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UNOFFICIAL TRANSLATION
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LAW OF THE REPUBLIC OF INDONESIA
NUMBER 15 YEAR 2002
CONCERNING
THE CRIME OF MONEY LAUNDERING
AS AMENDED BY LAW NUMBER 25 YEAR 2003

I. LAW NO.15 YEAR 2002

Considering : a. whereas crime resulting in large amounts of Assets is increasing, both crime committed within the territory of The Republic of Indonesia as well as crime committed outside the State's borders;

b. whereas the origins of Assets that are the proceeds from such crime are concealed or disguised by various methods known as money laundering;

c. whereas money laundering must be prevented and eradicated in order to minimize the intensity of crime resulting in or involving great amounts of Assets in order to safeguard national economic stability and state security;

d. whereas money laundering is not only a national crime but also a transnational crime, therefore it has to be eradicated, among other things by engaging in regional or international cooperation through bilateral or multilateral forums;

e. whereas based on the considerations outlined in a, b, c, and d hereinabove, a Law on the Crime of Money Laundering needs to be formulated;

In view of : 1. Article 5 paragraph (1) and Article 20 of the 1945 Constitution of The Republic of Indonesia;

2. Stipulation of the Peoples' Representative Council of the Republic of Indonesia Number VIII/MPR/2001 concerning Recommendations Regarding the Direction of Policy for the Eradication and Prevention of Corruption, Collusion and Nepotism;

With the joint approval of:

THE PEOPLE'S LEGISLATIVE ASSEMBLY OF THE REPUBLIC OF INDONESIA

and

THE PRESIDENT OF THE REPUBLIC OF INDONESIA

HAS DECIDED:

To stipulate : A LAW CONCERNING THE CRIME OF MONEY LAUNDERING.

II. LAW NO. 25 YEAR 2003

Considering : a. whereas in order that the prevention and eradication of money laundering shall work effectively, Law Number 15 Year 2002, concerning the crime of money laundering, needs to be adjusted to advance the development of criminal law on money laundering and to meet international standards;

b. whereas to obtain the achievements as referred to in point a, it is deemed necessary to amend Law Number 15 Year 2002 concerning the Crime of Money Laundering;

In view of : 1. Article 5 paragraph (1) and Article 20 of the 1945 Constitution of The State of the Republic of Indonesia;

2. Law Number 15 Year 2002 Concerning the Crime of Money Laundering (State Gazette Year 2002 Number 30, Supplement to the State Gazette Number 4191).

With the joint approval of:

THE PEOPLE'S LEGISLATIVE ASSEMBLY OF THE REPUBLIC OF INDONESIA

and

THE PRESIDENT OF THE REPUBLIC OF INDONESIA

HAS DECIDED:

To stipulate : **LAW OF THE REPUBLIC OF INDONESIA NUMBER 25 YEAR 2003 CONCERNING THE AMENDMENT OF THE LAW NUMBER 15 YEAR 2003 CONCERNING THE CRIME OF MONEY LAUNDERING.**

Article I

Some provisions in the Law Number 15 Year 2002 concerning the Crime of Money Laundering (State Gazette of The Republik Indonesia Year 2002 Number 30, Supplement to State Gazette of The Republik Indonesia Number 4191) are amended as follows:

CHAPTER I
GENERAL PROVISIONS

Article 1

In this Law the following definitions apply:

1. **Money laundering shall be an act of placing, transferring, disbursing, spending, donating, contributing, entrusting, taking out of the country, exchanging or other such acts related to, Assets known or reasonably suspected by a Person to constitute proceeds of crime, for the purpose of concealing or disguising the origins of assets as if such assets shall be legitimate.**
2. A person shall be any individual or corporation.
3. Corporations shall be organized groups of people and/or assets either incorporated or not incorporated as legal entities.
4. Assets shall be all movable or immovable assets, both tangible and intangible.
5. A Provider of Financial Services shall be any person providing services in the financial field **or other services in relation to finance**, including but not limited to banks, financial institutions, securities companies, mutual fund managers, custodians, trust agents, depository and settlement agencies, foreign exchange traders, pension funds, insurance companies and **the post office**.
6. Transactions shall be all activities creating rights or obligations or causing the creation of a relationship based on law between two or more parties, including transfers and/or book transfers of funds by Providers of Financial Services.
7. Suspicious Financial Transactions shall be:
 - a. financial transactions deviating from the profile, characteristics or the usual transaction patterns of the customer concerned;
 - b. financial transactions by customers that can be reasonably suspected to be conducted for the purpose of avoiding reporting of the transactions concerned as required of Providers of Financial Services in accordance with this Law; or
 - c. **financial transactions whether or not completed using assets that are reasonably suspected to constitute the proceeds of crime.**
8. **Cash Financial Transactions shall be withdrawals, deposits or entrustments** on a cash basis or using other monetary instruments, through Providers of Financial Services.**
9. Documents shall be data, recordings or information that can be seen, read and/or heard, with or without the assistance of an instrumentality on paper or any physical material other than paper, or electronically, including and not limited to:
 - a. writings, voice, or images;

- b. maps, designs, photographs, or the like;
 - c. letters, signs, numbers, symbols, or perforations which have meaning or are understandable by those able to read or understand them.
10. The Financial Transactions Reporting and Analysis Center hereinafter referred to as the PPATK shall be an independent agency established for the prevention and eradication of the crime of money laundering.

Article 2

(1) The proceeds of crime shall be Assets derived from the following criminal acts:

- a. corruption;
- b. bribery;
- c. smuggling of goods;
- d. smuggling of workers;
- e. smuggling of immigrants;
- f. in the banking field;
- g. in the capital market field;**
- h. in the insurance field;**
- i. narcotics;
- j. psychotropic substances;
- k. trade in people;
- l. illegal trade in arms;
- m. kidnapping;
- n. terrorism;
- o. theft;
- p. embezzlement;
- q. fraud;
- r. currency counterfeiting;**
- s. gambling;**
- t. prostitution;
- u. in the tax field;**
- v. in the forestry field;**
- w. in the environmental field;**
- x. in the maritime field; or**
- y. other offences for which the prescribed penalty is 4 years imprisonment or more;**

committed in the territory of The Republic of Indonesia or outside the territory of The Republic of Indonesia and where the offence is considered a crime according to Indonesian law.

- (2) **Assets employed directly or indirectly for terrorist activities shall be regarded as the proceeds of crime referred to in Paragraph (1) subparagraph n.**

CHAPTER II

THE CRIME OF MONEY LAUNDERING

Article 3

- (1) Any person who intentionally :
- a. places Assets known or reasonably suspected to constitute the proceeds of crime with a Provider of Financial Services, either on their own behalf or on the behalf of another party;
 - b. transfers Assets known or reasonably suspected to constitute the proceeds of crime from one Provider of Financial Services to another, either on their own behalf or on the behalf of another party;
 - c. disburses or spends Assets known or reasonably suspected to constitute the proceeds of crime, either on their own behalf or on the behalf of another party;
 - d. contributes or donates Assets known or reasonably suspected to constitute the proceeds of crime, either on their own behalf or on the behalf of another party;
 - e. entrusts** Assets known or reasonably suspected to constitute the proceeds of crime, either on their own behalf or on the behalf of another party;
 - f. takes out of the country Assets known or reasonably suspected to constitute the proceeds of crime; or
 - g. **exchanges or otherwise employs Assets known or reasonably suspected to constitute the proceeds of crime for currency or other negotiable instruments;**
- with the purpose of concealing or disguising the origins of Assets known or reasonably suspected to constitute the proceeds of crime, shall be punished for the crime of money laundering by imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a minimum fine of Rp.100,000,000.00 (one hundred million rupiah) and a maximum fine of Rp.15,000,000,000.00 (fifteen billion rupiah).**
- (2) Any Person attempting, assisting or conspiring in the commission of the crime of money laundering shall be subject to the same punishment referred to in paragraph (1).

Article 4

- (1) In the event that the crime is committed by the managers and/or the managers' agents on behalf of a corporation, both the managers and/or the managers' agents as well as the corporation shall be subject to punishment.
- (2) Criminal liability of a corporation's managers shall be limited to the extent that the managers concerned hold functional positions in the corporation's organizational structure.
- (3) A corporation cannot be held criminally liable for a crime of money laundering committed by a manager acting on behalf of the corporation concerned, if the act is outside of the scope of business activities contained in the articles of association** or other provisions applicable to the corporation concerned.
- (4) A judge can order the managers of corporations to appear in person before the court and may also order that the aforementioned managers be brought to the court.
- (5) In the event that the crime is committed by a corporation, the summons to appear shall be delivered to the managers at their residences or office.

Article 5

- (1) The principal penalty that can be imposed on corporations shall be a penalty in the form of a fine which shall be the maximum fine plus 1/3 (one-third).
- (2) In addition to the fine referred to in paragraph (1) above, additional penalties can be imposed on corporations in the form of the revocation of their business licenses and/or the dissolution of the corporation concerned followed by liquidation.

Article 6

- (1) Any person receiving or controlling the:
 - a. placement;
 - b. transfer;
 - c. payment;
 - d. donation;
 - e. contribution;
 - f. entrustment**; or
 - g. exchange,of Assets known or reasonably suspected to constitute the proceeds of crime, shall be imprisoned for a minimum of 5 (five) years and for a maximum of 15 (fifteen) years and shall be fined a minimum of **Rp.100,000,000.00 (one hundred million rupiah)** and a maximum of **Rp.15,000,000,000.00 (fifteen billion rupiah)**.

- (2) The provisions of paragraph (1) shall be not applicable to Providers of Financial Services who have performed their transaction reporting obligations referred to in Article 13.

Article 7

Any Indonesian citizen and/or Indonesian corporation outside the territory of the Republic of Indonesia providing assistance, opportunities, instrumentalities or information for the carrying out of the crime of money laundering shall be subject to the same penalty imposed on the perpetrators of crimes of money laundering referred to in Article 3.

CHAPTER III

OTHER CRIMINAL ACTS RELATED TO THE CRIME OF MONEY LAUNDERING

Article 8

Providers of Financial Services who intentionally do not submit reports to the PPATK referred to in Article 13 paragraph (1) shall be fined a minimum of Rp.250,000,000.00 (two hundred and fifty million rupiah) and a maximum of Rp.1,000,000,000.00 (one billion rupiah).

Article 9

Any person failing to report cash amounts of Rp.100,000,000.00 (one hundred million rupiah) or more, **or the equivalent in another currency**, brought into or taken out of the territory of The Republic of Indonesia shall be fined a minimum of Rp.100,000,000.00 (one hundred million rupiah) and a maximum of Rp.300,000,000.00 (three hundred million rupiah).

Article 10

The PPATK, investigators, witnesses, public prosecutors, judges, or other parties who in relation to cases of money laundering crimes which are under investigation, violate the provisions of Article 39 paragraph (1) and Article 41 paragraph (1) shall be imprisoned for a minimum of 1 (one) year and a maximum of three (3) years.

Article 10A

- (1) **Officials or employees of the PPATK, investigators, public prosecutors, judges and anyone else obtaining Documents and/or information in the course of performing their duties in accordance with this Law shall not disclose the Documents and/or information concerned unless such disclosure is required in order to fulfil their obligations in accordance with this Law.**
- (2) **Sources of information and Suspicious Transactions Reports shall not be disclosed in court proceedings.**

- (3) **Officials or employees of the PPATK, investigators, public prosecutors, judges and anyone else who violates the provisions of paragraph (1) and paragraph (2) negligently, shall be imprisoned for a minimum of 1 (one) year and a maximum of 3 (three) years.**
- (4) **If violations referred to in paragraph (1) and paragraph (2) are committed intentionally, the perpetrator shall be imprisoned for a minimum of 5 (five) years and a maximum of 15 (fifteen) years.**

Article 11

- (1) In the event that a convicted person is unable to pay a fine as stipulated in Chapter II and Chapter III, the fine shall be replaced by imprisonment for not more than 3 (three) years.
- (2) Imprisonment as a substitute for a fine referred to in paragraph (1) shall be included in the orders of the judge's decision.

Article 12

The crimes referred to in Chapters II and III constitute felonies**.

CHAPTER IV REPORTING

Part One

Reporting Obligations

Article 13

- (1) Providers of Financial Services shall be obligated to submit reports to the PPATK referred to in Chapter V, in respect of the following matters:
 - a. Suspicious Financial Transactions;
 - b. Cash Financial Transactions to a cumulative total of Rp.500,000,000.00 (five hundred million rupiah) or more or an equivalent amount in another currency, made either in one transaction or in several transactions within 1 (one) business day.
- (1a) **The total Cash Financial Transactions that are reportable as referred to in paragraph (1) sub-paragraph b may be modified by Decision of the Head of the PPATK.**
- (2) Reports on Suspicious Financial Transactions referred to in paragraph 1 sub-paragraph a shall be submitted no later than **3 (three) business days after the Provider of Financial Services knows that there is an element of a Suspicious Financial Transaction.**

- (3) Reports as on Cash Financial Transactions referred to in paragraph 1 sub-paragraph b shall be submitted no later than 14 (fourteen) business days as from the date on which the transaction concerned was made.
- (4) The reporting obligation referred to in paragraph 1 sub-paragraph b shall not be applicable to exempt transactions.
- (5) Transactions exempt from reporting requirements referred to in paragraph (4) shall include inter-bank transactions, transactions with the Government, transactions with the central bank, payments of salaries, pension payments, and **other transactions as stipulated by the Head of PPATK** or requested by the Provider of Financial Services concerned and approved by the PPATK.
- (6) Providers of Financial Services shall be obligated to prepare and maintain a list of exempt transactions referred to in paragraph (4).
- (6a) **Providers of Financial Services shall be exempt from preparing and maintaining the list of exempt transactions referred to in paragraph (6) for a period of 1 (one) year after such exemption is provided.**
- (7) Provisions concerning the form, type and procedure for submitting reports referred to in paragraph (1) shall be further stipulated in a Decision of the Head of the PPATK.

Article 14

The reporting obligations of Providers of Financial Services, which are banks, shall be exempted from bank secrecy provisions as contained in laws regulating bank secrecy.

Article 15

No civil or criminal action can be brought against Providers of Financial Services, their officials and their employees for carrying out of reporting obligations referred to in Article 13.

Article 16

- (1) Any person taking cash into or out of the territory of The Republic of Indonesia in the amount of Rp.100,000,000.00 (one hundred million rupiah) or more, or the **equivalent in another currency**, must report to the Directorate General of Customs and Excise.
- (2) The Directorate General of Customs and Excise must report the information received by it in accordance with paragraph (1) within 5 (five) business days to the PPATK.
- (3) The Directorate General of Customs and Excise must inform the PPATK no later than 5 (five) business days after it becomes aware of violations of the provisions contained in paragraph (1).
- (4) Reports as intended in paragraph (1) must also include details of the identity of the reporting person.

- (5) If necessary, the PPATK can request additional information from the Directorate General of Customs and Excise regarding cash amounts of Rp.100,000,000.00 (one hundred million rupiah) or more, **or the equivalent in another currency**, taken into or out of the territory of The Republic of Indonesia by any person.

Part Two

Customers' Identity

Article 17

- (1) Any person engaging in a business relationship with a Provider of Financial Services shall be obligated to give their full and correct identity by filling in the forms specifically provided by the Provider of Financial Services concerned of such purpose and attaching required supporting documents.
- (2) Providers of Financial Services shall confirm whether users of financial services act for themselves or for another person.
- (3) In the event that users of financial services act for another party, Providers of Financial Services shall request information on the identity of and supporting documents from such other party.
- (4) For Providers of Financial Services that are banks, identity and supporting documents from users of financial services shall be in accordance with prevailing laws and regulations.
- (5) Providers of Financial Services shall maintain records and documents concerning the identity of users of financial services for 5 (five) years as from the time the business relationship with the user of financial services concerned ends.

Article 17A

- (1) **Directors, officials or employees of Providers of Financial Services shall not disclose to their users of financial services, or any person, either directly or indirectly, by any manner, that it is contemplating making or has reported a Suspicious Financial Transaction to the PPATK.**
- (2) **Officials or employees of the PPATK and investigators shall not disclose to users of financial services in any manner, either directly or indirectly, Suspicious Transactions Reports submitted to the PPATK or investigators.**
- (3) **Directors, officials or employees of Providers of Financial Services, officials or employees of the PPATK and investigators, who violate the provisions of paragraph (1) and paragraph (2), shall be imprisoned for a minimum of 3 (three) years and a maximum of 5 (five) years and shall be fined a minimum of Rp. 100,000,000.00 (one hundred million rupiah) and a maximum of Rp. 1,000,000,000.00 (one billion rupiah).**

CHAPTER V

THE FINANCIAL TRANSACTIONS REPORTING AND ANALYSIS CENTER

Article 18

- (1) The PPATK is established under this Law for the purpose of preventing and eradicating the crime of money laundering.
- (2) The PPATK referred to in paragraph (1) shall implement its duties and authority as an independent agency.
- (3) The PPATK shall be responsible to the President.

Article 19

- (1) The PPATK shall be domiciled in the Capital City of the State of The Republic of Indonesia.
- (2) As necessary, the PPATK may open regional representative offices.

Article 20

- (1) The PPATK shall be led by its Head assisted by up to 4 (four) Deputies.
- (2) The Head and the Deputies referred to in paragraph (1) shall be appointed and dismissed by the President, on the recommendation of the Minister of Finance.
- (3) The term of office of the Head referred to in paragraph (1) shall be 4 (four) years and he/she shall be eligible for reelection for only 1 (one) subsequent term of office.
- (4) Provisions relating to the PPATK's organizational structure and operational procedures shall be stipulated in a Presidential Decree.

Article 21

- (1) In order to be appointed as the Head or a Deputy, a candidate must:
 - a. be an Indonesian Citizen;
 - b. be of not less than 35 (thirty-five) years of age and not more than 60 (sixty) years of age at the time of appointment;
 - c. be mentally and physically healthy;
 - d. be devout, honest, just and have good personal integrity;
 - e. possess expertise and experience in one of the following fields: banking, financial institutions, securities companies, mutual fund management, law, or accounting;
 - f. not concurrently hold other positions or occupations; and
 - g. never have been sentenced to a term of criminal imprisonment.

Article 22

- (1) The Head and Deputies of the PPATK prior to assuming their positions shall be obligated to swear an oath or make an affirmation according to their religion or belief before the Chief Justice of the Supreme Court.

(2) The oath or affirmation referred to in paragraph (1) shall be as follows:

"I swear/affirm that, in order to become the Head/Deputy of the PPATK, I have neither directly or indirectly given or promised anything to anyone in any name or for any pretext whatsoever."

"I swear/affirm that, in performing or not performing any action in this position, I shall not receive either directly or indirectly any promise or gift from anyone in any form whatsoever."

"I swear/affirm that I will keep secret from any party matters that must be kept secret in accordance with prevailing laws and regulations".

"I swear/affirm that I shall perform the duties and authorities as the Head/Deputy to the best of my abilities and with full responsibility."

"I swear/affirm that I shall be loyal to the state, the Constitution, and prevailing laws and regulations."

Article 23

The term of the Head or Deputies of the PPATK shall terminate for the following reasons:

- a. dismissal;
- b. death;
- c. resignation; or
- d. expiration of the term of office.

Article 24

(1) The Head and Deputies of PPATK shall be dismissed for the following reasons:

- a. residing outside the territory of the state of The Republic of Indonesia;
- b. losing citizenship as a citizen of the Republic of Indonesia;
- c. suffering from a continuous illness, recovery from which requires more than 3 (three) months so that he/she is unable to perform their duties;
- d. becoming a defendant in a criminal case subject to imprisonment of 1 (one) year or more;
- e. being sentenced to imprisonment;
- f. holding other positions or employments concurrently;
- g. being declared a bankrupt by a court; or
- h. violating the oath/affirmation of office.

(2) The Minister of Finance shall make recommendations to the President for the dismissal of the Head or a Deputy of the PPATK in accordance with the provisions of paragraph (1).

Article 25

- (1) No party whatsoever may intervene in any form whatsoever in the implementation of the PPATK's functions and authority.
- (2) The Head and Deputies of the PPATK shall refuse any intervention by any party in the implementation of his/her duties and authority.
- (3) For the purpose of preventing and eradicating the crime of money laundering, the PPATK may engage in cooperation with relevant parties, national as well as international.

Article 26

In implementing its functions, the PPATK shall have the following duties:

- a. to collect, maintain, analyse and evaluate information obtained by the PPATK in accordance with this Law;
- b. to monitor records in the exempt registry prepared by Providers of Financial Services;
- c. to prepare guidelines for procedures for reporting of suspicious financial transactions;
- d. to provide advice and assistance to relevant authorities concerning information obtained by the PPATK in accordance with the provisions of this Law;
- e. to issue guidelines and publications to Providers of Financial Services concerning their obligations as set forth this Law or in other prevailing laws and regulations, and assist in detecting suspicious customer behavior;
- f. to provide recommendations to the Government concerning measures for the prevention and eradication of money laundering;
- g. to report to the Police and the Public Prosecutor's Office the results of analyses of financial transactions which indicate money laundering;
- h. to prepare and provide reports regarding the results of analyses of financial transactions and other activities once every 6 (six) months to the President, the House of Representatives (DPR) and to agencies authorized to supervise Providers of Financial Services.
- i. **to provide information to the public concerning its institutional performance, to the extent that such disclosure is not contrary to the provisions of this Law.**

Article 27

(1) In executing its duties, the PPATK shall have the following powers:

- a. to request and receive reports from Providers of Financial Services;

- b. to request information concerning the progress of investigations or prosecutions of money laundering that has been reported to investigators or public prosecutors;
 - c. to audit Providers of Services for compliance with the provisions of this Law and guidelines for reporting financial transactions;
 - d. to grant exemptions from the reporting obligation for Cash Financial Transactions referred to in Article 13 paragraph (1) sub-paragraph b.
- (2) Prior to carrying out audits referred to in paragraph (1) sub-paragraph c, the PPATK shall coordinate with other agencies supervising Providers of Financial Services.
 - (3) In the exercise of the powers referred to in paragraph (1), the provisions of other laws related to bank secrecy and the secrecy of other financial transactions shall not apply to the PPATK.
 - (4) The procedures for implementing the powers referred to in paragraph (1) and paragraph (2) shall be further stipulated by Presidential Decree.

Article 28

- (1) The Head of the PPATK shall represent the PPATK in and outside the courts.
- (2) The Head of the PPATK can delegate the authority to represent referred to in paragraph (1) to one of the deputies or to another party specifically appointed for such purpose.

Article 29

- (1) Every year, the PPATK shall be obliged to prepare a Work Plan and Annual Budget.
- (2) **The Annual Budget of the PPATK shall be included in the State Budget.**

Article 29A

Personnel regulations, the salary system, bonuses, allowances, pensions, and other remuneration for officials and employees of the PPATK shall be stipulated in a Presidential Decree in accordance with prevailing laws and regulations.

Article 29B

For the purpose of effectively preventing and eradicating the crime of money laundering, the President may establish a National Coordination Committee based on a recommendation from the Head of the PPATK.

CHAPTER VI

INVESTIGATION, PROSECUTION AND EXAMINATION BEFORE THE COURTS

Article 30

The investigation, prosecution and examination before the courts of the crimes referred to in this Law will be based on the provisions set forth in the Criminal Procedure Law (KUHAP), unless stipulated otherwise herein.

Article 31

When there are indications that a suspicious transaction may have been found the PPATK shall be obliged to submit the results of such analysis to the investigator for follow up within 3 (three) business days after the indications have been found.

Article 32

- (1) An investigator, public prosecutor or judge shall be authorized to order the Providers of Financial Services to freeze** the assets of any suspect, defendant, or any person reported by the PPATK to the investigator, which are known or reasonably suspected to be the proceeds of crime.
- (2) The orders of an investigator, public prosecutor, or judge referred to in paragraph (1) shall be given in writing clearly indicating the following:
 - a. name and position of the investigator, public prosecutor or judge concerned;
 - b. the identity of the person reported by the PPATK to the investigator, the suspect or defendant;
 - c. the reason for freezing**;
 - d. the crime which is alleged or being prosecuted; and
 - e. the location of Assets.
- (3) On receipt of the order of the investigator, public prosecutor or judge referred to in paragraph (2), a Provider of Financial Services shall freeze** the Assets immediately.
- (4) The Provider of Financial Services concerned shall submit a memorandum** concerning the freezing** of Assets to the investigator, public prosecutor or judge no later than 1 (one) business day from the date of the carrying out of the freezing.
- (5) Frozen Assets shall remain with the Provider of Financial Services concerned.
- (6) Providers of Financial Services violating the provisions of paragraph (3) and paragraph (4) shall be subject to administrative sanctions in accordance with prevailing laws and regulations.

Article 33

- (1) In cases of money laundering, investigators, public prosecutors or judges shall be authorized to request information from Providers of Financial Services regarding Assets of any persons reported by the PPATK, a suspect, or a defendant for the purpose of the court proceedings.

- (2) When they are requesting information referred to in paragraph (1), the provisions of laws stipulating bank secrecy and the secrecy of other financial transactions shall not be applicable to investigators, public prosecutors or judges.
- (3) Requests for information shall be submitted in writing clearly indicating the following:
 - a. name and position of the investigator, public prosecutor or judge concerned;
 - b. the identity of the person reported by the PPATK to the investigator, the suspect or defendant;
 - c. the crime which is alleged or being prosecuted; and
 - d. the location of Assets.
- (4) The letter requesting information referred to in paragraph (1) and paragraph (2) shall be signed by:
 - a. **the Chief of the Indonesian National Police** or a Regional Chief of Police in the event that the request is made by an investigator;
 - b. **the Attorney General** or the Head of a Provincial Prosecutor's Office in the event that the request is made by a public prosecutor;
 - c. the Head of the Panel of Judges hearing the case concerned.

Article 34

If sufficient evidence is obtained during the examination of the defendant in court, the judge shall order the sequestration of Assets known or reasonably suspected to be the proceeds of crime which have not already been sequestered by the investigator or public prosecutor concerned.

Article 35

In court proceedings, the defendant shall have the burden of proving that their Assets are not the proceeds of crime.

Article 36

- (1) In the event that the defendant has been duly summoned 3 (three) times in accordance with the provisions of prevailing laws and regulations and does not appear in court, the Panel of Judges may, by virtue of a provisional decision, continue the examination of the case in the absence of the defendant.
- (2) If the defendant attends a subsequent hearing prior to the verdict being rendered, the defendant shall be examined and all witness statements and documents read out in previous sessions shall have the same force of evidence as if the defendant had attended from the beginning.
- (3) Judgment rendered in a defendant's absence shall be announced by the public prosecutor on the announcement board of the court which made the judgment and

it shall also be announced in not less than 2 (two) newspapers with a national circulation over 3 (three) days or in 3 (three) consecutive editions.

Article 37

In the event that the defendant dies prior to the rendition of judgment and there is convincing evidence that the defendant committed the crime of money laundering, the judge can stipulate that the defendant's sequestered Assets shall be confiscated for the state.

Article 38

Legal evidence for purposes of the crime of money laundering shall be as follows:

- a. legal evidence** under the Criminal Procedure Law (KUHAP);
- b. other legal evidence in the form of information uttered, sent, received, or saved in electronic form using optical devices or the like; and
- c. documents referred to in Article 1 paragraph 7**.

CHAPTER VII

PROTECTION OF REPORTING PARTIES AND WITNESSES

Article 39

- (1) The PPATK, investigators, public prosecutors and judges shall keep the identity of a reporting party secret.
- (2) Violations of the provision of paragraph (1) shall entitle the reporting party concerned or their heirs to claim damages through the courts.

Article 40

- (1) Any person reporting a suspicion that the crime of money laundering may have occurred shall be provided with special protection by the state against possible threats endangering the person, their life, their family and/or their assets.
- (2) The procedure for providing special protection referred to in paragraph (1) shall be further stipulated by Government Regulation.

Article 41

- (1) During court sessions, witnesses, the public prosecutor, the judge and other parties concerned with the crime of money laundering under examination shall be prohibited from mentioning the name or address of the reporting party, or other matters which may lead to the disclosure of the reporting party's identity.
- (2) Prior to the commencement of every court session, the judge shall remind witnesses, the public prosecutor and other parties related to the case, of the prohibition referred to in paragraph (1).

Article 42

- (1) Any person giving testimony about a crime of money laundering shall be provided with special protection by the state against potential threats endangering the person concerned, their life, their family and/or their assets.
- (2) The procedure for providing special protection referred to in paragraph (1) shall be further stipulated by Government Regulation.

Article 43

Reporting parties and/or witnesses cannot be prosecuted either civilly or criminally for making a report or being a witness as referred to in Article 40 and Article 42.

CHAPTER VIII

MUTUAL LEGAL ASSISTANCE IN MONEY LAUNDERING

Article 44

- (1) For the purpose of preventing and eradicating money laundering, mutual legal assistance can be undertaken with other countries through bilateral or multilateral forums in accordance with prevailing laws and regulations.
- (2) Mutual legal assistance as referred to in paragraph (1) shall only be conducted in the event that a foreign state concerned has signed a mutual legal assistance agreement with Government of the Republic of Indonesia or under principles of reciprocity.
- (3) A Request for mutual legal assistance from and to a foreign state shall be submitted to and by the Minister who is responsible for law and regulation**.
- (4) The Minister may refuse a request for mutual legal assistance from a foreign state in the event that actions proposed by the requesting state shall impede the national interest, the request relates solely to prosecution of a political offense or the prosecution is based on a person's race, religion, ethnic, nationality or political opinions.

Article 44A

- (1) Mutual legal assistance as referred to in Article 44 includes inter alia:
 - a. collecting physical evidence and statements from a person, including the implementation of a rogatory letter;
 - b. providing physical evidence in the form of documents and other notes;
 - c. identifying and locating a person;
 - d. executing a warrant to search for and seize physical evidence;
 - e. searching for, freezing, and sequestering the proceeds of crime;
 - f. obtaining the agreement of persons to testify or provide assistance to an investigation in the requesting state;

- g. other assistance in accordance with the purpose of mutual legal assistance that is not unlawful.
- (2) In providing mutual legal assistance as referred to in paragraph (1), the Minister who is responsible for law and regulation** may direct an authorized officer to undertake the Police's functions such as searching, freezing, sequestering, examining documents, taking testimony** or taking other actions, in accordance with the procedures contained in the Criminal Procedure Law (KUHAP) and this Law.
- (3) Physical evidence, statements, documents or other notes as referred to in paragraph (1) shall constitute legal evidence in court proceedings concerning money laundering in accordance with otherwise applicable law and regulation.

CHAPTER VIII

OTHER PROVISION

Article 44B

In the event of developments in international conventions or international recommendations in the field of prevention and eradication of the crime of money laundering, the PPATK can, in accordance with this law, implement such provisions, in a manner consistent with law and regulation.

CHAPTER IX

TRANSITIONAL PROVISIONS

Article 45

- (1) The Head and Deputies of the PPATK as referred to in Article 20 shall be appointed no later than 1 (one) year following the enactment of this Law.
- (2) The PPATK shall already be implementing its functions no later than 6 (six) months following the appointment of the PPATK Head and Deputies.
- (3) Prior to the commencement of the PPATK's functions referred to in paragraph (2), those PPATK duties and powers specifically concerning Providers of Financial Services which are banks shall be implemented by Bank Indonesia, in accordance with Bank Indonesia Regulations.
- (4) The reporting obligations of Providers of Financial Services shall come into force 18 (eighteen) months following the enactment of this law.

CHAPTER X

CLOSING PROVISIONS

Article 46

This Law shall come into effect as of the date of its enactment.

For the information of the public, we hereby order the enactment of this Law through its publication in the State Gazette of the Republic of Indonesia.

Article II

This Law shall come into effect as of the date of its enactment.

For the information of the public, we hereby order that this Law be published in the State Gazette of the Republic of Indonesia.

I. UU No.15 Year 2002

Enacted in Jakarta
on 17 April 2002
THE PRESIDENT OF THE REPUBLIC OF
INDONESIA,

signed

MEGAWATI SOEKARNOPUTRI

Promulgated in Jakarta
on 17 April 2002

THE STATE SECRETARY OF THE REPUBLIC OF INDONESIA

signed

BAMBANG KESOWO

STATE GAZETTE OF THE REPUBLIC OF INDONESIA YEAR 2002 NUMBER 30

II. UU No.25 Year 2003

Enacted in Jakarta
on 13 October 2003

THE PRESIDENT OF THE REPUBLIC OF
INDONESIA,

signed

MEGAWATI SOEKARNOPUTRI

Promulgated in Jakarta
on 13 October 2003

THE STATE SECRETARY OF THE REPUBLIC OF INDONESIA
signed

BAMBANG KESOWO

STATE GAZETTE OF THE REPUBLIC OF INDONESIA YEAR 2003 NUMBER 4324

**THE ELUCIDATION OF THE
LAW OF THE REPUBLIC OF INDONESIA
NUMBER 15 YEAR 2002
CONCERNING
THE CRIME OF MONEY LAUNDERING
AS AMENDED BY LAW NUMBER 25 YEAR 2003**

GENERAL

I. LAW NO. 15 YEAR 2002

Various crimes committed both by individuals as well as corporations within the territory of a country or across the borders of another country are increasing. Such crimes include among other things the criminal acts of corruption, bribery, smuggling, smuggling of workers, smuggling of immigrants, banking, illegal trafficking in narcotics and psychotropic substances, slavery, the trade in women and children, illegal trading in arms, kidnapping, terrorism, theft, embezzlement, fraud and various white collar crimes. The aforementioned crimes involve or produce extremely large amounts of assets.

Assets derived from various such crimes or criminal acts are generally not spent or used directly by the perpetrators because if they do so, such assets can be easily traced by law enforcement agencies. Perpetrators usually try to bring such assets derived from such criminal acts into the financial system first, especially into the banking system. Hence, they expect that law enforcement agencies will be unable to trace the origins of such assets. Attempts to hide or conceal the origins of assets derived from criminal acts as intended in this Law are known as money laundering.

For criminal organizations, assets derived from crime are like blood in a body, meaning to say that if the flow of assets through the international banking system is cut off, the criminal organization concerned will weaken, its activities will decline, and it can even cease to exist. Therefore, assets are an extremely important part of a criminal organization. That is why there is an urgent need for criminal organizations to conduct money laundering so that the origins of such badly needed assets are difficult or impossible to trace by law enforcement agencies.

In addition to being extremely harmful for society, money laundering also inflicts losses on the state because they can impact or disrupt national economic stability or state finances along with the increase of various crimes.

In the above context, endeavors for the prevention and eradication of money laundering have drawn attention internationally. Various countries have been undertaking various measures for the prevention and eradication of money laundering by engaging in international cooperation, both through bilateral as well as multilateral forums.

The enactment of this Law concerning the Crime of Money Laundering in the context of the national interest is a reassurance that the Government and private sector are

not part of the problem, but rather are part of the solution in the economic, financial and banking sectors.

The first step a country must make for the prevention and eradication of money laundering is the formulation of a law prohibiting money laundering and imposing heavy penalties on perpetrators of such crime. It is expected that with the enactment of this law the crime of money laundering can be prevented or eradicated, among other things by criminalizing all acts in every phase of money laundering process consisting of:

- a. placement, namely attempting to place cash derived from criminal acts into the financial system or attempting to place cheque, bank draft, deposit certificate and others into the financial system, especially the banking system.
- b. transfer (layering) namely attempting to transfer assets derived from criminal acts (dirty money) placed successfully at one Provider of Financial Services (especially banks) as proceeds from a attempted placement to another Provider of Financial Services. By conducting layering, it is difficult for law enforcement agencies to trace the origins of such assets.
- c. using assets (integration) namely attempting to use assets derived from criminal acts brought into the financial system successfully through placement or transfer as if it were clean money, for clean business purposes or for re-financing criminal activities.

Providers of Financial Services mentioned above are providers of services in the financial field including but not limited to banks, financial institutions, securities companies, mutual fund managers, custodians, trust agencies, depositing and settlement agencies, foreign exchange traders, pension funds and insurance companies.

Definitions:

- banks shall be banks as intended in laws and regulations dealing with banking.
- financial institutions shall be business entities engaging in financing activities as intended in laws and regulations dealing with financial institutions.
- securities, custodians, depositing and settlement agencies, securities companies, mutual fund managers, securities accounts, mutual funds and Trust Agents shall be securities, custodians, depositing and settlement agencies, securities companies, mutual funds managers, securities accounts, mutual funds and trust agencies as intended in laws and regulations dealing with the capital market.
- foreign exchange traders shall be foreign exchange traders as intended in laws and regulations dealing with foreign exchange trade.
- pension funds shall be pension funds as intended in laws and regulations dealing with pension funds.
- insurance companies shall be insurance companies as intended in laws and regulations dealing with insurance companies.

In the context of the prevention and eradication of the crime of money laundering under this Law the Center for Financial Transactions Reporting and Analysis briefly referred to as PPATK shall be established, with the following functions:

- a. collect, keep, analyze, evaluate information obtained from the PPATK in accordance with this Law;
- b. monitor records in the exemption registry maintained by the Provider of Financial Services;
- c. formulate guidelines for the procedure of reporting suspicious financial transactions;
- d. provide advice and assistance to related institutions concerning the information obtained by the PPATK in accordance with the provisions of this Law;
- e. issue guidelines and publications to Providers of Financial Services concerned concerning their obligations set forth in this Law or in other laws and regulations, and assist in detecting suspicious customer behavior;
- f. make recommendations to the Government concerning measures for the prevention and eradication of the crime of money laundering;
- g. report the results of analysis of financial transactions indicating the crime of money laundering to the Police and the Public Prosecutor's Office;
- h. prepare and submit periodic reports on the results of analysis of financial transactions and other activities once in every 6 (six) months to the President, the People's Representative Assembly (DPR) and to relevant agencies overseeing Providers of Financial Services.

In addition to the above, in order to ensure a smoother judicial process in trying the crime of money laundering, this Law stipulates the authorities of investigators, public prosecutors and judges in accordance with the level of case handling in order to be able to request Providers of Financial Services to freeze assets. This Law also stipulates the authority of investigators, public prosecutors or judges to seek information from Providers of Financial Services concerning the assets of any person reported by the PPATK, suspect or defendant.

In addition to the above specific details, this Law also provides for trial in the defendant's absence, if the defendant fails to appear following 3 (three) summons made validly in accordance with laws and regulations. Based on an interim decision the Council of Judges can continue the hearing even though the defendant does not attend.

Based on the above considerations, a Law concerning the crime of money laundering needs to be formulated.

II. LAW NO. 25 YEAR 2003

The development and progress of science and technology, in particular communication technology, have caused the financial system to become integrated - including a banking system that offers the mechanism of transnational fund exchange that can be conducted rapidly. In these circumstances, besides having positive impacts, this also provides negative impacts for a community in which both national and international crime has also increased, by utilising the financial system, including banking, to conceal or hide the origins of assets derived from such crime (money laundering crime).

Previously, in the context of prevention and eradication of money laundering, Indonesia has issued Law Number 15 Year 2002 concerning the crime of money laundering. However, the provisions in above mentioned Law are not yet considered to have met international standards as well as the developing legal review process applicable to money laundering crimes, so that the above mentioned Law needs to be amended in order that the prevention and eradication of money laundering can work effectively.

Amendments in this Law shall include:

- a. The scope of definition of Providers of Financial Services is extended in which it not only includes any person who provides financial services but also other services in relation to finance. This is meant to anticipate the money launderer who uses a type of Provider of Financial Services that is publicly available, but has not previously been obliged to submit financial transaction reports, as well as to anticipate new types of Provider of Financial Services that have not been stipulated in Law Number 15 Year 2002.
- b. The definition of Suspicious Financial Transaction is extended by including financial transactions, whether or not completed, using Assets where there are reasonable grounds to suspect these constitute the proceeds of crime.
- c. The threshold in the definition of Proceeds of Crime, of the amount of Rp. 500.000.000.00 (five hundred million rupiah) or more, or an equivalent value derived from the crime, is deleted, because it is not consistent with common principles that the determination whether an act is criminal conduct shall not depend on the size of proceeds.
- d. The scope of predicate crime giving rise to Money Laundering is extended to include additional crimes that produce assets, and to include instances where the criminal attempts to hide or disguise the origins of assets derived from crime where the crime itself is not punished.
- e. Regulations relating to predicate crimes include inter alia:

- Law Number 5 Year 1997 concerning Psychotropic Substance;
 - Law Number 22 Year 1997 concerning Narcotics;
 - Law Number 31 Year 1999 concerning the Eradication of the Criminal Offence of Corruption as amended by Law Number 20 Year 2001 concerning the Amendment of Law Number 31 Year 1999 concerning the Eradication of the Criminal Offence of Corruption;
 - Law Number 30 Year 2002 concerning the Commission of Eradication of Corruption Crime.
- f. The timeframe for submitting suspicious transactions reports within 14 (fourteen) working days is reduced to be no later than 3 (three) working days after the Provider of Financial Services knows that there is an element of a suspicious financial transaction. This is intended to allow assets suspected to constitute the proceeds of crime and the launderer to be traced.
- g. Adding new provisions to guarantee the secrecy of preparing and submitting suspicious transactions reports submitted to the PPATK or investigators (anti-tipping off). This is meant to prevent the proceeds of crime being transferred and the criminal being free to conduct the crime of money laundering, which would result in the prevention and eradication of money laundering not being effective.
- h. The provisions of mutual legal assistance in money laundering crime are stipulated as a legal basis for Indonesian law enforcers to receive and provide assistance in the context of law enforcement. With these provisions of mutual legal assistance, it is proved that The Government of the Republic of Indonesia has committed to the international community work side-by-side in preventing and eradicating the crime of money laundering. International cooperation has been conducted bilaterally, regionally and multilaterally as a strategy to combat the economic strength of criminals, who are grouped in transnational organized crime. However, the implementation of mutual legal assistance must consider the national law of each country and the national interest, and in particular must not be contrary to the 1945 Constitution of the Republic of Indonesia.

II. ARTICLE BY ARTICLE

Article 1

Self-explanatory.

Article 2

Paragraph (1)

Based on the provision that "the offence [...] committed in the territory of The Republic of Indonesia or outside the territory of The Republic of Indonesia and such crime is also considered a crime according to Indonesian law" therefore this Law applies double criminality principles.

Paragraph (2)

Self-explanatory.

Article 3

Paragraph (1)

In beginning an examination of the crime of money laundering in the court, there is no need to prove a predicate crime first, in order to proceed on money laundering charges that relate to assets that are suspected to be proceeds of crime.

Paragraph (2)

Self-explanatory.

Article 4

Paragraph (1)

Self-explanatory.

Paragraph (2)

What is meant by "managers with functional positions" are managers authorized by virtue of the corporation's articles of association to act for and on behalf of the corporation concerned inside as well as outside the courts.

Paragraph (3)

Self-explanatory.

Paragraph (4)

Self-explanatory.

Paragraph (5)

Self-explanatory.

Article 5

Self-explanatory.

Article 6

Self-explanatory.

Article 7

Self-explanatory.

Article 8

Self-explanatory.

Article 9

Self-explanatory.

Article 10

Self-explanatory.

Article 10A

Paragraph (1)

This provision is a provision of professional secrecy.

Paragraph (2)

What is meant by 'sources' in this provision shall be the provider of financial services submitting suspicious transactions reports to the PPATK.

The obligation for not disclosing such sources and suspicious transactions reports in the hearing process in the court, aims to ensure that Providers of Financial Services shall implement their obligation in submitting suspicious transactions reports.

Paragraph (3)

Self-explanatory.

Paragraph (4)

Self-explanatory.

Article 11

Self-explanatory.

Article 12

Self-explanatory.

Article 13

Paragraph (1)

Sub-paragraph a

Basically, suspicious financial transaction have no specific definable characteristics because these reports are influenced by monetary instruments and services variation and development. Nevertheless, there are general characteristics of suspicious financial transaction that shall be utilised as references as follow:

- 1) have no clear economic and business purposes;**

- 2) cash basis oriented in huge amount relatively and/or conducted over and over again unusually;
- 3) transaction activity is unusual and/or unnatural.

Sub-paragraph b

Self-explanatory.

Paragraph (1a)

Self-explanatory.

Paragraph (2)

This provision intends that Providers of Financial Services must submit suspicious transactions reports as soon as possible so that assets suspected to constitute the proceeds of crime and the launderer can be traced immediately.

Elements of suspicious transactions reports shall be prescribed in Article 1 Point 7 Sub-paragraph a, Sub-paragraph b, and Sub-paragraph c.

Paragraph (3)

Self-explanatory.

Paragraph (4)

Self-explanatory.

Paragraph (5)

"Other transactions" in this provision are transactions exempted in accordance with their characteristics, always conducted in the form of cash and in a big amount, such as usual deposits by operators of toll road or supermarket.

Besides based on forms of transactions, the Head of the PPATK may stipulate other transactions that are exempted based on the total of the transactions, on the type certain Providers of Financial Services, or the working area of certain providers of financial services. The stipulation of this exemption may be conducted either permanently or temporarily.

Paragraph (6)

The Provision in this article intends that data or information concerning exempt transactions concerned should be inspected or examined by the PPATK for analyzing.

Detail of transactions that must be prepared and maintained is basically similar with cash transactions submitted to the PPATK. The list can be made electronically as long as it can be guaranteed that such data or information shall not be lost or easily destroyed.

Paragraph (6a)

This provision is meant to give an opportunity to certain Provider of Financial Services that cannot meet this provision temporarily.

The exemption shall be provided either with or without a request from the Provider of Financial Services.

Paragraph (7)

Self-explanatory.

Article 14

Self-explanatory.

Article 15

“Civil action’ shall include a compensation. “Criminal action” shall include a conviction of contaminating a person’s image (name).

Article 16

Self-explanatory.

Article 17

Paragraph (1)

- The intent of the provision of this paragraph is to make it easier for law enforcement agencies to trace customers if there are future allegations that the customer concerned committed the crime of money laundering.

In addition to the above, this provision also complies with international arrangements recommending that every country should have in place provisions prohibiting the opening of accounts without the identity of the customer concerned being clear.

- What is meant by "complete and accurate identity" shall be among other things indicating name, address, gender, age, religion and occupation.
- Business relationships with a Provider of Financial Services in this provision shall include the opening of accounts, transferring funds, disbursements of cheques, purchase of travelers cheques, buying and selling foreign currency, deposits and other financial services.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

Paragraph (4)

What is meant by "laws and regulations" are currently Bank Indonesia Regulation Number 3/10/PBI/2001 concerning the Implementation of the Know Your Customer Principle as amended by Bank Indonesia Regulation Number 3/23/PBI/2001 and implementing regulations thereof.

Paragraph (5)

Self-explanatory.

Article 17A

Paragraph (1)

This provision is known as anti-tipping off.

The provision in this article is so that users of financial services shall not transfer their assets, which would make it difficult for law enforcers to trace both users of financial services and their assets.

Paragraph (2)

Anti-tipping off also applies to the officials or employees of the PPATK and investigators to prevent users of financial services that are suspected of an offence escaping and assets concerned being transferred, which would make difficulties for preliminary investigation and investigation processes.

Paragraph (3)

Self-explanatory.

Article 18

Paragraph (1)

Self-explanatory.

Paragraph (2)

"Independent" means that the PPATK shall be free from intervention and influence from any party whatsoever.

Paragraph (3)

Self-explanatory.

Article 19

Self-explanatory.

Article 20

Self-explanatory.

Article 21

Self-explanatory.

Article 22

Self-explanatory.

Article 23

Self-explanatory.

Article 24

Paragraph (1)

Sub-paragraph a

The dismissal of the Head and Deputies of the PPATK by virtue of being outside the territory of The Republic of Indonesia is intended to ensure the maximum performance of their PPATK tasks.

Sub-paragraph b

Self-explanatory

Sub-paragraph c

Self-explanatory

Sub-paragraph d

Self-explanatory

Sub-paragraph e

It is not appropriate for a person who has he subject of criminal punishment due to having committed a criminal act to perform the task of eradicating a criminal act.

Sub-paragraph f

Holding concurrent positions is prohibited in order to avoid any conflict of interest.

Sub-paragraph g

Self-explanatory

Sub-paragraph h

Self-explanatory

Paragraph (2)

Self-explanatory

Article 25

Paragraph (1)

What is meant by "conducting any form of intervention" shall be acts by any person whomsoever resulting in the diminishing of the PPATK's freedom in performing its functions and tasks.

Paragraph (2)

Self-explanatory

Paragraph (3)

International cooperation in this provision shall be conducted in the form of information exchange, technical assistance, education and training.

Article 26

Self-explanatory.

Article 27

Self-explanatory.

Article 28

Self-explanatory.

Article 29

Paragraph (1)

Self-explanatory.

Paragraph (2)

Self-explanatory.

Article 29A

Self-explanatory.

Article 29B

Self-explanatory.

Article 30

Self-explanatory.

Article 31

Self-explanatory.

Article 32

Paragraph (1)

The order of an investigator, public prosecutor or judge order shall be consistent with the status of the matter, namely in the investigation phase the authority shall be with the investigator, in the prosecution phase with the public prosecutor, and with the judge in the phase of examination in a court of justice.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

Paragraph (4)

Self-explanatory.

Paragraph (5)

Self-explanatory.

Paragraph (6)

Self-explanatory.

Article 33

Paragraph (1)

Self-explanatory.

Paragraph (2)

This provision is an exemption from bank secrecy and other financial transaction secrecy stipulations as referred to in the Law pertaining to bank secrecy and other financial transaction secrecy.

Paragraph (3)

Self-explanatory.

Paragraph (4)

In the event the **Chief of the Indonesian National Police** or the Chief of Regional Police or **the Attorney General** or the Head of High Prosecutor's Office is not available, an appointed officer shall conduct the signature.

Article 34

Self-explanatory.

Article 35

This article contains the provision that the defendant is granted the opportunity to prove that his/her assets are not derived from a criminal act. This provision is known as the principle of reversal of the onus of proof.

Article 36

Paragraph (1)

The purpose of this paragraph is to ensure the smooth implementation of measures for the prevention and eradication of the crime of money laundering in the judicial phase, so that if the defendant does not appear in court after

having been summoned 3 (three) times, even though he/she has a valid reason, the case can be tried without the defendant's attendance.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

Article 37

The purpose of the provision of this article is to prevent heirs of the defendant from controlling or possessing assets derived from criminal acts. In addition, this is part of the efforts to repatriate state assets in the event that the criminal act concerned has inflicted a loss on the state.

Article 38

Self-explanatory.

Article 39

Paragraph (1)

What is meant by "PPATK" in this paragraph shall be the Head, Deputy Head and all staff of the PPATK.

Paragraph (2)

Self-explanatory.

Article 40

Self-explanatory.

Article 41

Self-explanatory.

Article 42

Self-explanatory.

Article 43

Self-explanatory.

Article 44

Paragraph (1)

What are meant by 'prevailing laws and regulations' in this Law include the Criminal Procedure Law, Foreign Affairs Law, and the Law on international treaty.

Paragraph (2)

Mutual Legal Assistance shall stipulate the procedure for communication, procedure for submitting a letter of rogatory, and requirements that must be followed in submitting such request.

Paragraph (3)

Self-explanatory.

Paragraph (4)

The Minister who is responsible for accepting or refusing the mutual legal assistance agreement shall coordinate with related institutions.

Article 44A

Paragraph (1)

Sub-paragraph a

A rogatory letter as intended by this provision shall be an order from the foreign state stating a request for examination in obtaining information on the crime of money laundering that is conducted under oath and before the investigator, public prosecutor or judge in Indonesia, as well as a reciprocal request. A rogatory order shall be known as a rogatory letter.

Sub-paragraph b

Self-explanatory.

Sub-paragraph c

Self-explanatory.

Sub-paragraph d

Self-explanatory.

Sub-paragraph e

Self-explanatory.

Sub-paragraph f

Self-explanatory.

Sub-paragraph g

Self-explanatory.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

Article 44B

Self-explanatory.

Article 45

Self-explanatory.

Article 46

Self-explanatory.

Article II

Self-explanatory.

- THE ELUCIDATION OF THE LAW NO. 15 YEAR 2002
SUPPLEMENT TO STATE GAZETTE OF THE REPUBLIC OF INDONESIA
NUMBER 4191
- THE ELUCIDATION OF THE LAW NO. 25 YEAR 2003
SUPPLEMENT TO STATE GAZETTE OF THE REPUBLIC OF INDONESIA
NUMBER 4324