

Penerapan prinsip customer due diligence sebagai strategi pencegahan kejahatan pencucian uang di Bank Syariah Mandiri = Implementation of customer due diligence principle as a crime prevention strategy money laundering at Bank Syariah Mandiri / Mario Humberto

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Abstrak

ABSTRAK

Pelaku kejahatan selalu berusaha menyelamatkan uang hasil kejahatannya melalui berbagai cara, salah satunya dengan melakukan pencucian uang (money laundering). Para pelaku kejahatan, khususnya dalam penggelapan uang, transaksi terlarang, korupsi bahkan terorisme dan perdagangan obat-obatan terlarang acapkali melakukan kegiatan money laundering karena dianggap sebagai upaya yang paling efektif melindungi proses dan hasil kejahatannya melalui bentuk investasi dan memanfaatkan jasa perbankan.

Untuk mencegah semakin berkembangnya kejahatan yang dapat bersembunyi melalui money laundering itulah maka bank dituntut memiliki prinsip kehati-hatian dalam melaksanakan operasionalnya, dikarenakan Bank adalah salah satu lembaga keuangan mempunyai nilai strategis dalam kehidupan perekonomian Negara bahkan dapat berdampak pula kepada tatanan hukum, politik dan stabilitas suatu negara.

Salah satu upaya efektif yang dapat dilakukan oleh dunia perbankan dalam melakukan pencegahan dan pemberantasan terhadap tindak pidana pencucian uang adalah dengan menerapkan Prinsip Customer Due Diligence (CDD) atau yang dulu dikenal dengan istilah Prinsip Know Your Customer (KYC) yang secara sederhana dapat diartikan sebagai Prinsip Mengenal Nasabah yang dilakukan oleh pihak Bank sebagai tindakan investigasi awal untuk memitigasi risiko terkait money laundering.

Istilah Customer Due Diligence mulai digunakan pada Peraturan Bank Indonesia Nomor 11/28/PBI/2009 tanggal 1 Juli 2009. Istilah ini terus dipakai hingga Peraturan Bank Indonesia yang terbaru yakni Peraturan Bank Indonesia Nomor 14/27/PBI/2012 tanggal 28 Desember 2012 tentang Penerapan Program Anti Pencucian Uang dan Pencegahan Pendanaan Terorisme bagi Bank Umum

Penelitian dalam tesis ini ingin memahami bagaimana penerapan prinsip Customer Due Diligence sebagai strategi pencegahan kejahatan pencucian uang khususnya di Bank Syariah Mandiri serta memahami kendala yang dihadapi oleh Bank Syariah Mandiri dalam penerapan prinsip Customer Due Diligence.

Penelitian ini merupakan penelitian socio-legal yang tidak hanya befokus pada aspek normatif, tetapi juga aspek empiris. Penelitian ini menggunakan data primer dan data sekunder. Data primer diperoleh dari wawancara terhadap narasumber. Narasumber dalam penelitian ini adalah Kepala SKAP (Satuan kerja APU dan PPT) Bank Syariah Mandiri.

Hasil penelitian ini menunjukkan bahwa penerapan Prinsip Customer Due Diligence di bank Syariah Mandiri sudah dilaksanakan dengan konsisten dan berkomitmen tinggi. Prinsip Customer Due Diligence ini juga dapat digunakan sebagai strategi pencegahan tindak pidana pencucian uang yang dilakukan melalui lembaga perbankan. Dalam rangka menerapkan Prinsip Customer Due Diligence, terdapat beberapa kendala yang harus dihadapi oleh bank umum, khususnya Bank Syariah Mandiri. Kendala tersebut berasal dari pihak bank, pihak masyarakat, dan pihak PPATK.

ABSTRACT

Perpetrators are always trying to save money proceeds of crime through a variety of ways, one of them with money laundering. The perpetrators of the crime, especially in the embezzlement, illicit transactions, corruption and even terrorism and trafficking of illicit drugs often commit money laundering activities because it is considered as the most effective measures to protect the process and results of crime through investments and avail banking services.

To prevent the growing crime through money laundering to hide that the bank is required to have the precautionary principle in carrying out its operations, due to the bank is a financial institution has a strategic value in the life of the State's economy can impact even the legal order, political stability and a state.

One of the effective measures that can be undertaken by the banking sector in the prevention and fight against money laundering is to implement the principle of Customer Due Diligence (CDD) or formerly known as the principle of Know Your Customer (KYC) which can be interpreted simply as a Principle Know Your Customer is carried out by the Bank as an initial investigative actions to mitigate risks related to money laundering.

Customer Due Diligence term began to be used on Bank Indonesia Regulation Number 11/28/PBI/2009 dated July 1, 2009. This term continues to be used up to the latest Bank Indonesia Regulations that Bank Indonesia Regulation Number 14/27/PBI/2012 dated December 28, 2012 on the Implementation of Anti Money Laundering and Combating the Financing of Terrorism for Commercial Banks. The research in this thesis would like to understand how the implementation of the principle of Customer Due Diligence as a money laundering crime prevention strategies, especially in Syariah Mandiri Bank and understand the constraints faced by Syariah Mandiri Bank in the implementation of the principle of Customer Due Diligence. This study is a socio-legal focused not only on normative aspects, but also aspects of the empirical. This study uses primary data and secondary data. The primary data obtained from interviews with informants. Interviewees in this study is the Head of SKAP (work unit Anti Money Laundering and Combating for Financing Terrorism) Syariah Mandiri Bank.

The results of this study indicate that the implementation of the principle of Customer Due Diligence in Syariah Mandiri Bank has been implemented with a consistent and committed. Customer Due Diligence principle can also be used as a crime

prevention strategy money laundering conducted through banking institutions. In order to implement the principle of Customer Due Diligence, there are several obstacles that must be faced by commercial banks, especially Syariah Mandiri Bank. These constraints come from the bank, the community, and the PPATK.