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Doubts about the Strength of Financial Intelligence Documents as Evidence in Money Laundering Crimes

Keraguan terhadap Kekuatan Dokumen Intelijen Keuangan sebagai Alat Bukti dalam Tindak Pidana Pencucian Uang

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Abstract: Based on the principle of legality, valid evidence in handling money laundering cases in Indonesia is one of them in the form of documents. The financial intelligence document issued by the Financial Intelligence Unit (FIU) is one of the documents that has been regulated in the provisions of the legislation which is a valid evidence. Recently, cases of Money Laundering Crimes (TPPU) that have occurred in Indonesia, such as cases involving insurance corporations, namely the case of PT Jiwasraya Insurance and PT Asabri Insurance, which used the capital market as a means to launder money from the predicate crime. This study aims to demonstrate by explaining the valid evidence in handling money laundering cases in Indonesia. The method used is normative juridical based on legal analysis and cases, this study found legal ambiguity related to the provisions of Article 73 of Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes (PPTPPU Law). This study provides the conclusion that the harmonization of regulations that are open to multiple interpretations is needed so that law enforcement officers do not hesitate in applying these rules.

Keywords: Article 73 of the UUPPTPPU; Financial Intelligence Document; Value

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INTRODUCTION

Money laundering remains one of the most complex forms of economic crime because it is designed to disguise the origin, ownership, and movement of illicit assets. The process often involves layered transactions, nominee arrangements, corporate vehicles, and the use of financial institutions to separate criminal proceeds from their unlawful source. In this context, financial intelligence has become an essential instrument for detecting suspicious patterns that may not be visible through conventional criminal investigation. The global anti-money

laundering framework therefore places Financial Intelligence Units (FIUs) at the center of the system, particularly in receiving, analyzing, and disseminating suspicious transaction reports and other information relevant to money laundering and its predicate offences (Financial Action Task Force [FATF], 2025; Levi & Reuter, 2006).

Indonesia adopts this intelligence-led model through the establishment of the Financial Transaction Reports and Analysis Center, or *Pusat Pelaporan dan Analisis Transaksi Keuangan* (PPATK), as an independent institution responsible for preventing and eradicating money laundering crimes. PPATK receives reports from reporting parties, analyzes suspicious financial transactions, and forwards the results of its analysis or examination to authorized law enforcement agencies. In practice, these products are commonly understood as financial intelligence documents, including *Laporan Hasil Analisis* (LHA) and *Laporan Hasil Pemeriksaan* (LHP), which assist investigators and prosecutors in tracing assets, identifying transaction patterns, and connecting financial activities to predicate offences.

The legal problem arises when financial intelligence documents are brought into the evidentiary structure of criminal proceedings. Article 73 of Law Number 8 of 2010 on the Prevention and Eradication of Money Laundering Crimes recognizes evidence under the Criminal Procedure Code and other evidence in the form of electronic information and documents. At the same time, financial intelligence products are built upon confidential reporting mechanisms, analytical processes, and institutional safeguards that are not always designed for direct evidentiary testing in court. This creates uncertainty as to whether financial intelligence documents may be treated as documentary evidence, or whether they should only function as preliminary intelligence to guide investigation and prosecution.

This uncertainty is not merely technical. It affects the principles of legality, evidentiary reliability, legal certainty, and fair trial. If a financial intelligence document is treated as evidence without clear standards, the defendant may face difficulty in challenging the source, method, and analytical basis of the document. Conversely, if such documents are excluded entirely from evidentiary consideration, law enforcement may lose an important instrument for proving the flow and concealment of illicit assets. The tension therefore lies in how to position financial intelligence documents without undermining either the effectiveness of money laundering enforcement or the procedural safeguards of criminal justice (Gilmore, 2004; Jackson & Summers, 2012).

Existing studies on money laundering in Indonesia have generally focused on asset recovery, the *follow-the-money* approach, predicate offences, and institutional cooperation among law enforcement agencies. These studies are important, but they have not sufficiently

examined the evidentiary value of financial intelligence documents as a distinct doctrinal issue. The specific question of whether LHA or other PPATK documents can be categorized as "documents" under Article 73 of the Anti-Money Laundering Law remains underdeveloped. As a result, the boundary between intelligence function and evidentiary function is still blurred.

This article addresses that gap by analyzing the legal position and evidentiary value of financial intelligence documents in money laundering cases. The discussion is also connected to the *dominus litis* principle, under which the public prosecutor controls the construction and presentation of criminal cases before the court. In money laundering prosecutions, this principle is significant because prosecutors must determine whether a financial intelligence document should be used merely as investigative guidance, as supporting material, or as formal evidence. Such discretion must be exercised carefully, especially when the document contains confidential information protected under the anti-money laundering regime.

Based on this background, this article formulates two main research questions. First, how should financial intelligence documents issued by PPATK be legally understood within the evidentiary framework of Article 73 of Law Number 8 of 2010? Second, how should prosecutorial discretion under the *dominus litis* principle be structured when financial intelligence documents are used in money laundering prosecutions? These questions are important because they determine the extent to which financial intelligence may support criminal proof without exceeding its proper legal function.

This study uses a normative juridical method with statutory and conceptual approaches. The statutory approach is used to examine the provisions of Law Number 8 of 2010, particularly those relating to documents, evidence, PPATK authority, confidentiality, investigation, and prosecution. The conceptual approach is used to analyze the distinction between intelligence products and evidentiary materials, as well as the relationship between evidentiary value and prosecutorial discretion. Through this approach, the article argues that financial intelligence documents should not be automatically treated as direct evidence merely because Article 73 recognizes documents as admissible evidence. Their evidentiary value should depend on their legal source, relevance, authenticity, corroboration, and compatibility with the rights of the accused. This framework is necessary to prevent financial intelligence from being either overvalued as conclusive evidence or undervalued as merely administrative information.

RESULT AND DISCUSSION

Financial Intelligence Documents within the Institutional Function of PPATK as Indonesia's Financial Intelligence Unit

The legal position of financial intelligence documents must be understood by first examining the institutional function of the Financial Transaction Reports and Analysis Center (*Pusat Pelaporan dan Analisis Transaksi Keuangan*—PPATK) as Indonesia's Financial Intelligence Unit (FIU). In the anti-money laundering framework, an FIU is generally established as a central national agency responsible for receiving, analyzing, and disseminating information related to suspicious financial transactions and possible proceeds of crime (IMF & World Bank, 2004). This institutional function places the FIU at the intersection between the private financial sector and law enforcement authorities, particularly because reporting entities are required to submit suspicious transaction reports that must later be processed into useful financial intelligence.

This position is consistent with the international understanding of FIUs. MONEYVAL explains that the core function of an FIU is to receive, analyze, and disseminate reports of suspicions submitted by the private sector, thereby making the FIU an intermediary between reporting entities and law enforcement agencies (MONEYVAL, 2024). The same institutional logic is reflected in Indonesia, where PPATK receives financial transaction reports, conducts analysis or examination, and forwards the results to investigators or prosecutors when indications of money laundering or predicate offences are identified. Thus, PPATK's role is not to determine criminal guilt, but to produce financial intelligence that may assist the subsequent investigative and prosecutorial process.

The administrative nature of PPATK is important for understanding the legal character of its products. Comparative studies show that FIUs are not uniform; they may be administrative, law-enforcement-based, judicial, or hybrid, depending on their institutional design, operational powers, and relationship with investigative agencies (McNaughton, 2023). The administrative model, which places the FIU outside direct criminal investigation, is intended to preserve analytical independence and confidentiality. However, Jayasekara (2021) argues that the effectiveness of an administrative FIU depends not only on its formal status, but also on its authority, resources, and capacity to cooperate with law enforcement institutions.

Within this framework, PPATK's Analysis Result Report (*Laporan Hasil Analisis*—LHA) and Examination Result Report (*Laporan Hasil Pemeriksaan*—LHP) should be understood according to their original institutional function. These reports are produced from suspicious

transaction reports, large cash transaction reports, cross-border cash movement reports, and other relevant financial information. They may help identify transaction patterns, trace the flow of funds, map the parties involved, and indicate possible links between assets and predicate offences. Nevertheless, LHA and LHP remain financial intelligence products, not judicial findings of fact.

This distinction is crucial because financial intelligence documents are not produced through the same process as evidence examined before a court. They may contain analytical conclusions based on confidential information, reporting-party data, and institutional assessments. For that reason, their value lies primarily in guiding investigators and prosecutors toward admissible evidence, rather than serving as direct proof of guilt. In evidentiary terms, LHA and LHP should therefore be treated as intelligence-based documents that may support the construction of a case, but should not automatically replace evidence that must be tested in criminal proceedings.

Accordingly, the first finding of this article is that financial intelligence documents issued by PPATK have strong investigative relevance but limited direct evidentiary status. They are important because money laundering is often hidden behind complex financial arrangements. However, their original function remains analytical and preliminary. Treating them as ordinary documentary evidence without further legal testing would risk blurring the boundary between intelligence, investigation, prosecution, and adjudication.

Documentary Evidence under Article 73 of the Anti-Money Laundering Law and the Problem of Legal Ambiguity

The second issue concerns the interpretation of Article 73 of Law Number 8 of 2010 on the Prevention and Eradication of Money Laundering Crimes. Under the general criminal procedure framework, Indonesian criminal evidence is traditionally based on the categories recognized by the Criminal Procedure Code, namely witness testimony, expert testimony, letters, indications, and the statement of the defendant. Article 73 of the Anti-Money Laundering Law expands this framework by recognizing evidence under criminal procedure law and other evidence in the form of information spoken, sent, received, or stored electronically, including documents (Republic of Indonesia, 2010).

The expansion of documentary and electronic evidence is understandable because money laundering is commonly committed through financial records, electronic transfers, corporate documents, account movements, and digital transaction data. A conventional

evidentiary framework would be insufficient to prove the concealment and disguise of illicit assets. In this sense, Article 73 functions as a special evidentiary provision that adapts criminal procedure to the documentary and technological nature of money laundering. This also reflects the broader development of modern evidence law, in which documentary and digital materials increasingly influence criminal fact-finding (Roberts & Zuckerman, 2023).

However, the legal ambiguity arises from the broad meaning of the term "document." Article 73 recognizes documents as valid evidence, but it does not clearly distinguish between ordinary documents, electronic records, and financial intelligence documents. A bank statement, corporate deed, transfer receipt, land certificate, or customer profile records factual information that can be authenticated and examined directly. By contrast, an LHA or LHP contains analytical conclusions produced by PPATK through an intelligence process. Therefore, although LHA and LHP may take documentary form, their legal character is different from ordinary documentary evidence.

This difference matters because evidence law is not only concerned with the form of evidence, but also with how evidence is produced, filtered, presented, and examined before the court. Damaška (1997) explains that evidentiary systems are shaped by institutional arrangements and by the procedures through which information is gathered and tested. Similarly, Roberts and Zuckerman (2023) emphasize that criminal evidence is not merely a collection of materials submitted to court, but a normative system that regulates admissibility, reliability, relevance, and fairness. On that basis, the evidentiary value of financial intelligence documents cannot be assessed merely from the fact that they are "documents."

The problem becomes more serious because LHA and LHP may contain information derived from confidential reports and undisclosed analytical methods. If such documents are treated as direct evidence, the accused may face difficulty in challenging the source, accuracy, and reasoning behind the analysis. On the other hand, excluding them entirely would weaken the ability of law enforcement to trace complex financial flows. This creates a legal dilemma: financial intelligence is indispensable for detecting money laundering, yet its direct use as evidence may create procedural risks.

Therefore, Article 73 should be interpreted functionally rather than merely formally. The recognition of documents under Article 73 should not mean that all documents within the anti-money laundering system automatically possess the same evidentiary strength. Financial intelligence documents may be relevant to the evidentiary process, but their probative value depends on corroboration, authenticity, relevance, and compatibility with fair

trial guarantees. In other words, LHA and LHP may support criminal proof, but they should not stand alone as proof of guilt.

The second finding of this article is that Article 73 creates an evidentiary opening for the use of documents in money laundering cases, but it does not provide sufficient criteria for assessing the evidentiary strength of financial intelligence documents. This ambiguity explains why law enforcement officials may hesitate to rely on LHA or LHP as court evidence. A clearer doctrinal distinction is therefore needed between documents as legal evidence and financial intelligence documents as analytical products that require corroboration.

Evidentiary Limits of Financial Intelligence Documents: Confidentiality, Corroboration, and Prosecutorial Discretion

The third issue concerns the evidentiary limits of LHA and LHP in money laundering proceedings. These documents are strategically important because they help law enforcement trace illicit financial flows, identify relevant parties, detect suspicious transaction patterns, and connect assets to possible predicate crimes. However, they are also confidential intelligence products. This dual character creates tension between the need for effective money laundering enforcement and the need to protect confidentiality, legality, and fair trial rights.

Confidentiality is a structural element of the FIU system. Reporting entities must be able to submit suspicious transaction reports without fear that their identities, reporting mechanisms, or internal compliance processes will be exposed unnecessarily. The protection of reporting parties is also essential to maintain the sustainability of the anti-money laundering system. Without confidentiality, reporting entities may become reluctant to disclose suspicious transactions, especially where disclosure could trigger retaliation, reputational risk, or legal consequences. For this reason, the intelligence function of PPATK depends heavily on the protection of confidential information (IMF & World Bank, 2004; MONEYVAL, 2024).

At the same time, criminal proceedings require evidentiary transparency. Evidence used to prove guilt must be capable of examination, challenge, and rational evaluation before the court. Jackson and Summers (2012) argue that the way evidence is collected, regulated, and assessed may directly affect the fairness of criminal proceedings. This principle is relevant to the use of LHA and LHP because financial intelligence documents may contain information that cannot be fully disclosed in open court. If prosecutors rely on such documents without

presenting supporting evidence that can be tested, the defendant's ability to challenge the prosecution case may be weakened.

For that reason, financial intelligence documents should be positioned as an evidentiary pathway rather than as conclusive evidence. LHA and LHP may be used to guide investigators in locating bank records, identifying witnesses, tracing assets, finding corporate documents, or requesting expert analysis. However, the facts indicated in LHA and LHP must be reconstructed through legally admissible evidence. This means that financial intelligence should lead to evidence, support evidence, or strengthen evidence, but should not substitute the evidentiary process itself.

The role of the prosecutor becomes central at this stage. Under the *dominus litis* principle, the prosecutor controls the construction and presentation of the criminal case. In money laundering prosecutions, this principle requires the prosecutor to distinguish carefully between intelligence information and courtroom evidence. LHA and LHP may assist prosecutorial reasoning, but they should not become the sole basis for proving the defendant's guilt. Prosecutors must translate financial intelligence into admissible evidence by relying on bank documents, electronic transaction records, expert testimony, witness statements, asset ownership records, and other evidence recognized by law.

This prosecutorial responsibility can be structured through three limits. First, confidentiality must be protected by ensuring that sensitive information in LHA and LHP is not unnecessarily disclosed. Second, corroboration must be required so that the analytical conclusions contained in financial intelligence documents are supported by independent admissible evidence. Third, procedural fairness must be maintained by ensuring that the accused has a meaningful opportunity to challenge the evidence actually relied upon in court. These three limits allow financial intelligence to support money laundering enforcement without undermining the integrity of criminal proof.

The third finding of this article is that financial intelligence documents occupy an intermediate position in the evidentiary framework. They should not be excluded entirely because they are essential for detecting and tracing complex money laundering schemes. However, they should not be treated as standalone evidence because their confidential and analytical nature makes them different from ordinary documents. Their evidentiary value is therefore supporting and corroborative, rather than direct and conclusive.

Based on this analysis, the legal framework should clarify the evidentiary status of LHA and LHP. Such clarification may include rules on partial disclosure, redaction, judicial control, expert explanation, and the requirement of independent corroborating evidence. This would

provide legal certainty for investigators, prosecutors, judges, reporting parties, and defendants. More importantly, it would reconcile the effectiveness of money laundering enforcement with the principles of legality, confidentiality, and fair trial.

CONCLUSION

Financial intelligence documents issued by PPATK, particularly LHA and LHP, have an important role in supporting the enforcement of money laundering law by tracing suspicious financial flows and identifying links between assets and predicate crimes. However, these documents should not be treated automatically as ordinary documentary evidence under Article 73 of Law Number 8 of 2010 because they are produced through a confidential intelligence process. Therefore, their evidentiary value must be understood as supporting and corroborative, not standalone or conclusive. Prosecutors, under the dominus litis principle, must translate financial intelligence into admissible evidence, such as bank records, electronic transaction data, witness testimony, expert opinion, or asset ownership documents. Clearer statutory and regulatory harmonization is needed to determine the conditions for using LHA and LHP in court while maintaining legality, confidentiality, and fair trial guarantees.

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