, Cooperative Establishment Deed, as well as Power of Attorney to Sell and Power of Attorney for Director.

Judging from the Notary's position as a reporting party in preventing and tackling money laundering when related to the principle of confidentiality in his position, the principle of office confidentiality as stipulated in Article 16 paragraph (1) point f does not have absolute force, because there is a norm that explains that "unless the law specifies otherwise". So that the function of the Notary as the reporting party by providing reports related to authentic deeds to authorized officials, namely INTRAC, does not conflict with the principle or principle of confidentiality of position. So that Notaries are expected to be able to identify authentic deeds that have a high risk or tendency to Money Laundering and are expected not to hesitate to report to INTRAC to prevent money laundering.

REFERENCES

- 1) Ashshofa, Burhan. *Metode Penelitian Hukum*. Jakarta: Rineka Cipta, 2013. <https://opac.perpusnas.go.id/DetailOpac.aspx?id=850013>.
- 2) Azwar, Sarifuddin. *Metode Penelitian*. Cetakan Kesembilan. Yogyakarta: Pustaka Pelajar, 2009.
- 3) Bahri, Syamsul, Annalisa Yahanan, dan Agus Trisaka. "Kewenangan Notaris Dalam Mensertifikasi Transaksi Elektronik Dalam Rangka Cyber Notary." *Repertorium: Jurnal Ilmiah Hukum Kenotariatan* 8, no. 2 (29 November 2019): 142–57. <https://doi.org/10.28946/rpt.v0i0.356>.
- 4) Doly, Denico. "Kewenangan Notaris dalam Pembuatan Akta yang berhubungan dengan Tanah." *Negara Hukum: Membangun Hukum untuk Keadilan dan Kesejahteraan* 2, no. 2 (4 Agustus 2016): 269–86. <https://doi.org/10.22212/jnh.v2i2.217>.
- 5) Erliyani, Rahmida, Muhammad Hadin Muhjad, dan Lia Audia Puspita. "Kewajiban Untuk Menjaga Kerahasiaan Akta Oleh Notaris Dan Karyawan Notaris Dalam Perspektif Hukum." *Jurnal Hukum Dan Kenotariatan* 5, no. 1 (7 Februari 2021): 1–17. <https://doi.org/10.33474/hukeno.v5i1.9223>.

⁴⁰ Teuku Ulya Murtadha, Dahlan Ali, dan Mohd Din. 2019. "Kewajiban Notaris Melaporkan Transaksi Mencurigakan Dalam Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang," *Syiah Kuala Law Journal* 3, no. 3. hlm. 364–379.

Notary Efforts in the Prevention of Money Laundering

- 6) Fachruddin, Irfan. *Kedudukan Notaris dan Akta-aktanya Dalam Sengketa Tata Usaha Negara*. Jakarta: Ikatan Hakim Indonesia, 1994.
- 7) Fauzi, Tubagus Akhmad Rama. "Tinjauan Yuridis Kewajiban Notaris Menjaga Kerahasiaan Informasi Berkaitan Dengan Akta Dalam Pemberian Saksi Pada Proses Peradilan Pidana." *Novum: Jurnal Hukum* 2, no. 2 (15 April 2015): 43–53. <https://doi.org/10.2674/novum.v2i2.14270>.
- 8) Hamonangan, Alusianto, Mhd Taufiqurrahman, dan Rosma Mediana Pasaribu. "Perjanjian Pengikatan Jual Beli (PPJB) Dalam Transaksi Peralihan Hak Atas Tanah Dan Atau Bangunan." *JURNAL RECTUM: Tinjauan Yuridis Penanganan Tindak Pidana* 3, no. 2 (9 September 2021): 239–55. <https://doi.org/10.46930/jurnalrectum.v3i2.1180>.
- 9) Hanifah, Muhammad Abu. "Peran Notaris Dalam Menggali Informasi Mengenai Penerima Manfaat Berdasarkan Peraturan Presiden Nomor 13 Tahun 2018." Tesis, Universitas Lambung Mangkurat, 2019.
- 10) Hidayat, Muhammad Rizky. "Kedudukan dan Perlindungan Hukum Notaris Terkait Tindak Pidana Pencucian Uang." Tesis, Universitas Lambung Mangkurat, 2020.
- 11) Ilham, Ridho, Elwi Danil, dan Yoserwan Yoserwan. "Penerapan Prinsip Mengenali Pengguna Jasa Oleh Notaris Dalam Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang." *Unes Journal of Swara Justisia* 3, no. 4 (27 Januari 2020): 390–402.
- 12) Isnaini, Andi Khamisah Ayu, Aminuddin Ilmar, dan Syamsuddin Muchtar. "Kewenangan Notaris dalam Pencegahan Tindak Pidana Pencucian Uang Melalui Pembelian Saham." *Analisis* 3, no. 2 (Desember 2014): 132–37.
- 13) Laksana, Prasetya Agung. "Batas-Batas Kewajiban Menjaga Kerahasiaan Notaris Dalam Kaitannya Hak Ingkar Notaris Berdasarkan Undang-Undang Tentang Jabatan Notaris." *Jurnal Akta* 3, no. 4 (14 Desember 2016): 1–8. <https://doi.org/10.30659/akta.v3i4.2919>.
- 14) Mandala, Marthinus Mesak. "Prinsip Mengenali Pengguna Jasa Bagi Notaris Menurut Peraturan Menteri Hukum Dan Hak Asasi Manusia Nomor 9 Tahun 2017." *Officium Notarium* 1, no. 2 (2021): 317–26. <https://doi.org/10.20885/JON.vol1.iss2.art11>.
- 15) Marzuki, Peter Mahmud. *Penelitian Hukum*. Jakarta: Kencana, 2008.
- 16) Mispansyah, Mispansyah, Nurunnisa Nurunnisa, dan Diana Haiti. "Notary's Rule and Anti-Money Laundering Under Indonesian Law." *Russian Law Journal* 11, no. 3 (7 April 2023): 226–33. <https://doi.org/10.52783/rj.v11i3.990>.
- 17) Murtadha, Teuku Ulya, Dahlan Ali, dan Mohd Din. "Kewajiban Notaris Melaporkan Transaksi Mencurigakan Dalam Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang." *Syiah Kuala Law Journal* 3, no. 3 (30 Desember 2019): 364–79. <https://doi.org/10.24815/sklj.v3i3.12486>.
- 18) Nasution, Bismar. *Rezim Anti Money Laundering di Indonesia*. Bandung: Books Terrace & Library, 2008.
- 19) Norman, Mutia Karina. "Penerapan Prinsip Mengenali Pengguna Jasa (PMPJ) bagi Notaris dalam Rangka Mutual Evaluation Review (Mer) Financial Action Task Force (FATF) terhadap Indonesia." *JISIP (Jurnal Ilmu Sosial dan Pendidikan)* 7, no. 1 (17 Mei 2023): 824–33. <https://doi.org/10.58258/jisip.v7i1.4086>.
- 20) Nurhayati, Yati. "Jual Beli Aset Perseroan Terbatas." *Jurnal Yudisial* 15, no. 3 (3 April 2023): 405–22. <https://doi.org/10.29123/jy.v15i3.509>.
- 21) Nurillah, Isma, dan Nashriana Nashriana. "Gatekeeper Dalam Skema Korupsi Dan Praktik Pencucian Uang." *Simbur Cahaya* 26, no. 2 (17 Januari 2020): 207–29. <https://doi.org/10.28946/sc.v26i2.444>.
- 22) Pratama, Ari Latif, Ridwan Ridwan, dan Elmadiantini Elmadiantini. "Analisis Hukum Tentang Wewenang Notaris Dalam Pembuatan Akta Ikrar Wakaf." *Repertorium: Jurnal Ilmiah Hukum Kenotariatan* 4, no. 1 (23 Juli 2018): 61–78. <https://doi.org/10.28946/rpt.v4i1.171>.
- 23) Rahmat, Andi Muhammad. "Perlindungan Hukum terhadap Notaris yang Beritikad Baik Membuat Akta Jual Beli Saham dalam Kasus Tindak Pidana Pencucian Uang." *Lentera Hukum* 6, no. 1 (28 April 2019): 97–116. <https://doi.org/10.19184/ejhl.v6i1.9669>.
- 24) Rajagukguk, Erman. "Rezim Anti Pencucian Uang Dan Undang-Undang Tindak Pidana Pencucian Uang." Medan: Fakultas Hukum Universitas Sumatera Utara, 2005.
- 25) Ratnawati, Ayu. "Peranan Notaris untuk Pembuatan Akta Pendirian (CV) dalam Mewujudkan Kepastian Hukum." *Jurnal Repertorium* 2, no. 2 (t.t.): 154–60.
- 26) Rosihan, Reynaldi Putra. "Analisis Yuridis Notaris Sebagai Pihak Pelapor Dalam Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang (Studi Pasal 3 Huruf (b) PP RI Nomor 43 Tahun 2015 Tentang Pihak Pelapor Dalam Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang)." *Jurnal Hukum Kaidah: Media Komunikasi Dan Informasi Hukum Dan Masyarakat* 20, no. 1 (2 Desember 2020): 26–35. <https://doi.org/10.30743/jhk.v20i1.3257>.
- 27) Sulihandari, Hartanti, dan Nisya Rifiani. *Prinsip-Prinsip Dasar Profesi Notaris (Berdasarkan Peraturan Perundang-Undangan Terbaru)*. Jakarta: Dunia Cerdas, 2013.
- 28) Susanti, Dyah Ochtorina, dan A'an Efendi. *Penelitian Hukum*. Jakarta: Sinar Grafika, 2014.
- 29) Sutedi, Adrian. *Tindak Pidana Pencucian Uang*. Bandung: PT. Citra Aditya Bakti, 2008.

Notary Efforts in the Prevention of Money Laundering

- 30) Widjaja, Michael Nugroho. “Peran Notaris dalam Penerapan Prinsip Mengenali Pemilik Manfaat dalam Pendirian Korporasi.” *Universitas Indonesia*, t.t., 1–24.
- 31) Wiyono, R. *Pembahasan Undang-Undang Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang*. Jakarta: Sinar Grafika, 2014.
- 32) Wulandari, Lifia Feby. “Kepastian Hukum Pengambilalihan Saham (Akuisisi) Perseroan Terbatas Tertutup Dengan Akta Jual Beli Saham.” *Recital Review* 3, no. 2 (31 Desember 2021): 232–56. <https://doi.org/10.22437/rr.v3i2.12939>.



There is an Open Access article, distributed under the term of the Creative Commons Attribution – Non Commercial 4.0 International (CC BY-NC 4.0) (<https://creativecommons.org/licenses/by-nc/4.0/>), which permits remixing, adapting and building upon the work for non-commercial use, provided the original work is properly cited.