

Kewajiban Bank Merahasiakan Informasi Transaksi Keuangan Mencurigakan dalam Perspektif Anti-Tipping Off = The Duty of Banks to Keep Information of Suspicious Financial Transaction Reports Confidential in Anti-Tipping off Perspective

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Abstrak

Sebagai bagian dari ketentuan khusus atas ketentuan kerahasiaan di dalam UU Perbankan pada rezim anti-pencucian uang dan pencegahan pendanaan terorisme (APU-PPT), terdapat kewajiban bagi bank untuk merahasiakan informasi terkait transaksi keuangan mencurigakan, melalui ketentuan anti-tipping off yang diatur di dalam Pasal 12 UU TPPU. Ketentuan tersebut sendiri diatur di dalam UU TPPU sebagai manifestasi kongkrit atas kepatuhan Indonesia terhadap FATF Recommendations. Yang mana ketentuan anti-tipping off dikualifisir melalui Rekomendasi 21 FATF Recommendations. Sayangnya, oleh penulis masih ditemukan beberapa hal yang menunjukkan ketidaksesuaian antara FATF Recommendations dengan ketentuan anti-tipping off di dalam UU TPPU. Tesis ini disusun dengan menggunakan metode penelitian normatif yang dalam pengolahan dan analisis datanya menggunakan metode analisis data kualitatif, dengan disertai analisis konseptual, peraturan perundang-undangan, dan komparatif (Singapura, Swedia, Malaysia, dan Pakistan). Melalui analisis tersebut, penulis menguraikan persoalan dan fakta secara tertulis dari bahan kepustakaan serta didukung oleh wawancara narasumber sebagai penunjang, yang pada akhirnya akan ditarik sebuah kesimpulan. Melalui tesis ini, dapat disampaikan hasil penelitian berupa: (a) indikator yang diperlukan untuk menentukan bahwa suatu perbuatan melanggar ketentuan anti tipping off di sektor perbankan, ditentukan di dalam norma Pasal 12 UU TPPU; (b) problematika hukum yang timbul seputar pengaturan ketentuan anti-tipping off di sektor perbankan ditimbulkan oleh adanya vage normen (ketidakjelasan norma) atau ketidakselarasan antara ketentuan FATF Recommendations terkait anti-tipping off dengan norma anti-tipping off di dalam UU TPPU; dan (c) arah pengaturan yang ideal mengenai kewajiban bank merahasiakan informasi TKM dalam perspektif anti-tipping off dapat diwujudkan melalui upaya penyelarasan norma Pasal 12 UU TPPU dengan ketentuan Rekomendasi 21 dan ketentuan information sharing pada Rekomendasi 18 FATF Recommendations sebagai standar internasional terkait ketentuan anti-tipping off

.....As part of the special provisions on confidentiality provisions in the Banking Law within the anti-money laundering and countering of terrorism financing (AML-CFT) regime, there is a duty for banks to keep information related to suspicious financial transactions confidential, through anti-tipping off provisions regulated in Article 12 of the AML Law. The provisions themselves are regulated in the AML Law as a concrete manifestation of Indonesia's compliance with the FATF Recommendations. Which, anti-tipping off provisions are qualified through Recommendation 21 FATF Recommendations. Unfortunately, the authors still found a number of things that show a discrepancy between the FATF Recommendations and the anti-tipping off provisions in the AML Law. This thesis was prepared using normative research methods. Which, in processing and analyzing data using qualitative data analysis methods, accompanied by conceptual, statutory, and comparative analysis (Singapore, Sweden, Malaysia, and Pakistan). Through this analysis, the author describes the problems and facts in writing from the literature and is supported by interviews with the

expert as a support, then a conclusion will be drawn. Through this thesis, research results can be conveyed in the form of: (a) the indicators needed to determine that an act violates anti-tipping off provisions in the banking sector, are specified in the norms of Article 12 of the TPPU Law; (b) legal problems that arise around the regulation of anti-tipping off provisions in the banking sector are caused by the existence of vague norms (ambiguity of legal norms) or inconsistencies between FATF Recommendations provisions related to anti-tipping off and anti-tipping off norms in the AML Law; (c) the ideal regulatory direction regarding the duty of banks to keep suspicious transaction information confidential in the perspective of anti-tipping off can be realized by aligning the norms of Article 12 of the AML Law with the provisions of Recommendation 21 and the information sharing provisions in Recommendation 18 of the FATF Recommendations as international standards regarding anti-tipping provisions off.