Safe deposit box regulatory model: An effort to prevent money laundering practices in the Indonesian banking system

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ABSTRACT

Safe Deposit Box is a banking product that provides goods storage services, such as money, securities, and other valuables. This product guarantees the confidentiality of information related to its use. In this regard, the Safe Deposit Box is one of the services that is risky and vulnerable to being used by money laundering actors. Then, based on the recommendations of the Financial Action Task Force (FATF) it is stated that each country is obliged to identify, analyze, and evaluate the risks of money laundering and terrorism financing in that country. To follow up on these recommendations, Indonesia has established an Anti-Money Laundering and Prevention of Terrorism regime, as an effort to determine the direction and mitigate the risks of using financial services in money laundering practices. However, the need to protect Bank Secrecy cannot be ruled out. So, it is necessary to make arrangements that can accommodate the need for a Safe Deposit Box Mechanism that can protect bank secrecy and prevent money laundering practices. Based on this research, the writing method used is a normative juridical method with a statutory and conceptual approach. The purpose of this study is to provide an overview and analysis related to the need for legal regulation and supervision of use related to Safe Deposit Boxes that can guarantee bank confidentiality, but can prevent money laundering practices, especially to identify user information, access data and information on money laundering practices and Politically Exposed Persons. (PEP) in Indonesia.

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Introduction

Ease of access to sending funds beyond national borders, as well as access to goods storage services provide opportunities for criminals to hide and disguise the origin of a property. Essentially, banking is an institution providing various services in the financial sector, to facilitate society. One of the services is the Safe Deposit Box, a banking service used to store goods or securities. The application of this Safe Deposit Box is based on a lease agreement between the bank and the customer, in which the agreement stipulates the guarantee of confidentiality of the ownership of the Safe Deposit Box (Fernandez et al., 2016).

In Indonesia, the existence of the Safe Deposit Box is based on the provisions of Article 6 letter h of the Banking Law, stating: "Banking business includes: h. provides a place to store goods and securities". As for the elucidation of said Article, it is stated that a banking activity carrying a leasing space for storing goods and securities (safety box) without the bank recording its mutation and contents. This Safe Deposit Box service has been regulated or contained in various regulations, one of which is the Banking Law ruling the existence of a Safe Deposit Box (Sudarsono & Saputri, 2018).

Following its course, there is a need for specific regulations regarding provisions and limitations of the use of Safe Deposit Boxes, since according to the results of the national risk assessment of money laundering, it has appeared that banking is one of the high-risk industrial sectors. One of the banking services having high-level risk is the *Safe Deposit Box*. In the 2019 financial services

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sector risk assessment report of money laundering and terrorism financing, it has occurred that the Safe Deposit Box is a banking service carrying a high risk of money laundering (Irwin et al., 2012). Due to the presence of a guarantee to maintain the confidentiality of information on the use of the Safe Deposit Box.

Confidentiality of information is included in the right of bank secrecy and in banking is a very crucial thing. In carrying out their business activities, banks have several principles, one of which is the principle of bank secrecy. According to Article 1 number 28 of the Banking Law, bank secrecy is everything related to information regarding depositors and their deposits. In this case, bank secrecy requires the bank to maintain the confidentiality of matters relating to information on the depositors and their deposits (Irwin et al., 2014).

In Indonesia, bank secrecy has been regulated in the Banking Law. Article 40 of the Banking Law has stated the obligation of banks to apply bank secrecy, except in cases as stipulated in Article 41, Article 41A, Article 42, Article 44, and Article 44 A. The exceptions are related to taxation interests, settlement of bank receivables, and the interests of the judiciary in criminal cases. However, regarding the disclosure of bank secrecy for taxation and criminal cases, it is necessary to obtain permission from the boards of Bank Indonesia.

The application of the principle of bank secrecy is essential to protect the interests of customers related to their personal information. Not only that, upholding the principle of bank secrecy may also build public trust towards banking institutions. However, a very strict exercise on bank secrecy may also pose a risk to the occurrence of a crime, especially money laundering (Fernandez et al., 2016). Therefore, the principle of bank secrecy is one of the elements that may cause problems in the prevention and eradication of money laundering practices.

Accordingly, the provision of bank secrecy may also create obstacles and other problems in terms of law enforcement processes. Since bank secrecy is a principle strongly upheld by banks, hence they shall be prudent in disclosing customer information. This may as well create an obstacle for law enforcement officers to seize financial information from customers who are suspected of being involved in a criminal act. Moreover, law enforcement officers will likely experience difficulties in obtaining information about the financial condition of someone who has not been identified as a suspect. This will also make a cause on why it is challenging to detect money laundering activity (Fernandez et al., 2016).

The paper reviews the implementation of safe deposit box regulatory and efforts to prevent money laundering practices in the Indonesian banking system. So for the tabulation of several previous studies that conducted an assessment of efforts to load regulatory provisions regarding effort to prevent money laundering practices in the Indonesian banking system, it can be stated as follows: "money laundering in Indonesia bankers: compliance, practice, and impact" (Karim et al., 2020). Money laundering is the process by roomates large amount of illegally obtained money from drug trafficking, terrorist activity or other serious crimes, is given the appearance of having originated from a legitimate source. The purpose of this study is to examine the rules that related to money laundering, money laundering practices that existed in Indonesian banks and the impact of money laundering. We argue that the concept of money laundering has been adopted by regulation of Indonesian banks to detect money laundering. However, reviews the regulation has not been with the practice of money laundering occurring in Indonesian banks. We propose to addressed the determinants that influence of bank employees in Indonesia towards money laundering as the fundamentals for making anti-money laundering models.

Based on this research, the authors want to try to examine a regulatory model that can facilitate the Safe Deposit Box Regulatory Model: an Effort to Prevent Money Laundering Practices in the Indonesian Banking System that can be applied in Indonesia based on best practices from Germany.

The adopted method is normative legal research through safe deposit box regulatory model: an effort to prevent money laundering practices in the Indonesian Banking System. The research was conducted with a library-based approach focusing on reading and examining primary and secondary legal sources. Primary legal sources are actual sources of law, namely, laws and court decisions and regulations related to safe deposit box regulatory model: an effort to prevent money laundering practices in the Indonesian banking system. Meanwhile, secondary legal sources are materials that include commentary on the law discovered in legal literature and journals. The approach used by the author for this legal writing in this study is statutory (the statute approach).

In light of the above, it is commonly admitted that a regulatory model that able to bridge the need for banking services, implementation of banking principles and prevention of money laundering practices. Thus, the formulation of the problem to be discussed is to elaborate the appropriate regulatory model concerning the Safe Deposit Box that maintains customer confidentiality, yet capable to prevent money laundering practices.

Theoretical and Conceptual Background

The Landscape of Regulations in Indonesia

The benefit of this Safe Deposit Box service inherently has not been specifically adapted in a regulation. The legal arrangements related to this Safe Deposit Box are contained or related to various regulations, especially the regulations governing money laundering. The OJK Circular Letter No.32/SEOJK.03/2017 stipulated the provisions for identification and verification procedures, updating customer data, and management information related to Safe Deposit Boxes in the context of implementing APU PPT in the

banking sector. Hence, in PPATK Regulation No. Per-03/1.02.1/PPATK/03/12 stipulates the temporary suspension by PJK of all or part of transactions that are known or suspected to be the result of a criminal act at the request of the PPATK. In addition, related to this suspicious transaction, may also result in suspension or delayed transactions against the Safe Deposit Box by revoking authorization to access or to open the Safe Deposit Box. Moreover, in PPATK Circular Letter No. 04 of 2021 concerning Guidelines for the Use of Transaction Formats and Activity Formats in Submission of Suspicious Financial Transaction Reports and Suspicious Financial Transaction Reports Related to Terrorism Financing for Financial Service Providers, in the event that there are transactions included in the TKM, then the PJK shall convey in an actionable format. In this regard, the money laundering practices will be linked to State Administrators or Politically Exposed Persons (PEP).

This PEP linkage would cause problems in preventing and eradicating money laundering practices, especially if no institution or authority that able to issue a PEP list (Choo, 2008). In order to deal with these problems, PPATK has developed an application regulating the list of officials or people who are included in the PEP category. The use of this PEP application has been regulated in PPATK Regulation No. 11 of 2020 concerning Procedures for Utilizing the Politically Exposed Person Application. The regulation stipulates the mechanism for using the PEP application in terms of identifying, as well as supporting the efforts to prevent and eradicate money laundering offences. As for this regulation also stipulate that user access to this application is determined by PPATK. In addition, there is also a Professional Suspicious Financial Transaction Report (LTKM) application, which may accommodate reporting obligations for certain professionals. This is due to the existence of an integrated information system is an obligation in dealing with money laundering practices.

The practice of money laundering often has a predicated crime in the form of corruption. According to the results of the 2015 National Money Laundering Risk Assessment (NRA) update, it was discovered that one of the predicated crimes that has a high risk is corruption. This is indicated by the number of results of the analysis conducted by the Center for Financial Transaction Reports and Analysis (PPATK), there are 2,571 of the 5,000 HA which are indicated as criminal acts of corruption. In this case, corruptors often perform money laundering to hide the proceeds of their crimes by placing them in financial service products, such as the Safe Deposit Box.

Essentially the practice of money laundering is a transnational crime. In dealing with and eradicating transnational crime, including money laundering in the Southeast Asia Region, ASEAN has formed an action plan to eradicate transnational crime. The ASEAN Action Plan in Combating Transnational Crime (2016-2025) was formed to follow up the 2015 Kuala Lumpur Declaration in combating transnational crime for the realization of the ASEAN Political-Security Community Blueprint 2025. This Action Plan aims to increase cooperation among the ASEAN Member States and increase ASEAN's capacity in dealing with and combating transnational crime effectively. This Action Plan regulates cooperation with regional and international organizations to exchange information, as well as confiscating the results of criminal acts considering they do not conflict with domestic law. Furthermore, the Action Plan also stipulates coordination to share information and training with relevant ministries and organs in ASEAN in preventing transnational crime practices, as well as strengthening cooperation by conducting dialogue with ASEAN Dialogue Partners and external parties such as INTERPOL.

In Indonesia, supervision of the banking sector is carried out by the Financial Services Authority (OJK). OJK is an institution carrying the task of regulating and supervising the financial industry, including banking, capital markets, mutual funds, finance companies, pension funds, and insurance (Mihajat, 2006). The authority to regulate and supervise banks carried out by the OJK includes the authority to establish licensing, establish provisions for banking activities, provide consumer protection, supervise banks directly and indirectly, impose sanctions, and conduct investigations. In terms of supervision, OJK is authorized to carry out inspections to monitor the banks' financial condition and the level of compliance, along with carrying out supervision through periodic inspection of reports (Hery et al., 2019). Bank supervision performed by OJK is micro prudential supervision, namely supervision of individual banks. In addition, macroprudential bank supervision is carried out by Bank Indonesia. This macroprudential supervision aims to maintain overall financial system stability by limiting systemic risk. Meanwhile, macroprudential supervision is executed by financial system surveillance and examination of other institutions connected with banks (Yellen, 2011; Mester, 2017).

Further, in relation to the acts to prevent and eradicate money laundering practices, in Indonesia there is a Financial Transaction Reports and Analysis Center (PPATK). PPATK is the authority coordinating the implementation of acts to prevent and eradicate money laundering in Indonesia. In this case, PPATK has the duty and authority to receive and analyze financial transaction reports, along with forwarding the results of the analysis to law enforcement agencies. In carrying out the acts to prevent and eradicate money laundering, PPATK uses a follow the money approach, namely by involving various parties having a role in the development of the APU PPT Regime (Kurniawan & Akbar, 2021). In addition, PPATK is authorized to receive reports from banks regarding suspicious financial transactions. The results of the report analysis will be provided by PPATK to law enforcement agencies and can be used to disclose bank secrecy provisions, to facilitate the law enforcement process (Firmansyah & Atmadja, 2021).

Best Practice

The practice of money laundering is a global problem faced by every country. Germany is one of the countries active in combating money laundering. In preventing and eradicating the practice of money laundering, Germany has several regulations stipulating thereof. At a national level, the problem of preventing and eradicating money laundering practices is contained in several regulations including the Anti Money Laundering Act (GwG), German Banking Act (KwG), Payment Service Supervisory Act (ZAG), Act on

the Supervision of Insurance Undertakings (VAG), as well as several other provisions governing audit reports and identification of payment accounts. Further, there are also BaFin Requirements, EU set of rules and guidelines, and FATF Recommendations. The regulations focus on the provisions governing prevention efforts through the identification and detection of money laundering practices (Van den Broek & Addink, 2013). In GwG, for example, regulates the implementation of strict due diligence, the obligation of banks and financial institutions to identify customers, as well as the obligation of banks to report suspected money laundering to the FIU. In this respect, these provisions are more directed to risk mitigation in the context of preventing and eradicating money laundering.

These regulations related to money laundering essentially stipulate that every entity involved, be it financial institutions, service users, or law enforcement is subject to these rules. In this regard, these entities must implement and uphold the provisions of the regulations related to money laundering. In GwG, for example, it is stipulated that the related entities are institutions and people who carry out business activities or work in credit institutions, financial services, payment institutions, and so on. For this context, every entity involved in this anti-money laundering regime is obliged to implement provisions related to the prevention and eradication of money laundering.

Furthermore, it is undeniable that money laundering actors often take advantage of banking services to carry out their actions. In this matter, regulations related to banking need to set forth the prevention of money laundering. In Germany, the banking sector is regulated in various national regulations and EU regulations governing banking and financial services. The primary legal foundations for the regulation and supervision of banks and financial services institutions are the German Banking Act, the European Capital Requirements Regulation, and the SSM Regulation. Moreover, regulations such as the securities trading act, the safe custody act, the building and loan associations act, and the saving bank act are also relevant to banking and financial supervision regulations. These rules primarily focus on preventing matters which may disrupt the stable running of the banking system. For this matter, there is risk-based supervision, especially related to liquidity risk.

Efforts to prevent money laundering practices in banking sector are regulated in the Banking Act. This Banking Act not only set down supervision related to the operation of banking businesses, but also regulates efforts to prevent money laundering practices. In connection with the existence of the EU 5th Directive, the Banking Act has amended the provisions related to money laundering. Among others that were amended was related to the use of the Safe Deposit Box. In such case, this regulation stipulates prohibition against accounts anonymity and the use of Safe Deposit Box. Besides, this EU Directive also requires member countries to establish a mechanism that contains centralized data that can provide access to customer data information automatically. In this regard, the Banking Act further regulates automatic access to customer account information. Thus, the Anti-Money Laundering Department may also freeze accounts that are indicated to be owned/related to terrorist suspects or other criminals. In terms of creating a healthy banking sector, it is again necessary to have an authority tasked with regulating and supervising the business activities of the banking sector. In Germany, banking supervision falls under the authority of BaFin and the Deutsche Bundesbank. The division of tasks and cooperation between the two is regulated in the Banking Act which stipulates that the Bundesbank as part of the supervisory process, analyzes bank reports on a regular basis which will then be submitted to BaFin.

BaFin or The Federal Financial Supervisory Authority is a supervisory authority in the financial sector, which supervises banks and institutions providing financial services, insurance, and securities trading. The existence and authority of BaFin is regulated in the German Banking Act. In the banking sector, BaFin's supervisory standards cover issues of solvency, liquidity, regulation of large category loans, bank management, and so on. If there are errors and violations of the Banking Act committed by parties in the banking sector, then BaFin may impose sanctions in the form of giving notifications, warnings, requests for dismissal, prohibiting credit in a certain amount, requesting additional capital, moratorium, and revocation of license permits (Kocia & Szymanska, 2012).

The Deutsche Bundesbank is the central bank of the Federal Republic of Germany. The existence and authority of the Deutsche Bundesbank is stipulated in the Bundesbank Act which set forth the structure, scope, duties and functions of the Deutsche Bundesbank as the central bank (De Haan, 2012). The Bundesbank played a role in preparing financial system stability analysis and proposing notifications and recommendations on the financial system. Essentially, the responsibilities of the Bundesbank are related to banking policy issues, coordinating cooperation with BaFin, as well as conducting micro and macro prudential analysis. Deutsche Bundesbank will supervise the bank's financial condition, which will be provided to BaFin. Based on the report, if it is found that there are banks experiencing liquidity problems, then BaFin will manage and conduct discussions regarding these matters. Because the duties and authorities of the Deutsche Bundesbank and BaFin are interrelated, synergic and both require cooperation (Kocia and Szymanska, 2012).

Furthermore, with regard to money laundering issues, the authority that has the power to regulate and supervise the prevention of money laundering practices in the financial services sector is BaFin. In this regard, the Deutsche Bundesbank does not own the competence related to Anti-Money Laundering and Prevention of the Financing of Terrorism. In this case, BaFin oversees the implementation of the APU PPT regime on institutions in the financial services sector, including credit institutions, financial and payment service providers, insurance companies, asset management companies, and companies selling electronic money. BaFin ensures that these entities implement provisions related to the prevention and eradication of money laundering. In connection with exercising its authority, BaFin has a Department of Money Laundering Prevention which supervises money laundering practices in

all related financial service institutions, as well as oversees the implementation of other laws and regulations to prevent the commission of criminal acts as regulated in section 25H Banking Act (Van den Broek & Addink, 2013).

Additionally, regarding the prevention of money laundering practices, Germany further owns another authority, namely the Financial Intelligence Unit (FIU). The FIU is an authority that plays a role in analyzing suspicious financial transactions, especially those related to money laundering reports (Fadila et al., 2020). With regard to money laundering prevention efforts, the FIU has access to customer information, which relates to the identity of the account holder, the use of the Safe Deposit Box service, and the beneficial owner. In addition, under the Money Laundering Act, the FIU may prohibit the execution of transactions in the event of indications of money laundering or terrorism financing, as well as to deny access to the Safe Deposit Box.

The application of financial products and services, including the banking sector, may cause problems or disputes between the parties. In the event of disputes, only a range of them will be resolved through the courts. This shows the existence of an out-of-court dispute resolution mechanism that accommodates independent and impartial dispute resolution efforts. In Germany, dispute resolution in the financial sector may be executed through the Conciliation Board of the German Savings Banks Association. This board possessed the competence to resolve disputes against members of the German Savings Banks Association in Germany. The decisions of this board are legally binding. In addition, there are also the Customer Complaints Body of the Association of German Volksbanken and Raiffeisenbanken, the Ombudsman for Private Banks, Ombudsman for Public Banks, and Ombudsman procedure of the Private Bausparkassen. Moreover, Germany also has the Conciliation Board of the German Federal Bank, which competence to accommodate banking consumer complaints against non-member banks of the previously mentioned ADR Institutions (Moshirian, 2001). Furthermore, consumers are allowed make complaints to BaFin. BaFin as supervisor of financial institutions has a Consumer Dispute Settlement Agency (BPSK Germany) which plays a role in providing access to dispute resolution in a simple, efficient, and relatively fast manner. In dispute resolution through the German BPSK, an ombudsman who functions as a judge or mediator is provided. For this matter, BPSK must ensure that the ombudsman must comply with specific requirements. The Ombudsman is often a highly qualified and independent legal expert or expert (Merricks, 2007).

Table 1: Comparison of Landscape of Regulations in Indonesia in Indonesia and Germany

Variables **	Indonesia	German
Focus	Leads to efforts to prevent and eradicate money laundering practices.	Leads to efforts to prevent and eradicate money laundering practices.
Regulations on SAFE DEPOSIT BOX	Safe Deposit Box is regulated in the Banking Law and various other regulations, such as POJK, PPATK Regulations, and so on, especially those related to money laundering. However, the Banking Law only explains the existence of the Safe Deposit Box as a banking product.	The regulations regarding Safe Deposit Box are set forth in the Banking Act and the Money Laundering Act. These regulations specifically stipulate the restrictions on anonymity for the Safe Deposit Box, and the granting of access to customer information, including the use of the Safe Deposit Box.
Subject	About the Safe Deposit Box and money laundering, the subject of the regulation refers to all parties involved, be it service providers, service users, law enforcement officers. In addition, there is a definition of the parties involved in the scope of the regulation.	This regulation regarding the Safe Deposit Box and money laundering stipulates that the entities involved, whether they are financial service institutions, service users, or law enforcers, are subject to these regulations. In addition, there is also a detailed explanation of the parties referred to in the regulation.
Enforcement to suspend any products/services indicated of money laundering	There is a temporary suspension and transaction delay for the Safe Deposit Box.	There is a suspension on accounts that are indicated to have links with terrorist suspects/other criminals
Supervisory Agency in the Banking Sector	OJK on a microprudential basis. Bank Indonesia on a macroprudential basis.	BaFin supervises banks in all their business activities and has a supervisory function on laundering practices in the financial sector. Deutsche Bundesbank conducts financial system stability analysis and reports the results of financial analysis to BaFin.
Special authority on financial crimes	The existence of PPATK, which has the authority to receive and analyze reports from banks regarding suspicious financial transactions. May apply for temporary suspension of access to Safe Deposit Box.	There is a FIU that plays a role in analyzing suspicious financial transactions. In addition, having access to information for customers, and can prohibit the execution of transactions if there are indications of money laundering and deny access to the Safe Deposit Box.

Table Cont'd		
Information mechanism	access	<p>Have access to obtain customer information (disclosure of bank secrecy) regarding matters that are excluded in the Banking Law. Disclosure of customer data is preceded by an application to the Management of Bank Indonesia. Further, suspicious transaction reports from PPATK may again be used by law enforcement to request banks to open access to customer data. In addition, it has a PEP application that may be used by the parties as regulated in the PPATK regulations. The user access to application is granted by PPATK.</p> <p>There is access for law enforcement to obtain customer data information, especially those indicated to be involved with money laundering practices. Furthermore, there is a system which may load data on service users in the financial services sector centrally.</p>
International cooperation		<p>There is cooperation at the ASEAN level in the form of an action plan to combat transnational crime practices. In this Action Plan, it is regulated regarding Cooperation between members including external parties, namely regional and international organizations, to exchange information as long as it does not conflict with domestic law.</p> <p>There are laws at the European Union level, namely the EU Directive which regulates money laundering practices. All these provisions must be applied by member states of the European Union. In the EU 5 th Directive regulates the construction of centralized data access mechanism, which could allow member states to exchange information on money laundering practices. In addition, it also regulates the prohibition of anonymity on accounts and Safe Deposit Box, and granting access for FIUs to access customer data.</p>
Banking Dispute Resolution		<p>May be exercised through out-of-court dispute resolution institutions, such as BPSK and LAPK SJK.</p> <p>May be exercised through out-of-court dispute resolution institutions, such as the Conciliation Board of the German Savings Banks Association, the Customer Complaints Body of the Association of German Volksbanken and Raiffeisenbanken, as well as the Ombudsman for Private Banks, Ombudsman for Public Banks, and Ombudsman procedure of the Private Bausparkassen Not only that, there is also the Conciliation Board of the German Federal Bank, which has the competence to accommodate banking consumer complaints against banks that are not members of the previously mentioned ADR Institutions. In addition, consumers can also make complaints to BaFin. BaFin as the supervisor of financial institutions has a Consumer Dispute Resolution Agency.</p>

Analysis on Necessity of Regulations in Indonesia

According to the description of the landscape setting in Indonesia regarding the Safe Deposit Box and Bank Secrecy protection mechanism as the implementation of the Financial Action Task Force (FATF) recommendations to carry out: (1) identification, analysis, and evaluation of the risk of money laundering and terrorism financing in the country and the effectiveness of the Anti-Money Laundering regime. Money Laundering and Prevention of Terrorism in Indonesia found several regulatory studies as follows: (1) Focus, Subject, and Scope of Regulation; (2) Supervisory Agency in the Banking Sector and Authority to freeze products/services indicated for money laundering; (3) Special authority on financial crime and Banking Dispute Settlement; (4) Mechanism of access to information and international cooperation.

Based on this study, the author tries to conduct a comparative study of the implementation of Best Practice in other countries, namely Germany to get a comprehensive picture regarding the Safe Deposit Box and bank secrecy protection policies as recommended by the Financial Action Task Force (FATF). The results of this comparative study may be used as a basis for determining and analyzing policy needs in Indonesia, which are described as follows:

Setting the boundaries of Objectives, Subjects, Scope of Regulations

The focus of regulation in Indonesia and Germany is to concentrate on the efforts to prevent and eradicate money laundering practices. Safe Deposit Box arrangements in Indonesia are regulated in the Banking Law and various other regulations, such as POJK, PPATK Regulations, and so on, especially those related to money laundering. However, the Banking Law only explains the existence of the

Safe Deposit Box as a banking product, while things are different in Germany. Safe Deposit Box arrangements are regulated in the Banking Act and the Money Laundering Act. The regulation specifically regulates the restrictions on anonymity restrictions on Safe Deposit Boxes, and granting access to customer information, including the use of Safe Deposit Boxes.

Decision of the subject of regulations in Indonesia is regulated by the subject of regulations to all parties involved, be it service providers, service users, law enforcement officers. In addition, there is a definition of the parties involved in the scope of the regulation. While the subject of regulation in Germany includes financial service institutions, service users, and law enforcement, a solid definition for legal subjects makes it easier to classify affected parties in the implementation of the regulation.

Therefore, in order to obtain a more optimal and effective regulation, Indonesia needs to formulate the following matters: (1) Formulation and limitation of regulatory subjects; (2) limiting restrictions on anonymity restrictions on Safe Deposit Boxes, (3) granting access to customer information, (4) Mechanisms and procedures for using Safe Deposit Boxes.

Appointment and Decision of Supervisory Agency in the Banking Sector and Authority to suspend on products/services indicated for money laundering

The Supervisory Board in the Banking sector in Indonesia is authorized to OJK on a microprudential manner and Bank Indonesia in a macroprudential manner. Granting the authority to suspend products/services indicated for money laundering in Indonesian regulations allows for temporary suspension of transactions for Safe Deposit Boxes, while in Germany the Supervisory Agency in The BaFin sector supervises banks in all their business activities and has a supervisory function on laundering practices in the financial sector. and the Deutsche Bundesbank conducted an analysis of financial system stability and reported the results of the financial analysis to BaFin. and the authority to suspend products/services indicated for money laundering in Indonesian regulations, allowing for suspending accounts that are indicated to have links with suspected terrorists/other criminals.

Appointment and Decision of Special Authority for Financial Crimes and Banking Dispute Resolution

Special authority arrangements for financial crimes in Indonesia are carried out under the authority of the PPATK, which has the authority to receive and analyze reports from banks regarding suspicious financial transactions. May apply for a temporary suspension of access to the Safe Deposit Box. Meanwhile, in Germany a special authority against financial crimes in Germany is carried out under the authority of the FIU which plays a role in analyzing suspicious financial transactions. In addition, it has access to information for customers, and can prohibit the execution of transactions if there are indications of money laundering and deny access to Safe Deposit Boxes.

Determining information access mechanisms and mapping the distribution of international cooperation

Information access mechanism in Indonesia, stipulates that access to obtain customer information (disclosure of bank secrecy) regarding matters that are excluded in the Banking Law. Disclosure of customer data is preceded by an application to the Management of Bank Indonesia. Thus, suspicious transaction reports from PPATK may also be used by law enforcement to request banks to open access to customer data. Furthermore, it has a PEP application which may be used by the parties as regulated in the PPATK regulations. The user access of the application is given by PPATK. Meanwhile, the information access mechanism in Germany stipulates that there is access for law enforcement to obtain customer data information, especially those indicated to be involved with money laundering practices. In addition, there is a system that may load data on service users in the financial services sector centrally.

And related to international cooperation, Indonesia regulates the existence of cooperation at the ASEAN level in the form of an action plan to combat transnational crime practices. In this Action Plan, set down the rules regarding Cooperation between members and also external parties, namely regional and international organizations, to exchange information as long as it does not conflict with domestic legal regulations. International cooperation in Germany regulates the existence of laws at the European Union level, namely the EU Directive which regulates money laundering practices. All of these provisions must be applied by member states of the European Union. In the EU 5th Directive stipulates the construction of centralized data access mechanism, which could allow member states to exchange information on money laundering practices. Moreover, it also regulates the prohibition of anonymity on accounts and Safe Deposit Boxes and grants access for FIUs to access customer data. Therefore, arrangements related to international cooperation in Indonesia have started to improve not only in the ASEAN region but also across regional areas outside ASEAN.

Policy Recommendations: Theory and Approaches in Developing Regulatory Model Development

The approach used is the concept of economic analysis of law, an approach whose main foundation is Utilitarianism. The flow of Utilitarianism introduced by Bentham (1887), judges that a good deed or not, immoral or not, is based on the benefits or uses that arise. So that a good arrangement according to the concept of economic analysis of law, is if the arrangement becomes a means of obtaining and giving birth to benefits for many parties, where through law humans as economic beings are given the choice to determine the most profitable business and provide guarantees to enjoy their business against other powers (Bentham, 1887). Thus, according to this approach the law has two roles as follows: (1) Law as a means to obtain individual happiness by controlling the interests of individuals, thereby ensuring the continuity of the implementation of common interests; (2) as a means to obtain individual happiness by being a crime deterrent because in the absence of crime it will lead to a lot of happiness and benefit for the community.

So that the realization of 'good regulations' according to the economic analysis of law, is a regulation that provides benefits for many individuals and provides protection guarantees, on the basis of many parties who get or feel the benefits of the regulation.

The concept of economic analysis of law approach, when applied in the development of the regulatory model, will be based on the penta-helix approach (Hunt, 2018). This approach involves five main components in policy formulation in general and can also be applied in the formulation of digital economy policies, as follows: (1) the most affected groups; (2) the main stakeholders (the main stakeholders); (3) interest groups (interest groups); (4) advocacy groups (advocacy groups); and (5) the public at large. In its implementation, these five components involve the public sector, the private sector, non-governmental organizations (NGOs), civil citizens, and academia. With this approach, several benefits will be obtained, including:

- i. The accumulation of strengths, capacities, and resources of stakeholders to produce policies which may respond appropriately to the requirement and be implemented;
- ii. Involving commitment from stakeholders from the beginning to grow a sense of belonging to the policies drawn up;
- iii. More reliable implementation due to this commitment; and
- iv. The occurrence of complete input from stakeholders to produce comprehensive considerations for policy formulation.

This approach is more appropriate to apply than the traditional *top-down* approach to policy making.

Recommended Regulation Model

Based on the concept of economic analysis of law approach, when applied in the development of the regulatory model, it will be based on the *penta-helix* approach, the recommendation for the regulatory model is as follows:

- i. Determination of regulatory objectives, subjects, the scope of regulation. The focus of the regulation is on the efforts to prevent and eradicate money laundering practices. Safe Deposit Box settings by specifically regulating the restrictions on anonymity restrictions on Safe Deposit Boxes, and providing access to customer information, including the use of Safe Deposit Boxes.
- ii. Deciding solid regulatory subjects for regulatory subjects include financial service institutions, service users, and law enforcement.
- iii. Appointment and Decision of Supervisory Board in the Banking Sector in the operation and implementation of Safe Deposit Box.
- iv. Formulating and implementing mechanisms. The authority to suspend on products/services indicated for money laundering, the authority to suspend products/services indicated to be money laundering in Indonesian regulations allows freezing of accounts that are indicated to have links with suspected terrorists/other criminals against safe deposit box practices.
- v. Appointment and Decicion of Special Authorities for Financial Crimes and Banking Dispute Settlement The special authority arrangements for financial crimes in Indonesia are carried out under the authority of PPATK, which has the authority to receive and analyze reports from banks regarding suspicious financial transactions. May apply for a temporary suspension of access and deny access to the *Safe Deposit Box*.
- vi. Determining the information access mechanism is regulated regarding the development of a centralized data access mechanism, which may enable the exchange of information on money laundering practices. In addition, it also regulates the prohibition of anonymity on accounts and Safe Deposit Boxes, and grants access for FIUs to access customer data

Conclusions

Safe Deposit Box and bank secrecy as the implementation of the Financial Action Task Force (FATF) recommendations to identify, analyze, and evaluate the risk of money laundering and terrorism financing in the country and the effectiveness of the Anti-Money Laundering and Prevention of Terrorism regime in Indonesia. the following: (a) Focus, Subject, and Scope of Setting; (b) Supervisory Agency in the Banking Sector and Authority to freeze products/services indicated for money laundering; (c) Special authority on financial crime and Banking Dispute Settlement; (d) Mechanism of access to information and international cooperation. So that the recommended regulatory model that can be offered is to focus on: (a) Determining the boundaries of the regulatory objectives, subjects, scope of settings; (b) Appointment and Determination of Supervisory Agency in the Banking Sector and Authority to suspend products/services indicated for money laundering; (c) Appointment and Determination of Special Authority for Financial Crimes and Banking Dispute Settlement; (d) Determine the mechanism for accessing information and Mapping the distribution of international cooperation.

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