



The Responsibility of Notaries in Reporting Suspicious Financial Transactions

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Abstract

The notarial profession holds a strategic role as a public official entrusted with ensuring legal certainty and authenticity in civil transactions. However, notaries face a juridical dilemma when confronted with the obligation to report Suspicious Financial Transactions as mandated by Law No. 8 of 2010 on the Prevention and Eradication of Money Laundering (Anti-Money Laundering Law). On one hand, notaries are bound by the principle of professional confidentiality as stipulated in the Notarial Act and the professional code of ethics, while on the other hand, they are required to report Suspicious Financial Transactions to the Financial Transaction Reports and Analysis Center (PPATK) as part of the Anti-Money Laundering and Counter-Terrorism Financing (AML/CTF) regime. This study employs a normative juridical method with a literature-based approach to analyze the legal consequences of non-compliance with reporting obligations and the potential legal protection available to reporting notaries. The findings indicate that failure to comply with reporting duties may result in administrative sanctions, criminal liability through the doctrine of participation, and ethical sanctions from professional organizations. Nevertheless, the Anti-Money Laundering Law grants legal immunity to notaries who report in good faith, thereby ensuring that professional reporting based on rational indicators cannot serve as grounds for either criminal or civil claims. Such immunity functions as a justification that removes the unlawful nature of the reporting act. Accordingly, this study underscores the importance of maintaining a balance between fulfilling legal obligations and safeguarding the notarial profession in the context of notaries' responsibility for preventing financial crimes.

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1. Introduction

The notarial profession, as one of the pillars of preventive law enforcement in Indonesia, occupies a central position in ensuring authenticity and legal certainty in civil transactions. In carrying out their duties, every individual or official is required to adhere to the prevailing laws in Indonesia, including notaries. The existence of notaries as public officials is mandated by Law No. 2 of 2014 concerning Amendments to Law No. 30 of 2004 on the Notarial Office (UUJN) and the Notarial Code of Ethics, granting them the authority to draw up authentic deeds that possess full evidentiary force. ^[1]

The Notarial Act comprehensively regulates the public office held by notaries, with the expectation that deeds executed by or before a notary will ensure legal certainty, order, and protection. As authentic deeds, notarial instruments constitute the strongest

¹ Adlansyah, Burhan & Amir, Nabbilah. "The Existence of Substitute Notaries in the Perspective of Stufenbau Theory (Study of Article 33 Paragraph (2) of Law No. 2 of 2014 on Amendments to Law No. 30 of 2004 on the Notary Office)." *Journal*, 20(3), 2023: p. 837.

and most complete form of written evidence.

Accordingly, the Notarial Act stipulates the powers, duties, and prohibitions applicable to notaries, with the aim that they may properly exercise their office so that authentic deeds, as the strongest and most complete evidentiary instruments, truly serve as guarantees of legal certainty.

Every occupation, profession, and office necessarily entails responsibilities. Such responsibilities arise from the existence of powers and duties, often accompanied by prohibitions. The notarial profession derives its legitimacy from public trust, which is built upon integrity, impartiality, and, most importantly, the obligation to maintain the confidentiality of information obtained in the exercise of office. This principle of professional secrecy is not merely an ethical norm but an imperative legal duty, expressly regulated in Article 16 paragraph (1) letter f of the Notarial Act, and constitutes the essence of the legal relationship between a notary and their client.^[2]

In fulfilling this obligation, a notary must preserve the confidentiality of deeds, including all information, contents, and statements obtained during the drafting process. In civil proceedings, a notary need not be summoned as a witness, since deeds executed by a notary already constitute perfect evidence, rendering further proof unnecessary. However, in certain cases, a judge may summon a notary as a witness to obtain additional clarification regarding a deed presented in court. Such a summons is intended to strengthen the judge's conviction concerning the disputed facts and serve as a consideration in rendering judgment.

In carrying out their duties, notaries are obliged to maintain the confidentiality of deeds and all matters involved in the drafting process. In practice, the so-called *right of refusal* (*hak ingkar*) is recognized, which serves the public interest by safeguarding the confidentiality of notarial deeds, rather than protecting the personal interests of the notary. It is common for deeds to be disputed by the parties involved or suspected of containing errors, whether intentional or inadvertent, leading judges to summon notaries as witnesses to provide clarification. In such cases, notaries may invoke their right of refusal, declining to appear because they did not intentionally commit errors in drafting the deed, or because they are legally bound to preserve the confidentiality of the deed. Ultimately, however, the notary's duty is to uphold the secrecy of the office.

This right of refusal is not specifically regulated under the Notarial Act or the Notarial Code of Ethics. Instead, it is recognized in Article 170 of the Criminal Procedure Code (KUHAP), Article 1909 paragraph (3) of the Civil Code (KUHPerdata), and Article 146 of the Indonesian Rules of Procedure (HIR).

Nevertheless, the growing complexity and transnational nature of modern crime—particularly financial crime—has driven a global paradigm shift in legal frameworks. In Indonesia, white-collar crime has become a central concern across sectors. Money laundering (*Tindak Pidana Pencucian Uang*, TPPU) is acknowledged as an extraordinary crime that not only undermines the integrity of the financial system but also threatens economic stability and national security. By its very nature, money laundering is clandestine, exploiting legitimate legal and financial instruments to disguise the origins of illicit funds.

Indonesia's response to money laundering began with the

enactment of Law No. 15 of 2002 on Money Laundering, which was later amended by Law No. 8 of 2010. These legislative measures have demonstrated positive progress, reflected in the growing awareness among financial service providers regarding reporting obligations, regulatory agencies in issuing rules, the Financial Transaction Reports and Analysis Center (PPATK) in conducting analysis, and law enforcement in following up on analytical results through criminal and administrative sanctions.

However, according to PPATK's 2014 Annual Report, the cumulative number of money laundering cases between January 2003 and December 2014 reached 3,730, indicating that efforts remain suboptimal. Consequently, the government issued Government Regulation No. 61 of 2021 amending Government Regulation No. 43 of 2015 on Reporting Parties in the Prevention and Eradication of Money Laundering, thereby reinforcing the collective commitment to combating financial crime.

This regulation revolutionarily expands the scope of legal subjects required to play an active role in prevention efforts by designating notaries as Reporting Parties. This obligation fundamentally transforms the landscape of notarial responsibility. No longer merely passive facilitators of legal transactions, notaries are now burdened with the proactive duty of conducting due diligence on clients and reporting Suspicious Financial Transactions (SFTs) to the Financial Transaction Reports and Analysis Center (PPATK). Notaries are required to submit such reports through PPATK's *Go Anti Money Laundering* (GoAML) application. This obligation implements Government Regulation No. 61 of 2021 amending Government Regulation No. 43 of 2015 on Reporting Parties in the Prevention and Eradication of Money Laundering, as well as PPATK Regulation No. 11 of 2016 (later replaced by PPATK Regulation No. 3 of 2021) on Procedures for Submitting Suspicious Financial Transaction Reports via the GoAML application for professionals, and the Ministry of Law and Human Rights Regulation No. 9 of 2017 on the Application of Know Your Customer Principles for Notaries.

These regulations place notaries at the forefront of the anti-money laundering regime. However, they also generate a fundamental and complex juridical dilemma: notaries are compelled to disclose information that risks violating professional secrecy, while simultaneously being legally obligated to report such confidential information to the state through PPATK. This clash between two equally strong legal norms—Law No. 2 of 2014 amending Law No. 30 of 2004 on the Notarial Office (UUJN) and its ethical mandate of confidentiality, versus Law No. 8 of 2010 on the Prevention and Eradication of Money Laundering, which designates notaries as Reporting Parties under Government Regulation No. 43 of 2015—creates a zone of legal uncertainty and heightened risk for notaries.

Failure to comply with reporting obligations may result in severe sanctions, while compliance risks breaching the oath of office and exposing notaries to claims from clients who may later be proven not to have engaged in money laundering. In such cases, the notary's professional reputation is jeopardized, and liability may arise from accusations directed at clients. This complexity underscores the urgency of this study, which seeks to systematically and

² Kohar, A. Notary in Legal Practice. Bandung: Alumni, 1983, p. 3.

comprehensively examine the legal consequences and available protective mechanisms.

Based on the description above, the research questions are: What are the legal consequences if a notary does not report a transaction suspected of being suspicious? And what is the legal protection for a notary when reporting suspicious transactions?

2. Method

This study employs a normative legal research method, as its object of inquiry centers on the analysis of norms, principles, rules, and legal doctrines contained in legislation (documentary study). Normative juridical research focuses on the inventory, interpretation, and systematization of positive law to identify answers to the legal issues under consideration. The research is prescriptive and analytical in nature, aiming to explain “*what the law is*” (*das Sollen*) with respect to obligations, sanctions, and legal protection for notaries, while also examining the coherence and potential conflicts among legal norms. Normative juridical legal research is conducted by examining library materials or secondary sources, which consist of primary legal materials, secondary legal materials, and tertiary legal materials. These materials are systematically organized, analyzed, and synthesized into conclusions related to the issues under study. The approaches employed in this study are the statute approach and the conceptual approach.^[3] Secondary data analysis is conducted qualitatively. The analytical process applies several methods of legal interpretation, namely grammatical interpretation to understand the literal meaning of each word in statutory provisions, systematic interpretation to construe a regulation in relation to other regulations of equal or higher hierarchy to preserve the consistency of the legal system, and sociological interpretation to grasp the social objectives and utility (*ratio legis*) underlying the formation of a legal norm particularly to explain why the state deems it necessary to impose reporting obligations on notaries.

All analytical results are presented in a descriptive-analytical manner, elaborating on the legal findings in detail and providing in-depth analysis to address each of the research problems formulated.

3. Discussion

3.1. Legal Consequences for Notaries Who Fail to Fulfill the Obligation to Report Suspicious Financial Transactions

The failure or negligence of a notary, as a reporting party, to fulfill the reporting obligation mandated by Law No. 8 of 2010 on the Prevention and Eradication of Money Laundering (AML Law) does not constitute a minor violation. If a reporting party fails to report a suspicious financial transaction conducted by an individual, the reporting party may be subject to sanctions imposed by supervisory and regulatory authorities or by PPATK. Such

sanctions may take the form of warnings, written reprimands, public announcements of actions or sanctions, and/or administrative fines.^[4]

This situation opens a series of multi-layered legal consequences that may have a destructive impact on the existence of the notarial profession. These legal consequences can be classified into three principal domains: administrative sanctions, potential criminal liability, and ethical sanctions.^[5]

3.1.1. Administrative Sanctions

The most immediate and most frequently applied legal consequence of notarial non-compliance is administrative sanctions. The Anti-Money Laundering Law (AML Law) explicitly mandates supervisory and regulatory authorities (LPP), which, for notaries, is the Ministry of Law and Human Rights, to enforce compliance. This mechanism is further regulated under Government Regulation No. 43 of 2015.^[6]

The sanctioning process generally begins with findings from the Financial Transaction Reports and Analysis Center (PPATK). Through its supervisory function, PPATK may identify notaries who never or rarely submit Suspicious Financial Transaction (SFT) reports, or who, in practice, fail to adequately implement the Know Your Customer (KYC) principles (*Prinsip Mengenali Pengguna Jasa*, PMPJ). The application of KYC principles requires the establishment of technical guidelines to ensure that notaries share a common understanding of its implementation.^[7]

The steps in applying KYC principles that must be carried out by a notary range from identifying the notarial services used by clients to reporting to PPATK, particularly when a financial transaction deviates from the profile, characteristics, or habitual transaction patterns of the client concerned.^[8] Failures in implementing KYC include actions such as not conducting identification and verification of client identity, not tracing and determining the beneficial owner of a corporation, or disregarding transactions that are clearly inconsistent with the client’s economic profile.^[9]

Based on these findings, PPATK will issue a recommendation to the Ministry of Law and Human Rights to impose sanctions. The sanctions prescribed are gradual and tiered, designed to provide both a deterrent effect and an opportunity for corrective action before the imposition of more severe measures. The sanction levels include:

1. Written Warning
2. Administrative Fine
3. Public Announcement (Public Censure)
4. Suspension of Business Activities
5. Revocation of Business License

3.1.2. Criminal Responsibility

Although the Anti-Money Laundering Law (AML Law) does not contain specific criminal provisions directly targeting notaries solely for negligence in reporting, this does not automatically preclude the possibility of criminal liability.

³ Marzuki, Peter Mahmud. *Legal Research*. Jakarta: Kencana Prenada Media Group, 2007, p. 93.

⁴ Priyatno, H. Dwidja & Kristian. *Money Laundering Crimes*. Jakarta: Kencana, 2023, p. 175.

⁵ *Ibid.*

⁶ Naufaldy, Muhammad Bintang & Bonaparta, Gandjar Laksmiana. “The Role of Notaries as Reporting Parties in the Prevention and Eradication of Money Laundering Crimes.” *Journal*, 6(2), 2023: p. 4803.

⁷ Circular Letter No. AHU.UM.01.01-1232 on Guidelines for the Application of the Principle of Knowing the User for Notaries.

⁸ Oktaviany, Cindy; Muhjad, Muhammad Hadin; & Haiti, Diana. “The Principle of Knowing the User in Relation to Notary’s Professional Responsibility.” *BaLRev*, Vol. 4, April 2022, p. 57.

⁹ Laranisa, Albania Sudirman AR; Makkawaru, Zulkifli; & Abdurrifai. “Beneficial Ownership and Legal Liability in Sole Proprietorship Limited Companies.” *Journal*, 23(1), 2025: p. 75

The gateway to criminal prosecution remains wide open through the application of the doctrine of participation (*deelneming*) under Articles 55 and 56 of the Indonesian Criminal Code (KUHP), when linked to money laundering offenses as stipulated in the AML Law.^[10]

The key to understanding this potential liability lies in the crucial phrase “*reasonably suspected*” (*patut menduga*) contained in Articles 3, 4, and 5 of the Anti-Money Laundering Law (AML Law). This standard of reasonable suspicion is objective in nature. The question is no longer whether the notary subjectively knew that the funds were illegal, but rather whether a professional, prudent, and cautious notary, when confronted with the existing facts, would have felt suspicious.

To establish the existence of reasonable suspicion, law enforcement authorities will identify the presence of red-flag indicators that the notary failed to heed. If a notary encounters one or more of these indicators yet proceeds to process the transaction by drafting the deed without reporting, their position becomes highly vulnerable. Such conduct may be interpreted not merely as negligence, but as a form of active or passive facilitation of crime. In this context, a notarial deed—ordinarily a legitimate legal instrument—may instead serve as a vehicle to confer a veneer of legality upon assets derived from criminal activity.

In such a scenario, the public prosecutor may construct charges that the notary has participated in (*medepleger*) or at least assisted in (*medeplichtigheid*) the commission of money laundering. The failure to report would serve as key evidence demonstrating the element of intent—whether in the form of conditional intent (*dolus eventualis*) or at least conscious negligence (*bewuste schuld*) on the part of the notary. This represents the greatest criminal risk, where the boundary between professional negligence and criminal participation becomes exceedingly thin.

3.1.3. Ethical Sanctions

Beyond formal legal sanctions imposed by the state, notaries as members of an esteemed profession are bound by the Notarial Code of Ethics, which is enforced by the professional organization (the Indonesian Notary Association) through the Supervisory Council and the Honorary Council. The Code of Ethics establishes standards of integrity and professional dignity that often exceed the minimum requirements of statutory law.^[11]

Violations of the obligation to report Suspicious Financial Transactions (SFTs) inherently constitute acts that may be deemed to undermine the honor and dignity of the profession. Such violations reflect a lack of integrity and social responsibility on the part of the notary concerned. Accordingly, notaries who are proven—whether through a court decision or internal organizational review—to have failed to comply with the Anti-Money Laundering Law (AML Law) may be subject to ethical sanctions. These sanctions vary, ranging from:

1. Oral or written reprimand
2. Suspension (*schorsing*) from organizational membership for a specified period

3. Dismissal with dishonor from organizational membership

3.2. Legal Protection for Notaries in Reporting Suspicious Financial Transactions

To balance the heavy burden of obligations and the looming risk of sanctions, the Anti-Money Laundering Law (AML Law) simultaneously provides a strong legal shield for notaries who fulfill their reporting duties. This protection is absolutely necessary to ensure the effectiveness of the Anti-Money Laundering and Counter-Terrorism Financing (AML/CTF) regime, because without it, no notary would dare to report for fear of being sued by their clients.

3.2.1. Legal Basis for Notary Legal Protection as Justification (*Rechtsvaardigingsgrond*)

The principal foundation of legal protection for reporting notaries lies in Article 19 paragraph (1) of the Anti-Money Laundering Law (AML Law). This provision categorically states that Reporting Parties cannot be prosecuted, either civilly or criminally, for the performance of their reporting obligations.^[12]

This provision represents the manifestation of the legal principle *lex specialis derogat legi generali* (special law overrides general law). In this context, the Anti-Money Laundering Law (AML Law), as a special law, legitimately supersedes the provisions concerning the obligation to maintain professional secrecy as regulated in the Notarial Act and Article 322 of the Criminal Code.

Theoretically, Article 19 functions as a ground of justification (*rechtsvaardigingsgrond*). In other words, an act by a notary that would otherwise be unlawful from the perspective of the Notarial Act, namely, the disclosure of client confidentiality, becomes a justified and legitimate act when carried out in compliance with the mandate of a more specific statute, the Anti-Money Laundering Law (AML Law). With this justification, the element of unlawfulness (*wederrechtelijkheid*) in such conduct is eliminated. Consequences:

3.2.2. Criminal Liability

Within the legal system, a notary faces two inherently contradictory legal obligations. On the one hand, the Notarial Act (UUJN) explicitly requires notaries to maintain the confidentiality of all matters learned by virtue of their office, a duty commonly referred to as the obligation of secrecy or the right to refuse disclosure (*hak ingkar*). A violation of this duty could theoretically entail criminal consequences. On the other hand, the Anti-Money Laundering Law (AML Law), particularly through Article 19, obliges notaries as reporting parties to submit reports of suspicious financial transactions to the Financial Transaction Reports and Analysis Center (PPATK). Such reporting inherently involves the disclosure of information that would otherwise be protected by professional secrecy.

This normative conflict is resolved by criminal law through a legal construction that affords protection to notaries, affirming that they cannot be criminally prosecuted for breaching professional secrecy when acting in fulfillment of

¹⁰ Maulana. *Juridical Analysis of Trading in Influence as a Corruption Crime in the Indonesian Criminal Law System (Case Study: Irman Gusman’s Sugar Import Case)*. Universitas Islam Negeri Walisongo, Semarang, 2021: p. 42.

¹¹ *Jurnalistika*, Tyas E.; Manoppo, Berlian; & Pondaag, Hendrik. “Sanctions for Violations of the Notary Code of Ethics in the Execution of Notarial Duties.” *Journal*, X(1), 2022: p. 68.

¹² Naufaldy & Bonaparta. “The Role of Notaries as Reporting Parties in the Prevention and Eradication of Money Laundering Crimes.” *Journal*, 6(2), 2023: p. 4812.

their reporting obligations under the AML Law.

This legal protection is grounded in the doctrine of criminal law concerning grounds for the elimination of criminal liability, more specifically, grounds of justification (*rechtsvaardigingsgrond*). Theoretically, Article 19 of the Anti-Money Laundering Law (AML Law) functions as such a justification. In other words, an act by a notary which, when viewed independently from the context of the AML Law, would constitute an unlawful act because it violates the confidentiality provisions of the Notarial Act (UUJN), becomes a justified, legitimate, and lawful act when carried out in compliance with the mandate of another, more specific statute.

With this justification, the element of unlawfulness (*wederrechtelijkheid*) in the act is nullified or eliminated. When an act is performed pursuant to a statutory command, its unlawful character is extinguished, and consequently, the act itself can no longer be classified as a criminal offense.^[13] This protection also applies even if, at a later stage, the notary's suspicion proves unfounded and the reported transaction turns out to be legitimate. As long as, at the time of reporting, the notary had a reasonable basis for suspicion and acted in good faith, they remain shielded from criminal prosecution. This guarantee is crucial, because without it, notaries would be placed in a highly dilemmatic position and would tend to refrain from reporting for fear of litigation should their suspicions prove mistaken.

With the existence of such immunity, the state actively encourages and empowers notaries to confidently perform their role as gatekeepers in the prevention of money laundering, without being haunted by the fear of criminalization for carrying out their statutory obligations. In conclusion, the immunity granted to notaries from criminal prosecution for breaches of professional secrecy when fulfilling their reporting obligations under the AML Law constitutes a robust and defensible legal construction. This protection is grounded in the doctrine of justification in criminal law, which eliminates the element of unlawfulness from the act, and is reinforced by the principle of *lex specialis derogat legi generali*. Nevertheless, this immunity is conditional upon good faith and compliance with the prescribed reporting procedures. The existence of such legal guarantees is essential to ensure the effectiveness of the anti-money laundering regime, enabling notaries as reporting parties to optimally fulfill their obligations without being subjected to undue threats of criminal liability.

3.2.3. Civil Law Perspective

The legal protection afforded to Notaries in fulfilling their reporting obligations under the Anti-Money Laundering Act (UU TPPU) is not confined solely to the realm of criminal law, but extends comprehensively into the sphere of civil law. This aspect is crucial, because without civil immunity, a Notary who has been safeguarded from criminal prosecution may still face the risk of bankruptcy arising from civil lawsuits filed by clients who feel disadvantaged by such reporting. Therefore, the law explicitly stipulates that clients cannot sue a Notary, whether on the grounds of breach of contract (*wanprestasi*) or unlawful act (*onrechtmatige daad*), as a consequence of the performance of reporting obligations.^[14]

Analysis of Civil Immunity Through Two Potential Lawsuit Approaches

1. Analysis of Potential Breach of Contract Claim (*Wanprestasi*)
A breach of contract claim, as regulated under Article 1243 of the Indonesian Civil Code (*KUHPerdata*), arises when one party (the debtor) fails to fulfill a performance or obligation agreed upon in a contract. In the relationship between a Notary and a client, a contractual obligation exists to provide services in drafting deeds. One of the fundamental clauses of this obligation—whether expressly stated or implied—is the duty of the Notary to maintain the confidentiality of all information obtained from the client in the course of their office, as mandated by the Notary Office Act (*UUJN*). A dissatisfied client may argue that by reporting transactional information to the Indonesian Financial Transaction Reports and Analysis Center (*PPATK*), the Notary has breached this confidentiality clause and thereby committed a breach of contract (*wanprestasi*).
2. Analysis of Potential Unlawful Act Claim (*Perbuatan Melawan Hukum / PMH*) An unlawful act claim (*PMH*), as regulated under Article 1365 of the Civil Code, requires the cumulative fulfillment of four elements: (1) the existence of an unlawful act; (2) fault on the part of the actor; (3) damage suffered by the victim; and (4) a causal relationship (*causal verband*) between the act and the damage. If any one of these four elements is not satisfied, the *PMH* claim must be rejected. The immunity of Notaries from *PMH* lawsuits rests on the failure to meet the first and most fundamental element—namely, the existence of an unlawful act. Since the reporting obligation is mandated by law, the act of reporting cannot be classified as unlawful, thereby nullifying the basis for a *PMH* claim.

As analyzed within the context of criminal law, a Notary's act of reporting suspicious transactions to the Indonesian Financial Transaction Reports and Analysis Center (*PPATK*) does not constitute an unlawful act. On the contrary, such reporting represents the fulfillment of an obligation explicitly mandated by the Anti-Money Laundering Act (*UU TPPU*). The application of the doctrine of justification (*rechtsvaardigingsgrond*) under Article 19 of the *UU TPPU* removes the unlawful character of this act not only in the criminal sphere but also in the civil sphere. Indonesian jurisprudence has long expanded the meaning of “unlawful act” under Article 1365 of the Civil Code (*KUHPerdata*) to encompass not only acts that violate statutory provisions, but also those that infringe upon the subjective rights of others, contravene morality, or conflict with societal propriety. In this regard, the reporting conducted by a Notary is aligned with law and public order. Because the element of “unlawful act” is not satisfied, the entire construction of a civil claim based on *perbuatan melawan hukum* collapses. Civil immunity for Notaries who carry out reporting obligations is an essential component of the anti-money laundering regime. This protection comprehensively closes the avenue for clients to pursue retaliatory lawsuits, whether through breach of contract (*wanprestasi*) or unlawful act (*PMH*). The defense against breach of contract claims rests

¹³ Ilyas, Amir. *Principles of Criminal Law*. Yogyakarta: Rangkang Education, 2012, p. 52.

¹⁴ Utami, Suci. “Money Laundering Crimes Involving Virtual Currency.” *Journal*, 13(1), 2021: p. 21.

on the superiority of public law over private agreements, while the defense against unlawful act claims rests on the failure of the “unlawful act” element due to statutory justification. The existence of strong civil immunity provides Notaries with the assurance necessary to perform their role as effective gatekeepers, free from the looming threat of civil litigation that could compromise their independence and jeopardize the continuity of their professional practice.

3.2.4. The Crucial Role of Good Faith as a Primary Condition of Immunity

The legal protection afforded under Article 19 of the Anti-Money Laundering Act (*UU TPPU*) is not unconditional. The shield of immunity will only effectively protect Notaries who carry out their reporting obligations on the basis of good faith. In this context, good faith is not an abstract notion, but one that can be assessed through objective parameters. A Notary may be deemed to act in good faith if the following conditions are met:^[15]

3.2.4.1. Reporting Based on Reasonable Suspicion

The principle of good faith serves as the fundamental basis for legal protection granted to Notaries in fulfilling their reporting obligations under the Anti-Money Laundering (*APU*) regime. However, good faith in this legal context is neither abstract nor dependent solely on the Notary’s subjective assertion. Rather, it must be demonstrable and measurable through objective parameters. The primary benchmark for establishing good faith is ensuring that the decision to report a transaction is grounded in reasonable suspicion. This concept requires that reporting be the outcome of a rational and professional process of analysis, rather than impulsive, arbitrary, or motivated by irrelevant considerations. Theoretically, reasonable suspicion is a standard lower than “sufficient preliminary evidence” in criminal law, yet higher than mere intuition or baseless conjecture. A Notary may be considered to have reasonable suspicion if they identify one or more facts, conditions, or transaction patterns that are unusual and deviate from the client’s normal profile or from comparable transaction profiles. These facts are known as suspicious indicators or “red flags.” Reporting must arise from rational findings of such red flags, consistent with guidelines issued by *PPATK*, and must not be based on assumptions, prejudice, rumors, or personal sentiment. This means that the decision-making process must be logically defensible and supported by articulable facts.

The guidelines issued by the Indonesian Financial Transaction Reports and Analysis Center (*PPATK*) play a crucial role in objectifying this process. They provide typologies and specific indicators of suspicious transactions tailored to the notarial profession. Relevant examples of red flags include:

1. the use of highly complex corporate structures (e.g., involving multiple shell companies or tax haven jurisdictions) without clear business purposes;
2. property transactions with values significantly above or below market price without logical explanation;
3. clients unwilling or unable to provide adequate information regarding the beneficial owner or source of funds;
4. transactions involving large cash payments; or

5. clients attempting to avoid face-to-face interaction and insisting on completing transactions through unclear intermediaries. By adhering to these indicators, Notaries shift the basis of their decisions from personal opinion to professional analysis grounded in established standards.

3.2.4.2. Compliance with Procedural Requirements

Beyond reasonable suspicion, the manifestation of good faith in the Anti-Money Laundering (*APU*) framework is also measured by strict compliance with reporting procedures. Procedural compliance is as important as substantive suspicion, because a report that is substantively valid but procedurally flawed may undermine its effectiveness, compromise confidentiality, and even jeopardize the Notary’s legal protection. Adherence to procedure demonstrates that the Notary acts not only with the proper motive, but also professionally and responsibly consistent with the legal framework established by law.

Procedural compliance specifically encompasses three interrelated elements: reporting through official channels, using the correct format, and maintaining strict confidentiality of the process. First, reporting must be carried out through the official channels established by *PPATK*. Second, the report must use the prescribed format and be completed in full. Third, the Notary and all of their staff are obliged to maintain absolute confidentiality throughout the reporting process.

On this basis, procedural compliance constitutes the second pillar supporting the existence of good faith in a reporting Notary. It demonstrates that the Notary not only possesses a valid basis for suspicion but also respects the system and mechanisms designed to handle highly sensitive information. By using official channels, completing the format correctly, and maintaining strict confidentiality, the Notary exhibits a high level of professionalism and actively contributes to the effectiveness and security of the Anti-Money Laundering (*APU*) regime. Procedural compliance, therefore, is not a mere technical formality, but a fundamental component inseparable from the responsible and legally protected execution of reporting obligations.

3.2.4.3. Absence of Malice

The third component, which serves as the moral foundation of the doctrine of good faith, is the absence of malice on the part of the reporting Notary. This aspect complements the two previous components by adding an intentional or motivational dimension. To obtain full legal protection, reporting must not only be correct in object and method, but also be driven by proper motives. Reporting must be purely aimed at fulfilling the legal obligation mandated by the Anti-Money Laundering Act (*UU TPPU*), and not motivated by hidden, improper, or personal intentions.

In legal terms, malice refers to the use of a lawful process or authority for unlawful purposes or for objectives beyond those prescribed by law. This constitutes an abuse of rights or authority (*détournement de pouvoir*). If a Notary reports suspicious financial transactions not with the primary aim of assisting in the eradication of money laundering, but instead driven by ulterior motives, they are deemed to have acted in bad faith. Legal immunity does not apply if reporting is motivated by hidden intentions such as business competition, extortion of clients, or personal revenge. These motives

¹⁵ Lubis, Fauziah *et al.* “Legal Consequences of the Cancellation of Notarial Deeds Based on Court Decisions in Civil Disputes.” *Journal*, XXI(1), 2025: p. 35.

fundamentally corrupt the integrity of reporting, transforming it from a legal obligation into an unlawful act. Examples clarify this point. Business competition as a motive arises when a Notary, upon discovering suspicious transactions involving a client who is also served by a competitor, reports the transaction primarily to disrupt the competitor's business relationship. Extortion represents a more serious abuse, where a Notary leverages knowledge of suspicious transactions to pressure or threaten a client into providing money or other benefits in exchange for withholding the report to *PPATK*. This act itself constitutes a separate criminal offense (extortion). Revenge as a motive occurs when reporting is carried out as retaliation for a personal dispute or conflict between the Notary and the client, unrelated to the transaction itself. In such cases, reporting becomes an instrument of harm rather than compliance.

The absence of malice is an absolute requirement and lies at the core of the concept of good faith. It ensures that the reporting mechanism—an essential instrument in law enforcement—is not misused for improper purposes. This requirement functions as a safeguard protecting society and clients from potential abuses of authority by reporting parties. A Notary will only be protected by law if their act of reporting suspicious transactions is entirely free from personal motives and genuinely based on the awareness of fulfilling their professional and legal obligations in contributing to the fight against money laundering.

4. Adequate Documentation

The principle of good faith in the fulfillment of reporting obligations by Notaries is assessed not only in terms of intent and procedural compliance, but must also be supported by concrete and verifiable evidence. In the context of law and audit, the maxim applies: *what is not documented is deemed never to have occurred*. Accordingly, adequate documentation becomes the fourth pillar and the evidentiary foundation for all other elements of good faith. A Notary's ability to demonstrate documented proof that proper due diligence was undertaken prior to making the decision to report is a crucial factor in sustaining their legal immunity. Documentation functions as an objective record that reconstructs the professional decision-making process.

The primary function of such documentation is to establish that the reporting decision was not reckless or arbitrary, but rather the outcome of a systematic and responsible process of analysis. This process is known as the Application of the Principle of Knowing the User (*PMPJ*) or Customer Due Diligence (*CDD*). Adequate documentation must demonstrate that the Notary has undertaken essential steps in the *CDD* process, such as identifying and verifying the identity of the client and the beneficial owner, understanding the purpose and intent of the transaction, and monitoring the consistency of the transaction profile with the client's profile. Without documentary evidence of these steps, a Notary's claim of acting in good faith will be weak and difficult to sustain before auditors or courts.

Adequate documentation is not merely an administrative burden, but an inseparable component of responsible professional practice and effective risk management. It serves as the evidentiary bridge between the internal element of good faith and the external actions that can be objectively evaluated. By maintaining complete and structured records of due diligence and risk analysis, a Notary not only fulfills their

legal obligations but also proactively builds a strong foundation of defense to protect themselves. In a complex legal regime, the ability to prove what has been done is as important as doing the right thing itself.

4.1. Limits of Protection and the Prohibition of Tipping-Off

The anti-money laundering (*APU*) legal framework is designed to create a balanced system. On the one hand, the law provides strong protection or immunity for reporting parties, such as Notaries, to encourage the fulfillment of reporting obligations without fear. On the other hand, the law also sets clear boundaries on such protection and imposes specific prohibitions to prevent abuse of the system and to safeguard the effectiveness of law enforcement processes. Two crucial elements that shape these boundaries and obligations are the doctrine of good faith as an absolute condition of immunity, and the strict prohibition against tipping-off.

4.2. Limits of Protection: The Doctrine of Good Faith

The legal protection in the form of immunity from criminal and civil liability granted under Article 19 of the Anti-Money Laundering Act (*UU TPPU*) to reporting Notaries is not absolute. The boundary of this protection is good faith itself. This means that immunity only applies if the reporting of suspicious financial transactions is carried out honestly, based on reasonable suspicion in accordance with established indicators, and solely for the purpose of fulfilling statutory obligations. If a client is able to prove in court that the Notary reported in bad faith, then immunity under Article 19 of the *UU TPPU* will collapse.

Bad faith in this context refers to reporting motivated by improper purposes, such as malice intended to damage a client's reputation or business, unfair business competition, or personal revenge. In such scenarios, the Notary is no longer acting as a gatekeeper of the *APU* regime, but rather misusing the reporting mechanism as an instrument for unlawful ends.

An important aspect here concerns the burden of proof. The law inherently places the reporting Notary in a stronger position. The burden of proving bad faith rests entirely on the client making the allegation, not on the Notary. The client must present strong and convincing evidence before the court to demonstrate the existence of malice or hidden motives. This high evidentiary standard is designed to prevent lawsuits from being used as tools of intimidation against reporting parties.

If the client succeeds in proving bad faith, then all immunity enjoyed by the Notary is nullified, exposing them to various legal claims. Criminally, they may be prosecuted for the offense of false accusation (*pengaduan fitnah*) under Article 317 of the Criminal Code (*KUHP*). The elements of this provision—intentionally submitting a false complaint or notification to authorities about someone, thereby attacking their honor or reputation—may be satisfied if the report is proven to be based on falsehoods and malicious intent. Civilly, the Notary may be sued under Article 1365 of the Civil Code (*KUHPerdata*) for unlawful acts, requiring compensation for both material and immaterial damages suffered by the client. In such circumstances, the reporting act is no longer considered the execution of a statutory obligation, but rather an unlawful act grounded in fault (bad faith), thereby fulfilling all elements of a civil claim.

4.3. Confidentiality Obligation: The Prohibition of Tipping-Off

In addition to limiting protection, the UU TPPU also imposes a strict confidentiality obligation on reporting parties, known as the prohibition of tipping-off. This obligation is explicitly regulated under Article 17(2) of the UU TPPU, which essentially prohibits reporting parties (including Notaries and their staff) from informing anyone—especially the client concerned—that a suspicious financial transaction (*TKM*) has been, is being, or will be reported to *PPATK*. This prohibition is absolute, and its violation constitutes a separate criminal offense.

The Dual and Fundamental Objectives of the Tipping-Off Prohibition

The prohibition against tipping-off serves dual purposes that are fundamental to the success of the anti-money laundering (*APU*) regime.

The first objective is to safeguard the effectiveness of financial intelligence processes and law enforcement. If a perpetrator is informed that their transaction is under scrutiny or has been reported, they may immediately take steps to erase traces of wrongdoing, such as transferring assets to another jurisdiction, destroying relevant documents, or fleeing. Tipping-off effectively renders the report useless and undermines law enforcement's efforts to trace and seize criminal assets. Confidentiality in reporting is therefore an absolute prerequisite for *PPATK* and law enforcement agencies to operate effectively.

The second objective, equally important, is to protect the safety of the reporting party. A client whose transaction is reported may be part of an organized crime network that would not hesitate to engage in intimidation, threats, or even physical violence against the reporting Notary. By maintaining absolute confidentiality in the reporting process, the law provides a crucial layer of security for Notaries and their staff against potential retaliation. Thus, the tipping-off prohibition functions both as a safeguard for the system and as protection for the individuals participating in it.

To underscore the seriousness of this prohibition, the *UU TPPU* criminalizes tipping-off. Article 11A of the *UU TPPU* specifically stipulates that any person who violates the prohibition against disclosing the existence of a suspicious transaction report (*TKM*) is subject to criminal sanctions, including imprisonment. This demonstrates that a Notary, even if compliant with reporting obligations, may still face criminal liability if they commit a procedural error by leaking information about the report. The prohibition applies not only to the Notary as the principal responsible party, but also extends to all staff and employees in the Notary's office who may be aware of or involved in the reporting process.

The *APU* legal framework carefully balances protection with enforcement obligations. Legal immunity for reporting Notaries is strictly limited by the doctrine of good faith, under which immunity collapses if bad faith in reporting is proven. At the same time, Notaries are bound by an absolute confidentiality obligation through the prohibition of tipping-off, the violation of which constitutes a separate criminal offense. Together, these two pillars ensure that the reporting mechanism is not abused, that law enforcement effectiveness is preserved, and that the safety of reporting parties is guaranteed.

5. Conclusion

The legal consequences for Notaries who fail to fulfill their obligation to report suspicious financial transactions encompass a spectrum of severe and layered sanctions, ranging from administrative penalties and license revocation, to potential criminal liability under the doctrine of participation, as well as ethical sanctions that may affect their professional career. Conversely, legal protection for Notaries who comply with their reporting obligations is provided by the state through strong immunity from both criminal and civil claims, as stipulated in Article 19 of the Anti-Money Laundering Act (*UU TPPU*), which functions as a justification. The key to this protection lies in the fundamental requirement that reporting must always be based on good faith.

Thus, the position of the Notary rests at a point of balance: on one side, the obligation to comply to avoid the risk of sanctions; on the other, the right to be protected, which can only be secured by carrying out the obligation professionally and with integrity.

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