



## ACCOUNTABILITY FOR CORRUPTION IN THE CRIME OF MONEY LAUNDERING IN THE PRINCIPLES OF CRIMINAL LAW IN INDONESIA

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### ABSTRACT

*The purpose of this writing is to find out the forms of money laundering carried out by corporate actors, to find out the form of responsibility of a company in the crime of money laundering, to examine the forms of responsibility for corporate criminal acts in the regulations existing in legislation and to examine non-criminal liability. corporations in money laundering criminal cases. This writing is descriptive in order to get a picture of the existing problems, which are then analyzed deductively. There are three types of criminal money laundering by corporations, namely placing, layering and merging. Corporate subjects will receive criminal penalties according to their actions. As stated in article 6 of Law No. 8 of 2010, money laundering as referred to in articles 3, 4 and 5 is carried out by corporations so that penalties will be imposed on corporate control personnel. If personnel are unable to pay, they will be replaced by confiscation of the corporation and the company's controlling personnel. And if that is not enough, prison can be replaced by a company control fine.*

***Keywords: Liability, Corporations, Money Laundering, Crime, Companies.***

### INTRODUCTION

Indonesia is currently being hit by contemporary criminal cases that could threaten our country's environment. The crime of money laundering is a form of crime with an international dimension, which is often committed by society today. Money laundering is a form of depositing or investing money originating from extortion, narcotics transactions and other illegal sources. So where the money comes from is difficult for anyone to know. The term money laundering has been known since 1930 in the United States. The emergence of this term was related to laundry companies because at that time the crime of money laundering was carried out by the mafia through purchasing clothes laundering companies as a place to launder money from crime, so that is where the term money laundering emerged.

Not only in foreign countries, in Indonesia there are still many cases of money laundering. Money laundering whether carried out by individuals or companies/corporations. A company has two different impacts, namely positive impacts and negative impacts. The crime of money laundering will of course have a negative impact so this can certainly cause quite serious problems, especially the country's economic problems. According to the head of the investment and capital development agency, No: Kep-23/M.PM.PBUMN/2000, regarding Good Corporate Governance which is an appropriate company principle that must be applied in company management. This is done to ensure the company's interests in achieving its goals. Because with the large number of money laundering cases in a country, that country's budget will also decrease.

Because a lot of state expenditure has no clear use because of money laundering. The perpetrators usually invest in property in countries where they consider it safe to do so so that the returns they get are lower and safer if they do it abroad because it is protected by the laws of that country, Understanding the Anti-Money Laundering Regime in Indonesia, was conveyed in a legal discussion with the theme "Knowing, Knowing to Prevent the Crime of Money Laundering" organized by DPCPERMAHI Medan. The crime of money laundering can not only harm the country itself, but money laundering cases can potentially disrupt the international economy. Because it can slow down the effectiveness and operating system of the economy and can lead to bad economic policies. This makes other countries and international organizations pay special attention to handling and resolving this problem.

In this modern era, money laundering is not only carried out by individuals, but now money laundering is mostly carried out by corporations. Initially there was an opinion that a company could not be sued and could not commit a crime, but this rule has slowly been eroded and replaced by accountability by the perpetrators of the crime. According to the Fockema Andreae Law Dictionary, a corporation is a legal entity that is bound and has a specific purpose, which shows the legal subject itself.

This money laundering action can be carried out by embezzling funds and then investing them so that the funds that come out are not known. So that many corporate companies generate quite large amounts of wealth relatively quickly. Indonesia, as one of the developing countries, currently places great emphasis on economic development on the private sector, which is now dominated by corporations. However, many corporations now commit money laundering crimes so that the origin of the assets is difficult for law enforcement officials to trace. Apart from that, there are many other factors that cause money laundering to occur by corporations. Among other things is the attitude of the judiciary which does not view violations committed by corporations as criminals and crimes, and then wants to seek large profits in a fast effective time, a weak government system and laws that can still be seen as weak. Talking about the criminal law system certainly cannot be separated from the relationship between criminal acts and the form of responsibility for these criminal acts. As we know, criminal law is the law that regulates violations and crimes in society, where these acts can be threatened with punishment in the form of suffering or torture. Criminal law regulates violations and crimes that violate legal norms regarding public interests that apply in society. So criminal law is not a law that creates new norms. The application of criminal law is not only in Indonesia. But many other countries also apply criminal law systems, such as the Netherlands and France, which have implemented criminal law since the colonial era.

In Indonesia itself, money laundering cases have been regulated legally in Law of the Republic of Indonesia No. 8 of 2010 concerning the prevention and eradication of criminal acts of money laundering committed by corporations. It regulates that corporations can also be subject to sanctions or criminal penalties if it is proven that the proceeds of money laundering are used to carry out activities to seek profit in the corporation's business. In general, money launderers do not really consider the results they will obtain and the

amount of costs they will incur. Because the main aim of the crime of money laundering is to disguise or eliminate the origin of the money. Then they can enjoy the results in the future. In Law No. 8 of 2010 concerning the crime of money laundering, it is stipulated that the Directing Mind of a corporation is the management of the corporation itself, as long as the management has a functional position in the corporate organizational structure. However, many parties conflict with this, they argue that sanctions or punishments regarding the crime of money laundering should be imposed on the corporation itself, because this can benefit the corporation directly. In cases of money laundering carried out by corporations in Indonesia, only corporate control personnel receive sanctions which are then processed legally so that the funds resulting from the money laundering are still used by the corporation in carrying out its business activities. Currently, in several countries in the world, corporations have been recognized as the subject of violations and can be held accountable by criminal law. In Indonesia itself, the initial recognition of corporations as the subject of violations was regulated in Emergency Law no. 17 of 1951 concerning Hoarding of Goods. Four years later, this criminal act was re-enforced through Law No. 7 of 1955 concerning prosecutorial investigations and economic crime trials. In the a quo regulation, corporations are not only defined as the subject of violations but are also regulated in criminal proceedings or criminal proceedings.

### **LITERATURE REVIEW**

Based on the problems above, a problem formulation can be given, namely:

1. What are the Criminal Regulations for Money Laundering?
2. What is the Position of Corporations in the Crime of Money Laundering?

### **METHOD**

This research uses a normative legal research study, where the author only examines existing legal theories that are linked to various laws and regulations relating to money laundering criminal cases and criminal responsibility for corporations. This research uses secondary data, obtained from both print and online media.

### **RESULTS AND DISCUSSION**

#### **A. Criminal Regulations for Money Laundering**

Various crimes in a country are increasing day by day, crimes are not only committed by individuals but also by corporations. Either done within the country or across the borders of other countries. These crimes can include corruption, money laundering, drugs, theft, fraud, forgery, and various other white collar crimes (White Collar Crime). The examples of crimes above can cause losses for the victims and can result in quite large profits for the perpetrators.

The proceeds of wealth or profits obtained from the various criminal acts above are generally not spent directly. So usually money launderers first try to get the assets they get into their financial system first so that the money is safe and difficult for anyone to trace, so they don't immediately spend the profits they get. Because if the proceeds of the wealth

are directly spent by the perpetrator, the proceeds of the wealth will be easily traced by the legal entity. In general, the elements of a money laundering crime are as follows:

- a. The existence of money (funds) which are illegal or invalid in the eyes of the law.
- b. There is illicit money (dirty money) which is processed in certain ways through legal (legitimate) institutions so that the perpetrators get large profits.
- c. With the aim of eliminating traces, so that the source of origin cannot or is very difficult to be known and traced by legal entities because the profits are not directly spent on goods.

The crime of money laundering is regulated in Law no. 5 of 2010. Types of money laundering are divided into 3 types, namely:

1. Active money laundering crime  
What this means is a criminal act committed by someone who places, transfers, spends goods, changes the form, or exchanges money or securities or other things from the proceeds of money laundering. This can be subject to Article 2 paragraph (1) with the aim of hiding or disguising the origin of his assets, being punished for the crime of money laundering with a maximum imprisonment of 20 years or a maximum fine of Rp. 10,000,000,000.00 (ten billion rupiah)(Law No. 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering, Article 3).
2. A criminal offense for perpetrators who enjoy the results  
The crime of money laundering can also be imposed on those who enjoy the proceeds of a money laundering crime by hiding or embezzling the origin of the source of the money. This is an example of a criminal offense as contained in article 2 paragraph (1) which is punishable for the crime of money laundering with a maximum imprisonment of 20 years and a maximum fine of Rp. 5,000,000,000.00 (five billion rupiah)(Law No. 8 of 2010 concerning Prevention and Eradication of the Crime of Money Laundering, Article 4).
3. Passive money laundering crime: This crime is imposed on someone who receives or controls the profits from money laundering. This is included in Article 2 Paragraph (1) of the Law which is punishable by a maximum imprisonment of 5 years and a maximum fine of Rp. 1,000,000,000.00 (one billion rupiah) because this is also the same as committing a money laundering crime. However, reporting parties who carry out reporting obligations as regulated in this law are exempt (Law No. 8 of 2010 concerning Prevention and Eradication of the Crime of Money Laundering, Article 5 Paragraph (1)).

## **B. The Position of Corporations in the Crime of Money Laundering**

The crime of money laundering can be carried out without having to travel far abroad. Money laundering can be done easily. As time goes by, society is becoming more sophisticated in using electronic media, but sometimes electronic media and mass media

are often misused. One of them is the crime of money laundering. This can be done via electronic media (cyberspace) or the internet. Where payments can be made via banks either electronically or to the bank directly. So that money laundering criminals can deposit dirty money in a bank without including their identity.

Money laundering crimes in Indonesia are increasingly rampant. Even though corporations have contributed a lot to the development of the country's economy. However, nowadays many corporations commit money laundering crimes. This certainly raises concerns for Indonesian citizens. Due to the large number of cases of money laundering by corporations, there is a need for serious handling of money laundering criminals. This handling is carried out by law enforcement officials ranging from the police to legal institutions established based on the law. So law enforcement officers must be able to act as protectors and regulators in social life so that prolonged cases do not occur. Initially, corporations were not the main subject of criminal acts, this can be seen from the history in article 59 of the Criminal Code. However, over time corporations can be accepted as subjects of criminal law and can be held accountable for the criminal acts they commit. The subject of money laundering crimes can be individuals or corporations. The criminal subject of individual money laundering is regulated in Article 1 Paragraph 9, Article 3, Article 4, Article 5, Article 10 and others. Meanwhile, the subject of money laundering crimes committed by corporations is regulated in Article 1 Paragraph 9 of Law No. 8 of 2010 onwards. Criminal penalties can be imposed on a corporation if the crime of money laundering is ordered by corporate control personnel with the aim of making a profit for the corporation itself. According to Article 6 of Law No. 8 of 2010, a crime can be imposed on a corporation for a money laundering case if:

1. Carried out or ordered by corporate control personnel.
2. Carried out in order to fulfill the aims and objectives of the corporation.
3. Carried out in accordance with the duties and functions of the perpetrator or giver of orders.
4. Done with the intention of providing benefits to the corporation

## CLOSING

### Conclusion

The crime of money laundering is an act that has quite a big impact on the state, which can harm the state and the surrounding community. Especially money laundering crimes committed by corporations. This of course has a big negative impact, especially in the economic sector. Because private companies are a source of state income. So if there are a lot of money laundering crimes, it will hamper the country's economy. And it can hamper the international economy.

The crime of money laundering in Indonesia is regulated in Law No. 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering. Meanwhile, corporations as the subject of money laundering crimes are regulated in Article 6 Paragraph (1) of Law No. 8 of 2010 concerning Prevention and Eradication of



Money Laundering Crimes. Corporations that commit money laundering crimes will be held criminally responsible for the cases they commit. In accordance with the elements stipulated in the law. Criminal acts of money laundering carried out by these corporations will result in criminal sanctions in the form of prison sentences or other additional fines. And if the fine obtained cannot be paid, it will be replaced by confiscation of the proceeds of the corporation's assets. And if the corporation's assets are still insufficient to pay the criminal penalty. Therefore, corporate control personnel will be sentenced to imprisonment for 1-4 years.

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