Financial Transaction Prevention Mechanism
Suspicious By Notary
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Abstract
This research is to analyze the mechanism of the notary in avoiding Suspicious Financial Transaction to the deed he made. Researchers use the statutory approach and conceptual approach in normative research. Based on the research that has been done, the notary mechanism in avoiding suspicious financial transactions by applying the principle of recognizing service users with procedures through the identification of Service Users, verification of Service Users; and monitoring of User Transactions. The principle of recognizing service users for notaries required by the PPATK and the Minister of Law and Human Rights basically synergizes and is not too different from the introduction of service users conducted by a notary public before the application of the obligation to recognize service users is regulated in Minister of Law and Human Rights Regulation Number 9 of 2017.

Keywords: Notary; Suspicious Financial Transactions; Recognizing Service Users

Introduction
The need for a legitimate and strong evidence for an agreement is already a necessity that must be met. Any type of legal action that if required a proof tool to provide a guarantee of legal certainty is recommended to be made proof of transaction or agreement in the form of an authentic deed. There are several legal actions that are required to be made by authentic deed by law such as the establishment of a limited liability company stipulated in Article 7 number (1) of Law No. 40/2007 on Limited Liability Company as follows: "The Company was established by 2 (two) persons or more with notarial deed made in Indonesian language"

The crime of money laundering can involve a Notary whereby when a person or legal entity that has illegal funds or funds from the proceeds of crime
wants to launder his money by purchasing ownership of shares in a company or in the process of acquisition of a company, because to be able to do so the need for an authentic deed from a Notary as stipulated in Article 12 of Law No. 40 of 2007 on Limited Liability Company, in Article 12 it is formulated that:

1. Legal actions relating to the shareholding and deposit made by prospective founders before the Company is established shall be included in the deed of establishment.
2. In the event of legal action as referred to in paragraph (1), stated by a deed that is not an authentic deed, the deed is attached to the deed of establishment.
3. In the event of legal action as referred to in paragraph (1), shall be stated by the authentic deed, number, date and name, and place of notary position that makes the authentic deed mentioned in the deed of establishment of the Company.
4. In the event that the provisions referred to in paragraphs (1), (2), and (3) are not fulfilled, such legal action does not give rise to rights and obligations and is not binding on the Company.

The method of money laundering crimes related to notaries one of them is trading transactions. According to Tubagus Irman manipulated trade transactions can be done by selling property, real estate, or other types of private transactions that can be manipulated to hide illegal acquisition flows and provide a real source of legal income for money laundering criminals (Irman, 2017). Notary position is one of the professions considered as a gatekeeper or gatekeeper of the entry of money or funds proceeds of crime, Law No. 8 of 2010 on Money Laundering Crimes, requires the Notary to report any suspicious transactions involving the Notarial deed. The crime of money laundering can be done by purchasing limited liability company shares with the notarial deed so that the proceeds of the crime are laundered and become valid, and other modes.

Prevention efforts are affirmed by Government Regulation No. 43/2015 on Whistleblowers in the Prevention and Eradication of Money Laundering Crimes. In the regulation, notaries are included in the profession stipulated to report Suspicious Financial Transactions in Article 3 of Government Regulation No. 43 of 2015 on The Reporting Party in the Prevention and Eradication of Money Laundering Crimes, and in Perka PPATK No. 11 of 2016 on How to Submit Suspicious Financial Transaction Reports for the Profession in Article 2 in the PPATK.
Notaries are also required to apply the principle of recognizing service users in Article 4 of Government Regulation No. 43 of 2015, then in Article 5 formulates that the principle of recognizing service users applies mutatis mutandis, which means to apply in accordance with the previously regulated rules namely in Law No. 8 of 2010 on the Prevention and Eradication of Money Laundering Crimes, which is judged to be incompatible with the practice of notarization because the interceptors come to notary based on their own needs and desires, there is no initiative from the Notary to make a deed without any request from the parties. The relationship between the notary and the interceptor is no business relationship as formulated in Article 18 paragraph (3) but according to Habib Adjie Notary Relationship with The Interceptor or Service Users is a typical Legal Relationship (Adjie, 2014).

Director-General of General Law Administration (Director General of AHU) ministry of law and human rights, Freddy Haris, while speaking at a national seminar held by the Notarial Alumni Association of the Faculty of Law UI in Jakarta, notary services cannot be equated with financial services such as banking that apply KYC principles. "So there is no KYC name in the actual notary," But in the regime of TPPU law, KYC principle is known. Thus notaries are required to use that principle when meeting the interceptor as a service user. Is the notary thus completely excluded from the obligation to prevent TPPU? Freddy does not reject the notion that all state officials and public officials have an obligation to prevent TPPU. Just, the way the obligation is fulfilling must be appropriate. In terms of notaries, Freddy is not sure the ways banking and financial services can be applied to notaries. Professor of Law Faculty of Universitas Padjadjaran Bandung, Romli Atmasasmita, argues PP No. 43 the year 2015 is difficult to run in the field. Moreover, there are counter-sanctions to notaries. On the one hand, notaries are required to report, but on the other hand, no incentive is given to notaries who have already reported. "There is no incentive, but it has added work."

Research Problem

The problem discussed in this article is how is the Notary mechanism in avoiding Suspicious Financial Transactions against the deed he made?
Research Methods

Legal Research conducted by researching library materials or secondary data, can be called normative juridical research or literature law research related to the theme of research is to analyze and find the rule of law, legal principles, legal doctrines to answer the problem of notary role in identifying suspicious financial transactions involving his/her Position as a Notary. In this research, 3 (three) approaches are used, including Statute Approach, Conceptual Approach, Analytical Approach.

Method of Collecting Legal Materials, primary legal materials obtained by collecting an inventory of relevant laws and adjusted to the subject matter reviewed. Secondary legal materials are obtained by inventorying literature books, documents, articles, and various materials that have been obtained, recorded then studied based on their relevance to the subject matter studied which is subsequently carried out as a whole unit. In this study, the method of analysis to be used is a method of qualitative normative data analysis. Data in the form of rules, explanatory sentences, and theories collected from the Act, literature, legal documents, and others that have been compiled regularly and then analyzed that will then be discussed until conclusions are drawn.

Discussion

The application of the principle of knowing service users as an effort to avoid suspicious financial transactions and prevent money laundering crimes is regulated in some laws and regulations, in this case, the principle of knowing the service user for notaries is regulated in the following laws and regulations:

2. Government Regulation No. 43/2015 on whistleblowers in the prevention and eradication of money laundering crimes
3. Regulation of the Minister of Law and Human Rights No. 9/2017 on the Application of The Principle of Recognizing Service Users for Notaries

Law of the Republic of Indonesia No. 8/2010 on the Prevention and Eradication of Money Laundering Crimes in Article 18 to Article 22:

Article 18

(i) The Supervisory and Regulatory Agency sets out the principle stipulated in recognizing service users.
(2) The Whistleblower shall apply the principle of recognizing the Service Users established by each Supervisory and Regulatory Agency as referred to in paragraph (1).

(3) The obligation to apply the principle of recognizing the Service User as referred to in paragraph (2) shall be carried out at the time of:
   a. conduct business relationships with Service Users;
   b. there are Financial Transactions with rupiah and/or foreign currencies whose value is at least or equivalent to Rp100,000,000.00 (one hundred million rupiahs);
   c. there are Suspicious Financial Transactions related to money laundering and terrorism financing crimes; Or
   d. The Whistleblower doubts the veracity of the information reported by the Service User.

(4) Supervisory and Regulatory Agencies shall carry out supervision of the Whistleblower's compliance in applying the principle of recognizing service users.

(5) The Principle of recognizing service users contains at least:
   a. identification of Service Users;
   b. verification of Service Users; Dan
   c. monitoring of Service User Transactions.

(6) In the event that there is no Supervisory and Regulatory Agency, the provisions on the principle of recognizing service users and their supervision are governed by the Regulation of the Head of PPATK.

Article 19

(1) Each Person who conducts a Transaction with the Whistleblower shall provide the correct identity and information required by the Whistleblower and at least contain the identity, source of funds, and purpose of the Transaction by filling out the form provided by the Whistleblower and attaching the supporting documents.

(2) In the event that the Transaction is conducted for the benefit of another party, Each Person as referred to in paragraph (1) shall provide information about the identity, source of funds, and purpose of the Transaction of the other party.

Article 20

(1) The Whistleblower shall know that the User of the Service conducting transactions with the Whistleblower acts for himself or for and on behalf of others.
(2) If a Transaction with the Whistleblower is conducted for himself or for and on behalf of another person, the Whistleblower shall request information regarding the identity and supporting Documents of the Service User and another person.

(3) If the identity and/or supporting documents provided as referred to in paragraph (2) are incomplete, the Whistleblower shall reject the Transaction with that person.

Article 21
(1) The identity and supporting documents requested by the Whistleblower shall be by the provisions of the laws and regulations established by each Supervisory and Regulatory Agency.

(2) The Whistleblower shall keep records and Documents regarding the identity of the transaction perpetrator at least 5 (five) years from the end of the business relationship with the User of the Service.

(3) The Whistleblower who does not perform the obligations as referred to in paragraph (2) shall be penalized by the provisions of the laws and regulations.

Article 22
(1) The financial service provider as referred to in Article 17 paragraph (1) letter a shall sever a business relationship with the Service User if:
   a. Service Users refuse to abide by the principle of identifying Service Users;
   Or
   b. the financial service provider doubts the correctness of the information submitted by the Service User.

(2) The financial service provider as referred to in paragraph (1) shall report it to PPATK regarding the termination of the business as a Suspicious Financial Transaction.

The obligation for notaries in applying the principle of recognizing service users (Know Your Customer) was first ordered in Government Regulation No. 43 of 2015 in Articles 3 and 4, in Article 3 of a notary and other professions including being a whistleblower in the prevention and eradication of money laundering crimes, namely:
   a. advocates;
   b. notary;
   c. land deed-making officer;
   d. accountant;
e. public accountant; Dan
f. financial planner.

Article 4 formulated that the Whistleblower as referred to in Article 2 and Article 3 shall apply the principle of recognizing the Service User and in Article 5 the Provisions concerning the application of the principle of recognizing service users for the Whistleblower as stipulated in the Law apply mutatis mutandis to the application of the principle of recognizing service users for the Whistleblower as referred to in Article 2 paragraph (2) and Article 3.

The obligation to apply the principle of recognizing service users is carried out at the time of:

1. conduct business relationships with Service Users;
2. there are financial transactions with rupiah and/or foreign currencies whose value is at least or equivalent to Rp 100,000,000.00 (one hundred million rupiahs);
3. there are Suspicious Financial Transactions related to money laundering and terrorism financing crimes; Or
4. The Whistleblower doubts the veracity of the information reported by the service user.

The principle of recognizing service users for Notaries is stipulated in Articles 2, 3, 4, and 5 of the Minister of Law and Human Rights Regulation No. 9 of 2017 on the Application of The Principle of Recognizing Service Users for Notaries. Article 2 regulation of the Minister of Law and Human Rights No. 9 of 2017 governs on the general provisions of the principle of recognizing service users for notaries formulated as follows:

(i) Notaries shall apply the principle of recognizing Service Users.

(2) The principle of recognizing the User of the Services as referred to in paragraph (i) contains at least:

a. identification of Service Users;

b. verification of Service Users; and

c. monitoring of Service User Transactions.

(3) The Application of the Principle of Recognizing Service Users as referred to in paragraph (2) applies to notaries in the form of preparing and conducting transactions for the benefit of or for and on behalf of service users, regarding:

a. purchase and sale of property;

b. management of money, securities, and/or other financial services products;
c. management of current accounts, savings accounts, deposit accounts, and/or securities accounts;
d. operation and management of the company; and/or;
e. establishment, purchase, and sale of legal entities.

(4) The obligation to apply the principle of recognizing the Service User as referred to in paragraphs (1) and (2) shall be carried out at the time of:

a. conduct business relationships with Service Users
b. there are Financial Transactions with rupiah and/or foreign currencies whose value is at least or equivalent to Rp1,000,000,000.00 (one hundred million rupiahs);
c. there are Suspicious Financial Transactions related to money laundering and terrorism financing crimes; Or
d. Notary doubts the veracity of the information reported by the Service User

Article 3 Regulation of the Minister of Law and Human Rights No. 9 of 2017
Notary who conducts business relationships as referred to in Article 2 paragraph (4) letter a, shall understand the profile, intent, and purpose of business relationships, as well as Transactions conducted by Service Users and Beneficial Owners through identification and verification. Article 4 Regulation of the Minister of Law and Human Rights No. 9 of 2017 notaries are required to have their means or procedures implemented by each notary formulated as follows:

(1) applying the principle of recognizing service users, notaries shall:
   a. have policies and procedures for managing and mitigating the risk of money laundering and/or financing terrorism identified by the risk assessment; Dan
   b. conduct a risk assessment and group Service Users based on the level of risk of money laundering and terrorism financing crimes.

(2) The grouping of Service Users based on the level of risk as referred to in paragraph (1) shall be conducted based on an analysis of:
   a. profile;
   b. business;
   c. country; Dan
   d. products.

Article 5 regulation of the Minister of Law and Human Rights No. 9 of 2017 formulated a prohibition for notaries in the form of (1) Notaries prohibited from
opening or maintaining anonymous accounts or accounts that use fictitious names. (2) The account as referred to in paragraph (1) includes evidence of a business relationship between Notary and Service User.

Identifying the user of the service for the notary has previously been stipulated in Article 39 paragraph (2) of UUJN affirming that the intercept must be known by a notary or introduced to him by 2 (two) identifying witnesses. Herlien Budiono explained in various notary deeds many words are used to prove that the person in question came to the notary of his volition, for example, the word facing or having been present before. That the actual face in question is the real presence (verschijnen) physically or used the word Facing the translation of verschijnen, which means to come facing the intended in juridical sense is a real presence (Adjie, 2014).

The notion of being known does not mean familiar, for example as a friend or long known, even if the intercepts have been known before by notaries this is a plus for notaries. Know what is meant in the judicial sense, meaning there is a conformity between the name and address mentioned by the concerned in the presence of the notary and also with the evidence or identity of him presented to the notary. Knowing also means the appointment of a person in the deed must be the same as his appointment, by which he can be distinguished and individualized from those in the community (Thong Kie, 2007) The introduction should be noted that the concerned have the authority to take a legal action to be mentioned in the deed (Lumban Tobing, 1996).

The introduction of the intercept by a notary in UUJN is limited to the identification of identity and the arbitrariness or insanity of the intercept in carrying out legal actions in the deed he made. Minister of Law and Human Rights in the form of preventing the implementation of money laundering crimes involving notary positions then issued Regulation of the Minister of Law and Human Rights No. 9 of 2017 concerning the Implementation of the Principle of Recognizing Service Users for Notaries, which regulates more detail on the introduction of intercepts or users of certain services indicated to attempt to commit money laundering crimes, the introduction of service users at least contains namely:

1. identification of Service Users;
2. Verification of Service Users; and
a. **Identification of Notary Service Users**

When conducting business relationships with Service Users, the Whistleblower is obliged to request supporting information and documents to the Service User (Service User profile), by providing a form containing at least the information about the identity, source of funds, and purpose of the transaction of the service user. If the transaction is done for the benefit of another party, then the Service User must include information about the identity, source of funds, and purpose of the transaction of the other party. Several stages in the request for information and documents by the Whistleblower (PPATK E-Learning):

a. The whistleblower identifies and classifies service users in individual groups or companies

b. Ensuring service users who open business relationships or conduct transactions act for themselves or for the benefit of beneficial owners

c. The identity of prospective service users must be proven by the existence of supporting documents

| Table 1. Check List of Types of Information And Documents (PPATK E-Learning) |
|-----------------------------|-----------------------------|
| **Individual** | **Company** |
| 1. Identity Card (KTP, Driver's License, Passport, KIMS/KITAP) | 1. Identity (AD, SITU, TDP, SIUP, Administrator identity, and BO) |
| a. Full name including nickname | a. Company name |
| b. Identity document number | b. Business license number from authorized agencies |
| c. The residential address matches the identities and | c. Field of business |
| d. other residential addresses if any | d. Company position address |
| e. Place of birth | e. Place and date of establishment of the company |
| f. Nationality | f. Corporate legal entity form |
| g. Work (letter of appointment, if necessary) | g. Identity of Beneficial Owner if prospective service user has Beneficial Owner |
| h. Gender | h. Identity and final controlling documents (outside the company go public) |
| i. Marital status (marriage certificate, if necessary) | |
| BO identity, if the service user represents BO (KTP, Driver's License, Passport, KIMS/KITAP) | |
| 2. Source of funds (pay slip, if any) | 2. Source of funds |
| 3. Estimated transaction value in 1 (one) year | 3. Estimated transaction value in 1 (one) year (financial statements or descriptions of business activities) |
| 4. The purpose and purpose of the business | 4. The purpose and purpose of business |
relationship or transaction that will be carried out by the Service users of the Service

5. Taxpayer Identification Number (NPWP) 5. Taxpayer Identification Number (NPWP)

6. Other information 6. Other information (management structure, identity documents of board members)

The introduction/identification of notary service users is regulated in Article 6 to Article 18 of the Regulation of the Minister of Law and Human Rights No. 9 of 2017 on the Application of the Principle of Recognizing Service Users for Notaries. Article 6 Notary shall be identified as referred to in Article 2 paragraph (2) letter a through the collection of service user information. Collection of information about Service Users as referred to in paragraphs carried out against Service Users:

a. individuals;
b. Corporations; and
c. other legal arrangements.

What is meant by other agreements (legal arrangements) is stipulated in Article 20 Paragraph (1) letter (c) of The Financial Services Authority Regulation No. 12 /Pojk.01/2017 on the Implementation of Anti-Money Laundering Program and Prevention of Terrorism Financing in the Financial Services Sector, which is meant by "other alliances (legal arrangements)" among others trustee. Example: a public bank as a trustee

Article 7 paragraph (1) regulation of the Minister of Law and Human Rights No. 9 of 2017, The collection of information on individual Service Users as referred to in Article 6 paragraph (2) letter a contains:

a. the identity of the Service User containing:
   1. full name;
   2. residence id number, driver's license, or passport;
   3. place and date of birth;
   4. nationality;
   5. the residential address listed on the ID card;
   6. current residential address including a phone number if any; Dan
   7. address in the country of origin in the case of foreign nationals;

b. employment;
c. source of funds;
d. the business relationship or purpose of the Transaction to be carried out by the
Service User with a Notary;
e. taxpayer identification number; and
f. other information to find out the profile of the Service User more, including information ordered in accordance with the provisions of the laws and regulations.

Article 7 paragraph (2) of the Regulation of the Minister of Law and Human Rights No. 9 of 2017 The collection of information concerning Corporate Service Users as referred to in Article 6 paragraph (2) letter b contains:
a. the identity of the Service User containing:
   1. corporate name;
   2. the license number of the Corporation's ratification in the case of a legal entity;
   3. Corporate form;
   4. business;
   5. business license number of the authorized agency; Dan
   6. Corporate address and phone number;
b. source of funds;
c. the business relationship or purpose of the Transaction to be carried out by the Service User with a Notary;
d. information of the designated party has the authority to act for and on behalf of the Corporation;
e. Beneficial Owner information on the Corporation;
f. taxpayer identification number; and
g. other information to find out the profile of service users more, including information ordered in accordance with the provisions of the laws and regulations.

Article 7 paragraph (3) regulation of the Minister of Law and Human Rights No. 9 of 2017 The collection of information concerning users of other legal arrangements as referred to in Article 6 paragraph (2) c contains:
a. the identity of the Service User containing:
   1. name;
   2. license number or business license from the authorized agency (if any);
   3. notch address.
b. source of funds;
c. the business relationship or purpose of the Transaction to be carried out by the Service User with a Notary;
d. Beneficial Owner information on other legal arrangements;
e. taxpayer identification number;
f. other types of legal arrangements;
g. the information of the designated party has the authority to act for and on behalf of other alliances; and
h. other information to find out the profile of service users more, including information ordered by the provisions of the laws and regulations.

The formula of Article 7 of the Minister of Law and Human Rights Regulation No. 9 of 2017 concerning the collection of intercepted information in the form of individuals, corporations, and/or other alliance service users is already in Article 38 paragraph (3) of UUJN formulated:

(3) The Deed Body contains:
   a. full name, place and date of birth, nationality, occupation, position, position, the residence of the intercepted and/or persons they represent;
   b. information about the position of acting face to face;
   c. the contents of the Act which is the will and desire of the interested party; Dan
   d. the full name, place, and date of birth, as well as the work, position, position, and residence of each identifying witness.

The group of identities in the notary deed commonly referred to as the company, G.H.S Lumban Tobing describes the Company as being derived from the Dutch "Comparatie" meaning "Verschijning Partijen" or the act of facing in-law/before officials/before public officials, such as Notary or Openbaar Ambtenaar and others.

The company is derived from the word "Comparatn" which means the company not only in the form of a face-to-face action but also about the Identity of the Interceptor (Lumban Tobing, 1996) the company is the information of the Notary concerning the intercepts or at the request of whom the news of the event is made. (Lumban Tobing, 1996)

Documents concerning identity in the deed company are submitted copies or copies of them to notaries as a basis for the right or basis to make a notary deed, then stored as notary protocols. Article 1 paragraph (13) of the UUJN Notary Protocol is a document that is a state archive that must be kept and maintained by the Notary in accordance with the provisions of the legislation. Information about the source of funds in the formulation of Article 7 of the Regulation of the Minister of Law and Human Rights No. 9 of 2017 is information that previously did not exist or is not a necessity for the notary to know the source of the funds of the intercepts whether it is suspicious or not. In the event that a notary has a client or an interceptor who meets the formula of Article 2 of the Minister of Law and Human

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Rights Regulation No. 9 of 2017, it is obligatory to know from which source of funds the service user/interceptor.

The basis of the notary to be able to request information about the source of funds of interceptors/service users is in Article 2 regulation of the Minister of Law and Human Rights No. 9 of 2017 namely Notary Must apply the principle of recognizing service users and in Article 4 of the Regulation of the Minister of Law and Human Rights Human Number 9 the Year 2017 notary is required to have policies and procedures to manage and mitigate the risk of money laundering then the notary has the right to request information about the source of funds of the service user and store the information of the source of funds of the user of the service as a Notary Protocol.

After receiving the entire requirements of the documents required to the notary in Article 7 of the Regulation of the Minister of Law and Human Rights No. 9 of 2017, the notary shall be obliged to examine the correctness of the identity document of the service user, and in order to believe the correctness of the document is notary obliged to meet directly with the service user, stipulated in Article 10 of the Regulation of the Minister of Law and Human Rights No. 9 of 2017, In the collection of information concerning service users as referred to in Article 7, a notary shall examine the correctness of the Identity Document of the Service User. In order to believe the identity of the Service User, the Notary must meet directly with the Service User.

For service users/interceptors who refuse to provide information about the source of funds concerned, the notary shall sever business relations with service users as formulated in Article 24 paragraph (1) of the Minister of Law and Human Rights Regulation No. 9 of 2017:

(1) Notaries shall sever business relationships with Service Users if:

   a. Service Users refuse to abide by the principle of identifying Service Users; Or

   b. The Notary doubts the veracity of the information submitted by the Service User.

Notary obligation to sever a business relationship with service users or in the sense of notary refuse to make deed implications to the notary obligation to report it to PPATK as Suspicious Financial Transaction (TKM).

The principle of recognizing service users can be integrated with third parties who are obliged to apply the principle of knowing service users, Article 25 Regulation of the Minister of Law and Human Rights No. 9 of 2017 on the
Application of The Principle of Recognizing Service Users for Notaries allows notaries to be able to use the principle of recognizing service users that have been done by third parties with the following provisions:

(i) Notaries may use the results of the implementation of the principle of recognizing Service Users who have been conducted by third parties who have policies and procedures on the principle of recognizing service users and subject to supervision from the authorized authorities in accordance with the provisions of the laws and regulations.

(2) In the event that a Notary uses the results of the principle of recognizing a Service User that has been performed by a third party, the responsibility of the principle of recognizing the User of the Service remains in the Notary.

(3) In using the principle of identifying third-party Service Users, notaries must meet the following criteria:

a. Notaries must as soon as possible obtain the necessary information related to the principal procedure of recognizing Service Users;

b. Notaries are obliged to take adequate steps to ensure that third parties are willing to fulfill requests for information and copies of supporting documents immediately if required by notaries for the application of the principle of recognizing Service Users;

c. Notaries must cooperate with third parties in the form of written agreements; and

d. Notaries are obliged to ensure that third parties are not domiciled in high-risk countries.

(4) In the event that the third party as referred to in paragraph (i) is located in a high-risk country, the third party shall meet the criteria:

a. be in the same business group as the Notary;

b. the business group has implemented the principle of recognizing Service Users, effectively in accordance with international standards or conventions in the field of prevention and eradication of money laundering and terrorism financing crimes; and

c. the business group is supervised by the relevant authorities.

The identity collected by the notary as a form of identification has been set forth in article 38 of Law No. 2 of 2014 concerning notary departments, in notary deed commonly referred to as company located in the deed body containing the
full name, place, and date of birth, nationality, occupation, position, position, the residence of the parties and/or persons they represent, information on the position of acting against, the content of the Act which is the will and wishes of the interested parties. So the obligation to identify intercepts ordered as an effort to prevent money laundering crimes is not an additional and burdensome task for notaries because the identification process is already required in advance by the Notary Department Act, only that notaries are required to record specifically in a place for people who fall into the category of conducting suspicious financial transactions.

b. Verification of Service Users

Regulation of the Minister of Law and Human Rights No. 9 of 2017 on the Application of the Principle of Identifying Service Users for Notaries requires a notary to verify any information and documents he has identified to know the truth of the information provided by the service user to the notary. Article 19 Regulation of the Minister of Law and Human Rights No. 9 of 2017 notary can ask service users to know the truth of formal documents given to notaries and in the case of notaries doubting the veracity of formal documents given to him by users of notary services can request other supporting documents from the authorities.

The procedure for the implementation of verification formulated in Article 19 is stipulated in Article 20 of the Regulation of the Minister of Law and Human Rights No. 9 of 2017, verification of information and documents of service users is carried out before making business contact with service users. Notaries can conduct business relationships or transactions before the verification process is complete if the Notary has implemented risk management procedures, which is meant by risk management is the implementation of the Principle of Knowing Service Users well (PPATK E-Learning). Notary business relationship with service users that have been done before the verification process is complete then the notary must complete the verification process as soon as possible. Business relationships must be carried out with regard to the risk of money laundering and terrorism financing can be carried out effectively and the process of meeting directly in order to obtain confidence in the correctness of documents and information of business users does not interfere with business activities normally.

The obligation of the notary to verify the data or documents submitted by the interceptor has been regulated in UUJN which is the application of Article 16 paragraph (1) letter a, in carrying out the duties of his office notary must act carefully. Notaries have a role to determine whether an action can be poured in
the form of a deed or not (Putri A.R, 2011). The notary must carefully be based on his expertise in the field of law to analyze and consider the data and documents shown to him, listen to the information, and the will of the interceptor. Make decisions that should be based on legal provisions that must be explained to the parties.

PPATK’s E-learning module explains how to verify service users in the application of the principle of knowing the user of the Verification service to potential Service Users, among others by:

1. Research the correctness of information and documents
2. If in doubt, it is obligatory to ensure the correctness of the identity, information, and documents of prospective Service Users, in the following ways:
   a. Interview with prospective Service Users to research and believe in the validity and truthfulness of the documents
   b. Request a valid or another official IDENTITY document
   c. Confirm the correctness of beneficial owner, if prospective Service User acts for another party (beneficial owner)
3. Cross-check to believe the consistency of the information submitted
4. Enhanced due diligence is carried out if the prospective Service User and/or Beneficial Owner is classified as high risk, the level of risk can be seen from:
   a. Background or profile of prospective Service Users and controllers of potential Service Users who are politically exposed persons or high-risk customers
   b. Field of prospective Service Users which includes high-risk business
   c. The country or territory of the prospective Service User, the domicile of prospective Service Users, or the conduct of transactions that include high-risk countries
   d. The parties listed on the list of terrorist names. (PPATK E-Learning)

**c. Monitoring Of Service User Transactions**

Article 21 regulation of the Minister of Law and Human Rights No. 9 of 2017 on the Application of the Principle of Identifying Service Users for Notaries requires notaries to monitor the fairness of Service User Transactions. The monitoring in question article 21 is by recording transactions and information systems, which are regulated in Article 22 and Article 23 of the Regulation of the Minister of Law and Human Rights No. 9 of 2017.

Article 22

(i) A Notary is responsible for the recording of transactions and information
systems regarding the identification, monitoring, and provision of reports on transactions conducted by Service Users.

(2) Recording of transactions and information systems as referred to in paragraph (1) can be done on a non-electronic or electronic note tailored to the complexity and characteristics of notaries.

(3) The information system allows the Notary to search for any transaction if necessary, either for internal purposes and/or ministries conducting governmental affairs in the field of law or by law enforcement.

Article 23

(1) Notaries shall document all Beneficial Owners and Service Users.

(2) The documents referred to in paragraph (1) include at least:

a. Service User Transaction Document

b. Document of Service User and Beneficial Owner obtained by Notary to implement the principle of recognizing service users; and

c. Documents of correspondence with Service Users;

(3) If the service user and beneficial owner have a high-risk transaction potential, the Notary shall create a fairness analysis document on the transaction of the user of the service.

(4) The period of administration of the Document of all Service Users and Beneficial Owners as referred to in paragraphs (2) and (3) by the provisions of the laws and regulations.

Notaries monitor the fairness of Service User Transactions in terms of transaction logging and information systems. A Notary is responsible for the recording of transactions and information systems regarding the identification, monitoring, and provision of reports on transactions conducted by Service Users. Transaction recording and information systems can be done on a non-electronic or electronic form tailored to the complexity and characteristics of notaries. The information system allows notaries to search every transaction if necessary, both for internal and/or ministerial purposes that conduct governmental affairs in the field of law or by law enforcement.

Notary provisions to be responsible for the recording of transactions and information systems concerning the identification, monitoring, and provision of reports on transactions conducted by Service Users are not much different from the notary obligations outlined in Article 16 UUJN i.e. notaries are required to make deed in the form of Minuta Deed and store it as part of notary protocol and attach letters and documents and fingerprints of interceptors to Minuta Akta. The
obligation in this provision is intended to maintain the authenticity of an Act by storing the Act in its original form so that if there is a falsification or misuse of Grosse, its copy or citation can be immediately known easily by matching it to the original.

PPATK’s E-learning module explains how to monitor service users’ transactions for service providers by:
1. Pay attention to transaction payment procedures such as cash or non-cash payment, transaction perpetrator, transaction amount, and/or transaction date.
2. Monitoring of the payment of transactions of Service Users, whether conducted by the user of the service concerned or another party. Monitoring is also done with Data Update which is in the form of:
   1. Update data on information and documents and organize them
   2. Monitoring the information and documents of service users
   3. Develop a report on the plan and realization of data updates approved by the board of directors
   4. Maintain the Terrorist List database. (PPATK E-Learning)


   Figure 1. Notary Work Patterns In General

   Service Users/Intercepts → profile, intent and purpose of business relationships → Notary

   Notaries who conduct business relationships as referred to in Article 2 paragraph (4) letter a regulation of the Minister of Law and Human Rights No. 9 of 2017, shall understand the profile, intent, and purpose of business relationships, as well as Transactions conducted by Service Users and Beneficial Owners through identification and verification. Habib Adjie explained as a form of careful principle required to the Notary to act carefully in Article 16 paragraph (i) letter a UUJN, a notary in taking an action must be prepared and based on the prevailing rule of law. Examining all evidence presented to the notary and listening to the statements or statements of the parties shall be carried out as a basis to be poured into the deed by:

   1. To make an introduction to the intercept, based on his identity shown to the notary.
2. Ask, then listen and observe the wishes or wills of the parties (ask-answer).
3. Check the proof of a letter relating to the wishes or will of the parties.
4. Provide advice and create a deed framework to fulfill the wishes or wills of the parties.
5. Fulfill all administrative techniques of making notary deed, such as reading, signing, providing copies, and filings for minuta.
6. Perform other obligations related to the implementation of notary duties (Adjie, 2014).

**Figure 2.** notary work patterns after the obligation to know service users

Notary conducts identification as referred to in Article 6 of the Regulation of the Minister of Law and Human Rights No. 9 of 2017 through the collection of information of Service Users. Collection of information about Service Users as referred to in paragraphs carried out against Service Users:

- a. individuals;
- b. Corporations; and
- c. other legal arrangements.

Several stages in the request for information and documents by the Notary:

- a. Notaries identify and classify service users in individual or corporate groups.
- b. Ensure service users who open business relationships or conduct transactions act for themselves or for the benefit of beneficial owners.
- c. The identity of prospective service users must be proven by the existence of supporting documents,
Verification is carried out before making a business relationship with the Service User. In the event that the Notary conducts a business relationship before the verification process is complete then the verification process must be completed as soon as possible, after the non-business relationship of the Service User with the Notary against prospective Service Users, among others by:

1. Research the correctness of information and documents
2. If in doubt, it is obligatory to ensure the correctness of the identity, information, and documents of prospective Service Users, in the following ways:
   d. Interview with prospective Service Users to research and believe in the validity and truthfulness of the documents
   e. Request a valid or another official IDENTITY document
   f. Confirm the correctness of beneficial owner, if prospective Service User acts for another party (beneficial owner)
3. Cross-check to believe the consistency of the information submitted
4. Enhanced due diligence is carried out if the prospective Service User and/or Beneficial Owner is classified as high risk, the level of risk can be seen from:
   a. Background or profile of prospective Service Users and controllers of potential Service Users who are politically exposed persons or high-risk customers
   b. Field of prospective Service Users which includes high-risk business
   c. The country or territory of the prospective Service User, the domicile of prospective Service Users, or the conduct of transactions that include high-risk countries
   d. The parties listed on the list of terrorist names.

After verification is done properly and there are no problems regarding the correctness of information and documents, then the notary can conduct business relationships with service users or intercepts. After the implementation of notary business relationships are required to conduct fairness monitoring transactions of Service Users. Notaries monitor the fairness of Service User Transactions in terms of transaction logging and information systems. A Notary is responsible for the recording of transactions and information systems regarding the identification, monitoring, and provision of reports on transactions conducted by Service Users. Transaction recording and information systems can be done on a non-electronic or electronic form tailored to the complexity and characteristics of notaries. The information system allows notaries to search every transaction if necessary, both for internal and/or ministerial purposes that conduct governmental affairs in the field of law or relation to law enforcement.
Monitoring is also done with Data Update which is in the form of:
1. Update data on information and documents and organize them
2. Monitoring the information and documents of service users
3. Develop a report on the plan and realization of data updates approved by the board of directors
4. Maintain the Terrorist List database.

Notary work pattern after the obligation to apply the principle of knowing service users become more complicated only to service users who are categorized as doing a suspicious financial transaction, namely with the obligation to do identification, verification, after the two things are done and there is no problem then the notary can conduct business relations with service users. After that, notaries are still required to monitor transactions to the users of such services that are done by recording them in a list of users of special services either in the form of writing in the book or in the form of data in the computer whose contents are those that are required to be recorded in the list.

Conclusion

Notary mechanisms in avoiding suspicious financial transactions are carried out by applying the principle of knowing the user of the service to certain intercepts indicated to attempt to commit a criminal offense of money laundering, the introduction of the service user at least contains: identification of service users, verification of Service Users and monitoring of Service User Transactions. The principle of knowing service users for notaries required by PPATK and the Minister of Law and Human Rights is basically synergistic and not too different from the introduction of service users made by notaries before the implementation obligation to know service users stipulated in Regulation of the Minister of Law and Human Rights No. 9 of 2017.

Suggestions

The obligation to apply the principle of knowing service users and providing suspicious financial transaction reports to PPATK by notaries is as an effort to prevent and eradicate TPPU, to provide legal protection to notaries in the event of suspicious financial transactions (TKM) in addition to reporting obligations intended to protect notaries from possible money laundering crimes. There need to be new regulations that govern more specifically about the protection of the law
and the nature of confidentiality of notaries as whistleblowers report if there are suspicious financial transactions.

References


