Phrase "Suspectable" as the Criminal Liability of Foundations for Passive Performers of Money Laundering

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Abstract. The development of the position of foundations and/or social institutions as legal entities or corporations has had an impact on the rise of criminal acts targeting their positions. One of them is the crime of money laundering (TPPU). The vulnerability of the position of foundations and/or social institutions as passive perpetrators of TPPU for receiving cash flows is caused by multiple interpretations of the phrase "reasonably suspected" which is the basis for criminal liability. The aim of this research is to analyze the application of the phrase "reasonably suspected" based on the 2023 Criminal Code as well as criminal liability for foundations and/or social institutions as passive actors. The research method used in this research is a normative juridical legal method and uses conceptualization by prioritizing norms and doctrine. The results of this research show that there are still no clear limitations regarding the phrase "reasonably suspected" in the New Criminal Code which is the basis for the responsibility of passive TPPU perpetrators. Apart from that, in the TPPU Law there is also no obligation to report financial statements received by foundations and/or social institutions and in essence, in the law, foundations also do not have an obligation to prove the origin of money received as operational assistance. So based on this research, criminal liability for TPPU towards foundations and/or social institutions must be reviewed further and provided improvements in implementation and enforcement. Apart from that, in the TPPU Law there is also no obligation to report financial statements received by foundations and/or social institutions and in essence, in the law, foundations also do not have an obligation to prove the origin of money received as operational assistance. So based on this research, criminal liability for TPPU towards foundations and/or social institutions must be reviewed further and provided improvements in implementation and enforcement. Apart from that, in the TPPU Law there is also no obligation to report financial statements received by foundations and/or social institutions and in essence, in the law, foundations also do not have an obligation to prove the origin of money received as operational assistance. So based on this research, criminal liability for TPPU towards foundations and/or social institutions must be reviewed further and provided improvements in implementation and enforcement.

Keywords: Foundations, Criminal Liability, Money Laundering Crimes and Passive Actors.

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1. Introduction

Money laundering is a white collar crime and also a major organized crime.[1] Historically, the term money laundering originates from the mafia buying laundromats as a place to invest the proceeds of crime.[2] The crime of money laundering is generally carried out through several stages, namely placement, layering and integration.[2]

Indonesia is firmly committed to preventing and eradicating money laundering with the ratification of Law Number 15 of 2002 concerning the Crime of Money Laundering until it was replaced with Law Number 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering (UU TPPU). In accordance with what is stated in TPPU Law Article 1 Paragraph 2, Indonesia also established the Financial Transaction Reports and Analysis Center (PPATK) as an independent institution that is directly accountable to the president and focuses on money laundering.

According to data from the Statistical Report of the Center for Financial Transaction Reports and Analysis (PPATK), up to January 2021 there have been 556 cases with 448 court decisions regarding the crime of money laundering with the majority receiving life sentences and the largest fine ever imposed of Rp. 32 billion.[3] One of the obstacles to the enforcement of ML is because there are provisions that are still being debated in society.An example is found in the norms in the money laundering law which are still multi-interpreted and also experience legal ambiguity in their enforcement, especially norms relating to accountability for the perpetrators of money laundering crimes. One type of money laundering perpetrator that has multiple interpretations and experiences legal uncertainty is the passive perpetrator as regulated in Article 5 of Law No. 8 of 2010 and/or Article 607 Paragraph (1) letter c of the Criminal Code Law No. 1 of 2023 (*Everyone who receives or controls the placement, transfer, payment, grant, donation, safekeeping, exchange, or use of Assets that he knows or reasonably suspects are proceeds of crime*).

Passive money laundering crimes and/or passive perpetrators are considered to be the norm as well as articles that require a more detailed explanation to facilitate the enforcement process. Especially in this case regarding the definition and limitations in the application of the phrase "reasonably suspected", because the presence of this phrase in the article on passive actors and in its implementation is considered to impose a subjective burden of responsibility on every person and/or corporation involved in this matter. Passive perpetrators who are the subject of Article 5 paragraph (1) of the Money Laundering Law and/or in Article 607 paragraph (1) letter c of the New Criminal Code are every person, including wife, friends, parents, relatives, social institutions/foundations and other parties who receive or control the placement, transfer, payment, grant, donation, safekeeping, exchange, In addition, the crime of money laundering which has the characteristics of a follow the money crime (following the flow of money) also increasingly influences the application process related to the phrase "reasonably suspected" and in determining the responsibility for passive perpetrators, most of whom do not know or even do not know. involved in the crime at all.[4]

The real problematic facts regarding the application of the article regarding the criminal act of passive money laundering have been charged and suspected to have dragged several social foundations/institutions. One of the foundations/social institutions affected by this article is the case of a foundation/social institution that occurred in 2021 which allegedly received funds for a corruption case committed by Nurdin Abdullah who donated part of his wealth to foundations and/or social institutions for the construction of mosques in Arra Hamlet, Tompo Bulu Village, Tompo Bulu District, Maros Regency, South Sulawesi.[5] In this case, the mosque which was the result of a grant from the Governor of South Sulawesi was also confiscated because it was stated as the result or evidence of money laundering.[5]

This of course makes it even more complicated for the implementation of this article, because there is a legal clash with conditions or social norms that are still growing in society.

2. Problems

This research is written to solve the problem:

a. How is the application of the phrase "reasonably suspected" as a basis for criminal responsibility for passive perpetrators in ML according to the New Criminal Code?

b. What is the criminal responsibility for foundations and/or social institutions as passive perpetrators of money laundering?

3. Method

The method used in this paper is a normative juridical approach that emphasizes research by raising, discussing and explaining a problem in this study by focusing on the application of rules and norms in positive law. and conceptual approaches.

4. Discussion

4.1. Application of the Phrase "Reasonably Suspected" As a Basis for Criminal Responsibility for Passive ML Offenders

In general, the article on criminal acts consists of two elements, namely an objective element and a subjective element. The objective element is all the elements which regulate actions related to unlawful nature (obviously prohibited by law), while the subjective element is an element related to the inner side of the subject in a crime related to errors and/or omissions (still suspect and giving rise to multiple interpretations).[6] In practice, these objective and subjective elements are common in an article, both in general crimes (as set forth in the Criminal Code) or special (in articles in special regulations), including money laundering as a special crime organized.

The norms related to the crime of money laundering have been specifically regulated through Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes (hereinafter referred to as the TPPU Law), which later amended several provisions in chapter 35 regarding the special crime chapter of the Law. Number 1 of 2023 concerning the Criminal Code (hereinafter referred to as the New Criminal Code). The urgency of regulating money laundering crimes is included in a special chapter in the New Criminal Code based on several reasons, such as:

a. The impact of the victims is much greater;
b. Transnational and organized;
c. The criminal procedural arrangements are special;
d. Having a supporting institution in law enforcement that is characteristic and has special authority;
e. Supported by various international conventions, both those that have been ratified and those that have not; and
f. An act that is considered a very evil and despicable criminal act by society.

As a rule, in money laundering crimes, objective and subjective elements are included in one of the articles regarding passive perpetrators. Which is in Article 5 and/or which has been amended in Article 607 paragraph (1) letter c of the New Criminal Code concerning passive offenders. As for the simple provisions in Article 5 and/or Article 607 paragraph (1) letter c of the New Criminal Code as follows:

No.		**TPPU Norms**
1.	Subject	Person Corporation/legal entity (rechtpersoon)
2.	Legal Acts	Objective: Receive, Master, Use, Know (what he knows); And Subjective: Suspectable.
3.	Process	Placement, Transfer, Payment, Grant, Donation, Custody and Exchange.

Source: Article 5 of the TPPU Law and/or Article 607 Paragraph (1) letter c of the New Criminal Code

It can be explicitly seen that in the article regarding passive actors there are objective elements including:

a. What he knows: a condition in which a person knows about a situation and/or things that are happening either by directly seeing, hearing or participating in the action. In this element it can be said that the person concerned deliberately committed an act that was closely related to the intention of doing it or intentionally;[2]
b. Receive: an act that is committed or an act of getting something, which in criminal law usually something that is received has something to do with the existing case;[7]

c. Control: a condition where an individual or corporation has power or something, usually in the form of goods. Which cannot be equated with owning, but in this condition something that is in his power can be used for his benefit; and [7]

d. And use: an action taken on something (usually in the form of goods or services) in order to take advantage of it. Usually it is also related to an effort to gain profit.

Based on the results of an interview with the Judge of the District Court Class IA Jember Mrs. RR Dyah Poeronomojekti, S.H., on May 19, 2023, at 10:00 a.m. WIB, the subjective elements include: reasonableness to be suspected and/or what can be described as reasonableness. The application of the article regarding passive actors will be broadly applied to someone who is suspected of receiving funds from TPPU, provided that they must comply with and fulfill the elements contained in the article. This implementation is in line with Yenti Ganarsih's opinion that passive actors (bettors) in TPPU are interpreted as the type of actor who receives and enjoys the results of the flow of TPPU funds.[2] However, on the other hand, the application of the norm of equalizing the burden of passive perpetrators is contrary to the opinion of Constitutional Judge Aswanto and Constitutional Judge Maria Faida in Constitutional Court Decision No. 77/PUU-XII/2014 that equalizing the burden of passive perpetrators on the basis of the flow of funds of TPPU is not the right decision because in the norm of passive perpetrators it is considered that there are still norms that are difficult to prove because they provide an excessive burden and do not provide legal certainty.

Still in the Constitutional Court's decision, according to the judges of the Constitutional Court in a hearing related to the application for judicial review of the law, the phrase should be suspected can be interpreted as a situation where the legal subject must suspect with rational reason about a matter related to the law. This definition is of course a biased and varied definition so that in criminal law this phrase is categorized as something that is part of negligence. Negligence is a part of error (mensrea) which can be said to be a condition that is almost the same as intentional but with a different, lower degree. This lower degree of form is because negligence arises in a way that is inversely proportional to intention, which if intentional will arise as a result of something desired but if negligence can arise due to an action whose consequences are not calculated (less guesswork).[8] Meanwhile, according to Prof. In view of Eddy's negligence (imperitia culpae annumeratur), there are two conditions, namely: it must be reviewed for lack of caution and lack of guesswork, while the application of these conditions applies as an alternative, not cumulative.[9]

In connection with the classification in the New Criminal Code regarding TPPU, especially the phrase "reasonably suspected" in the negligence section, this also has an impact on its application, especially in the evidentiary process during trial. Where proof of negligence in court will certainly be more rigorous and different from proof related to dolus (deliberate intent). Even though normatively, most of the evidence carried out regarding the phrase "reasonably suspected" still refers to the Criminal Procedure Code as a criminal procedural code. Proof itself is a process

carried out to present evidence (evidence that is permitted to be used, describe the evidence, and related evidence used or used) related to the case at trial.[10]

In the practice of criminal procedural law, proof is a very important process to carry out in order to find material truth that is in line with the objectives of criminal law. This is further strengthened by article 183 of the Criminal Procedure Code as a reference that in the criminal case process it is not permissible for a judge to impose a crime if there are not at least 2 pieces of evidence which can be believed to be valid. Therefore, efforts to reveal material truths rely heavily on facts that are clearly revealed in the trial based on evidence that is considered valid in the trial.

As for the evidence considered valid in criminal law according to Article 184 of the Criminal Procedure Code, namely first witness statements, expert statements, letters, evidence instructions and statements of the accused. Meanwhile, if adjusted to the TPPU, there is additional evidence in the form as stipulated in Article 73 letter b of the TPPU Law "valid evidence in proving the criminal act of money laundering is other evidence in the form of information that is spoken, sent, received, or stored electronically with optical devices or similar to optics and documents".

According to M. R Tresna, in carrying out evidence related to negligence, the basic fulcrum is to prove the absence of thinking skills, wisdom and caution (het gemis aan voorzichttigheid) regarding possible consequences. Because the true burden of responsibility of individuals who commit negligence lies in their negligence.[11], [12] But of course the proof of negligence is not that easy to prove because there are many opinions regarding the elements of the limitations in determining the negligence. Therefore, in determining or proving carelessness and determining possible consequences, Satochid Kartanegara provides a criterion that the first way to determine someone has been careful is based on one's mind and strength. [12], [13] This means that if you were in the same situation as the perpetrator, would you feel like you would do the same thing or vice versa. If you do something else, it can be said that the perpetrator was negligent. Second, Satochid also explained that to assess the element of caution, a benchmark must be made as to whether the other party, if they experienced a similar situation, would suspect or be able to think and imagine the consequences arising from the action or not. If in this case they cannot imagine then the perpetrator can be said to have meet the requirements of caution. [12], [13] However, if there are other people with the same strength and in the same circumstances who can imagine the possible consequences, then the perpetrator can be said to lack accuracy and caution.

Apart from that, when carrying out proof the phrase "reasonably suspected" must be carried out in accordance with the appropriate evidentiary system to be used in money laundering crimes. In TPPU, the evidence that is carried out has different characteristics from the evidence stipulated in the Criminal Procedure Code. As Article 77 of the TPPU Law states, "For the purposes of examination at a court hearing, the defendant is obliged to prove that his assets are not the proceeds of a criminal act." This is of course clearly stated in the article which emphasizes that the evidence in the ML case adheres to evidence that is different from what is stipulated in the Criminal Procedure Code, which specifically has a reversed proof system.[14] In TPPU, this reverse verification system is carried out and is still considered valid

because it is a legitimate extra ordinary enforcement step in preventing extra ordinary crimes such as corruption and TPPU. Even the application of the reverse evidence system is also strengthened by the application of the principle of Presumption of Guilt (principle of presumption of guilt).[14]

Proving culpa using the reverse verification system in TPPU has a fairly complicated level of difficulty because there is a fairly high probability risk and has an impact on depriving a person of their freedom.[15] Relating to the reverse evidentiary system (the shifting of the burden of proof) which is balanced (only limited to the process carried out in court and limited to one element, namely "wealth").[2] Therefore, apart from relying on the proof process using a reverse proof system, the application of the phrase "reasonably suspected" to liability for passive perpetrators is also influenced by the judge's role in enforcement in court. As in general, judges have an important role as the top effort to seek justice in order to enforce the law both materially and formally. This is also confirmed by the Supreme Court Circular that in TPPU judges have a big responsibility so that later they can uphold justice and provide information on cases that are detrimental to the state.[2] The role of judges in trials of ML cases is increasingly becoming the point of justice because in ML trials it applies in absentia proceedings (trials without the presence of the defendant).[2] The trial without the presence of the accused is a process that is different from the Criminal Procedure Code but is still permitted in the settlement of economic crimes and organized crimes.

Therefore, the role of judges in the trial process of TPPU cases has more urgency, including in providing the judge's considerations. The judge's consideration itself is a continuation of the evidentiary process that has been carried out both by the public prosecutor and also by legal advisors. In the judicial process, the judge as the mouthpiece of the law (judex set lex laguens) has the right to provide considerations which can later become influencing factors in a decision. In simple terms, the judge's consideration (ratio decidendi) is a stage where the judge can give consideration to what is in the facts at trial starting from the initial process to the plea process.[16]

No.	Kinds of Judgment Considerations	
1.	Juridical Considerations	Public Prosecutor's Indictment; Defendant's Statement, Witnesses' Statement, Evidence and Articles in the Criminal Law.
2.	Non Juridical Considerations	The defendant's background, the consequences of the defendant's actions, the defendant's personal condition and the defendant's religion.

The consideration of judges originating from non-juridical aspects is also often referred to as a consideration based on sociology. Where these sociological considerations are also regulated legally as stated in Article 5 Paragraph (1) of Law Number 48 of 2009 concerning Judicial Power which states that "judges and constitutional justices are obliged to explore, follow and understand legal values and a sense of justice who live in society”. Referring to this article, in giving sociological considerations to a decision the judge must:

a. Continue to refer to and pay attention to sources of law or norms that are not written but live in society;

b. Pay attention to the other side of the defendant, including the good and bad attitudes of the defendant, so that later it can be used as a reference for mitigating and aggravating things against the defendant;

c. Pay attention to whether or not there is peace, resistance, mistakes and also the role of the victim in the case;

d. Factors originating from society, such as those related to where the legal environment applies and is applied; and

e. Finally related to cultural factors.[17]

4.2 Criminal Liability for Foundations and/or Social Institutions as Passive Actors in Money Laundering Crimes

One of the legal entities that is legally recognized in Indonesia as a non-profit legal entity is a foundation and/or social institution. Foundations and/or social institutions in general are bodies which in their activities focus on activities that are social in nature and are not driven by profit. This is confirmed again by the definition contained inArticle 1 number (1) of Law Number 28 of 2004 concerning Foundations defines a foundation as a legal entity consisting of separated assets and intended to achieve certain goals in the social, religious and humanitarian fields, which do not have members.

In its operations, foundations and/or social institutions will adhere to the principles of openness and accountability. The application of the principle of openness and accountability in the management of the foundation is also expected to create good governance within the foundation. In addition to having a principle that is used as a reference, in the implementation of foundations and/or social institutions there are also the most basic principles in the management of foundations which include:

a. Foundation organs in carrying out their duties must have good faith;

b. Foundation management must be carried out transparently and/or must be open;

c. Foundation financial reports must be prepared by observing correct accounting standards;

d. Applying the principles of legal responsibility in accordance with those mandated by AD/ART and the Foundation Law; And

e. The positions of the organs of the foundation may not be multiple.

In addition, in terms of operational funds, foundations and/or social institutions will usually rely on several sources, such as:

a. Donations;

b. Grant;

c. Waqf;

d. State aid; and

e. Other acquisitions permitted by law.

In the current era, in fact foundations and/or social institutions in their operations are prone to becoming targets of criminal acts even though they are known as non-profit legal entities. One of the criminal acts that often targets foundations and/or social institutions nowadays is the crime of money laundering. In fact, according to PPATK, foundations and/or social institutions are now prone to becoming media for money laundering. This is evidenced by the outbreak of one of the cases where management of foundations and/or social institutions in 2019 were named as money laundering suspects.[18] Furthermore, according to the Head of PPATK Ivan Yustiavanda, foundations and/or social institutions are not only prone to have their management involved in money laundering, they are also prone to misuse of activities involved in financing terrorism.[19] The vulnerability of vulnerable positions in involvement in money laundering crimes generally occurs because it is related to the source of operational funds received by foundations and/or social institutions. In the crime of money laundering, the position of foundations and/or social institutions can be as active actors who are the main actors in the crime of money laundering, as aides who assist in the money laundering process and also as passive actors who are indicated to receive the flow of funds resulting from the crime of laundering Money.

However, among the three types of ML offenders, the most prone to target foundations and/or social institutions is the position of foundations and/or social institutions as passive ML offenders, where one of the causes of the high risk of foundations and/or social institutions as passive offenders is related to the funds received and/or obtained. One of them is related to grant funds, where grant funds themselves are funds that are legally considered as legitimate and/or legal sources originating from foundations and/or social institutions. This refers to Article 26 Paragraph (2) letter C of Law Number 28 of 2004 concerning Amendments to Law Number 26 of 2001 concerning Foundations. In short, grants are funds or capital provided by other parties to foundations and/or social institutions which are generally voluntary, the allocation has been determined and clear, is not mandatory (meaning there is no compulsion in giving or in nominal terms and/or amount), giving the value of the benefits for recipients, especially in this case foundations and/or social institutions, and what is no less important in giving these grants must be right on target (recipients must meet the requirements as grantees). In terms of distribution, grants themselves are not allowed to be given to just any person and legal entity. Some people or legal entities that can receive grants include:

a. Work units from ministries or non-ministerial institutions that are within the bound work area;

b. To the autonomous regions resulting from the expansion of the related regions;

c. To BUMN and/or BUMD in order to improve and support performance; and

d. Bodies, institutions and social organizations that are legal entities in Indonesia. [20]

In terms of enforcement, foundations and/or social institutions involved in TPPU will of course be subject to criminal liability. Of course, the criminal liability given will always be adjusted to the actions that have been committed. Law and/or the New Criminal Code, the liability imposed on foundations and/or social institutions as stipulated in Article 607 Paragraph (1) of Law Number 1 Year 2023 concerning the Criminal Code:

a. Everyone who becomes an active perpetrator will be subject to imprisonment for a maximum of 15 (fifteen) years and a maximum fine of category VII (Rp 5,000,000,000.00);

b. Everyone who becomes an aider is subject to a maximum imprisonment of 15 (fifteen) years and a maximum fine of category VI (Rp 2,000,000,000.00); and specifically regarding passive actors as stated in article 3 which reads:

c. Everyone who becomes a passive perpetrator is subject to a maximum imprisonment of 5 years and a maximum fine of category VI (Rp 2,000,000,000.00).

In criminal liability imposed on foundations and/or social institutions, the most important thing is the review of the corporation's ability to commit criminal acts and the corporation's ability to be held accountable. In general, there are 3 (three) types of corporate criminal liability, including: First, corporate management as the maker and responsible.[21], [22] In this case the model of criminal liability is charged based on personal accountability (every individual who is proven to have made a mistake on the legitimate duties of a legal entity should be held accountable). Second, the corporation as a responsible maker and administrator.[21], [22] In general, in this model of accountability, criminal acts are committed by corporations but are considered as acts that are also committed by all corporate auxiliary organs (administrators) regardless of whether the management knows or not these actions. Third, the corporation as a maker and as a person in charge.[21], [22] This responsibility burden will usually be imposed if the criminal acts committed are based on motives that benefit the corporation.

Apart from that, in particular, foundations and/or social institutions that are passive actors will also receive an examination before finally establishing proper accountability. In the process of examining foundations and/or social institutions in accordance with Article 53 paragraph (1) of the Foundation Law, initially foundations and/or social institutions are examined and asked for data if they are assessed:

a. Performing legal actions or contrary to the Articles of Association;

b. Negligent in carrying out his duties and authority;

c. Doing acts that harm the foundation or third parties; and

d. Doing acts that are detrimental to the country.

The grant fund polemic often causes foundations and/or social institutions to be involved in money laundering because the flow of funds is disguised as a result of their nature as voluntary funds. Apart from that, another factor that causes the position of foundations and/or social institutions to be vulnerable in receiving flows of funds which may originate from TPPU fund flows is because there is no obligation and necessity for foundations and/or social institutions to report suspicions or indications regarding the flow of funds. suspicious funds. This is proven by the absence of the phrase foundations and/or social institutions or even community organizations as reporting parties in Article 17 paragraph (1) letters (a) numbers 1 to 16 and paragraph (b) numbers 1 to 5 of the TPPU Law. Which in this case the reporting party in the TPPU Law only includes:

a. Financial service providers in the form of (banks, finance companies, insurance companies and brokerage companies, financial institution pension funds, securities companies, custodians, trustees, postal providers as current account service providers, foreign exchange traders, card payment providers, e-money providers and /or e-wallet, savings and loan cooperatives, pawnshops, companies engaged in commodity futures trading and organizers of money transfer business activities);
b. Providers of other goods and/or services such as (property companies/property agents, motor vehicle dealers, gems and jewelery/precious metal traders, art and antiques dealers and auction houses).

In fact, if one looks at it, the obligation of the reporting party to report the flow of suspicious funds received is important in the prevention and eradication of ML if indeed foundations and/or social institutions are considered as media for money laundering. Especially in this case foundations and/or social institutions as organizations that still lack supervision, minimal guidance and are also sometimes limited to an ewoh pakewoh attitude towards assistance that has been given by other people. Furthermore, according to Yetti Komalasari Dewi, when viewed from the foundation law, there is no obligation for foundations and/or social institutions to prove the source of funds received is legally valid or vice versa.[23]

In addition, so far in its operations as stipulated in the Foundation Law, the obligations of foundations and / or social institutions which in this case are represented by trustees, supervisors and administrators are very limited when compared to existing legal developments, where their obligations are only limited to obligations oriented to internal affairs such as holding meetings, setting budgets, preparing budget reports for the previous year and matters relating to the implementation of the foundation's bylaws and / or social institutions. With regard to the reporting of assets and / or budgets in foundations and / or social institutions related to operational funds as stipulated in Article 24 of Government Regulation No. 63 of 2008 concerning the Implementation of the Law on Foundations, there is currently no obligation to report assets owned and only limited to reporting funds derived from state aid once every 1 (one) year. So far, the counseling and guidance regarding vigilance regarding the flow of TPPU funds (acts of suspicion or questioning) and the reporting carried out by PPATK to foundations and/or social institutions has only been limited to an appeal and warning which is in line with the

rapid development of TPPU. Therefore, it is not surprising that cases regarding the flow of grant funds received by foundations and/or social institutions originating from TPPU, regardless of whether the management, supervisors or supervisors know about it or not, are often revealed too late and have to end up at the court table.

5. Conclusion

So it is felt necessary to do so or provide clear limitations in terms of definition and also in application. This must be stated clearly and inseparably in the Law that regulates this phrase or in other words for now in the explanation contained in the New Criminal Code. Apart from that, in enforcement, clear benchmarks must also be emphasized to assess the extent to which the precautionary principle has been used.

In this case there must also be improvements and changes in the Money Laundering Law and the Foundation Law so that later there will be synergy in enforcement and avoiding overlapping references. In addition, seeing the risks that exist in ML, foundations and/or social institutions must be included as mandatory reporting parties so that later countermeasures regarding suspicious flows of funds entering foundations and/or social institutions can be anticipated from the start.

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