

Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang oleh Fintech Peer to Peer Lending: Perbandingan Indonesia dan Swiss = The Prevention and Eradication of Money Laundering by Fintech Peer to Peer Lending: Comparison Indonesia and Switzerland

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Abstrak

Peer to peer lending adalah salah satu layanan fintech dengan pertumbuhan tercepat di dunia yang menawarkan kesempatan bagi orang untuk meminjamkan dan meminjam dana dari dan untuk orang yang tidak dikenal tanpa proses yang rumit. Oleh karena itu, transaksi peer to peer (P2P) lending dapat menarik praktik Money Laundering (ML) dan telah terdeteksi di beberapa negara, termasuk Indonesia dan Swiss. Pemilihan Switzerland karena perkembangan peer to peer lending yang serupa dengan Indonesia. Dalam penelitian ini, penelitian akan mengetahui tanggung jawab, persamaan, dan perbedaan peer to peer lending dalam mencegah dan memberantas tindak pidana pencucian uang. Metodologi yang digunakan adalah yuridis normatif, khususnya menggunakan micro comparison dengan 4 indikator yang akan dibandingkan antara lain landasan hukum komitmen P2P untuk mencegah dan memberantas tindak pidana pencucian uang, identifikasi nasabah sebelumnya, pemantauan transaksi, dan pelaporan transaksi mencurigakan yang akan dibandingkan dalam 2 negara. Berdasarkan penelitian, persamaan di Indonesia dan Swiss untuk peer to peer lending antara lain kewajiban mengikuti aturan pencegahan anti TPPU, kewajiban menerapkan prinsip mengenal nasabah, uji tuntas lebih lanjut, penerapan elektronik mengenal nasabah, mendeteksi nasabah dengan profil mencurigakan, pengungkapan teknologi untuk pencatatan, pelaporan wajib transaksi mencurigakan, pelaporan praktis ke Financial Intelligence Unit, dan penggunaan GO-AML. Perbedaannya terletak pada tidak adanya peraturan khusus yang ada di Swiss, pengecualian untuk uji tuntas awal pada pelanggan tertentu di Swiss, dasar pelaporan transaksi mencurigakan di Swiss, pencatatan teknis, waktu penyimpanan data mantan pelanggan, batas waktu, dan alasan pelaporan transaksi mencurigakan.

.....Peer to peer lending is one of the fastest growing fintech services in the world that offers the opportunity for people to lend and borrow funds from strangers without a complicated process. Therefore, peer to peer (P2P) lending transactions can attract the practice of Money Laundering (ML) and it has been detected in several countries, including Indonesia and Switzerland. Switzerland is chosen due to similar development of peer to peer lending with Indonesia. In this study, the research would find out the responsibility, similarity, and differences of peer to peer lending in preventing and eradicating money laundering. The methodology used is juridical normative, specifically using micro comparison with 4 indicators that will be compared including the legal basis for P2P commitments to prevent and eradicate money laundering, prior identification of customers, transaction monitoring, and reporting of suspicious transactions that will be compared in the 2 countries. Based on the research, the similarities in Indonesia and Switzerland for peer to peer lending include the obligation to follow the anti-ML prevention regulations, the obligation to implement the know your customer principle, further due diligence, implementation of electronic know your customer, detecting customers with suspicious profiles, technology disclosure for record keeping, mandatory reporting of suspicious transactions, reporting the practice to the Financial Intelligence Unit, and the use of GO-AML. The difference lies in the absence of specific regulations that do not exist in Switzerland,

exceptions for initial due diligence on certain customers in Switzerland, the basis for reporting suspicious transactions in Switzerland, technical record keeping, ex-customer data retention times, time limits, and reasons for reporting suspicious transactions.