

Implementasi prinsip customer due diligence pada operasional bank umum sebagai upaya pencegahan kejahatan pencucian uang di Indonesia = Implementation of customer due diligence principles of bank operating as a prevention efforts of money laundering crime in Indonesia

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Abstrak

Penulisan tesis ini menggunakan metode yuridis normatif yang mengutamakan studi kepustakaan dan berfokus kepada implementasi prinsip Customer Due Diligence (CDD) di Indonesia sebagai upaya pencegahan terjadinya kejahatan pencucian uang. Tujuan penulisan tesis ini adalah untuk memahami pentingnya implementasi prinsip Customer Due Diligence pada operasional perbankan secara tepat dan maksimal untuk mencegah aktivitas pencucian uang yang disertai dengan sistem regulasi dan supervisi yang efektif pula.

Penelitian ini bersifat kualitatif dengan menggunakan metode yuridis normatif melalui kajian kepustakaan terhadap berbagai sumber hukum primer mencakup berbagai peraturan perundang-undangan dan konvensi internasional serta data sekunder seperti pendapat para ahli, referensi terkait dan wawancara.

Hasil penelitian penulis menemukan bahwa kejahatan pencucian uang sudah menjadi musuh dan ketakutan bagi seluruh bangsa di dunia bahkan berbagai kesepakatan internasional terkait upaya memerangi pencucian uang berkembang semakin dinamis mengikuti perkembangan zaman, kejahatan dan juga sistem hukum yang semakin maju di seluruh dunia. Oleh karena itu, semua bangsa, termasuk Indonesia, harus sepakat bahwa pencucian uang adalah suatu kejahatan yang harus diperangi bersama-sama melalui berbagai upaya baik dalam bentuk regulasi, pengawasan, hukuman dan penghargaan sehingga Indonesia juga dianggap sebagai Negara yang koperatif dan berkomitmen untuk ikut mencegah terjadinya Tindak Pidana Pencucian Uang (TPPU). UU No.8 Tahun 2010 tentang pencegahan dan pemberantasan TPPU sebenarnya sudah cukup representatif bahkan memuat juga tentang tugas, tanggung jawab dan wewenang PPAK sebagai Financial Intelligence Unit (FIU) yang juga memiliki wewenang terhadap operasional perbankan secara terbatas terkait pelaporan dan pengawasan terhadap penerapan prinsip Customer Due Diligence dan transaksi mencurigakan sebagaimana diatur dalam Peraturan Bank Indonesia No.11/28/PBI Tahun 2009 tentang Penerapan Program Anti Pencucian Uang dan Pencegahan Pendanaan Terorisme Bagi Bank Umum. Penulis menyarankan kepada Pemerintah dan Dewan Perwakilan Rakyat selaku legislator untuk melakukan pembaharuan terhadap UU No.7 Tahun 1992 tentang Perbankan yang mengakomodir semangat pencegahan TPPU dalam kegiatan operasionalnya serta memberikan penegasan dan kepastian hukum terhadap tugas, wewenang dan koordinasi antara Bank dengan Bank Indonesia serta PPAK khususnya terkait penerapan prinsip CDD. Selain itu penulis juga menyampaikan beberapa saran dan rekomendasi terkait dengan permasalahan tersebut.

.....This thesis using juridical normative analyse method and library researches which focuses on the implementation of the principle of Customer Due Diligence (CDD) in Indonesia as the prevention of money laundering. The objective of this thesis is to understand the importance of implementing the principle of Customer Due Diligence on the right bank operations and the maximum to prevent money laundering

activity is accompanied by a system of effective regulation and supervision as well.

This research is qualitative by using method of juridical normative literature through the study of the various sources of primary law covers a wide range of legislation and international conventions as well as secondary data such as opinions of experts, related references and interviews.

The study authors found that money laundering has become the enemy and fear for the whole nation in the world and even the various international agreements related to combating money laundering is growing increasingly dynamic with the times, crime and legal systems are also more advanced in the world.

Therefore, all nations, including Indonesia, have agreed that money laundering is a crime that must be fought together through various efforts in the form of regulation, supervision, punishment and reward so that Indonesia is also regarded as a cooperative state and is committed to help prevent the Money Laundering (AML). Law No. 8 of 2010 on the prevention and eradication of AML is already quite representative even includes also the tasks, responsibilities and authority PPATK as Financial Intelligence Unit (FIU), which also has the authority of a limited banking operations related to reporting and monitoring the implementation of the principles of Customer Due Diligence and suspicious transactions as formed in Peraturan Bank Indonesia No.11/28/PBI Tahun 2009 tentang Penerapan Program Anti Pencucian Uang dan Pencegahan Pendanaan Terorisme Bagi Bank Umum.

However, it is still not adequate because if the government realized that the banks are very vulnerable to be exploited by moneylaundering activity, especially at the placement stage of the author recommends to the Government and Parliament as a legislator for reform of the Act No.7 of 1992 to accommodate prevention of Money Laundering in the spirit of its operations and provide legal certainty to the affirmation and duties, authority and coordination between Bank Indonesia and Bank with PPATK, especially related to the application of the principle of CDD. Moreover, the authors also present several suggestions and recommendations related to the problem.