

Analisa perbandingan penerapan prinsip mengenal nasabah pada perusahaan efek dan bank dalam upaya pencegahan potensi tindak kejahatan di dalamnya = Analysis of principle application comparison on know your customer at securities and bank companies in order to prevent criminal potency therein

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Abstrak

ABSTRAK

Prinsip Mengenal Nasabah merupakan prinsip yang diterapkan Penyedia Jasa Keuangan untuk mengetahui identitas nasabah, memantau kegiatan transaksi nasabah termasuk pelaporan transaksi yang mencurigakan. Prinsip ini tidak hanya berguna untuk mendeteksi transaksi keuangan yang kemungkinan merupakan tindak pidana pencucian uang tetapi juga melindungi Penyedia Jasa keuangan dari berbagai risiko dalam berhubungan dengan nasabah atau counter-party. Pada UU No. 8 Tahun 2010, Prinsip Mengenal Nasabah ini berubah menjadi prinsip mengenali pengguna jasa yang dikenal sebagai Customer Due Dilligence (CDD) dan Enhanced Due Dilligence (EDD). CDD dan EDD dilakukan tidak hanya kepada calon nasabah tetapi juga kepada nasabah lama. Hasil penelitian menunjukkan praktek pencucian uang mempunyai akibat yang kompleks yaitu merongrong penyedia jasa keuangan, merugikan masyarakat, dan negara yang berdampak menghambat pembangunan nasional. Adapun perangkat hukum yang diterapkan berupa Undang-Undang Tindak Pidana Pencucian Uang, Peraturan Bank Indonesia, dan Peraturan Pasar Modal secara materi sudah cukup memadai, namun dalam pelaksanaannya belum berjalan efektif karena terdapat beberapa kendala baik di penyedia jasa keuangan sendiri yang belum optimal. Dalam perbandingan antara bank dan perusahaan efek pada penerapan prinsip mengenal nasabah dilihat dari pembukaan rekening terdapat perbedaan yang diantaranya berupa kewajiban pencantuman NPWP, kewajiban pengisian data pasangan, hubungan calon nasabah dengan perusahaan, sampai dengan penolakan nasabah. Kendala-kendala yang dihadapi yaitu masyarakat yang belum memahami dan menerima pemberlakuan penerapan Prinsip Mengenal Nasabah, dan adanya rasa kekhawatiran akan kehilangan nasabah apabila menerapkan Prinsip Mengenal Nasabah, adanya sikap kurang kooperatif dari pihak nasabah itu sendiri, dan belum tersosialisasikan dengan baik tentang adanya peraturan tentang Prinsip Mengenal Nasabah dalam masyarakat. Dalam hal ini perlunya Otoritas Jasa Keuangan yang merupakan otoritas tertinggi dalam lembaga keuangan di Indonesia untuk berperan aktif dalam memajukan perekonomian sekaligus melindungi dari kejahatan pencucian uang dan kejahatan lainnya.

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ABSTRACT

Know Your Customer Principles or abbreviated with KYC is one applied by Financial Service Provider to know customer(s) identity, to monitor customer(s) transaction activities including suspicious transaction report. This principle is not only benefit for detecting financial transaction from possible money laundry crime but also it protect Financial Service Provider from some risks connected with customer or counter-party. In Laws No. 8 of 2010, this Know Your Customer Principle had been changed as Customer Due Diligence (CDD) and Enhanced Due Diligence (EDD). Solely, both CDD and EDD had not been conducted

only to customer prospective but also the old one. Research result had indicated that money laundry has complex risks, those are : undermining financial service provider as well as hurting public and state having impact to hamper national development. As to applied law instruments are: Laws on Money Laundry Crime as well as Bank Indonesia and Capital Market regulations both materially and adequately. But, its implementation had not been realized effectively, there are some obstacles either with such self financial service provider which had not implemented Principle of Know Your Customer optimally by considerations of possible customer(s) lost or even customer(s) who had not submitted data cooperatively. By comparison among bank and securities company in application of Know Your Customer Principle based on account opening there are discrepancies among them obligation of attaching Tax Clearance (NPWP), obligation of completing form of partner (husband/wife) through customer rejection. The faced obstacles are : community who had not understood and received enactment of Know Your Customers Principles application, and apprehension feel will be leaven by customer when apply of Know Your Customer Principle, any uncooperative attitude of such self customer and regulation on Know Your Customer Principles had not been socialized to community kindly. In this case Financial Service Authority as the highest one in financial institution in actively, it should play role to develop economy and simultaneously to protect from money laundry and other crimes..