

## LEGAL ANALYSIS OF EXEMPTION OF NOTARY OBLIGATION TO MAINTAIN CONFIDENTIALITY OF DEED AGAINST SUSPICIOUS FINANCIAL TRANSACTIONS

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### **ABSTRACT**

*Article 16 paragraph (1) letter f of Law Number 2 of 2014 states that in carrying out his office, a Notary is obliged to keep everything regarding the Deed he made and all information obtained for making the Deed in accordance with the oath/promise of office, unless the law provides otherwise. Article 3 of Government Regulation Number 43 of 2015 states that advocates, notaries and land deed officials, accountants, public accountants and financial planners as reporting parties in preventing money laundering offenses. The problems in this study are how the Notary's obligation to maintain the confidentiality of the deed, the perspective of the Notary Position Act regarding the obligation to report suspicious financial transactions, and how to synchronize the Notary Position Act regarding the obligation to report suspicious financial transactions. The perspective of the Notary Position Act regarding the obligation to report suspicious financial transactions, that the obligation to report suspicious financial transactions by professions such as notaries to the Financial Transaction Reports and Analysis Center (PPATK) as regulated in Government Regulation Number 43 of 2015 concerning Reporting Parties in Prevention and Eradication The crime of money laundering is contrary to the provisions regarding the obligation to maintain confidentiality by a notary as referred to Article 16 Paragraph (1) letter f of the UUJN. This can lead to legal uncertainty, because a legal system may not contain regulations that contradict each other, regarding the existence of a hierarchy of laws and regulations in a country that does not allow conflicts. The conflict between Government Regulation Number 43 of 2015 concerning Reporting Parties in the Prevention and Eradication of the Crime of Money Laundering, of course with the provisions regarding the obligation to maintain confidentiality by a notary as stated in Article 16 paragraph (1) letter f of the UUJN regarding the obligation to report suspicious financial transactions by the profession. such as a notary to the Center for Financial Transaction Reports and Analysis (PPATK), it is necessary to synchronize the Law on Notary Positions regarding the obligation to report suspicious financial transactions*

Keywords: Notary, Money laundry, kerahasiaan akta

### **INTRODUCTION**

There is a conflict of laws in regulation itself. In one side UUJN does not regulate the obligation of a Notary to report suspected suspicious financial transactions from clients. On the other hand, Article 17 verse (1) and (2) of Law Number 8 of 2010 concerning the prevention and eradication of the crime of money laundering regulates the provisions regarding the reporting party, as well as the implementing regulations, namely Government Regulation Number 43 of 2015 Article 3 states that advocates, Notaries and land deed officials, accountants, public accountants and financial planners as reporting parties in preventing money laundering offenses.

### **DISCUSSION**

#### **NOTARIES SHOULD KEEP SECRET THEIR'S CERTIFICATES**

In carrying out duties of Notary, the Notary is obliged to act trustworthy, honest, thorough, independent and maintain the interests of the parties involved in legal actions impartially. In other words, regarding the Notary's obligations as determined by the Notary Position Act to provide guarantees of certainty, order and legal protection for people who need the services of a Notary. Regarding the authority possessed by a Notary, it is quite clearly regulated in the Law on Notary Position, namely making an authentic deed as long as the authority that must be possessed by a public official to make an authentic deed is

that a Notary may only exercise or exercise his authority in accordance with the provisions of the laws and regulations tie it. The notary is obliged to keep everything that is notified to him as a notary public even though some are not included in the deed, the notary is not free to tell what is notified to him as a Notary by his client at the time of the discussion as preparation for the making of the deed, even though not all of what was discussed included in the deed. The obligation to keep it confidential is not only regulated by the law, but also by the Notary himself. A Notary will lose the public's trust and Notary will no longer be considered a confidant if Notary cannot limit himself.

In Article 4 paragraph (2) of the law of Notary regarding the oath/promise of a Notary, it is emphasized "that I will keep the contents of the deed and information obtained in the exercise of my position secret...", and Article 16 paragraph (1) letter f of the UUJN.

## PERSPECTIVE OF THE LAW ON NOTARY POSITIONS REGARDING THE OBLIGATION TO REPORT SUSPICIOUS FINANCIAL TRANSACTIONS

The position of a Notary is a position of trust (vertrouwensambt) and therefore, someone is willing to entrust something to him as a person of trust (vertrouwens persoon). Before the Notary carries out his position, as confirmed in Article 4 paragraph (2) of the law of Notary. Notaries cannot freely disclose or divulge the secrets of their positions to anyone unless there are other laws and regulations that allow them to disclose the secrets of their positions. The oath of office is confirmed as one of the obligations of the Notary as regulated in Article 16 paragraph (1) letter f, which states that in carrying out his position, the Notary is obliged to keep everything about the deed he made and all information obtained for making the deed in accordance with the oath/promise a secret , unless the law provides otherwise.

In accordance with the explanation of Article 16 of the Law on Notary Positions which states that the obligation to keep everything related to the deed and other documents confidential is to protect the interests of all parties related to the deed.

## SYNCHRONIZATION OF THE LAW ON NOTARY POSITIONS IN RELATION TO THE OBLIGATION TO REPORT SUSPICIOUS FINANCIAL TRANSACTIONS

Obligations of a Notary as a reporting party in the prevention of money laundering as regulated in Government Law No. 43 of 2015 concerning money laundry reporting parties and other regulations relating to the obligations of a Notary as a Party that is not in line (synchronous) with the law of Notary which is the legal umbrella for the position of a Notary.

In Law Number 8 of 2010 concerning the prevention and eradication of the crime of money laundering, it does not regulate the Notary as the reporting party in suspicious financial transaction, while in government regulation number 43 of 2015 concerning the reporting party in the prevention and eradication of the Crime of Money Laundering in Article 3, Notary says referred to as the reporting party in the suspicious financial transaction.

## CONCLUSION

The notary is obliged to keep everything that is told to him as a Notary confidential. A Notary will lose the public's trust and he will no longer be considered a confidant if he cannot limit himself. In Article 4 paragraph (2) of the law of Notary regarding the oath/promise of a Notary, it is emphasized that I will keep the contents of the deed and information obtained in the practice of my office confidential, and Article 16 paragraph (1) letter F of the Law of Notary, that the Notary is obliged to: the deed he made and all information obtained for making the deed in accordance with the oath/promise of office, unless the law provides otherwise.

In the perspective of the Notary Position Act, it does not regulate the obligation to report suspicious financial transactions, but in article 16 the Notary is obliged to keep the contents of the deed confidential. The obligation to report suspicious financial transactions by professions such as a Notary to (PPATK) as regulated in Government regulation Number 43 of 2015 concerning reporting parties in the Prevention and Eradication of the Crime of Money Laundering is contrary to the provisions regarding the obligation to maintain confidentiality by a Notary as referred to in Article 16 Paragraph (1) letter f law of Notary. This can lead to legal uncertainty, because a legal system must not contain regulations that contradict each other, regarding the existence of a hierarchy of laws and regulations in a country that does not justify or allow conflicts or conflicts in it.

In connection with the conflict between Government Regulation Number 43 of 2015 concerning Reporting Parties in the Prevention and Eradication of the Crime of Money Laundering and the Money Laundering Law, as well as the provisions regarding the obligation to maintain confidentiality by a Notary as stated in Article 16 paragraph (1) letter f of the law of Notary regarding reporting obligations suspicious financial transactions by professions such as a Notary to the Financial Transaction Reports and Analysis Center (PPATK), it is necessary to synchronize implementing regulations in relation to the obligation to report suspicious financial transactions and implementing regulations of the Money Laundering Law.

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