



## **Regulation of The Analysis of Suspicious Financial Transactions as Documentary Evidence**

### **Pengaturan Analisis Transaksi Keuangan yang Mencurigakan Dijadikan Alat Bukti Dokumen**

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**Abstract:** The handling of money laundering cases in Indonesia reveals a normative tension between evidentiary rules and the confidentiality regime governing financial intelligence. Financial Transaction Analysis Reports issued by the Indonesian Financial Transaction Reports and Analysis Center (PPATK) contain strategic information essential for tracing illicit financial flows, yet their evidentiary status remains contested due to statutory obligations to protect the identity of reporting parties. This study examines the legal position of financial intelligence reports within the Indonesian criminal justice system, particularly in relation to documentary evidence recognized under money laundering legislation. Employing a normative juridical method with statutory and conceptual approaches, the research analyzes relevant laws, judicial practices, and doctrinal interpretations governing evidence in money laundering prosecutions. The findings demonstrate that while money laundering laws formally recognize documents as valid evidence, financial intelligence reports are functionally constrained by confidentiality provisions, limiting their direct use in evidentiary proceedings. This legal ambiguity generates uncertainty in law enforcement practices and raises concerns regarding procedural fairness and legal certainty. The study concludes that a clearer regulatory framework is required to reconcile evidentiary needs with confidentiality obligations, ensuring both effective prosecution and protection of reporting entities.

**Keywords:** Documentary Evidence; Evidence; Money Laundering Crime

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## **INTRODUCTION**

The global fight against money laundering has increasingly relied on financial intelligence as a core instrument for detecting, tracing, and disrupting illicit financial flows. Within the contemporary anti-money laundering (AML) regime, Financial Intelligence Units

(FIUs) play a pivotal role in collecting, analyzing, and disseminating information related to suspicious financial transactions. This intelligence-led enforcement model reflects a broader shift in criminal justice policy, where financial regulation, administrative oversight, and criminal law intersect to address complex economic crimes that transcend traditional investigative methods (Levi & Reuter, 2006, p. 296). Nevertheless, the growing dependence on financial intelligence also raises fundamental legal questions concerning its normative position and functional limits within formal criminal proceedings.

In many legal systems, FIU products are designed primarily as preliminary intelligence to support investigative decision-making rather than as evidentiary instruments to be directly tested in court. This design is closely linked to the confidential character of financial intelligence, which seeks to protect reporting entities, preserve investigative secrecy, and prevent retaliatory risks. From the perspective of criminal procedural law, the conversion of intelligence products into admissible evidence may generate tensions with core principles such as legality, legal certainty, and the right to a fair trial, particularly where the sources, analytical methods, or reporting parties cannot be fully disclosed in adversarial proceedings (Ambos & Rackow, 2023).

Indonesia illustrates this tension in a particularly explicit manner. As the national FIU, the Financial Transaction Reports and Analysis Center (Pusat Pelaporan dan Analisis Transaksi Keuangan—PPATK) is mandated to analyze suspicious financial transactions and disseminate its findings to law enforcement agencies in the form of Analysis Result Reports (Laporan Hasil Analisis—LHA) and Examination Result Reports (Laporan Hasil Pemeriksaan—LHP). These reports are expressly classified as financial intelligence products and are subject to strict statutory confidentiality obligations. At the same time, Article 73 of Law Number 8 of 2010 on the Prevention and Eradication of Money Laundering Crimes explicitly recognizes “documents” as lawful forms of evidence in money laundering prosecutions. This normative configuration creates an inherent ambiguity regarding whether LHA may be treated as documentary evidence or must remain confined to its original intelligence function.

Existing scholarship on money laundering law in Indonesia has largely focused on asset recovery mechanisms, the implementation of the follow-the-money principle, or the expansion of investigative authority following constitutional and legislative developments. While these studies provide valuable insights into enforcement effectiveness, they tend to treat financial intelligence reports as auxiliary instruments within investigation processes, rather than as objects of doctrinal scrutiny within the law of evidence. As a result, the legal

nature of Analysis Result Reports (LHA) remains under-theorized, particularly in relation to their ambiguous position between intelligence products and documentary evidence, and their implications for prosecutorial reasoning and judicial assessment (Lenaerts & Gutiérrez-Fons, 2016).

This article advances the existing literature by offering a normative and conceptual analysis of financial intelligence reports as a distinct category situated at the intersection of intelligence governance and evidentiary law. Rather than merely identifying regulatory tension, the study proposes an interpretive framework that distinguishes the informational, procedural, and evidentiary functions of LHA within money laundering prosecutions. By integrating doctrines of documentary evidence with the *dominus litis* principle, the article contributes to a more precise understanding of how prosecutorial discretion should operate under conditions of confidentiality, thereby addressing a dimension of money laundering enforcement that has received limited doctrinal attention in Indonesian legal scholarship.

This issue becomes even more complex when viewed through the lens of the *dominus litis* principle, under which public prosecutors exercise control over criminal cases, including decisions on the selection, construction, and presentation of evidence. The incorporation of financial intelligence reports into prosecutorial strategy raises delicate questions regarding the boundaries of discretion, especially in a legal framework that simultaneously imposes criminal sanctions for unlawful disclosure of confidential AML information (Gilmore, 2004). The coexistence of evidentiary recognition and stringent confidentiality obligations thus gives rise to what may be described as a regulatory paradox: financial intelligence is indispensable for uncovering money laundering schemes, yet its elevation to evidentiary status risks undermining the legal safeguards that sustain the AML system itself.

Against this background, this study examines the legal status of financial intelligence analysis reports within the Indonesian anti-money laundering framework, with a particular focus on their doctrinal classification and functional limits as evidentiary materials. The research addresses two interrelated questions: first, how LHA issued by PPATK should be legally understood within the structure of criminal evidence law; and second, how prosecutorial discretion under the *dominus litis* doctrine can be normatively structured to reconcile evidentiary use with confidentiality obligations and fair trial guarantees (Ryder, 2014).

To address these questions, this research adopts a normative juridical approach that emphasizes statutory interpretation, conceptual analysis, and systematic coherence. The

analysis is grounded in an examination of relevant anti-money laundering legislation, criminal procedural norms, and regulatory instruments governing PPATK, complemented by theoretical perspectives on evidentiary governance and prosecutorial discretion. Through this approach, the study seeks to situate the Indonesian experience within broader debates on the role of financial intelligence in criminal justice, while offering a doctrinal contribution to the development of a more coherent evidentiary framework for money laundering enforcement (Jackson & Summers, 2012, p. 45).

## **RESULT AND DISCUSSION**

### **Financial Intelligence Reports within the Anti-Money Laundering Framework**

The increasing reliance on financial intelligence in anti-money laundering enforcement reflects a gradual transformation in the way modern criminal justice systems respond to economic crime. Rather than relying solely on reactive investigative techniques that operate after harm has occurred, contemporary AML regimes emphasize early detection through the analysis of financial behavior and transaction patterns. Within this setting, financial intelligence functions as an analytical mechanism that translates complex financial data into structured indications of risk and suspicion, enabling law enforcement authorities to orient investigative priorities more effectively (Lubis & Hidayat, 2021).

This functional orientation explains why financial intelligence has never been designed as evidence in the conventional procedural sense. International AML standards conceptualize intelligence products as informational outputs that support, rather than replace, formal evidentiary processes. The Financial Action Task Force (FATF), for instance, positions Financial Intelligence Units (FIUs) as central agencies tasked with receiving, analyzing, and disseminating financial information to competent authorities, without attributing to them any adjudicative or evidentiary function. In this respect, financial intelligence operates within a preventive and pre-investigative domain, shaping investigative direction while remaining institutionally distinct from the courtroom (Roeroe, 2022).

From an evidentiary theory perspective, this distinction is neither incidental nor merely technical. Financial intelligence reports are generated through analytical processes that depend on confidential reporting mechanisms, data aggregation, and, increasingly, algorithmic assessment. These characteristics differentiate intelligence products from documentary evidence derived from legal acts, administrative decisions, or private transactions, which are ordinarily produced with the expectation of disclosure and adversarial scrutiny. As noted in comparative criminal procedure scholarship, the epistemic

foundation of intelligence – rooted in risk assessment and probabilistic reasoning – renders it structurally incompatible with the transparency and verifiability traditionally demanded of admissible evidence (Sutedi, 2018).

The Indonesian anti-money laundering framework reflects this conceptual separation in its institutional design. PPATK is explicitly established as a financial intelligence institution, not as an investigative or prosecutorial body. Its Analysis Result Reports (Laporan Hasil Analisis – LHA) are framed as intelligence outputs intended to inform investigators of potential money laundering activities, rather than to serve as proof of criminal conduct. Indonesian legal scholarship has consistently emphasized this intelligence-based character of PPATK reports, highlighting their role as instruments for initiating and guiding investigations rather than as evidentiary materials to be directly relied upon in court proceedings (Wiyono, 2022).

The confidential nature of LHA further reinforces this positioning. Strict obligations to protect the identity of reporting parties and the content of financial intelligence are accompanied by criminal sanctions for unlawful disclosure, signaling a regulatory choice to prioritize the integrity and sustainability of the reporting system. Indonesian scholars have observed that this confidentiality regime is not merely administrative, but constitutes a substantive safeguard designed to ensure continued compliance by financial institutions and prevent systemic vulnerabilities in AML enforcement (Putra & Pramono, 2020). In this sense, LHA function within a protected normative space that is distinct from the open and contestable arena of criminal adjudication.

Nevertheless, the practical importance of financial intelligence in uncovering complex money laundering schemes has increasingly drawn LHA into prosecutorial strategies. While intelligence reports often provide indispensable leads for tracing assets and identifying transactional links, their integration into formal prosecution raises subtle but significant doctrinal concerns. Treating intelligence outputs as equivalent to documentary evidence risks collapsing the boundary between regulatory detection and judicial proof, a move that may undermine evidentiary coherence and due process guarantees. Indonesian criminal law discourse has begun to acknowledge this risk, noting that the uncritical elevation of intelligence products to evidentiary status may distort the function of proof and blur the allocation of responsibility among AML institutions (Rosikhu, 2020).

Within this framework, financial intelligence reports are most coherently understood as supportive instruments that enable investigators and prosecutors to construct evidentiary

chains through legally admissible means. Their contribution lies not in proving criminal liability directly, but in facilitating the discovery of evidence that can withstand procedural scrutiny. Such an understanding preserves the effectiveness of intelligence-led enforcement while maintaining the normative integrity of criminal evidence law. It is precisely at this juncture—where intelligence support intersects with evidentiary recognition—that the Indonesian AML framework reveals deeper normative tensions, particularly concerning the statutory classification of “documents” as evidence. These tensions warrant closer examination in the subsequent discussion.

### **Documentary Evidence in Money Laundering Law**

The recognition of documentary evidence in money laundering prosecutions reflects an adaptive response of criminal law to the increasingly complex and intangible nature of financial crime. Unlike conventional offences that rely heavily on eyewitness testimony or physical traces, money laundering is predominantly manifested through transactional records, contractual arrangements, and digital financial data. As a result, modern anti-money laundering regimes have progressively expanded the scope of admissible documentary evidence to accommodate the evidentiary realities of financial crime enforcement (Ikpat, 2023).

In comparative criminal law, documentary evidence is generally understood as written or recorded material that originates from legal acts, administrative processes, or private transactions and is capable of demonstrating legally relevant facts. Its admissibility is commonly justified by its relative stability, traceability, and potential for verification through examination of form, origin, and content. In the context of money laundering, documents such as bank statements, transaction records, corporate filings, and contractual instruments are central to reconstructing the flow of illicit assets and establishing the link between predicate offences and laundering activities (Roberts & Zuckerman, 2022). These documents are produced independently of criminal proceedings and acquire evidentiary value precisely because they pre-exist the investigative process.

The Indonesian anti-money laundering framework adopts a similarly expansive approach. Article 73 of Law Number 8 of 2010 explicitly recognizes documents as lawful evidence in money laundering cases, supplementing the evidentiary regime of the Criminal Procedure Code. This provision reflects a legislative awareness that traditional evidentiary categories may be insufficient to address the sophistication of financial crime. Indonesian legal scholars have noted that the inclusion of documents as an autonomous form of evidence

represents a deliberate policy choice to enhance prosecutorial capacity in tracing and proving complex financial transactions (Kurniawan et al., 2024).

At the same time, the doctrinal implications of this expansion warrant careful scrutiny. While documentary evidence plays a crucial role in money laundering prosecutions, its legal justification rests on the assumption that such documents are capable of being disclosed, examined, and contested within judicial proceedings. The evidentiary value of documents is inseparable from their openness to procedural testing, including verification of authenticity, assessment of probative weight, and evaluation in conjunction with other evidence. When documents cannot be fully disclosed or their origins cannot be scrutinized, their classification as evidence becomes problematic from the standpoint of due process and legal certainty (Fitriah & Yusuf, 2024).

This tension becomes particularly salient when the concept of documentary evidence is juxtaposed with financial intelligence reports. Although intelligence reports are often presented in documentary form, their substantive character differs markedly from documents generated through legal or commercial transactions. Financial intelligence is produced through analytical interpretation, data aggregation, and evaluative judgment, rather than through normative or factual acts intended to create legal relations. Indonesian doctrinal writings have cautioned against equating form with function, emphasizing that the documentary appearance of a report does not automatically confer evidentiary status if its underlying purpose is analytical rather than declarative (Syahrudin et al., 2025).

The risk of conceptual conflation is further amplified by the functional pressures of AML enforcement. In practice, the need to demonstrate complex financial linkages may incentivize the use of intelligence outputs as evidentiary substitutes, especially where direct documentary proof is difficult to obtain. However, such practices blur the distinction between evidence as proof and intelligence as guidance, potentially weakening the coherence of the evidentiary system. Indonesian criminal law discourse increasingly recognizes that an uncritical expansion of documentary evidence may inadvertently undermine the safeguards embedded in criminal procedure, particularly where evidentiary flexibility is achieved at the expense of procedural transparency (Yudistira, 2025).

Understanding documentary evidence in money laundering law therefore requires more than a formal reading of statutory provisions. It necessitates a functional and conceptual analysis that distinguishes between documents that record legally relevant acts and reports that synthesize information for investigative purposes. This distinction is essential for

preserving the integrity of criminal adjudication while accommodating the practical demands of AML enforcement. The unresolved tension between statutory recognition of documents as evidence and the intelligence-based nature of certain reports forms a critical backdrop for examining the role of confidentiality and criminal liability in shaping evidentiary boundaries, which will be explored in the subsequent discussion.

### **Confidentiality, Criminal Liability, and Evidentiary Exclusion**

Confidentiality constitutes one of the most defining features of financial intelligence within the anti-money laundering framework. The obligation to protect the identity of reporting entities and the content of financial intelligence is not merely procedural, but reflects a substantive regulatory choice aimed at sustaining trust in the reporting system. Without credible guarantees of confidentiality, financial institutions and other reporting parties may become reluctant to submit suspicious transaction reports, thereby weakening the intelligence base upon which AML enforcement depends. This logic underpins international AML standards, which consistently emphasize confidentiality as a cornerstone of effective financial intelligence system.

In the Indonesian context, confidentiality obligations surrounding financial intelligence reports are reinforced through explicit criminal sanctions. The Anti-Money Laundering Law imposes liability for unlawful disclosure of financial intelligence information, signaling that breaches of confidentiality are viewed as serious threats to the integrity of the AML regime. Indonesian legal scholars have observed that this criminalization of disclosure serves a dual function: it protects reporting entities from potential retaliation and preserves the analytical autonomy of PPATK as a financial intelligence institution (Nurisman, 2022). At the same time, the existence of such sanctions inevitably shapes the manner in which financial intelligence may be circulated, accessed, and utilized within criminal proceedings.

The interaction between confidentiality obligations and evidentiary use introduces a complex normative dilemma. On the one hand, criminal prosecution requires transparency, disclosure, and the opportunity for the accused to challenge the evidence presented against them. On the other hand, financial intelligence systems depend on restricted access and controlled dissemination. When intelligence reports are introduced into the evidentiary domain, these competing imperatives collide. Comparative scholarship on criminal procedure has long warned that evidence derived from confidential intelligence sources poses particular risks to fair trial guarantees, especially where disclosure limitations prevent meaningful adversarial testing (Monaghan, 2015, p. 306).



This tension is further complicated by the presence of criminal liability for disclosure. Prosecutors and investigators who rely on financial intelligence reports must navigate a legal environment in which excessive disclosure may expose them to sanctions, while insufficient disclosure may undermine the probative value of the material presented in court. Indonesian doctrinal discussions have highlighted that this dilemma creates a form of normative uncertainty, where the boundaries of lawful evidentiary use are neither clearly articulated nor consistently applied (Hamzah & Surachman, 2015, p. 162). In such circumstances, the evidentiary exclusion of intelligence-based materials may emerge not as a judicial sanction, but as a structural consequence of conflicting legal norms.

From an evidentiary theory perspective, exclusion is not necessarily punitive, but functional. Materials that cannot be adequately disclosed, verified, or contested are ill-suited to serve as proof of criminal liability. The exclusion of intelligence reports from evidentiary consideration thus reflects a commitment to procedural integrity rather than a rejection of their investigative value. International experience demonstrates that many jurisdictions address this issue by maintaining a clear separation between intelligence use and evidentiary proof, allowing intelligence to guide investigations while requiring independently obtained evidence to support prosecution (McDermott, 2016, p. 47).

Within the Indonesian AML framework, the lack of explicit doctrinal guidance on managing this separation exacerbates the risk of inconsistency. While statutory provisions recognize documents as evidence and criminalize unlawful disclosure of intelligence, they do not clearly articulate how these norms should interact in practice. Indonesian scholars have increasingly argued that, absent a coherent framework, the use of financial intelligence in court risks either diluting evidentiary standards or eroding confidentiality protections, both of which may undermine the legitimacy of AML enforcement (Arif, 2019, p. 172).

Understanding confidentiality and criminal liability as integral components of evidentiary governance offers a way to reconcile these tensions. Rather than treating intelligence reports as evidentiary shortcuts, they should be positioned as catalysts for lawful evidence-gathering processes. Such an approach preserves the protective function of confidentiality while ensuring that criminal convictions rest on evidence capable of withstanding procedural scrutiny. This perspective also sets the stage for examining the role of prosecutorial discretion in mediating between intelligence utility and evidentiary restraint, a task that becomes particularly salient under the *dominus litis* principle and will be explored in the following discussion.

## **Prosecutorial Discretion and the Dominus Litis Principle**

The role of prosecutorial discretion occupies a critical position in mediating the relationship between financial intelligence and criminal adjudication. Under the dominus litis principle, prosecutors exercise control over the direction, construction, and termination of criminal cases, including decisions concerning the selection and presentation of evidence. This authority is particularly consequential in money laundering prosecutions, where complex financial structures and indirect proof demand careful evidentiary judgment. In such cases, discretion does not merely operate as a procedural prerogative, but as a normative filter that shapes how intelligence is translated into legally admissible proof (Langer, 2024).

Within the Indonesian criminal justice system, the dominus litis doctrine positions prosecutors as the primary gatekeepers between investigative outputs and judicial assessment. Financial intelligence reports disseminated by PPATK therefore enter the prosecutorial domain not as binding evidentiary materials, but as informational resources that may inform strategic decisions. Indonesian scholarship has emphasized that prosecutorial discretion must be exercised within the confines of legality and procedural fairness, particularly when dealing with materials that are subject to confidentiality obligations and restricted disclosure regimes (Waluyo, 2022, p. 93). This positioning reinforces the understanding that intelligence reports require further transformation before they can acquire evidentiary relevance.

The exercise of prosecutorial discretion becomes especially delicate when intelligence-based materials appear to offer probative shortcuts in complex cases. While reliance on financial intelligence may enhance efficiency, it also carries the risk of diluting evidentiary standards if intelligence outputs are treated as substitutes for proof rather than as guides for evidence collection. Comparative studies on prosecution practices caution that excessive deference to intelligence assessments may erode the distinction between suspicion and proof, thereby weakening the normative foundations of criminal adjudication (Ashworth & Horder, 2013, p. 56). For prosecutors operating under the dominus litis principle, maintaining this distinction is essential to preserving both legal certainty and institutional legitimacy.

In the Indonesian AML framework, the absence of explicit doctrinal guidance on how prosecutors should manage intelligence-derived information intensifies this challenge. While prosecutors are empowered to assess the sufficiency and relevance of evidence, they must simultaneously navigate statutory prohibitions on disclosure and potential criminal liability.

This dual constraint underscores the need for a principled approach to prosecutorial discretion—one that recognizes financial intelligence as an indispensable investigative tool while resisting its premature elevation to evidentiary status. Indonesian legal commentators have argued that prosecutorial responsibility in such contexts lies not in maximizing conviction rates, but in ensuring that prosecutions are grounded in evidence that can withstand procedural scrutiny and judicial evaluation.

Viewed through this lens, prosecutorial discretion functions as a stabilizing mechanism within the AML system. By selectively translating intelligence insights into admissible evidence through lawful investigative measures, prosecutors can reconcile the effectiveness of intelligence-led enforcement with the demands of due process. This approach preserves the analytical value of financial intelligence while affirming the adjudicative autonomy of the courts. It also clarifies the institutional division of labor among FIUs, investigators, and prosecutors, reducing the risk of normative overlap that may otherwise undermine evidentiary coherence.

Understanding the *dominus litis* principle as a site of normative mediation rather than unilateral authority allows for a more balanced conception of AML enforcement. Prosecutorial discretion, when exercised with sensitivity to evidentiary limits and confidentiality obligations, becomes a key instrument for aligning regulatory intelligence with criminal justice values. This perspective completes the analytical arc of the present study, situating financial intelligence within a coherent framework of evidentiary governance rather than treating it as an exceptional or anomalous category.

## **CONCLUSION**

This study concludes that financial intelligence analysis reports, including the Analysis Result Reports (LHA) issued by PPATK, occupy a legally distinct position within the Indonesian anti-money laundering framework. Although money laundering law recognizes documents as admissible evidence, the confidentiality regime and analytical character of financial intelligence reports render them normatively different from conventional documentary evidence. As a result, such reports cannot be directly employed as proof in criminal proceedings without undermining legal certainty and procedural fairness. Within this framework, prosecutorial discretion under the *dominus litis* principle should treat financial intelligence primarily as investigative guidance rather than as an evidentiary

instrument, ensuring that intelligence-led enforcement remains compatible with the requirements of criminal adjudication

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