INTERNATIONAL JOURNAL OF JUDICIAL LAW

# The Contradiction Between the Regulation of Notarial Client Confidentiality and the Law on the Prevention and Eradication of the Crime of Money Laundering

**Putu Arya Wiguna** [1*], **Dr. I Made Dedy Priyanto SHMKN** [2]
Faculty of Law, Udayana University, Indonesia

* Corresponding Author: **Putu Arya Wiguna**

## Article Info

**ISSN (online):** 2583-6536
**Volume:** 05
**Issue:** 04
**Received:** 24-04-2026
**Accepted:** 25-05-2026
**Published:** 28-06-2026
**Page No:** 26-29

**Abstract**
Notaries, as public officials in Indonesia, play a crucial role in the legal transaction process, one of their principal duties being to safeguard the confidentiality of information entrusted by clients, as expressly stipulated in Law Number 30 of 2004, as amended by Law Number 2 of 2014, on the Office of Notary. This duty, however, now intersects with the obligations arising from Law Number 8 of 2010 on the Prevention and Eradication of the Crime of Money Laundering, which, through its implementing regulation Government Regulation Number 43 of 2015 and Regulation of the Minister of Law and Human Rights Number 9 of 2017, designates notaries as reporting parties required to report suspicious transactions to the Indonesian Financial Transaction Reports and Analysis Centre (PPATK). This creates a legal and ethical dilemma in which notaries are caught between preserving client confidentiality and discharging their reporting obligation. Using a normative juridical method, this study examines the conflict between the two duties and proposes measures to harmonise them. It finds that the perceived contradiction is reconciled by the statutory exception in Article 16 paragraph (1) letter f of the Notary Law ("unless the law provides otherwise") and by the "safe harbour" protection in Articles 28 and 29 of the Anti-Money Laundering Law, which shields reporting parties acting in good faith from civil and criminal liability. Key recommendations include clear operational guidelines, continuous training, closer collaboration with PPATK, and explicit legal protection for notaries who report in good faith.

**DOI:** https://doi.org/10.54660/IJJL.2026.5.4.26-29

**Keywords:** Notary, Confidentiality Obligation, Money Laundering, Suspicious Transaction Reporting, PPATK

## Introduction

Notaries, as public officials in Indonesia, occupy a central position in the conduct of lawful legal transactions. In that capacity, a notary is responsible for providing legally secure services, authenticating deeds, and ensuring that every document processed conforms to the prevailing law. One of the principal duties attaching to the office is the obligation to preserve the confidentiality of information entrusted by clients. This duty is affirmed in Article 16 paragraph (1) letter f of Law Number 30 of 2004 on the Office of Notary, as amended by Law Number 2 of 2014, which requires every notary to keep secret all matters concerning the deeds executed and all information obtained for the making of such deeds, in accordance with the oath of office, unless the law provides otherwise.

The purpose of the rule is to afford clients a sense of security and legal protection, enabling them to disclose private and sensitive information without fear of misuse. The trust thus reposed in the notary forms the foundation of the notary–client relationship. [1]

The notary functions as an extension of the State, serving the public in the field of private law by producing written evidence in the form of authentic deeds that the State recognises as perfect evidence. The presence of the notarial office is therefore mandated by law to serve members of the public who require authentic written proof of legal conditions, events, and acts [2]

Number 8 of 2010 on the Prevention and Eradication of the Crime of Money Laundering (the AML Law). Article 17 paragraph (2) of that Law authorises the designation of additional reporting parties by government regulation. On that basis, Government Regulation Number 43 of 2015 on Reporting Parties in the Prevention and Eradication of the Crime of Money Laundering, later amended by Government Regulation Number 61 of 2021, formally designated notaries as reporting parties obliged to report certain suspicious transactions to the Indonesian Financial Transaction Reports and Analysis Centre (Pusat Pelaporan dan Analisis Transaksi Keuangan, PPATK). This obligation is operationalised for notaries by Regulation of the Minister of Law and Human Rights Number 9 of 2017 on the Application of the Know-Your-Service-User Principle for Notaries. The aim of such reporting is to prevent and eradicate money-laundering practices that may damage the stability of the national economy and financial system [3]

The reporting obligation appears, at first sight, to collide with the principle of confidentiality inherent in the notarial profession. A notary may seem to face an ethical and legal dilemma: to preserve client confidentiality or to report a transaction considered suspicious that may point to money laundering. The apparent contradiction is sharpened by the reality that notaries are frequently involved in substantial transactions that could be used to disguise the proceeds of crime. [4] A failure to report a suspicious transaction may expose the notary to legal sanction, while an unjustified breach of confidentiality may damage the professional relationship with the client.

Against this background, it is important to seek an understanding and a solution capable of harmonising the two seemingly competing duties. This study examines more closely the contradiction between the regulation of notarial confidentiality and the reporting obligation under the AML Law, identifies the legal challenges notaries face in discharging their duties, and offers recommendations for resolving the tension in the interest of greater legal certainty. This research differs from the study entitled “The Authority and Legal Protection of Notaries as Reporting Parties of Suspicious Transactions”, which focuses on legal protection for reporting notaries, and from studies on the application of the know-your-service-user principle; the present study focuses instead on the solution to the overlap whereby the notarial code of ethics requires secrecy concerning deeds while the AML Law requires the reporting of suspicious transactions.

## Problem Formulation

In light of the foregoing background, this study addresses the following research questions:

1. How is the obligation of notaries to preserve client confidentiality regulated under the Law on the Office of Notary in Indonesia?
2. What solutions or measures may be taken to harmonise the notary’s obligation to preserve client confidentiality with the obligation to report suspicious transactions in the context of the Law on the Prevention and Eradication of the Crime of Money Laundering?

## Purpose

The purpose of this study is to analyse the legal regulation of the notary’s obligation to preserve client confidentiality within the Indonesian legal system and to examine the measures that may harmonise that obligation with the duty to report suspicious transactions under the Anti-Money Laundering Law, so as to secure legal certainty and protect both public and private interests.

## Discussion

### A. The Regulation of the Notary’s Obligation to Preserve Client Confidentiality under the Law on the Office of Notary in Indonesia

The obligation of notaries to preserve client confidentiality in Indonesia is governed by Law Number 30 of 2004 on the Office of Notary, as amended by Law Number 2 of 2014. A central tenet of that Law is the notary’s duty to keep confidential all information obtained in the performance of notarial duties. Article 16 paragraph (1) letter f provides that, in carrying out the office, a notary is obliged to keep secret all matters concerning the deeds executed and all information obtained for the making of such deeds, in accordance with the oath of office, unless the law provides otherwise. [5]

This duty extends to information received from clients in both written and oral form. It is reinforced by Article 54 of the Law, under which a notary may give, show, or disclose the contents of a deed, a grosse, a copy, or an extract only to persons directly interested in the deed, their heirs, or those who have acquired rights, unless otherwise provided by legislation. The oath of office under Article 4 paragraph (2) likewise binds the notary to keep secret the contents of deeds and the information obtained in the exercise of the office. The confidentiality duty may therefore be set aside only under specific conditions established by law — for instance, upon the order of a court or a competent legal authority [6] A breach of this duty may attract administrative sanctions up to dishonourable discharge under Article 16 of the Law. The rule expresses a foundational principle of the profession: the

[1] Habib Adjie, Hukum Notaris Indonesia: Tafsir Tematik terhadap Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris, Refika Aditama, Bandung, 2008, p. 34.
[2] G. H. S. Lumban Tobing, Peraturan Jabatan Notaris, Erlangga, Jakarta, 1983, p. 4.
[3] Muhammad Raditya Pratama Ibrahim and Ahmad Sudiro, “Kewenangan dan Perlindungan Hukum bagi Notaris sebagai Pihak Pelapor Transaksi Mencurigakan”, Masalah-Masalah Hukum, vol. 51, no. 2, 2022, p. 190.
[4] Terina and Rendy Renaldy, “Problematika Kewajiban Notaris dalam Melaporkan Transaksi Keuangan Mencurigakan”, Repertorium: Jurnal Ilmiah Hukum Kenotariatan, vol. 9, no. 1, 2020, p. 26.
[5] Indonesia, Undang-Undang Nomor 2 Tahun 2014 tentang Perubahan atas Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris, Article 16 paragraph (1) letter f.
[6] Habib Adjie, op. cit., p. 87.

notary acts as a public official entrusted by society to guarantee legal certainty, and confidentiality — the "right of refusal" (hak ingkar) — is integral to that trust and to the notarial code of ethics.

Crucially, the duty of confidentiality is not absolute. Article 16 paragraph (1) letter f itself contains the qualifying clause "unless the law provides otherwise", which opens the door to statutory exceptions of higher or equal rank. The AML Law is precisely such an exception: it requires notaries to report suspicious transactions even where confidential information is involved. Read together, therefore, the regulation of notarial confidentiality in Indonesia is clear and firmly grounded in the Law on the Office of Notary, subject to the exceptions that the law itself recognises.

## B. Measures to Harmonise the Notary's Duty of Confidentiality with the Obligation to Report Suspicious Transactions under the Anti-Money Laundering Law

In notarial practice the duty to preserve client confidentiality and the duty to report suspicious transactions under the AML Law are often perceived as conflicting. Yet the contradiction is more apparent than real, and several measures can reconcile the two obligations while preserving both client trust and the integrity of the financial system.

First, clear and practical guidelines should be developed for notaries. Such guidelines ought to set out procedures for identifying suspicious transactions, with concrete examples; correct reporting procedures consistent with the AML Law, including the channels for submission to PPATK; and safeguards ensuring that, even when a notary reports a suspicious transaction, the principle of confidentiality is respected so far as the law permits. [7]

Second, the "safe harbour" protection already contained in the AML Law should be reinforced and publicised. Articles 28 and 29 of Law Number 8 of 2010 expressly provide that the performance of the reporting obligation is excluded from the confidentiality provisions otherwise applicable, and that a reporting party cannot be sued, whether civilly or criminally, for discharging its reporting duty to PPATK. This statutory protection means that a notary who reports in good faith and in accordance with the prescribed procedure does not breach the duty of secrecy and incurs no liability; wider socialisation of this principle would reduce notaries' apprehension in meeting their reporting obligations. [8]

Third, continuous training and education are essential. Programmes should cover the AML Law and reporting procedures, the relevant professional ethics, the detection of suspicious transactions, and case simulations illustrating how to report without unduly compromising confidentiality.

Fourth, closer collaboration between notaries and PPATK should be fostered. PPATK can provide clear consultation channels and, together with notarial associations, hold forums and workshops on current reporting issues so that notaries may obtain direct guidance and act with greater confidence.

Fifth, regulation governing the conflict of duties should be refined to prescribe the procedure a notary must follow, to guarantee that good-faith reporting carries no sanction for breach of confidentiality, and to allow consultation with PPATK before a final reporting decision is taken. These domestic measures are consistent with the international standards of the Financial Action Task Force (FATF) — of which Indonesia became the fortieth full member on 27 October 2023 — whose Recommendations 22 and 23 extend customer due diligence and suspicious-transaction-reporting duties to designated non-financial businesses and professions, including notaries, while recognising a limited exception for information subject to professional secrecy. [9]

Finally, supervision and law enforcement should be balanced and supportive rather than punitive, ensuring proportionate sanctions and protecting notaries who act in good faith, and guidelines on managing legal risk — including professional indemnity or legal-protection schemes offered by notarial associations — would allow notaries to discharge their duties with greater confidence. Taken together, these steps can ease the tension between the two obligations and foster a notarial practice that is more harmonious, transparent, and secure for all parties.

## Closing Conclusion

The contradiction between the notary's duty to preserve client confidentiality and the duty to report suspicious transactions under the Anti-Money Laundering Law is a complex legal problem, but it is ultimately reconcilable. On the one hand, as a public official the notary must keep confidential the information entrusted by clients under the Law on the Office of Notary and the professional code of ethics, which is essential to client trust and to a healthy professional relationship. On the other hand, the AML Law requires notaries to report suspicious transactions that may indicate money laundering. The two duties are harmonised by the statutory exception in Article 16 paragraph (1) letter f of the Notary Law and by the safe harbour in Articles 28 and 29 of the AML Law, which protect a notary who reports in good faith from civil or criminal liability.

## Suggestion

The framework should be strengthened through clear operational guidelines that incorporate the safe-harbour principle, continuous training and education for notaries, closer collaboration between notaries and PPATK, and balanced, proportionate supervision. Clear rules on the procedure for reporting suspicious transactions — rules that continue to respect the principle of notarial confidentiality — would remove any residual conflict between the two obligations and support the stability of the national economy and financial system.

## References


1. Adjie H. Hukum Notaris Indonesia: Tafsir Tematik terhadap Undang-Undang Nomor 30 Tahun 2004. Bandung: Refika Aditama; [year not provided].
2. Financial Action Task Force (FATF). International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation: The FATF Recommendations. Paris: FATF; 2012 (updated 2023).
3. Hukumonline. PPATK Yakinkan Notaris Wajib Lapor Tak Langgar Rahasia Jabatan [Internet]. Jakarta: Hukumonline; 2025 [cited 2025]. Available from:


[7] Muhammad Raditya Pratama Ibrahim and Ahmad Sudiro, op. cit., p. 193.

[8] Indonesia, Undang-Undang Nomor 8 Tahun 2010 tentang Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang, Articles 28 and 29.

[9] Financial Action Task Force, International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation: The FATF Recommendations, FATF, Paris, 2012 (updated 2023), Recommendations 22 and 23.

www.hukumonline.com
4. Ibrahim MRP, Sudiro A. Kewenangan dan perlindungan hukum bagi notaris sebagai pihak pelapor transaksi mencurigakan. Masalah-Masalah Hukum. 2022;51(2):188-198.
5. Lumban Tobing GHS. Peraturan Jabatan Notaris. Jakarta: Erlangga; 1983.
6. Marzuki PM. Penelitian Hukum. Jakarta: Kencana; 2021.
7. Pusat Pelaporan dan Analisis Transaksi Keuangan (PPATK). Pelaporan transaksi kepada PPATK dilindungi Undang-Undang TPPU [Internet]. Jakarta: PPATK; 2025 [cited 2025]. Available from: www.ppatk.go.id
8. Soekanto S, Mamudji S. Penelitian Hukum Normatif: Suatu Tinjauan Singkat. Jakarta: Rajawali Pers; 2015.
9. Terina, Renaldy R. Problematika kewajiban notaris dalam melaporkan transaksi keuangan mencurigakan. Repertorium: Jurnal Ilmiah Hukum Kenotariatan. 2020;9(1):23-34.
10. Kitab Undang-Undang Hukum Perdata (Indonesian Civil Code). Jakarta: [publisher not provided]; [year not provided].
11. Republik Indonesia. Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris. Jakarta: Pemerintah Republik Indonesia; 2004.
12. Republik Indonesia. Undang-Undang Nomor 2 Tahun 2014 tentang Perubahan atas Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris. Jakarta: Pemerintah Republik Indonesia; 2014.
13. Republik Indonesia. Undang-Undang Nomor 8 Tahun 2010 tentang Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang. Jakarta: Pemerintah Republik Indonesia; 2010.
14. Republik Indonesia. Peraturan Pemerintah Nomor 43 Tahun 2015 tentang Pihak Pelapor dalam Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang. Jakarta: Pemerintah Republik Indonesia; 2015.
15. Republik Indonesia. Peraturan Pemerintah Nomor 61 Tahun 2021 tentang Perubahan atas Peraturan Pemerintah Nomor 43 Tahun 2015. Jakarta: Pemerintah Republik Indonesia; 2021.
16. Republik Indonesia. Peraturan Menteri Hukum dan Hak Asasi Manusia Nomor 9 Tahun 2017 tentang Penerapan Prinsip Mengenali Pengguna Jasa bagi Notaris. Jakarta: Kementerian Hukum dan Hak Asasi Manusia Republik Indonesia; 2017.

## How to Cite This Article

Wiguna PA, Priyanto IMD. The contradiction between the regulation of notarial client confidentiality and the law on the prevention and eradication of the crime of money laundering. International Journal of Judicial Law. 2026;5(4):26-29. doi:10.54660/IJJL.2026.5.4.26-29.

## Creative Commons (CC) License