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### Punishment of Gatekeepers in Money Laundering Crimes

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#### Abstract

Gatekeeper is a term that is often applied to professional financial experts or legal experts because they have expertise, knowledge and access to the global financial system and have professional confidentiality so they are vulnerable to being used by money launderers to hide or disguise the origin of assets resulting from criminal acts. On the other hand, these professionals who are categorized as gatekeepers have been designated as Reporting Parties who are obliged to report Suspicious Financial Transactions to PPATK. It's just that the crime of money laundering is becoming more and more complex and complicated day by day, even in certain conditions it is not only carried out by the perpetrator alone, but also involves other parties or deelneming. Incidents of participation in money laundering criminal cases are vulnerable to professionals in the financial and legal fields. To find issues regarding the

classification and actions of gatekeepers in money laundering activities, whether as active or passive actors, this research uses a normative juridical approach. The criminalization of money laundering is basically the act of hiding or disguising the origins of proceeds of crime as regulated in the provisions of Article 3 and Article 4 of Law no. 8 of 2010. Therefore, if the gatekeeper commits acts of concealment or disguise in money laundering activities, then this is an active act, so that the gatekeeper involved is included in the category of active TPPU perpetrator. Considering that the role of gatekeepers in money laundering activities is very crucial, there needs to be mutual awareness for both the professionals themselves and the Supervisory and Regulatory Institutions to always encourage the importance of implementing the principle of knowing your service users (Know Your Customer).

**Keywords:** Gatekeeper, Proceeds of Crime, Active Perpetrators

#### Introduction

Indonesia is one of the strategic countries in the world that implements an open financial system, so it is very interested in maintaining the security and integrity of its financial sector. Indonesia continues to be committed to building an anti-money laundering and preventing the financing of terrorism (APU-PPT) regime. Indonesia's seriousness in preventing and eradicating money laundering practices is ultimately reflected in Indonesia's acceptance by acclamation to become a full member of the Financial Action Task Force (hereinafter referred to as FATF) on 25 October 2023<sup>1</sup> which was decided at the FATF Plenary Meeting in Paris. Before Indonesia was accepted as a member of the FATF, Indonesia was registered as a member of the Asia Pacific Group on Money Laundering (hereinafter referred to as APG).

This continues to be pursued not only because of commitment as an observer member of the Financial Action Task Force on Money Laundering (FATF), but also as a collective global commitment to maintain the stability and integrity of the global financial and security system and to encourage healthy and sustainable world economic growth. Next It is hoped that this commitment will be followed by Indonesia's full membership in the FATF so that it can contribute even more to a better global financial order. APG is an intergovernmental organization consisting of 41-member country jurisdictions, whose main focus is ensuring and monitoring that member countries carry out and implement international standards related to eradicating money laundering and the financing of terrorism.

APG can also be interpreted as an anti-money laundering group in the Asia Pacific with 13 founding members with Sydney Australia as the APG secretariat headquarters. This group will produce regional commitments regarding the eradication of money laundering and establish a more permanent anti-money laundering body. At least four symposiums have been held, the

<sup>1</sup> [https://www.ppatk.go.id/siaran\\_pers/read/1296/keanggotaan-penuh-fatf-bekal-penting-menuju-indonesia-emas-2045-.html](https://www.ppatk.go.id/siaran_pers/read/1296/keanggotaan-penuh-fatf-bekal-penting-menuju-indonesia-emas-2045-.html), diakases pada 3 Desember 2023.

last in Bangkok, Thailand in 1997 to create the Asia Pacific Anti-Money Laundering Organization. Several international organizations that support APG regarding contributions to its programs and activities are, the International Monetary Fund, World Bank, OECD, United Nations Office on Drugs and Crime, the UN's Counter Terrorism Executive Directorate, Asian Development Bank, Commonwealth Secretariat, INTERPOL and the Egmont Group of Financial Intelligence Units. APG, "Asia-Pacific Group on Money Laundering."<sup>2</sup>

The advantage gained from participation as a member of the FATF is the involvement of the Indonesian government in strengthening and making decisions related to money laundering crimes and this will have a good impact on the law enforcement system in Indonesia, especially regarding improving integrity and law enforcement.<sup>3</sup> Even though various efforts have been made, criminals always try to use various methods to hide or disguise the proceeds of their crimes. In fact, in recent times, in an effort to hide the proceeds of crime from law enforcement officials, perpetrators have utilized professional services so that the practice of hiding the proceeds of crime appears to be increasingly perfect and systematic.

This use of the role of professional services is known as the use of gatekeepers. Money Laundering is a global phenomenon that is not only a national challenge, but also an international one. Money Laundering is a type of crime that is worldwide, and is part of organized crime. The crime of money laundering is a further crime and its existence always begins with the existence of a predicate crime (core crime).<sup>4</sup> According to Jeffrey Robinson, the background to the term "money laundering" is used because the process used shows how to convert money related to crime or obtained illegally or dirtyly to then be processed in such a way that it appears to be money obtained legally or cleanly.<sup>5</sup> In other words, the crime of money laundering is a follow-up crime (supplementary crime) which depends on the occurrence of the original crime (core crime).<sup>6</sup> So, in an effort to eradicate the crime of money laundering, law enforcement officials also need to increase efforts to prevent and eradicate predicate crimes that produce wealth resulting from criminal acts. The characteristics of TPPU make TPPU a double crime.<sup>7</sup> This means that the emergence of TPPU is always preceded by the original crime.<sup>8</sup> The assets resulting from criminal acts in question are assets obtained from predicate crimes.

<sup>2</sup> <http://www.apgml.org/>

<sup>3</sup> Fakhri Fakhri, "Selangkah Lagi, Indonesia Bakal Jadi Anggota Lembaga Anti Pencucian Uang", <https://news.okezone.com/read/>

<sup>4</sup> Toetik Rahayuningsih, 'Perampasan Aset Hasil Tindak Pidana Perbankan Dalam Rangka Pemberantasan Tindak Pidana Pencucian Uang', *Laporan Penelitian*, 2014.

<sup>5</sup> Jeffresy Robinson, *The Laundryman*, Dikutip dalam Sutan Remy Sjahdeini, *Seluk Beluk Tindak Pidana Pencucian Uang Dan Pembiyaayan Terorisme*, (Jakarta, Pustaka Utama Grafiti, 2004), h. 6

<sup>6</sup> Supriyadi Widodo Eddyono, *Mengurai Implementasi dan Tantangan Anti – Pencucian Uang di Indonesia* (ICJR (Institute for Criminal Justice Reform). 2015.

<sup>7</sup> Joni Emirzon, *Bentuk, Praktik, dan Modus Tindak Pidana Pencucian Uang*, makalah dalam Seminar KPK

<sup>8</sup> Aulia Ali Reza, *Tindak Pidana Pencucian Uang*, Masyarakat Pemantau Peradilan Indonesia, MaPPI, Fakultas Hukum Universitas Indonesia, 2020, h. 4

The TPPU law itself determines the types of crimes that become the source of wealth whose origins are then disguised as regulated in Article 2 of Law Number 8 of 2010, namely:

(1) The proceeds of a criminal act are assets obtained from a criminal act:

- a. Corruption;
- b. Bribery
- c. narcotics;
- d. psychotropics;
- e. labor smuggling;
- f. migrant smuggling;
- g. in banking;
- h. in the capital markets sector;
- i. in the insurance sector;
- j. customs;
- k. excise;
- l. human trafficking;
- m. illicit arms trade;
- n. terrorism;
- o. kidnapping;
- p. theft
- q. embezzlement;
- r. fraud;
- s. counterfeiting money;
- t. gambling;
- u. prostitution;
- v. in the field of taxation;
- w. in the forestry sector;
- x. in the environmental sector;
- y. in the maritime and fisheries sector; or
- z. other criminal acts which are punishable by imprisonment for 4 (four) years or more, which are committed in the territory of the Unitary State of the Republic of Indonesia or outside the territory of the Unitary State of the Republic of Indonesia and these criminal acts are also criminal acts according to Indonesian law.

The process of disguising or hiding assets obtained from various predicate crimes as intended in Article 2 of Law NO. 8 of 2010, has several stages which are generally divided into 3 (three) in relation to the crime of money laundering (hereinafter referred to as TPPU), namely placement, transfer (layering), and using assets (integration).

Under certain conditions, money laundering activities are not only carried out by the perpetrator alone, but often also involve other parties. Participation or *deelneming* is difficult to separate from money laundering criminal cases. *Deelneming* or participation is a series of participating activities carried out by more than one person, and each person has a different role and responsibility in a particular event. Regulations regarding inclusion are contained in Article 55 and Article 56 of the Criminal Code (hereinafter referred to as the Criminal Code).

Incidents of involvement in money laundering criminal cases are vulnerable to professionals in the fields of finance and law, who have special expertise, knowledge and access to the global financial system. These professionals, with their expertise and legal protection for their profession, can easily commit criminal acts of money laundering from the proceeds of criminal acts or obtain illegal assets from criminals. Based on the expertise and advantages of these professionals' positions, it does not rule out the possibility for criminals to use the services of these professionals, to

facilitate the implementation of money laundering crimes. Considering the vulnerability of these professionals to being exploited by criminals, especially in carrying out money laundering, a regulation was formed which regulates that professionals as a profession are obliged to make a report regarding suspicious transactions to PPATK. Regulations requiring professionals to report suspicious transactions are contained in Government Regulation no. 43 of 2015 concerning Reporting Parties in the Prevention and Eradication of Money Laundering Crimes (hereinafter referred to as PP No. 43 of 2015).

PP No. 43 of 2015 is administrative in nature with the aim that professionals implement the principle of recognizing service users and not being involved in money laundering practices. This is of course intended to secure the position of professionals from being caught by TPPU, both as active and passive actors. Based on the description above, this article is intended to describe how professionals involved as gatekeepers in money laundering crimes are punished in Indonesia.

### Methodology

Legal research is a scientific method of finding a solution to a legal problem in order to provide a prescription about what should be done regarding the legal problem.<sup>9</sup> The main focus of legal research is to identify, process, interpret and collect data and then provide an in-depth understanding of legal concepts.<sup>10</sup> This is done to solve the legal problems currently being faced. This article was written using a normative juridical research type, namely research by reviewing formal regulations such as legislation, theoretical literature and then relating it to the problems discussed.<sup>11</sup>

### Discussion

#### 1. Professionals who are qualified as Gatekeepers

Law Number. 8 of 2010 does not recognize the term gatekeeper so it does not explicitly provide a definition of what is meant by gatekeeper. Gatekeeper is a term that refers to professional financial experts or legal experts who have special abilities and access to the world financial system to hide the proceeds of crime.<sup>12</sup> In line with this, according to Paku Utama, Gatekeepers are individuals who provide services to disguise or hide the proceeds of predicate crimes, by entering them into a financial system, company and other systems, both domestically and internationally.<sup>13</sup>

Peter Mc Namee further said that professions categorized as gatekeepers often take advantage of the regulations regarding confidentiality protection given to them, to commit certain criminal acts. For example, the

confidentiality rules that the advocate profession has with its clients. This is often used as a means of protection against suspicion of participation in a money laundering crime.<sup>14</sup> The background behind committing a crime of money laundering is with the intention of transferring or continuing a crime that results in proceeds of crime, by enjoying the proceeds of crime without any suspicion from law enforcement officials, as well as investing the proceeds of crime to develop further criminal acts or by mixing them with legitimate business.<sup>15</sup>

Monty Raphel stated that there are two main reasons people seek help from gatekeepers to launder money. First, anti-money laundering measures have increased the risk of money laundering being detected at financial institutions. Second, the government's efforts to combat money laundering have resulted in money launderers facing significant obstacles in laundering their money.<sup>16</sup> The use of gatekeeper services continues to increase. According to Muslim, the professions where his profession is used are lawyers and notaries, at least from 2010 to 2012 there were 61 reports of alleged involvement of lawyers and notaries in corruption and money laundering schemes. Apart from utilizing their expertise, gatekeepers are also tasked with breaking the relationship between crime, crime perpetrators and crime victims.<sup>17</sup>

Kevin L Shepherd as quoted by Paku Utama believes that Gatekeepers include lawyers, notaries, trusts and company service providers (TCSP), real estate agents, accountants, auditors and certain non-financial businesses and professions (Designed Nonfinancial Business and Profession /DNFBPs) others that assist in transactions involving the movement of money in the domestic and international financial system.<sup>18</sup> This work further defines gatekeepers as various financial or legal professionals with special skills, knowledge and access to the global financial system who utilize their expertise to hide the proceeds of corruption or criminal acts.<sup>19</sup>

Referring to the various opinions above, the gatekeeper classification is actually contained in Article 3 of Government Regulation Number 43 of 2015, which states, the Reporting Party other than as intended in Article 2 also includes:

- a. Advocate;
- b. Notary Public;
- c. Land Titles Registrar;
- d. Accountant;
- e. Public accountant; And
- f. Financial planner.

This means that even though the laws and regulations in Indonesia do not provide a definite definition of gatekeeper, through Government Regulation Number 43 of 2015 it has classified various types of professionals consisting of advocates, notaries, land deed officials, accountants, public

<sup>9</sup> Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2021), h. 103

<sup>10</sup> J Portman, *Legal Research: How to Find and Understand the Law* (USA: Nolo, 2009), h. 4, dalam A'an Efendi & Dyah Ochorina Susanti, *Penelitian Hukum (Legal Research)* (Jakarta: Sinar Grafika, 2018), h. 4

<sup>11</sup> Peter Mahmud Marzuki, *op.cit.*, h. 194

<sup>12</sup> Habib Adjie, Makalah "Apakah Tetap Notaris/PPAT Dikualifikasikan sebagai Gatekeeper dalam Tindak Pidana Pencucian Uang, disampaikan pada Seminar Peran Gatekeeper dalam Mencegah Tindak Pidana Pencucian Uang, 2013, h 7.

<sup>13</sup> Paku Utama, *Memahami Asset Recovery & Gatekeeper*, Jakarta, *Indonesian Legal Round- Table* (Indonesian Legal Roundtable 2013.

<sup>14</sup> *Ibid.* hlm. 141.

<sup>15</sup> Patorang Halim, *Penegakan Terhadap Kejahatan Pencucian Uang Diera Glogalisasi*, Total Media, Jakarta, 2013, h.2

<sup>16</sup> Monty Raphel, dalam Paku Utama, *Memahami Asset Recovery & Gatekeeper*, Jakarta: Indonesian Legal Roundtable, 2013, h 45

<sup>17</sup> Dony Aprian, "PPATK: Keterlibatan Gatekeeper Dalam Kasus Pencucian Uang Terus Meningkat", <https://news.okezone.com/read/2013/08/28/339/857164/>

<sup>18</sup> *Ibid.* h. 142

<sup>19</sup> *Ibid.*

accountants and financial planners. As a profession that is vulnerable to becoming gatekeepers for money laundering, these professionals are obliged to apply the principle of recognizing service users.

This is considered reasonable considering that gatekeepers are believed by criminals to be a profession that can secure, legitimize or obscure significant amounts of money or assets in money laundering activities. The benefits obtained from professionals are almost the same understanding of the law from all scientific aspects as other law enforcement officers have. So, it is believed to be able to help and protect perpetrators of criminal acts from operations carried out by law enforcement officials in eradicating TPPU.

So, professionals as gatekeepers have now become a necessity for perpetrators of predicate crimes, to assist in hiding the proceeds of criminal acts, as assets or other disguises, solely for the sake of making the results appear legitimate in the eyes of the law. For example, perpetrators of criminal acts of corruption who try to hide assets by carrying out money laundering activities effectively in order to avoid legal action.<sup>20</sup>

The reporting party is defined as any person who, according to the laws and regulations governing the prevention and eradication of the crime of money laundering, is obliged to submit a report to the PPATK. The report is in the form of LTKM for professional service users, several exceptions are imposed on the advocate profession. Reports carried out by the profession on TKM for service users are mandatory, because there are sanctions for those who do not comply with this rule.

## 2. Criminalization of Gatekeepers

The criminalization of money laundering in Indonesia has only been around for a few years created. In fact, during the New Order, physical development was prioritized by attracting as much capital as possible from abroad to cover the economic destruction inherited from the Old Order. Nowadays, Indonesia is now becoming a victim of people who make money from the country through corruption and others whose money is taken abroad and planted there.<sup>21</sup> Usually, criminals first try to get the assets obtained from the crime into the financial system, especially into the banking system. In this way, it is hoped that the origin of the assets cannot be traced by law enforcers.<sup>22</sup>

Other efforts carried out by perpetrators of money laundering crimes to launder assets resulting from crimes other than into the financial system, especially into the banking system, also through providers of other goods and/or services and also using the profession as a gatekeeper.<sup>23</sup> The imposition of the gatekeeper title on professionals is part of the designation of professional criminals as explained above who violate legal regulations regarding money laundering crimes, by using their

profession for personal gain or certain parties in ways that are not halal or violate the rules. Criminal activities that are vulnerable to being carried out by professionals in question are TPPU which are carried out jointly with their service users (in this case TPPU perpetrators), either at the request of their service users or based on suggestions or input given to their service users.

The act of money laundering through providers of other goods and/or services This can take the form of purchasing valuable assets such as luxury houses, luxury cars, gold bars, jewels, etc. either for investment or to be used for personal or other parties' interests. Apart from using financial institutions, money launderers also take advantage of certain professions where the relationship between the profession and its clients is protected by law or a code of ethics.<sup>24</sup>

As explained previously, Government Regulation Number 43 of 2015 stipulates professionals as one of the reporting parties who are obliged to report suspicious transactions to PPATK. The obligations of professionals as reporting parties in efforts to prevent and eradicate money laundering criminal acts, give rise to sanctions consequences for professionals, if they do not comply with their obligations as reporting parties in supporting the anti-TPPU regime, if they do not comply with these obligations they can be subject to sanctions as intended in Article 30 Law Number 8 of 2010, namely :

1. The imposition of administrative sanctions as intended in Article 25 paragraph (4) and Article 27 paragraph (3) is carried out by the Supervisory and Regulatory Institution in accordance with the provisions of statutory regulations.
2. In the event that the Supervisory and Regulatory Institution as intended in paragraph (1) has not been established, the imposition of administrative sanctions on the Reporting Party shall be carried out by PPATK.
3. Administrative sanctions imposed by PPATK as intended in paragraph (2) may be in the form of:
  - 1) warning;
  - 2) written warning;
  - 3) announcement to the public regarding actions or sanctions; and/or
  - 4) administrative fines.
4. Receipt of administrative fines as intended in paragraph (3) letter d is declared as Non-Tax State Revenue in accordance with the provisions of statutory regulations.
5. Further provisions regarding the procedures for imposing administrative sanctions as intended in paragraph (3) are regulated by the Head of PPATK Regulation.

Remembering as regulated in Article 10 of Government Regulation Number 43 of 2015, that the provisions regarding the implementation of reporting obligations by the Reporting Party (in this case consisting of advocates, notaries, land deed making officials, accountants, public accountants and financial planners) as intended in the Law Number 8 of 2010 applies mutatis mutandis to the implementation of reporting obligations for the Reporting Party.

The next interesting thing to study is the criminalization of gatekeepers. Criminalization can be interpreted as the

<sup>20</sup> V Harlen Sinaga, *Dasar-Dasar Profesi Advokat*, Erlangga, 2011, h. 121.

<sup>21</sup> Andi Hamzah, *Kejahatan di Bidang Ekonomi (Economic Crimes)*, Sinar Grafika, Jakarta, 2017, h.25-26.

<sup>22</sup> R. Wiryono, *Pembahasan Undang-Undang Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang*, Sinar Grafika, Jakarta, 2014, h.3

<sup>23</sup> Yunus Husein dan Roberts K., *Tipologi dan Perkembangan Tindak Pidana Pencucian Uang, Rajawali Pers*, Depok, 2018, h.3-4

<sup>24</sup> Yunus Husein dan Roberts K., *Ibid*, h.5



process of determining a person's actions as punishable. This process ended with the formation of a law, where the act was threatened with a sanction in the form of a criminal offense.<sup>25</sup> Soetandyo Wignjosoebroto stated that "criminalization is a statement that certain actions must be assessed as criminal acts which are the result of normative considerations whose final form is a decision."<sup>26</sup> Criminalization of TPPU acts, in general the formulation of offenses regarding what acts can be categorized as TPPU is regulated in the provisions of Article 3, Article 4 and Article 5 of Law Number 8 of 2010.

#### Article 3

*"Every person who places, transfers, diverts, spends, pays, gives away, entrusts, takes abroad, changes form, exchanges for currency or securities or other actions on assets which he knows or reasonably suspects are the proceeds of a criminal act as referred to in Article 2 paragraph 1, with the aim of concealing or disguising the origin of assets, shall be punished for the crime of Money Laundering with a maximum imprisonment of 20 (twenty) years and a maximum fine of IDR 10,000,000,000.00 (ten billion rupiah)".*

#### Article 4

*"Any person who conceals or disguises the true origin, source, location, designation, transfer of rights, or ownership of assets which he knows or reasonably suspects are the result of a criminal act as intended in Article 2 paragraph 1 shall be punished for the crime of money laundering. a maximum prison sentence of 20 (twenty) years and a maximum fine of IDR 5,000,000,000.00 (five billion rupiah)".*

#### Article 5

*"(1) Every person who receives or controls the placement, transfer, payment, grant, donation, safekeeping, exchange or use of assets which he knows or reasonably suspects are the proceeds of a criminal act as intended in Article 2 paragraph 1 shall be punished by a maximum imprisonment of 5 (five) years and a maximum fine of IDR 1,000,000,000.00 (one billion rupiah). (2) The provisions as intended in paragraph 1 do not apply to Reporting Parties who carry out reporting obligations as regulated in this Law".*

In practice, the qualifications for money laundering criminals are divided into active perpetrators and passive perpetrators. Based on the doctrine and jurisprudence of the Decision of the Supreme Court of the Republic of Indonesia, regarding subjects or perpetrators as regulated in the

provisions of Article 3, Article 4 and Article 5 paragraph (1), if they are classified based on actions, then the subjects or perpetrators in the provisions of Article 3 and Article 4 are classified as perpetrators. Active, while perpetrators as regulated in the provisions of Article 5 paragraph (1) are classified as passive perpetrators.<sup>27</sup>

The classification of Active perpetrators and Passive perpetrators is based on the perpetrator's activeness in acts or activities aimed at hiding or disguising the origin of the proceeds of crime as regulated in the provisions of Article 3 and Article 4 of Law Number 8 of 2010. The definition of active in the context of active perpetrators the crime of money laundering is an active and varied activity carried out by the perpetrator of the crime of money laundering.<sup>28</sup>

The difference in principle between the provisions of Article 3 and Article 4 compared to the provisions of Article 5 paragraph 1 of Law Number 8 of 2010, in Article 3 and Article 4 of Law Number 8 of 2010 there is the phrase concealing or disguising the origin of criminal assets. Meanwhile, in the provisions of Article 5 of Law Number 8 of 2010 there is no phrase to *hide or disguise the origin of assets resulting from crime*.<sup>29</sup>

Thus, the criminalization or punishment of the actions carried out by the gatekeeper in a TPPU case needs to be seen as to the suitability of his actions with the elements of Article 3, Article 4 and Article 5 of Law Number 8 of 2010, which then determines whether he committed the action as an active perpetrator or passive perpetrators of TPPU. Furthermore, it needs to be seen that the services of professionals used by TPPU perpetrators are aimed at hiding or disguising the origin of assets resulting from criminal acts. So, it can be said that the act carried out is an active act to carry out an act, not just receiving, controlling or using as contained in the elements of Passive TPPU acts as regulated in the provisions of Article 5 of Law Number 8 of 2010. Therefore, what is necessary explored is the element of the act of concealing or disguising.

In general, the phrase "**conceal**" is defined as an activity carried out in an effort so that other people will not know the origin of assets derived from the proceeds of crime, including by not informing Financial Services Provider officers regarding the origin of the source of funds in the context of placement., then attempts to keep assets (money) away from the perpetrator and his crimes through transfers both within and outside the country, in the name of himself or another party or through fictitious companies created or illegal companies and so on (layering).

After the placement and layering runs smoothly, usually the perpetrator can use the assets safely for either legal or illegal activities (integration). In the context of money laundering, the three stages do not all have to be passed in stages, sometimes only the placement, layering or placement stages directly into integration are enough.<sup>30</sup> The act of disguising

<sup>25</sup> Teguh Prasetyo. *Kriminalisasi Dalam Hukum Pidana*. (Bandung. Penerbit Nusa Media. 2010),h. 2.

<sup>26</sup> Soetandyo Wignjosoebroto, "*Kriminalisasi dan Dekriminalisasi: Apa Yang Dibicarakan Sosiologi Hukum Tentang Hal Ini*, disampaikan dalam Seminar Kriminalisasi dan Dekriminalisasi dalam Pembaruan Hukum Pidana Indonesia, Fakultas Hukum UII, Yogyakarta, 15 Juli 1993. h. 1.

<sup>27</sup> Kajian Hukum Pembuktian Unsur Menyembunyikan dan Menyamarkan dalam Perkara Tindak Pidana Pencucian Uang, PPATK, Cetakan Pertama, 2021, h. 56.

<sup>28</sup> Reda Mantovani, Narenda Jatna, *Rezim Anti Pencucian uang dan Perolehan Hasil Kejahatan di Indonesia*, \*UAI Press, Cetakan III),h.10

<sup>29</sup> PPATK, *Op.Cit.* h. 57.

<sup>30</sup> *Ibid.* h. 61-62. See the Panel of Judges' considerations on proving the element "with the aim of hiding or disguising the origin of assets" in Central Jakarta District Court Decision Number 84/Pid.Sus/TPK/2013/PN.Jkt.Pst., h. 438.

is defined as the act of mixing haram money (proceeds of crime) with halal money so that the haram money appears as if it came from legitimate activities, exchanging haram money for other currencies and so on.<sup>31</sup>

The essence of the criminalization of money laundering is basically the act of hiding or disguising the origin of assets resulting from criminal acts so that these assets appear as if they are legitimate assets.<sup>32</sup> Therefore, actions carried out by professionals if they are involved in TPPU crimes can be subject to criminal acts as regulated in Article 3 or Article 4 of Law Number 8 of 2010.

Related to this, it can be seen in the case of the Notary's involvement in the case of alleged letter forgery and TPPU experienced by Nirina Zubir, where the Notary as the Official Land Deed Maker involved was decided to have committed TPPU as regulated in Article 3 of Law Number 8 of 2010. In this case, Notaries jointly falsify authentic deeds by issuing a Sale and Purchase Deed as the basis for transferring ownership rights.

### Conclusion

Gatekeepers are individuals who have skills that enable them to unlawfully provide services to disguise or hide the proceeds of a predicate crime. In fact, regulations in Indonesia do not recognize the term gatekeeper, but are aware of the potential for TPPU perpetrators to utilize the role of professionals as gatekeepers. Based on various definitions of gatekeepers, professions that are classified as vulnerable to becoming TPPU gatekeepers are advocates, notaries, land deed officials, accountants, public accountants and financial planners.

Professional individuals who are involved in money laundering activities to hide or disguise the origin of assets originating from criminal acts may be subject to the provisions of Article 3 or Article 4 of Law Number 8 of 2010 and are categorized as active perpetrators. Considering that the role of gatekeepers in money laundering activities is very crucial, joint awareness is needed for both professionals themselves and regulatory and supervisory institutions such as PPATK to always encourage the importance of implementing the principle of recognizing service users (*Know Your Customer*).

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<sup>31</sup> Ibid. Lihat the Panel of Judges' consideration of the element of proof "with the aim of hiding or disguising the origin of assets" in the Central Jakarta District Court Decision Nomor 84/Pid.Sus/TPK/2013/PN.Jkt.Pst., h. 438 – 439.

<sup>32</sup> See the Panel of Judges' considerations on proving the element "with the aim of hiding or disguising the origin of assets" in Jambi District Court Decision Number 637/Pid.Sus/2013/PN.Jmb h. 38