

**Prevention of Money Laundering Crimes through customer due diligence
and enhanced due diligence in Savings and Loans Cooperatives
(Study of Savings and Loans Cooperatives in Medan)**

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ABSTRACT

Money Laundering Crimes are carried out by various Financial Services Companies. Article 17 of Law Number 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering states that the companies involved in TPPU, one of the service provider companies in Article 17 is a cooperative that carries out savings and loan activities. The problems in this research are how to regulate the prevention of money laundering crimes through savings and loan cooperatives, what is the accountability of savings and loan cooperatives involved in money laundering crimes, then how is the implementation of the principles of customer due diligence and enhanced due diligence in preventing and eradicating money laundering crimes in saving and loan cooperative. This research uses normative and empirical legal research methods. The research approach is a statutory approach or a juridical approach, the material in this thesis is taken from secondary data. The data collection techniques that the researcher carried out were interviews and literature studies. The results of the analysis and research in this thesis are to analyze and find out all the arrangements for preventing money laundering crimes through savings and loan cooperatives, to analyze the accountability of savings and loan cooperatives involved in money laundering crimes, so that they know and analyze the implementation of the principles of customer due diligence and enhanced due diligence. diligence in savings and loan cooperatives. Arrangements for TPPU Prevention through KSP through Article 18 of the PPTPPU Law, Article 13 POJK No 12/POJK.01/2017, regulations of the Minister of Cooperatives and Small and Medium Enterprises as regulated in Article 8 of the Minister of Cooperatives and SMEs Regulation, KSP responsibilities involved in TPPU will be given administrative sanctions, The punishment that can be used on cooperatives is the basic penalty and additional criminal penalties. Implementing the principles of customer due diligence and enhanced due diligence in KSP has been implemented in Savings and Loans Cooperatives by prioritizing assessments of customers who wish to apply for loans or deposit money.

Keywords: Money Laundering Crime, Customer Due Diligence and Enhanced Due Diligence, Savings and Loans Cooperatives.

A. Introduction

The crime of money laundering (hereinafter referred to as TPPU) is carried out by various financial services companies. Article 17 of Law Number 8 of 2010 concerning the

Prevention and Eradication of the Crime of Money Laundering (hereinafter referred to as the PPTPPU Law) states that companies involved in carrying out TPPU, one of which is the service provider company in Article 17 is the cooperative which carries out savings and loan activities.

The National Risk Assessment is a general overview of TPPU risks nationally. To deepen the risk assessment, a sectoral risk assessment or sectoral risk assessment is carried out. Sectoral risk assessments are carried out by law enforcement agencies (LPH) and supervisory and regulatory agencies (LPP), including PPATK as LPP for Goods and Services Providers and several professions. The sectoral risk assessment that has been carried out, among other things, shows that the province of North Sumatra along with 5 (five) other provinces is a high risk area for TPPU in the Financial Services Provider sector such as banking and insurance. It does not rule out the possibility that KSP can also be used as a place for criminal fraud to be carried out by criminals. Medan City, which is the capital of North Sumatra Province, has KSPs that are of concern to prevent TPPU from occurring at KSPs in Medan City, by implementing the principles of Customer Due Diligence and Enhanced Due Diligence.

Regarding the explanation above, cases of TPPU carried out by the Savings and Loans Cooperative (hereinafter referred to as KSP) also occurred. Data from the Center for Financial Transaction Reports and Analysis (hereinafter referred to as PPATK) in 2021 shows a 5.76% risk of TPPU carried out by KSP. The shift in the use of PJK from banking to KSP as a means of carrying out TPPU has prompted the Ministry of Cooperatives and Small and Medium Enterprises to issue various regulations and strengthen supervision. This supervision serves as an effort to maintain the integrity of KSP as a cornerstone of the economy. The supervision carried out includes checking compliance, institutionalization, assessing the health of cooperatives, and checking savings and loan businesses.

The principle of knowing your customer requires comprehensive information in addition to the customer's identity or identity, as well as matters related to the profile and character of customer transactions carried out through financial service providers. Explanation of Article 18 paragraph (2) of the PPTPPU Law, the principle of knowing customers is known as the principle of recognizing service users. The explanation of this article states that what is

meant by applying the principle of recognizing Service Users is Customer Due Diligence and Enhanced Due Diligence.

Customer Due Diligence and Enhanced Due Diligence are actions in the form of identification, verification and monitoring carried out by PJK to ensure that transactions are in accordance with the profile of prospective customers, walk-in customers (hereinafter referred to as WIC) or customers to protect the health of the bank, where EDD is more in-depth in relation to profile of prospective customers, WIC, or customers who are classified as high risk. There are several money laundering cases involving KSP, for example the KSP Persada Madani case. This case started when several cooperative administrators provided investment products from KSP Persada Madani to members and the community in the form of fund participation through investment term savings products and multipurpose in the form of investment.

Apart from the cases above, there are cases where KSP is used as a place to store money from the proceeds of crime. For example, the case at the Palembang District Court, Case No. 1010/Pid.B/2019/PN.Plg. This case began when the defendant, on behalf of Ir. Basta Siahaan who carried out plantation activities without the Minister's permission in forest areas in the period 2012-2017 in Production Forest Areas since 2001, and also carried heavy equipment to carry out plantation activities and transport plantation products without permission from the Minister of Environment and Forestry, and commit TPPU from the proceeds of the forestry crime.

In connection with the above, I am interested in raising the issue regarding the Prevention of Money Laundering in Savings and Loans Cooperatives. This research is entitled "Prevention of Money Laundering Crimes Through Customer Due Diligence and Enhanced Due Diligence in Savings and Loans Cooperatives (Study of Savings and Loans Cooperatives in Medan).

B. Research Methods

A study cannot be said to be research if it does not have a research method.¹ Research methods are one of the factors of a problem that will be discussed.² The study was carried out using secondary data which was analyzed qualitatively using the Desk Research Method. The literature materials used in writing this research are several references originating from the results of research, studies and reviews of several papers which are then summarized into a work of scientific writing.

C. Analysis And Discussion

1. Arrangements for the Prevention of Money Laundering through Savings and Loans Cooperatives

The PPTPPU Law states that every person within or outside the territory of the Unitary State of the Republic of Indonesia who participates in carrying out attempts, assistance or criminal conspiracy to commit a criminal act of money laundering shall be punished with the same crime as in Article 3, Article 4, and Article 5.

The provisions in Article 5 paragraph (1) of the PPTPPU Law are excluded for reporting parties who carry out reporting obligations. For TPPU offenses as in Article 3, Article 4 and Article 5 of the PPTPPU Law committed by a corporation, the criminal penalty is imposed on the corporation and/or Corporate Control Personnel. Apart from the provisions of Article 2, Article 3, Article 4 and Article 5, there are other articles which regulate criminal acts related to money laundering. Other criminal acts related to TPPU are regulated in Article 11, Article 12, Article 14, Article 15 and Article 16 of the PPTPPU Law.

PJK is given obligations by the Financial Services Authority in general through Article 13 paragraph (4) of Financial Services Regulation No. 12/POJK.01/2017 concerning the Implementation of the Anti-Money Laundering and Prevention of Terrorism Financing Program to implement CDD, which is part of the Anti-Money Laundering and Prevention of Terrorism Financing Program. Juridically, the explanation of CDD is regulated in Article 1

¹ Ismail Koto, "Perlindungan Hukum Terhadap Korban Tindak Pidana Terorisme", *Proceeding Seminar Nasional Kewirausahaan*, 2.1, (2021): 1052-1059.

² Ida Hanifah, Ismail Koto, "Problema Hukum Seputar Tunjangan Hari Raya Di Masa Pandemi COVID-19", *Jurnal Yuridis* 8.1, (2021): 23-42.

number 11 of Financial Services Authority Regulation No. 12/POJK.01/2017 concerning the Implementation of Anti-Money Laundering and Prevention of Terrorism Financing Programs in the Financial Services Sector, namely "Customer Due Diligence or CDD is an activity in the form of identification, verification and monitoring carried out by Financial Services Providers (PJK) to ensure transactions are appropriate with the profile, characteristics, and/or transaction patterns of Prospective Customers, Customers, or Walk in Customers (WIC)".

The regulations for preventing the crime of money laundering through KSP are contained in the Regulation of the Minister of Cooperatives and Small and Medium Enterprises as regulated in Article 8 of the Minister of Cooperatives Regulation Number 06/PER/M.KUKM/V /2017. The importance of the PPTPPU Law as a guideline for realizing the hopes of many parties as law. to take into account various crime patterns that lead to money laundering activities. The target of this law is to prevent and eradicate money laundering systems or processes in the form of placement, layering and integration. Because the main targets for money laundering activities are bank and non-bank financial institutions, the regulatory targets of this law include the active roles of these institutions to anticipate money laundering crimes.

Furthermore, if it is known that the type of corporation is a cooperative, then to find out who is meant by the management of the cooperative, you must refer to the Cooperative Law, namely the cooperative organizational structure consisting of member meetings, management and supervisors.

When imposing criminal liability on corporations, the PPTPPU Law applies the doctrine of identification when imposing corporate liability. The PPTPPU Law stipulates that the directing mind of a corporation is "corporate management as long as the management has a functional position in the corporate organizational structure".

2. Accountability of Savings and Loans Cooperatives Involved in Money Laundering Crimes

If the loss is not the result of deliberate action or is not the result of the Management's negligence, and the Management can prove this, then he is free from this responsibility. This is the cooperative itself which is responsible in its position as a legal entity. However, when

the loss is the result of deliberate action by the Management and is responsible for compensating the loss, it does not rule out the possibility for the public prosecutor to bring criminal charges.

The PPTPPU Law also provides for the possibility of imposing imprisonment in lieu of fines imposed on Corporate Control Personnel by estimating the fines that have been paid. In the matter of corporate criminal liability, it should be noted that in various countries the prosecution and punishment of corporations is known as what is called "punishment provisions" meaning that both the perpetrators (managers) and the corporation itself can be made the subject of punishment, in addition it is also necessary to pay close attention to the effects of punishment on the corporation. negative impact.

The tools used to commit criminal acts of money laundering are financial service institutions, such as banks, insurance companies, cooperatives that carry out savings and loan activities, securities and so on and can also be through media such as property companies, the entertainment industry, and so on. The most widely used is through banking media, but it cannot be denied that KSP is also used in TPPU. The benefits of implementing CDD principles in KSP are that KSP is expected to be able to obtain clearer information about prospective customers, get to know customers and understand the transactions carried out by customers, identify abnormal or suspicious customer transactions, protect the reputation and integrity of cooperatives, facilitate compliance with provisions, protect cooperatives that carry out savings and loan business activities from external threats, namely being used as a means of money laundering or targets of crime.

Furthermore, we also observe human resources, in this case law enforcement officers and all agencies related to the anti-money laundering regime. With the disclosure of the use of cooperatives as a mode of money laundering, we cannot deny that in the future potential perpetrators will carry out money laundering crimes using other new modes.

3. Implementation of the Principles of Customer Due Diligence and Enhanced Due Diligence in Preventing Money Laundering in Savings and Loans Cooperatives

The principle of knowing your customer in Indonesia first appeared on June 18 2001, Bank Indonesia issued Bank Indonesia regulation Number 3/10/PBI/2001 concerning the

Principle of Knowing Your Customer. Bank Indonesia issued this regulation against the background of the increasing development of banking business activities so that banks are faced with various operational risks, legal risks, and also reputational transaction risks. With these various risks, banks are often used as a means of crime, especially TPPU.

In connection with the application of CDD and EDD principles in the cooperative industry, the results of the researcher's interview with Mrs. Angel Sibarani as a cooperative administrator at KSP Bona Mandiri explained that the regulations regarding CDD and EDD have been implemented in KSP Bona Mandiri. KSP itself has prioritized assessments of customers who wish to apply for loans or deposit money. Apart from that, Mrs. Angel Sibarani also stated that the application of CDD and EDD principles in preventing money laundering at KSP in Medan City was carried out by finding out or surveying potential customers who would borrow or save money at the KSP.

It can be concluded that the application of CDD and EDD principles in preventing and eradicating money laundering at KSP Medan is carried out in the following way:

1. Collaborating with Bank Indonesia and PPATK.
2. Active supervision and internal control as implementation of the principle of recognizing service users.
3. Meanwhile, for high risk customers, KSP is required to carry out EDD, which is a more in-depth CDD action.
4. Carry out actions in the form of identification, verification and monitoring carried out by financial service providers or the financial industry.
5. Carrying out verification actions on information obtained from prospective customers through various media.
6. Financial Services Providers are also required to update data and monitor business relationships with customers and ensure that transactions carried out by customers are in line with established regulations.
7. CS asks prospective customers to fill out the Customer Identification File (CIF) form with the prospective customer's identity card attached.

8. Apart from that, cooperative officers also carry out actions in the form of surveys directly to customers' homes and also check the customer's background.
9. Implementation of EDD activities such as obtaining additional materials to identify potential customers, finding out more about the source of prospective customers' wealth, understanding the business relationship that will be carried out, and carrying out continuous observations.

The implementation of CDD helps protect KSP from various risks in KSP business activities, such as operational risks, legal risks, and prevents the PJK industry from being used as a means or target for criminal acts, especially money laundering. CDD is an activity in the form of identification, verification and monitoring carried out by KSP to ensure that the transaction is in accordance with the profile of the prospective customer.

Based on the results of the researcher's interview with Mrs. Melisa Gultom as a cooperative administrator at KSP Uli Lamganda Mandiri, in overcoming obstacles to implementing the principles of customer due diligence and enhanced due diligence in preventing money laundering crimes at KSP, namely by always following the procedures and SOPs at KSP Uli Lamganda Mandiri is very strict regarding requirements so as to prevent money laundering.

Another opinion was also expressed by Mrs. Sofianti as administrator of the KSP CU Tunas Mekar cooperative who explained that efforts were made to overcome obstacles to implementing the principles of customer due diligence and enhanced due diligence in preventing the crime of money laundering at KSP, namely by providing training and counseling to all management, members and employees of cooperatives regarding the Regulations of the Minister of Cooperatives and also following and implementing programs from PPATK in the event that Cooperatives become places for money laundering.

It can be concluded that the efforts to overcome obstacles in implementing CDD and EDD principles in KSP are as follows:

1. Always follow the procedures and SOPs at KSP which are very strict regarding requirements to prevent money laundering.

2. Provide training and counseling to all administrators, members and employees of cooperatives regarding the Regulations of the Minister of Cooperatives and also take part in and implement programs from PPATK in the event that Cooperatives become places for money laundering.
3. Prioritize assessments of customers who wish to apply for loans or deposit money.
4. KSP also implements CDD and EDD policies, active supervision and internal control as implementation of the principle of recognizing service users.
5. The attitude of KSP employees and administrators must be honest, then follow and complete all existing administrative procedures.
6. KSP in this case has a maximum limit for storing money in KSP, so that if there are customers who want to make transactions in large amounts, they will refuse the transaction, in order to avoid KSP being used as a storage place for money obtained from crime..

D. Conclusion

Arrangements for TPPU Prevention through KSP through article 18 of the PPTPPU Law, article 13 POJK No 12/POJK.01/2017, regulations of the Minister of Cooperatives and Small and Medium Enterprises as regulated in Article 8 of the Minister of Cooperatives and SMEs Regulation, relating to the regulation of preventing money laundering through savings cooperatives borrow, as regulated in the PPTPPU Law. The accountability of KSPs involved in TPPU will be. In addition, cooperative members cannot be held criminally liable for their involvement in a money laundering crime committed by a savings and loan cooperative because Article 34 of the Cooperative Law only regulates the responsibility imposed on cooperative administrators. The punishment that can be used against cooperatives is the main penalty and additional penalties. Criminal charges can be imposed on KSP if TPPU is carried out or ordered by cooperative control personnel, is carried out in terms of fulfilling the aims and objectives of the corporation, is carried out in accordance with the duties and functions of the perpetrator or giver of the order, and is carried out with the intention of providing benefits to the corporation. Based on research results in KSP Medan City, there are still several KSPs

that have not implemented the principles of customer due diligence and enhanced due diligence by prioritizing assessments of customers who wish to apply for loans or deposit money. KSPs that do not apply CDD or EDD principles will be subject to administrative sanctions in accordance with Article 47 of the Minister of Cooperatives and UKM Regulation. The aim of implementing CDD and EDD principles is basically for the benefit of KSPs and service users themselves, so that they can avoid various problems that can arise during business relations, specifically as a first step in preventing TPPU.

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