

# Indonesia National Risk Assessment On Money Laundering

## FINAL REPORT

# 2015

INDONESIA *NATIONAL RISK ASSESSMENT* (NRA)  
TEAM



OTORITAS  
JASA  
KEUANGAN

**KPK**  
KOMISI PEMERINTAHAN NEGARA



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## Indonesia National Risk Assessment On Money Laundering, Year 2015

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- 1)  Ministry for Political, Law and Security Affairs of the Republic of Indonesia
- 2)  Ministry of Justice and Human Rights of the Republic of Indonesia
- 3)  Supreme Court of the Republic of Indonesia):
- 4)  Bank Indonesia
- 5)  National Development Planning Agency
- 6)  Financial Services Authority
- 7)  Ministry of Finance of the Republic of Indonesia
- 8)  Directorate General of the Taxation, Ministry of Finance
- 9)  Directorate General of Customs and Excise, Ministry of Finance
- 10)  Attorney General of Republic of Indonesia
- 11)  Indonesian National Police
- 12)  Corruption Eradication Commission
- 13)  National Narcotics Agency
- 14)  Special Detachment 88 Anti-Terror (AT) of Indonesian Police
- 15)  Indonesian Financial Transaction Reports and Analysis Center

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## LIST OF ABBREVIATION

AML/CTF	=	<i>Anti Money Laundering/Counter Terrorism Financing</i>
AML-CFT	=	Anti Money Laundering and Countering Financing of Terrorism
AUSTRAC	=	<i>Australian Transaction Reports and Analysis Centre</i>
BI	=	Bank Indonesia
BUMN	=	State-Owned Enterprises
BUMD	=	Local-Owned Enterprises
<i>FIU</i>	=	<i>Financial Intelligence Unit</i>
FSP	=	Financial Services Provider
GSP	=	Goods and Services Provider
HA	=	Analysis Result
HP	=	Examination Result
IHA	=	Analysis Result Information
IHP	=	Examination Result Information
KUPU	=	Money Remittance
LPUT	=	Cash Bringing Report
LEA	=	<i>Law Enforcement Agency</i>
LTKL	=	Financial Transaction Report from/ to Abroad
LTKT	=	Cash Financial Transaction Reports
LCRIME OFBJ	=	Transaction Report of Other Goods and Services Provider
ML	=	Criminal Act of <i>Money Laundering</i>
MSME	=	Micro Small and Medium Enterprises
NRA	=	<i>National Risk Assessment</i>
PAPP	=	<i>PPATK-Austrac Partnership Program</i>
Polri	=	Indonesian National Police
PPATK	=	Indonesian Financial Transaction Reports and Analysis Center
PVA	=	Foreign Exchange Trader/ Money Changer
STR	=	Suspicious Transactions Report
TF	=	Criminal Act of Terrorism Financing
TNI	=	Indonesian National Armed Forces

# GLOSSARY

**Less Cash Society:** (1) community who use less cash than non-cash payment instruments in financing its economic activity; (2) the term for the public who love to perform non-cash transactions, by using electronic money when transacting.

([www.usu.ac.id](http://www.usu.ac.id) accessed September 22, 2015: <http://usu.ac.id/id/article/838/bi-dan-usu-jalin-kerjasama-less-cash-society-akan-dikembangkan-di-usu>)

**Expert Fact Findings:** The facts that appear or occur based on observations from the experts in their respective fields.

**Face to Face Transaction:** Transactions where the consumers and providers of goods and services meet directly physically or face to face when the transaction is performed.

([www.teller.com](http://www.teller.com) accessed September 22, 2015: <http://www.teller.com/products-and-solutions/solutions/face-to-face-transactions/>)

**Gatekeeper:** The term customarily used internationally to refer to professionals in the fields of finance and law with the skills, knowledge, and special access to the global financial system, which utilizes their expertise to hide the results of a criminal Act. Profession in question include, among others, advocate, accountant and public accountant, notary public and Land Officials (PPAT), and financial planner.

(Indriani, Tri Yuanita . 2015. "Kewajiban Laporan untuk Lindungi Profesi Gatekeeper". [www.hukumonline.com](http://www.hukumonline.com) accessed September 22, 2015 : <http://www.hukumonline.com/berita/baca/lt55d14b5eafb14/kewajiban-lapor-untuk-lindungi-profesi-igatekeeper-i>)

**Hot money:** fund provided by the sources that are most sensitive to price and credit quality. *Hot money* is fastest lost when the confidence level or economy competitiveness decline.

([www.kamusbisnis.com](http://www.kamusbisnis.com) accessed September 22, 2015, <http://kamusbisnis.com/arti/hot-money/>)

**Illicit Fund:** money obtained illegally and transferred for use elsewhere. This money is usually generated from criminal activities, corruption, tax evasion, bribery, and transaction of cross-border smuggling.

(<http://www.un.org/africarenewal/magazine/december-2013/illicit-financial-flows-africa-track-it-stop-it-get-it>)

**IT Risk Management:** the process undertaken by the IT managers to balance operational activities and expenses of cost in achieving profits by protecting IT systems and data to support the mission of the organization.

(<http://blog.stikom.edu>)

**Mass Marketing Fraud:** this type of fraud scheme that uses one or more of the mass communication techniques and technologies-such as: the internet, phone, and mail to conduct fraudulent transactions with the victim, or to transmit the proceeds of fraud to financial institutions or to others connected with the fraud scheme.

(<http://www.justice.gov/criminal-fraud/mass-marketing-fraud>)

**Nominee:** person or entity legally have (*legal owner of*) a property and/or earnings for the benefit of or on the basis of the mandate of the party that actually becomes the owner of the property or the parties who actually enjoy the benefits on the income.

(Peraturan Dirjen Pajak - PER - 62/PJ./2009, 5 November 2009)

**NRA Fact Findings:** the findings obtained from a national risk assessment results in either money laundering or terrorism Financing.

**Offshore Financial Center:** State or jurisdiction that provides financial services to parties/person who is not a resident of that country on a scale commensurate with the size and financing of the domestic economy. Most of these countries are located in a country of small and remote island.

(*"Concept of Offshore Financial Centers: In Search of an Operational Definition"*; Ahmed Zoromé; IMF Working Paper 07/87; April 1, 2007). Retrieved on 2 February 2011)

**Penetration Test:** the activities undertaken to conduct testing against a security of a system.

(<http://julismail.staff.telkomuniversity.ac.id/penetration-test/>)

**Underground Economy:** legal or illegal economic activity where the illegal activity which is conflict or against applicable law, while the legal intended that such activities are not prohibited by law, but the income of such activities is not reported to government institutions.

([www.academia.edu](http://www.academia.edu) accessed in September 22: [http://www.academia.edu/4272199/underground\\_economy\\_in\\_economic\\_development](http://www.academia.edu/4272199/underground_economy_in_economic_development))



# MESSAGE FROM THE HEAD OF PPATK



*Assalamualaikum Warahmatullahi Wabarakatuh.*

*May peace be upon you all.*

Our praise to God Almighty due to his blessings and guidance so that PPATK together with *stakeholder* of AML-CFT Regime incorporated in *Inter-Agency Working Group NRA Indonesia* can complete preparation of the document "**Indonesia Risk Assessment On Money Laundering/ NRA on ML, Year 2015**".

As we know, that the Government of Indonesia has a very strong commitment in efforts to prevent and eradicate the crime of money laundering. The various steps in order to reinforce the commitment of Indonesia have been implemented. As a form of concrete against the implementation of *Financial Action Task Force Recommendations (FATF Recommendations)* No. 1 Year 2012 related to risk assessment, then the PPATK together with stakeholders of Anti-Money Laundering and Eradication of Terrorist financing (AML-CFT) regime carry out Indonesia risk assessment related to a criminal act of money laundering in the form of *National Risk Assessment (NRA)* activities.

I welcomed the drafting of the documents of *NRA on ML* because it is a very important thing for the whole *stakeholder* of AML-CFT regime, in order to help provide recommendations in the refinement of the regulation and the provisions of the related ML, both on the micro level, as well as on the macro level in the form of national strategy. By completion of national strategy effectively and efficiently based on this risk-based approach, it is expected to be able to protect Republic of Indonesia from ML Risk the typology of which is growing and increasingly complex.

Therefore, the presence of Report Results of *NRA on ML* is expected to be beneficial for all *stakeholders* of AML-CFT regime to be able to prevent and eradicate the criminal Act of money laundering with PPATK jointly.

Finally, I say thanks and appreciation to the NRA PPATK team and all stakeholders of AML-CFT regime incorporated in the *Inter-Agency Working Group the NRA Indonesia* which has contributed to the publication of this NRA on ML document. May the charity of our efforts be blessed by God Almighty. *Amin Ya Rabbal Alamin.*

*Wassalamualaikum Warahmatullahi Wabarakatuh.*

*And may peace be upon you all.*

Jakarta, September 2015  
Head PPATK

**Dr Muhammad Yusuf**

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# EXECUTIVE SUMMARY

The crime of money laundering (ML) is a serious threat to a nation (extraordinary crime). In the midst of the rapid advances in information technology and encouragement of current globalization era, ML develops increasingly complex, across the boundaries of the jurisdiction, and using an increasingly varied modes, leveraging the institution outside the financial system, has even penetrated into the various sectors of the economy. In anticipation of that, the Financial Action Task Force (FATF) *on Money Laundering* has issued the 40 FATF Recommendations 2012 as international standards of AML-CFT regime.

Recommendations No. 1 FATF of 2012 requires each State to identify, analyze, and evaluate the risk of a criminal act of money laundering and terrorist financing upon the country, take action, and decide on the authority that will coordinate the activities of the risk assessment and utilization of resources in order to ensure that the risks involved have been mitigated effectively.

As a concrete form of Indonesia's commitments towards the implementation of FATF Recommendations related to the risk assessment, PPAJK together with *stakeholders* of AML-CFT incorporated in the *Inter-Agency Working Group the NRA Indonesia*, since September 2013 to Quarter III By 2015, has carried out Indonesia Risk Assessment on Money Laundering and Terrorist financing in the form of National Risk Assessment (NRA) activities.

The NRA Process which includes the identification, assessment, as well as an understanding of the ML risk becomes essential in the implementation of the AML regime both related to the threat, vulnerability, and consequence of legal aspects, regulation, enforcement, as well as other aspects, to mitigate the risk of Indonesia against ML. In General, the NRA is very helpful in providing recommendations in the refinement of the regulation and the provisions related to ML, both on the micro level (internal Reporting Party /Agency), and macros in the form of national strategy. With completion of effective and efficient national strategy based on the risk-based approach, it is expected to protect Indonesia from the ML risk whose modes are growing and increasingly complex.

Based on the results of the identification, analysis, and mapping against variation of potential ML threats, vulnerabilities and the consequence that can be caused, either to the aspects of economic, physical, social, environmental, or political/structural, it can be concluded that:

1. In addition to be one of favourite destination country for foreign investment, Indonesia is also considered to be potentially quite high against money laundering and terrorism Financing.
2. Criminal Act of Taxation is the highest threat of ML sourced from abroad.
3. Based on the response of risk assessment of NRA from the Reporting Party, it is known that Iran, North Korea, Syria, Myanmar, Afghanistan, Sudan, Cuba and countries categorized by OECD are countries with as a *tax haven* countries are the countries having the highest risk of ML.

4. From the domestic side, the crime of Narcotics, Corruption, Tax Crime, becomes the highest risks of the predicate crime ML in Indonesia.
5. DKI Jakarta is a province that has a high risk of ML in Indonesia. It is followed by East Java, Papua, North Sumatera, Riau, West Kalimantan, West Java, South Sulawesi, Bengkulu and Bali which are at medium risk in Indonesia.
6. Banking Industry, Capital Market, Property company/agents, and Motor Vehicle Dealersn have the highest risk of being used as means by ML perpetrators in Indonesia.
7. Business Entity/Corporation Service Users, especially Foundations, and Non Small and Medium Scale Corporations are at higher risk of becoming ML perpetrators than Individual Service Users.
8. However, some individual Customers profiles also have a high risk of becoming ML preparator, such as: Entrepreneurs, private employees. Bank employees, housewives, money changer employees, PEPs, political party staff/managers, civil sevants (including retirees), professionals, foundation staffs/managers, and employees of state/regional government-owned companies are categorized as "medium" risk profile.
9. The use of virtual currency (one of them is Bitcoin) in conducting financial transaction is one of the *emerging threat* of ML in Indonesia.

## CHAPTER 1

# Introduction

### A. BACKGROUND

To anticipate the seriousness of the ML threat, *The Financial Action Task Force (FATF) on Money Laundering* has compiled an international standard which became standard for all countries in the prevention and eradication of the criminal Act of money laundering and criminal Act of terrorist financing known as the *40 FATF Recommendations*. Associated with the *40 FATF Recommendations*, the Government of Indonesia had agreed on some of the *action plan* against APG (*Asia Pacific Group on Money Laundering/FATF*). With regard to the fulfillment of the *action plan*, the FATF/APG rate that Indonesia got in *FATF Public Statement List* since February 2011, which means that Indonesia as the "jurisdiction of the progress of improvement the weakness of the AML-CFT regime was inadequate and did not meet the commitments in the fulfillment of the *action plan* established together with FATF". Besides Indonesia, based on *FATF Public List* on October 24, 2014, there were also three other countries, namely Algeria, Ecuador, and Myanmar.

One of the FATF recommendations that has not been implemented is related recommendations on *The National Risk Assessment*. According to Recommendation No. 1 FATF, it is stated that:

1. Each country should identify, assess and understand the risks of money laundering and terrorist financing to countries, and should take action, including determining authority and mechanisms for coordinating action to assess risk.

As one of the economic centers of the world, particularly in the Asia Pacific region Indonesia, became one of the destination countries for foreign investment. The influx of foreign funds into Indonesia on one side can be seen as an *advantage* for Indonesia's economy, but on the other hand it can also be a gap the influx of *illicit fund* that encourages the occurrence of money laundering.

**"Every country is obliged to know and understand the nature and extent of the risk from the Criminal Act of Money Laundering and the criminal Act of Terrorist financing they face, either internally or externally. *Financial Intelligence Unit (FIU)* became institutions that play an important role in developing a national risk assessment to support an increasing concern over the risks."**

*President FATF (Vladimir Nechaev) on July 3, 2013*

2. Based on the assessment, countries should apply a *Risk-based Approach/RBA* to ensure that the measures of prevention or settlement of cases of money laundering and terrorist financing commensurate with the risks identified.
3. Risk identification and assessment process of the criminal Act of money laundering and terrorist financing are contained in the activities called *National Risk Assessment*.

With regard to recommendation No. 1 FATF, the Government of Indonesia has a very strong commitment in efforts to prevent and eradicate the criminal Act of money laundering. The various steps in order to reinforce the commitment of Indonesia have been and are being implemented. As a concrete form of Indonesia's commitments towards the implementation of FATF Recommendations related to risk assessment, PPAK together with *stakeholders* of Anti-Money Laundering and terrorist financing regime incorporated in Inter-Agency Working

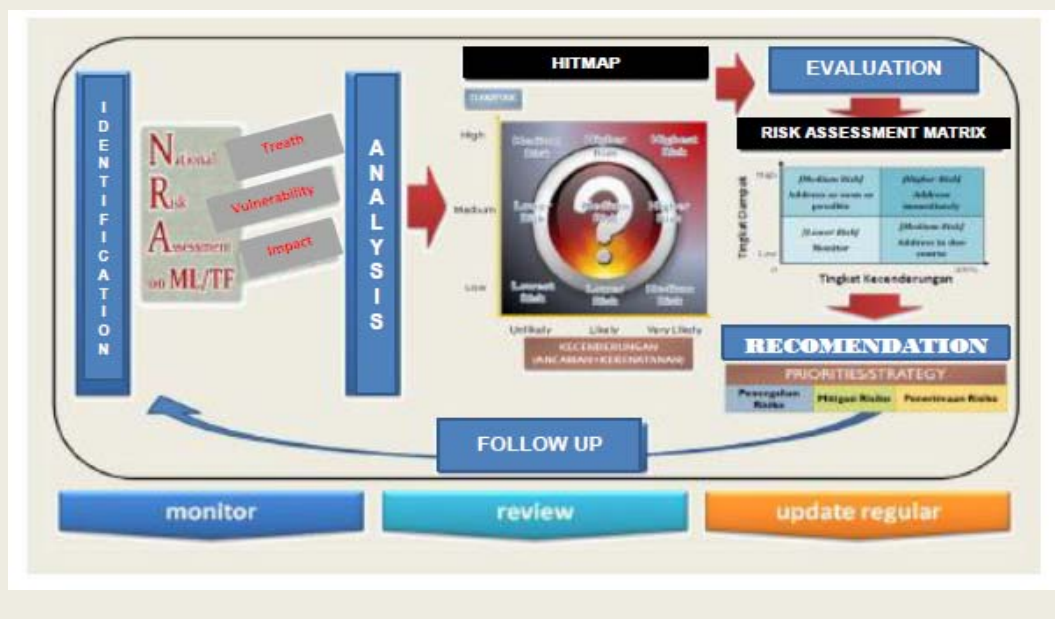
**The national risk assessment (*National Risk Assessment/NRA*) is an activity organized and systemic to identify and evaluate the sources and methods of money laundering and funding terrorism, a weakness in the system anti-Crime of money laundering and funding of Terrorism a criminal Act, as well as other facing insecurity that have direct or indirect influence on certain countries which carry out the assessment.**

*FATF Guidance: National Money Laundering and Terrorist Financing Risk Assessment - 2013*

Group NRA Indonesia, from mid-2013 to the quarter III of 2015, has been carrying out Indonesia risk assessment against the criminal Act of money laundering and risk assessment of Indonesia against the criminal Act of terrorist financing separately in the form of *National Risk Assessment* activities.

Indonesia Risk Assessment against the Criminal Act of Money Laundering (*NRA on ML*) is structured and comprehensive evaluation and sustainable logging over the risk of a country against ML, which includes the elements of threat, vulnerability, and consequence that will be caused. In *the NRA on ML*, as illustrated in Figure 1 below, the various trends and the consequences of each element of risk are analyzed and evaluated comprehensively so that hitmapping can be done based on the priority scale. After various risks are able to be identified, analyzed and evaluated, then through *the NRA on ML*, it is expected to be arranged in a variety of strategies. As a form of follow-ups, various compiled strategies need to be implemented so that the various risks of ML can be mitigated so that any influence over those risks can be minimized if the risk occurs. In order for the Anti-Money Laundering Regime in a country running effectively and efficiently, a series of *this NRA on ML* processes needs to be monitored, reviewed, and updated regularly by involving the whole of the *stakeholders* concerned.

**FIGURE 1:**  
**Illustration of National Risk Assessment on Money Laundering Process**



In a national scale, the implementation of *NRA on ML* is not only meant to comply with FATF Recommendations solely. But more than that, the implementation of *the NRA on ML* is the national requirement in the effort for preparing the national strategy as well as providing recommendations for refinements to the regulations and conditions related to prevention and eradication of ML in Indonesia. On a more micro level, implementation of *NRA on ML* becomes essential for each *stakeholder* of AML-CFT regime, such as Reporting Party, Regulatory Supervisory Institutions, and Law Enforcement Agencies especially in the refinement of internal vulnerabilities owned as well as the preparation of the priority scale in allocating the resources owned on the regions that have a higher level of ML risk.

At the national level, with completion of national strategy and framework of regulation for effective and efficient prevention and eradication of ML it is expected to encourage the creation of the stability of the financial system. Financial institutions can avoid the various risks, such as: legal risk, reputation, as well as the concentration of transaction and liquidity. On the other hand, the implementation of the anti-money laundering regime that is effectively and efficiently is also believed to be able to lower the number of crime because the perpetrator of the criminal Act no longer had the motivation to repeat his deeds and the results of criminal appropriation can be utilized to the maximum prosperity of the people. Therefore, the approach to anti-money laundering regime implemented effectively, it is not an impossible thing to do. In contrast, the failure in preventing and eradicating money laundering will consequence very badly on the financial sector and law enforcement.

## B. OBJECTIVE

The identification, assessment, as well as an understanding of the risk of ML through the activities of the NRA on ML become essential in the implementation of the regime of AML-CFT both associated with a threat, vulnerability, and consequence of legal aspects, regulation, enforcement, as well as other aspects, to mitigate the risk to the ML. These activities become increasingly strategic, especially in providing the evaluation of trends and consequence on risks for the determination of priority risks, mitigation strategies to reduce the consequence on risks, as well as allocating resources efficiently by any authorized stakeholder. NRA activities can also help the financial industry, providers of goods and other services, as well as the institutions of the profession in measuring the risks against the threat of ML.

In explanatory note of No. 1 FATF recommendation (INR 1) it is mentioned that the purpose of the NRA is to:

1. Provide input for potential improvements to the regime of AML/CFT, including through the formulation or calibration of national AML/CFT policies;
2. Assist in prioritizing and allocating resources of AML/CFT by authorities, including providing input in any risk assessment which is done partially by any stakeholder; and
3. Give input in the risk assessment of AML/CFT conducted by FSP and GSP.

Refer to the purpose of the NRA as stated in explanatory note of such INR 1, activities of the NRA on ML are implemented by Indonesia NRA Team comprehensively, integratedly, as well as using the methods adopted from international best practices with specific purpose as follows:

1. Identifying and analyzing the various sources of threats, and methods of money laundering that have been done and potentially will be done by perpetrators of ML in Indonesia.
2. Analyzing how a national threat trends of ML that occurred during the year 2011-2014 is viewed according to the original crime of ML to measure how effective the perpetrators of crime in doing ML.
3. Analyzing the threat level of ML according to the perpetrator profile of and the origin crime of ML.
4. Analyzing the vulnerability level of the region, Reporting Party, products/services, as well as the mode (pattern of transactions) that could potentially be used by perpetrators of ML.
5. Identifying whether there is a "loopholes" in the regulation system and vulnerabilities of ML law enforcement and analyzing various levels of vulnerabilities.



6. Analyzing and mapping out the risk levels of ML according to the alleged predicate crimes measured based on the level of trend and the level of consequence caused.
7. Analyzing and mapping out the risk levels of financial service providers, providers of goods and other services, profession institution used as a means of conducting a ML based on the level of the trend and the level of consequence.
8. Evaluating the risk levels of ML according to the origin crime and according to the Reporting Party in the framework of the preparation of the risk management recommendation of ML.

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## CHAPTER 2

# Literature Study

In the preparation of the NRA on ML documents, Indonesia NRA Team has conducted various study of literature concerning the development of regulation and a typology of ML as well as *international best practices* regarding the preparation of *NRA on ML*.

### A. SCOPE OF ML CRIMINALIZATION

Under Law of the Republic of Indonesia Number 8 Year 2010 concerning the prevention and eradication of criminal act of money laundering Article 1 section 1 mentioned that: Money Laundering is the deeds that meet the elements of a criminal act in accordance with the provisions of this Law. While the criminalization against ML is further provided for in Article 3, Article 4 and Article 5 for individual preparators as well as Article 6 and Article 7 for the perpetrators of Corporation.

**Criminalization of ML can be categorized in two categories :**

- 1. Active ML** (Article 3 and 4 Law of ML), more emphasizes on :
  - a. ML perpetrator at once the origin crime perpetrators,
  - b. ML perpetrators who know or should suspect that wealth comes from the result of a criminal Act
- 2. Passive ML** (Article 5 Law of ML), more emphasizes on :
  - a. The perpetrators enjoying the benefits of the proceeds of crime, and
  - b. The perpetrators participating to hide or disguise the origin of wealth.

**Article 3** : Any person that places, transfers, assigns, spends, pays, grants, entrusts, takes out if the country, changes form, exchanges with currencies or negotiable papers, or undertakes other actions in respect of assets known or reasonably suspected by such person as originating from the proceeds of a criminal act as intended in Article 2 section (1) with the purpose of hiding or concealing the origin of the Assets shall be subject to be sentenced due to the criminal action of Money Laundering with the imprisonment for no longer than 20 (twenty) years and fine for no more than Rp 10.000.000.000 (ten billion rupiah).

**Article 4** : Any person who hides or conceals the origin, source, location, allocation, assignment of rights, or the actual ownership of the Assets known or reasonably suspected by such person as originating from the proceeds of a criminal act as referred to in Article 2

section (1) shall be subject to criminal sanction for committing the criminal act of money laundering with imprisonment of no longer than 20 (twenty) years and fine for no more than Rp. 5.000.000.000, 00 (five billion rupiah).

**Article 5 section (1):** Any person who receives or control the placement, transfer, payment, grant, donation, depositing, exchange, or uses the Assets that are known or reasonably suspected by such person to originate from the proceeds of a criminal act as intended in article 2 section (1) shall be subject to the criminal sanction of imprisonment for no longer than 5 (five) years and fine for no more than of Rp 1.000.000.000, 00 (one billion rupiah).

**Article 6 section (2):** Criminal sanction shall be imposed on a Corporation if the criminal act of Money Laundering is:

- a. committed or ordered by the Corporation Control Personnel;
- b. committed in the context of the achievement of the Corporation's purposes and objectives;
- c. committed in accordance with the duties and functions of the perpetrator or the party giving the order; and
- d. committed with the purpose of providing benefits to the Corporation concerned.

**Article 7** : (1) The principal criminal sanction that can be imposed on a Corporation shall be the fine sentence for no more than Rp100.000.000.000, 00 (one hundred billion rupiah).

(2) In addition, other than fine sentence as set forth in section (1) above, against the Corporation shall also be sentenced with additional sentence as follow:

- a. the announcement of the judge's decision;
- b. the freezing of a portion of or the entire business activities of the Corporation concerned;
- c. the revocation of business license;
- d. the dissolution and/or banning of the Corporation concerned;

- e. the forfeiture of Corporation's assets for the state; and/or;
- f. take over of the Corporate by the State.

Based on Law No. 8 in 2010 On the Prevention and Eradication of the Criminal Act of Money Laundering Article 2 section (1) it is mentioned that the results of the criminal act of ML is Wealth gained from a criminal act as follows:

- a. corruption;
- b. bribery;
- c. narcotics;
- d. psychotropic substances;
- e. labor smuggling;
- f. smuggling of migrants;
- g. in the field of banking;
- h. in the field of capital market;
- i. in the field of insurance;
- j. customs;
- k. excise;
- l. human trafficking;
- m. illicit arms trade;
- n. terrorism<sup>1</sup>;
- o. kidnapping;
- p. theft;
- q. embezzlement;
- r. fraud;
- s. money counterfeiting;
- t. gambling;
- u. prostitution;
- v. in the field of taxation;
- w. in the field of forestry;
- x. in the field of the environment;
- y. in the field of maritime and fisheries affairs; or
- z. another criminal acts subject to the criminal sanction of imprisonment for 4(four) years or more.

**The results of a criminal Act is the Wealth gained from origin crime done in the territory of the Republic of Indonesia or outside the territory of the Republic of Indonesia and the criminal act is also a criminal act under the laws of Indonesia.**

*Article 2 section (1) Law of ML No. 8 of 2010*

<sup>1</sup> Also included assets that were allegedly to be used and / or used directly or indirectly for terrorist activities, terrorist organizations or individual terrorists (Article 2 (2) Law No. 8 of 2010).

## B. REPORTING PARTY IN AML REGIME

Search of Wealth gained from a criminal Act generally, is carried out by financial institutions through the mechanism provided for in legislation. Financial institutions have an important role especially in applying the principle of recognizing customers and reporting certain transactions to the Authority (*Financial Intelligence Unit*) as a basis for analysis and further delivered to investigators.

In Law No. 8 of 2010 Article 17 section (1), mentioned that the Reporting Party include:

- a. Financial Services Providers (FSP):
  1. Bank;
  2. Finance companies;
  3. Insurance companies and insurance brokerage firm;
  4. financial institution pension fund;
  5. Securities companies;
  6. Investment managers;
  7. Custodian;
  8. The trustee;
  9. Postal company as a provider of money transfer services;
  10. Money Changers;
  11. Card-basis payment device service provider;
  12. *E-money and/or e-wallet service provider*;
  13. Cooperation that performs activity of saving and loan;
  14. Pawn shops;
  15. Companies that runs in the field of commodity futures trading; or
  16. Remittance service provider.
- b. Providers of goods and/or other services (GSP):
  1. Property company /property agents;
  2. Motor vehicle dealers;
  3. Gems, jewelry, and precious metal dealers;
  4. Antique and artistic stuff dealers; or
  5. Auction House.

Financial institutions not only plays a role in assisting law enforcement, but also protects the institution of various risks, i.e. the risk of operational, legal, reputation and concentration of transactions, because it is no longer used as a mean and a goal by the perpetrator of a criminal Act to launderer money of crime results. With a good risk management, financial institutions will be able to carry out its functions optimally so that in turn the financial system becomes more stable and reliable.

In the anti-money laundering regime, the Reporting Party particularly banking has a very important role in assisting law enforcement in Indonesia and is a *front liner* in preventing and eradicating the criminal Act of money laundering. It is because the information/reports submitted by the Reporting Party to the PPATK became the first and foremost source of information for the efforts to find alleged criminal Act of money laundering. To be able to do so, the Reporting Party is obliged to apply the Principle of Recognizing Customers set by each Self-Regulating Bodies as required in Article 18 section (2) Law of ML.

The Principle of Recognizing Customers is the principle applied by the Reporting Party to know the background and the identity of the customer, monitor transactions, and report transactions to the authorities/PPATK. Policy on the application of the Principle of Recognizing Customers, at least contain:

- 1) customer identification;
- 2) customer verification; and
- 3) customer transaction monitoring.

**The Government of the Republic of Indonesia through Government Regulation (PP) No. 43 of 2015 on Reporting Party in the Prevention and Eradication of the Criminal Act of Money Laundering which has been assigned by the President in June 2015, has set up a new Reporting Party existence other than those provided for in Article 17 section 1 Law No. 8 of 2010 ML, namely:**

1. Financial Service Provider :
  - a. venture capital firm;
  - b. the company financing the infrastructure;
  - c. microfinance institutions; dan
  - d. export financing institutions.
2. Profession :
  - a. Advocate;
  - b. Notary;
  - c. Land Deed Official (PPAT);
  - d. Accountant;
  - e. Public Accounting; and
  - f. Financial planner

The obligation to apply the principle of recognizing customers is exercised at the moment:

- 1) doing business relationships with Customers;
- 2) there is a financial transaction with the rupiah currency and/or foreign currency whose value is at least or equivalent to Rp100.000.000,00 (one hundred million rupiah);
- 3) there is a Suspicious transactions report associated criminal act of money laundering and terrorism financing; or
- 4) Reporting Party doubted the truth of the information reported by the Customers.

The implementation of the application of the principle of Recognizing Customers has significance among others:

- 1) By knowing the background and identity as well as monitoring the transaction done by customers, it will provide added value for the Reporting Party especially in fostering good relationships with customers that are beneficial aspects of its business. Against prospective customers, a good relation will be continuously maintained and improved.
- 2) Can create a healthy industry, because it can be spared from the risk of operational, legal, and reputation, as well as concentration of transactions.

### **C. SELF-REGULATING BODIES IN AML REGIME**

In the implementation of Anti-Money Laundering and the Prevention of Terrorist financing Programs by the Reporting Party, it is in a supervision of Self-Regulating Bodies having the authority of supervision, setting, and/or the imposition of sanctions against the Reporting Party. Parties that become Self-Regulating Bodies are as follows:

- a. The Financial Services Authority, in charge of doing the arrangements and supervision against financial service activities in the banking sector, capital market sector and the Non-Bank Financial Industrial sector (insurance, pension funds, Financing Institutions, Special Financial Services Institutions, and Microfinance Institutions). Arrangement and monitoring by FSA against the reporting party are set based on the following conditions:
  - Bank Indonesia Regulation Number 14/27/PBI/2012 on the implementation of the Anti-Money Laundering and Countering of Financing of Terrorism (AML and CFT) Program for Commercial Banks. s
  - The Financial Services Authority Regulation Number 22/POJK. 04/2014 on the Principle of Recognizing Customer by Financial Service Providers in the Capital Markets.



- b. Bank Indonesia, which is in charge of doing the arrangements and supervision against Money Changer, and Business Activities of Remittances (MONEY REMITTANCE). Related to the implementation of the Anti-Money Laundering Regime and the Countering of Financing of Terrorism in both sectors, Bank Indonesia has issued:
- Bank Indonesia Regulation Number 9/12/PBI/2007 on Foreign Exchange Trader.
  - Bank Indonesia Regulation Number 8/28/PBI/2006 on the Business Activities of Remittances (Bank Indonesia circular letter No. 10/49/DASP on Licensing for Business Activities of Remittances of individuals and business entities other than banks).
  - Bank Indonesia Regulation No. 7/52/PBI/2005 on the Organization of the Activities of the Payment Means Using the Card, replacing the Bank Indonesia Regulation No. 6/21/PBI/2004 dated December 28, 2004.
  - Bank Indonesia Regulation No. 11/2/PBI/2009 dated April 13, 2009 on *Electric Money*.
- c. Director General of Postal - Ministry of communication and Informatics (KEMKOMINFO), which is in charge of doing the setting, supervision, and control in the field of organization of the national posts and telecommunications. In Law No. 38 of 2009 (Law of Postal) mentioned that organizers of postal can do some kinds of service activities, including services of financial transactions. Organizers of the postal that give a financial transaction services to customers include one of Reporting parties under Law of ML. To streamline the supervision against organizers of the postal, PPATK and KEMKOMINFO, in particular the Directorate General of postal did the signing of a *Memorandum of Understanding (MoU)* on June 12, 2009.
- d. Commodity Futures Trade Supervisory Agency (BAPPEBTI), Ministry of trade, which is in charge of doing the construction, arrangement, and supervision of the activities of futures trading as well as the physical market and services. Thus, BAPPEBTI is the regulator for commodity futures trading. To streamline the supervision against the commodity futures trading, the PPATK and BAPPEBTI conducted the signing of a *Memorandum of Understanding (MoU)* on November 8, 2008.
- e. Ministry of Cooperatives and SMEs (Small and Medium Enterprises), based on Law No. 25 of 1992, is in charge of conducting supervision and arrangements against business activities of saving and loan.

- f. Director General of State Receivables and Auction, Ministry of Finance, based on the Regulation of the Minister of Finance Number 118/PMK. 07/2005 on Auction Center serves to conduct the arrangement against the Auction Center. In this rule, the Auction Center is a limited liability company (PT) founded by the national private, national private joint venture with foreign private, or joint venture of Local/State-owned Enterprises(BUMN/D) with the national/foreign private specifically founded for conducting business activities of the Auction Center. Operational License of Auction Center is granted and revoked by the Director General on behalf of the Minister of Finance.
- g. Director General of Domestic Trade (Directorate General PDN) – Ministry of Trade, based on Regulation of Minister of Trade RI No. 33/M-DAG/PER/8/2008 on the Property Trading Brokerage Company, is in charge and responsible to conduct coaching and supervision as well as evaluation of holding of the business activities of trade property intermediary. Coaching is done through the outreach, consultation, facilitation, education and training. Supervision is carried out in accordance with the instructions of the technical implementation of the supervision.
- h. Financial Transaction Reports and Analysis Centre (PPATK) Under Article 31, the Supervision of Compliance upon the reporting obligations for the Reporting Party is conducted by Self-Regulating Bodies and/or PPATK. In the event that Supervision of Compliance upon the reporting obligations is not performed or there is no Self-Regulating Bodies, Supervision of Compliance upon the reporting obligations is undertaken by PPATK. Furthermore, in the provisions of Article 18 Law of ML, among others, it is set forth that Self-Regulating Bodies establishes the principle of recognizing customers. In the event that there is not yet a Self-Regulating Bodies, provisions on the principle of recognizing customers and its supervision is set forth with the Regulation of Head PPATK.

In addition to the Self-Regulating Bodies as well as the Reporting Party above, there is an institution that has a special role with regard to bringing cash and or other payment instruments, namely the Directorate General of Customs and Excise (DJBC). DJBC role mentioned is:

- a. responsible for the compliance of any person to notify upon bringing cash in rupiah currency and foreign currencies, and/or other payment instrument in the form of checks, traveler's checks, promissory notes to pay, or bilyet giro at least Rp100.000.000,00 (one hundred million rupiah) or whose value is equivalent to the inside or to the outside of the customs region of Indonesia.
- b. the obligation to make reports about bringing cash and/or other payment instruments in question and submit it to PPATK maximum 5 (five) working days since the receipt of the notification.

- c. imposing administrative sanction against any person who does not notify the bringing cash and/or other payment instruments in question.
- d. compiling reports regarding the imposition of administrative sanctions and submit it to PPATK no more than 5 (five) working days since the administrative sanctions was defined.
- e. following up by issuing the provisions or technical instructions after promulgation of the Government Regulation on the procedures for notification of bringing cash and/or other payment instruments, imposition of administrative sanctions, and deposit to the state cash.

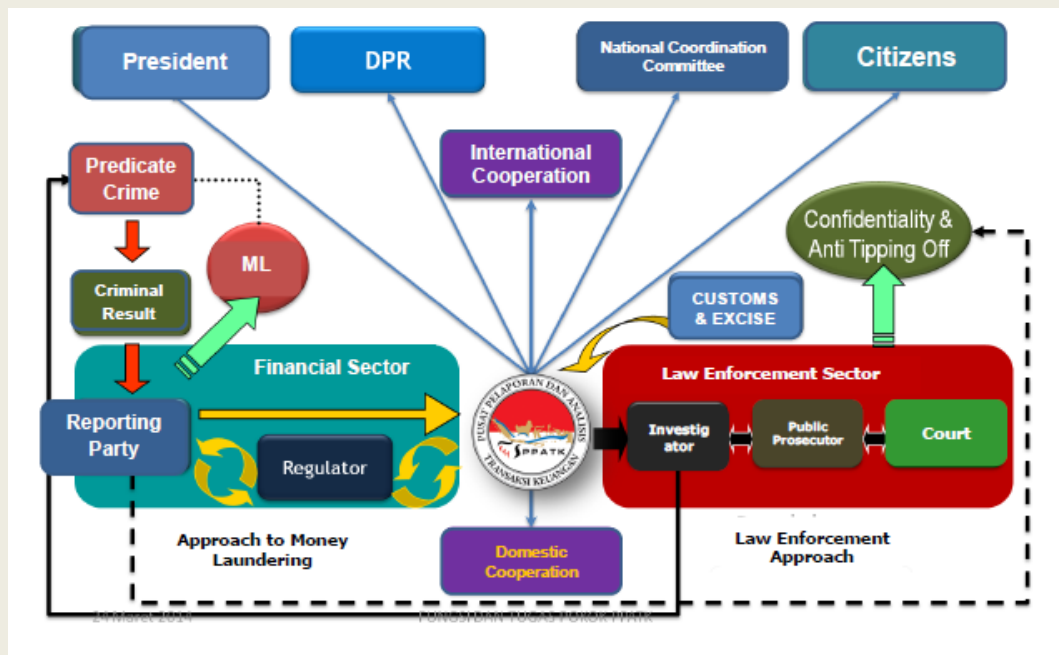
#### **D. INDONESIA FINANCIAL TRANSACTION REPORTS AND ANALYSIS CENTER (INTRAC) AS *FINANCIAL INTELLIGENCE UNIT (FIU)***

Financial Transaction Reports and Analysis Centre (PPATK) is the intelligence agency in the field of finance which have a form of *administrative model*. In the world, the intelligence agency in the field of finance is also known by the generic name of *the Financial Intelligence Unit (FIU)*. In the anti-money laundering regime in Indonesia, PPATK is a very important element since it is the *national focal point* in efforts to prevent and eradicate the criminal act of money laundering and terrorism financing.

**Nowadays, the role and existence of PPATK are increasingly recognized in the law enforcement efforts of prevention and eradication of ML. In addition, PPATK also contributes to provide information related to prospective State officials' wealth, optimizing the potential of State revenue in taxes through the Anti-Money Laundering Regime, as well as contributes in helping realize a clean, transparent and having-integrity Election.**

The PPATK was founded on April 17, 2002, in conjunction with the enactment of Law No. 15 of 2002 on the Criminal Act of Money Laundering (ML). The existence of PPATK is intended as Indonesia attempts to participate along with other countries to eradicate transnation organized crime such as money laundering and terrorism. In its progress, tasks and authorities of PPATK as contained in Law No. 15 of 2002 was amended by Law No. 25 of 2003 and have been added including the PPATK institutional realignment on Law No. 8 of 2010 on prevention and eradication of the Criminal Act of Money Laundering. The main task of PPATK pursuant to section 39 Law of ML is preventing and eradicating the criminal Act of money laundering. The following is described the role of PPATK in the scheme of the anti-money laundering regime in Indonesia.

**FIGURE 2:**  
The Role of PPATK in the Anti-Money Laundering Regime Scheme in Indonesia



Nowadays, the role and existence of PPATK are increasingly recognized in the law enforcement efforts of prevention and eradication of ML. Analysis Result (LHA) which is a product of the PPATK had already reached the number of 3. 131 Analysis Results related to ML submitted to investigators since 2003 until end of August 2015<sup>2</sup>. While the number of Analysis Result related to TF has reached 72 Analysis Results. PPATK has also contributed in providing information related to treasures of prospective State officials, in hopes of being able to eliminate someone doubted his integrity. In addition, PPATK has also contributed with Directorate General of Tax in an attempt to unearth potential State revenue in taxes through the Anti-Money Laundering Regime, as well as contributed in helping realize a clean, transparent and having-integrity Election.

## E. LAW ENFORCEMENT AGENCIES OF ML

Every examination action of ML has a strong legal basis. Procedure or mechanism to do e.g. delay of transactions needs to be regulated in a more clear and complete so as not to give rise to different interpretations so that doubts arise from the law enforcement authorities in taking action. The following is the law enforcement Officials who has the authority based on the stages of the process of law enforcement of ML:

<sup>2</sup> Statistics Bulletin of Anti-Money Laundering and Terrorism Financing, August 2015

**a. The Investigation Process**

The Law of ML which is currently in force establishes the investigation of the criminal Act of money laundering is conducted by the origin crime investigators. Origin crime investigators are officials from the Agency which by law is given the authority to conduct the investigation, namely the State Police of Republic of Indonesia, the Prosecutor's Office, the Corruption Eradication Commission (KPK), National Narcotics Agency (BNN), as well as the Directorate General of Taxes and Directorate General of Customs and Excise of the Ministry of Finance of the Republic of Indonesia. Origin crime investigators can conduct investigation of ML when finding the adequate initial evidence of the occurrence of the criminal act of money laundering while doing the investigation of a origin crime pursuant to their authority as follows:

- 1) The Police, conducting the investigation against the criminal act of money laundering with an indication of the origin crime referred to in Article 2 Law of ML in accordance with the Police Authority as provided for in the legislation.
- 2) The Prosecutor, conducting the investigation against the criminal act of money laundering with indications of criminal act of corruption as referred to in Article 2 Law of ML in accordance with the authority of the Prosecutor as set forth in the legislation.
- 3) Corruption Eradication Commission (KPK), conducting the investigation against the criminal act of money laundering with indications of criminal act of corruption as referred to in article 2 Law of ML in accordance with the authority of KPK as set forth in Law No. 20 of 2001 on the changes to the Law Number 31 of 1999 on the Eradication of Criminal Act of Corruption and Law No. 30 of 2002 on Commission of Eradication of Criminal Act of Corruption.
- 4) The National Narcotics Agency (BNN), conducting the investigation against the criminal act of money laundering with indications of criminal Act of narcotics and psychotropic substances as referred to in Article 2 Law of ML in accordance with the authority of BNN as set forth in Law No. 35 of 2009 on Narcotics and Law No. 5 of 1997 on Psychotropic Drugs.
- 5) Directorate General of Taxes, conducting the investigation against the criminal act of money laundering with indications of criminal Act in the field of taxation as referred to in Article 2 Law of ML in accordance with the Authority of Directorate General of Tax as set forth in Law No. 6 of 1983 On General provisions and Taxation procedures as amended by Law No. 16 of 2009 on the Determination of the Government as Replacement of Law No. 5 of 2008.
- 6) Directorate General of Customs and Excise, conducting investigation against the criminal Act of money laundering with an indication of the criminal act of customs as referred to in Article 2

Law of ML in accordance with the authority of the Directorate General of Customs and Excise as set forth in Law No. 10 of 1995 on Customs as amended by Law No. 17 of 2006 and Law No. 11 of 1995 on the Excise as amended by Law No. 39 of 2007.

In the process of this investigation, the Law gives authority to the investigators, namely:

- 1) Suspension of transactions by FSP upon the orders of law enforcement against the Property that is known or ought to be reasonably alleged as the result of a criminal act.
- 2) The blocking of Property known or ought to be reasonably alleged as result of a criminal act from: any person who has been reported by PPATK to investigators; suspects; or the defendant.
- 3) Request for information in writing to the Reporting Party about Treasures from the people that have been reported by PPATK to investigators; suspects; or the defendant.
- 4) The confiscation of assets that are known or should have been suspected as the result of a crime that has not been seized by the investigator or prosecutor concerned.

**b. The Prosecution Process**

In the event that investigators had finished doing the investigation, the investigator is obligated to immediately hand over the dossiers to the public prosecutor as follows:

- 1) Prosecutor, conducting the prosecution over the case of the criminal Act of money laundering and the origin crime comes from the handover of dossiers by investigators in accordance with the authority of the Prosecutor as set forth in the legislation.
- 2) Corruption Eradication Commission (KPK), conducting a prosecution over the things of the criminal Act of money laundering and origin crime comes from the handover of dossiers by KPK investigators in accordance with the authority of KPK as set forth in the legislation.

The handling of the ML case at the level of prosecution until assigned to the Court is subject to the conditions set forth in Article 137 to 144 of Indonesia Criminal Code (KUHP). The public prosecutor handling a criminal act of money laundering can choose some alternative form of indictment that will be compiled, namely:

- 1) *Predicate crime* and money laundering are made in the form of cumulative;
- 2) *Predicate crime* and money laundering of indictment are done separately or made a single claim.

**c. Court Proceedings**

Implementing the ML proceeding in the Court session under section 78 Law of ML can be done by:

- 1) The General Court, conducting examination in court hearing over the case of the criminal Act of money laundering and origin crime in accordance with Law No. 4 of 2004 on the changes to the Law No. 14 of 1985 on the Powers of the Judiciary.
- 2) The Court of Criminal Act of Corruption, conducting examination in court hearing over the case of the criminal act of money laundering and criminal act of corruption in accordance with Law Number 46 of 2009 on the Court of the Criminal Act of Corruption.

## **F. COORDINATION OF PREVENTION AND ERADICATION OF ML**

To improve the coordination among related institutions and to support the effectiveness of the implementation of the anti-money laundering regime in Indonesia, the Government of Indonesia established a National Coordination Committee of Prevention and Eradication of the Criminal Act of Money Laundering, chaired by coordinating Minister for Political, Law and Security Affairs with vice coordinating Minister of Economy and Head of PPATK as Secretary of the Committee. The National Coordination Committee for the Prevention and Eradication of the Criminal Act of Money Laundering is currently basing on the Presidential Decree Number 6 of 2012. The Following is the membership structure of National Committee of the Prevention and Eradication of ML:

Chairman	: Coordinating Minister for Politics, Law and Security Affairs
Vice Chairman	: Coordinating Minister of Economy
Secretary	: Head PPATK (and as member)
Members	: Governor of Bank Indonesia, Minister of Finance, Minister of Foreign Affairs, Minister of Home Affairs, Minister of Justice and Human Rights, the Attorney General, Head of Police of Republic of Indonesia, Head of State Intelligence Agency, Head of National Counter-Terrorism Agency, Head of National Narcotics Agency

According to Article 4 of Presidential Decree Number 6 of 2012 , ML Committee has the task, as follows:

- 1) Formulating direction, policy, and strategy for the prevention and eradication of the criminal act of money laundering;

- 2) Coordinating implementation of programs and activities pursuant to the direction, policies, and strategies of prevention and eradication of the criminal act of money laundering;
- 3) Coordinating measures necessary in handling other matters relating to the prevention and eradication of the criminal act of money laundering including terrorism financing; and
- 4) Conducting monitoring and evaluation over the handling and implementation of programs and activities pursuant to the direction, policies and strategies of prevention and eradication of the criminal act of money laundering.

The National Coordination Committee for the Prevention and Eradication of ML has compiled National strategy for the Prevention and Eradication of the Criminal Act of Money Laundering and Terrorist financing in order to be reference for the Ministry/ Institutions/Agencies who are members of the National Coordination Committee for the PREVENTION AND ERADICATION OF ML as well as related parties in drawing up and carrying out activities in the framework of the implementation of the National Strategy. This National Strategy was set by the Decree of the Coordinating Minister for Political, Law and Security Affairs Number: KEP-29/MENKO/POLHUKAM/3/2012. There are 12 (twelve) National Strategies for the Prevention and Eradication of the Criminal Act of Money Laundering and Terrorist financing including:

- 1) Implementation and supervision of the use of the Population Identification Number
- 2) Implementation of Law of the Republic of Indonesia Number 8 Year 2010 concerning the prevention and eradication of criminal act of money laundering with the acceleration of the completion of its Implementation Regulations
- 3) Management of Database Electronically and connection of Database owned by several related institutions
- 4) Increased Supervision of Compliance with Financial Services Providers
- 5) Acceleration of the Preparation of the Implementation Regulations and the Preparation of Implementation of Reporting Obligations For Providers of Goods and Services
- 6) Improve the Effectiveness of Application of Confiscation of Assets and Asset Returns
- 7) Improve the Effectiveness of Disclosure of the Cases associated with Organized Crime and ML
- 8) Enhancement of the Role of Community through Public Campaigns
- 9) Enhancement of International Cooperation
- 10) Acceleration of the Completion of DRAFT of Prevention and Eradication of Terrorist financing and Drafting its Implementation Regulations
- 11) Handling of Remittance Sector comprehensively (Implementation of Law on Transfer of funds))
- 12) Handling of *Non-Profit Organization* Sector comprehensively



## G. NATIONAL RISK ASSESSMENT ON ML

In performing the national risk assessment against ML, the FATF does not set a standard reference. However, there are at least 2 (two) models of the NRA that a country may be adopted in the preparation of the model of *NRA on ML* that will be built, namely:

### 1) NRA Model version FATF

According to FATF in " *FATF Guidance: National Money Laundering and Terrorist Financing Risk Assessment* " it is said that there are 3 (three) phases in performing risk assessment with details as follows:

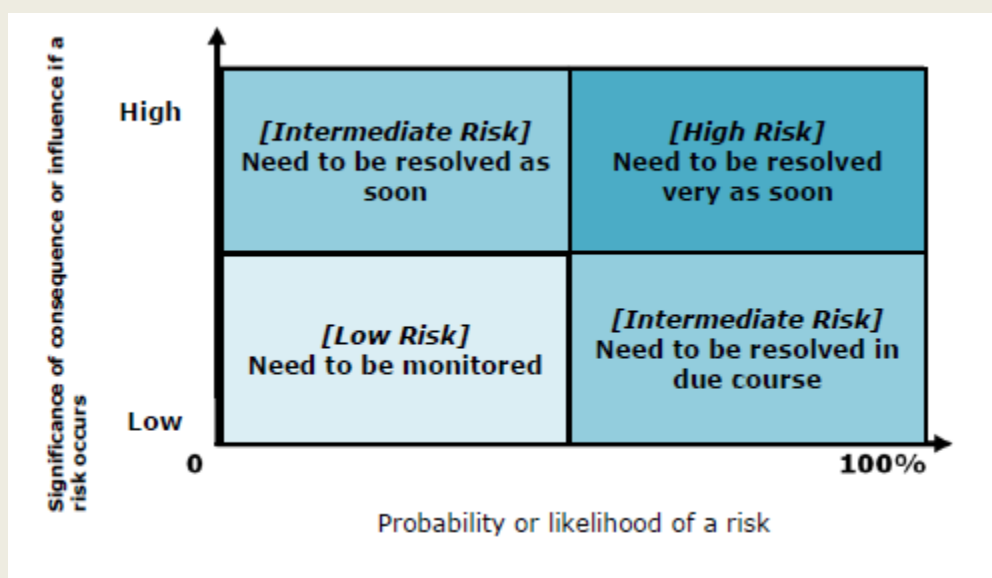
#### **First Phase: Identification**

At this phase, it contains a process for identifying the risks that will be analyzed. This identification process is a combination of vulnerabilities, threats and consequences of this research. The initial step is done by performing logging against the type of data and information that goes into the category of threat, vulnerability and consequence.

#### **Second Phase: Analysis**

The analysis phase is a continuation of the risk identification phase using a variable of vulnerability, threat, and consequences.

**FIGURE 3:**  
Matrix Illustration of Risk Analysis

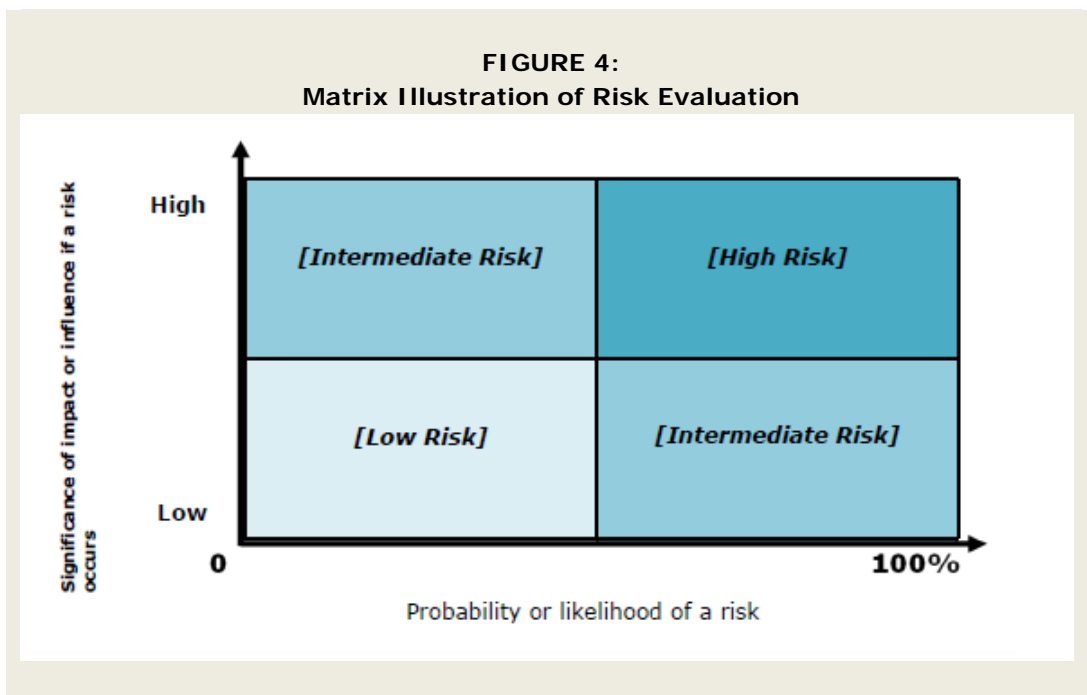


The purpose of this step is to analyze the risks identified to understand the nature, sources, possibilities and consequences in order to establish some kind of relative value for each risk. The description of the risk analyzed can be

displayed into the form of a matrix scale of Low Risk, Medium Risk, and High Risk, as shown in Figure 3 above.

### **Third Phase: Evaluation**

The evaluation phase contains the process of pickup results found during the analysis process to determine priority in addressing the risks, by taking into account the purpose of the risk assessment at the beginning of the assessment process. This phase at once contributes to the development of strategies for mitigation of risks that led to the development of strategies to address those risks. The description of the evaluation matrix against these risks can be plotted on the chart as follows:

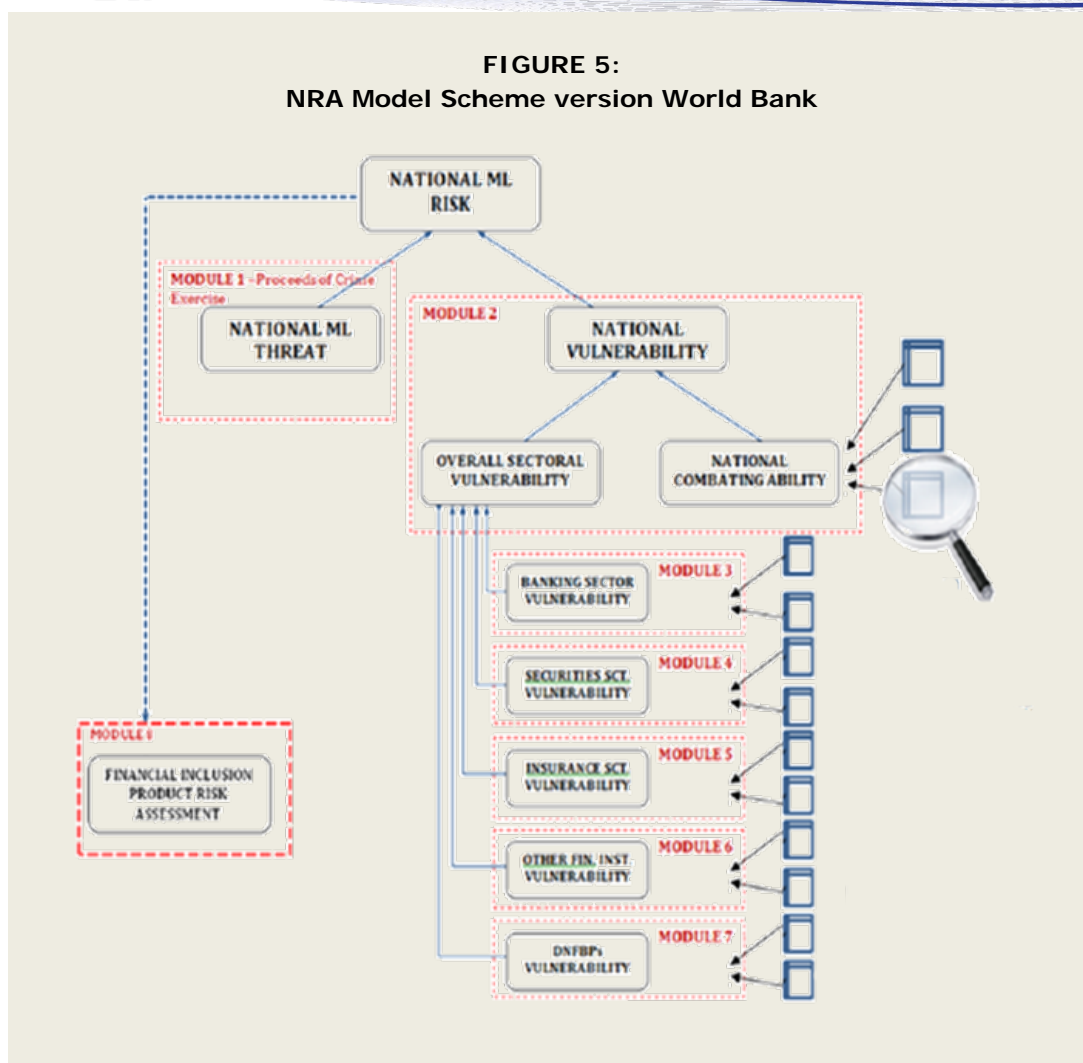


The evaluation phase is the phase done in the decision-making level for the purpose of determining the strategic step going forward.

## **2) NRA Model version World Bank**

According to the World Bank in national risk assessment there is a more comprehensive assessment formula or model to measure both national and Sectoral risk. This model defines money laundering risks as a combination of a national threat and vulnerability. Module of national threat is "*Proceeds of Crime*". In assessing the national vulnerability, a number of variables are evaluated as the Prime Mover (input variable) of vulnerability to money laundering. All these input variables are the building blocks of the network that eventually form the series as a whole.

FIGURE 5:  
NRA Model Scheme version World Bank

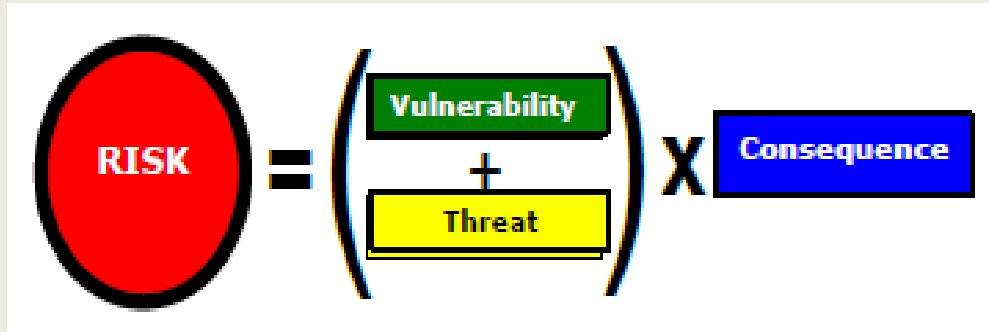


In the World Bank model, it can be seen clearly that the building of a nationwide risk assessment consists of several input variables that are the results of the risk assessment are Sectoral (sector banking, capital market, insurance, institutional finance other, *Designated Non-Financial Business and Professions/DNFBPs* (GSP and profession) so that it forms a unified whole.

### 3) Risk Assessment Formulation

In IMF Manual about *"The Fund Staff's Approach To Conducting National Money Laundering Or Financing Of Terrorism Risk Assessment"* in section 7 explained that: *"risk can be represented as:  $R=f[(T),(V)] \times C$ , where  $T$  represents threat,  $V$  represents vulnerability, and  $C$  represents consequence".* Based on these guidelines, the formulation to do risk assessment can be formulated as follows:

FIGURE 6:  
Equation of Risk Assessment



To be able to use, this formula in advance needs to be done for defining each variable of vulnerabilities, threats and consequences in accordance with the criteria used to describe the criminal act of money laundering or the terrorism financing. Referring to the *FATF Guidance*, it is mentioned that:

- a. **Threats** are a person or a group of persons, objects or activities that have the potential to cause harm. In the context of money laundering, threats include criminal acts, terrorist groups and its financing.
- b. **Vulnerabilities** are things that can be utilized or support the threat or may be referred by the factors describing the weaknesses of the system of anti-money laundering/terrorist financing either in the form of financial products or interesting services for the purposes of money laundering or the terrorism financing.
- c. **Consequences** are the result or the loss of the criminal act of money laundering and or terrorist financing against institutions, economic and social in more broadly, including the loss of criminal activity and terrorism itself.

In *FATF Guidance* it is mentioned that in conducting risk assessment should ideally involve determination of the elements of threat, vulnerability, and consequences as explained above.

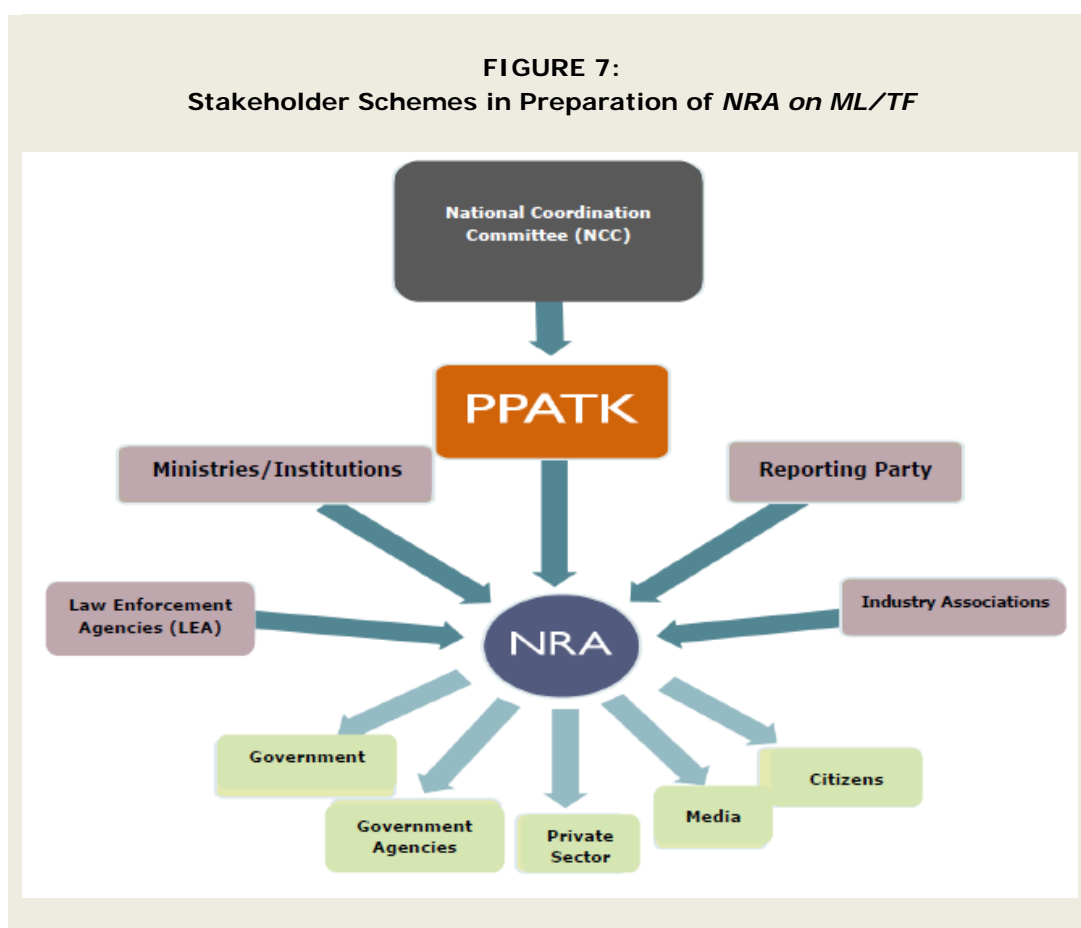
## CHAPTER 3

# Methodology

The activities of *the NRA on ML* are carried out by Indonesia NRA Team comprehensively, completely, integratedly, and using methods and frameworks adopted from *international best practices*. In the process of identifying the risk factors of ML, Indonesia NRA Team has collected data/information from various *stakeholders of AML-CFT regime*, such as the Reporting Parties, Self-Regulating Bodies, Law Enforcement Officials, Associations and other *stakeholders*. Data collection is done either through the dissemination of an *in-depth interview* questionnaire or *Focus Group Discussion*, then further comprehensive studies will be carried out within the framework of the NRA review.

The following the scheme of the stakeholders involved in the preparation of *the NRA on ML /TF* Indonesia:

**FIGURE 7:**  
Stakeholder Schemes in Preparation of *NRA on ML/TF*



Based on the development of the *literature review* as well as the results of the *Focus Group Discussion (FGD)* with *expert* and related stakeholders, Indonesia NRA Team has compiled measurement methodology of Indonesia ML risk factors. To measure the threat level, the vulnerability level, the Likelihood level, the consequence level, as well as the risk level, Indonesia NRA Team used hierarchical method (multilevel). In such method the team compiled the mathematical formulation of risk factors having several builder variables and sub-variable, with details as follows:

a. ML threat based on the Predicate crimes:

1) The Real Threat:

a) Searching ML-indicated transactions:

- Number of STR
- Number of Analysis Result Report
- Number of Examination Result Report

b) ML-indicated Examination by Investigators:

- Number of cases investigated in the predicate crimes
- Number of cases investigated

c) ML Prosecution:

- Number of ML cases prosecuted

d) ML Examination in the court:

- Number of the ML verdict decided by the Court

2) Potential Threats:

- Perception of Law Enforcement Officials related to potential ML level according to predicate crimes

b. ML Vulnerability:

a) Vulnerability of Reporting Party:

1) Internal Vulnerability:

- Anti-money Laundering Program Availability
- Anti-money Laundering Program Management
- Policies and procedures of Anti-Money Laundering Program
- Internal Supervision of Anti-Money Laundering Program
- Reliability of Information System of Anti-money Laundering Program
- Human Resources Adequacy and Capability of Anti-Money Laundering Program
- Perception of Anti-money laundering Program Issue
- Ability to identify the predicate crimes in suspicious transactions report

2) Reporting Vulnerability:

- Ratio of number of STR against number of customers/customers having a high risk of ML

b) Vulnerability of Law Enforcement Officials:

1) Internal Vulnerability:

- Strategic Policy in the handling of ML case
- The Highest Management Support related to Anti-Money Laundering Regime
- Policies and Procedures in the handling of ML case
- Reliability of Information Systems in the handling of ML case
- Human Resource Adequacy and Capability in the handling of ML case
- Internal Supervision of Anti-Money Laundering Regime
- Perception against the Issues related to Handling of ML case

2) Vulnerability of Follow-up of ML Case Handling:

- The percentage of follow-up over the submission of the Analysis Result Report and/or Examination Result Report to ML Investigators

c. ML Consequences:

1) Real Consequences:

- Average Value of the Suspicious transactions report
- Average Value of ML-indicated in the Analysis Result Report of PPATK
- Average Value of ML-indicated in the Examination Result Report of PPATK
- Average Value of ML-indicated in the ML Investigation File
- Average Value of ML-indicated in the Prosecution File
- Average Value related to ML in the Court Verdict File of ML case

2) Potential Consequence:

- Law Enforcement Official perception related to the level of average value of ML according to predicate crimes.

Against a variety of ML risk factors, it has been performed a quantitative and qualitative analysis in order to measure the level of threat, vulnerability, Likelihood, and consequence caused. Moreover, against the results of ML risk analysis in Indonesia, evaluation has also been done so that it can be compiled a wide range of recommendations along with its implementation strategy.



CHAPTER  
4Identification, Analysis, And  
Evaluation of Indonesia ML  
Risk Factors

As a maritime country with a growing population of more than 252 million spreading across the 17,504 islands and average economic growth level above 5 percent, Indonesia has a great challenge and threat in doing quality development in all its dimensions. In addition to the threat of corruption, narcotics, poverty, and inequality of society welfare, one of the Indonesia nation's current big threats is the threat against the rampant money laundering. Money laundering threats can come from domestic funds of which is sourced from domestic proceeds of crime, as well as from abroad. As one of the economic centers of the world, particularly in the Asia Pacific region, Indonesia becomes one of the destination countries for foreign investment. The influx of foreign funds into Indonesia on one side can be seen as an *advantage* for Indonesia's economy, but on the other hand it can also be a gap for the influx of *illicit funds* that encourages the occurrence of money laundering. These conditions demand the whole *stakeholders* to maintain the integrity of the Indonesia financial systems in order to be freed from the threat of money laundering.

As part of the international interaction, the risk of the occurrence of the criminal Act of money laundering globally in Indonesia is classified as "Upper Middle". This is shown by the magnitude of "*The Basel AML Index*" which is launched by the *Basel Institute on Governance*. The Basel AML Index measures the risk level of a country against ML and the terrorist financing based on progress in the implementation of the AML/CTF standards and other risks such as financial regulation, public transparency, corruption and the rule of law. Index quantity is in the 0-10 scale. The larger the index value reflects the higher ML and TF risk in a country is. Based on the calculation results of the *Basel Institute on Governance*, the entire score of Indonesia AML Index in 2015 recorded amount of 6.23. This magnitude put Indonesia at position 59 of 152 countries with the highest risk of money laundering and terrorism financing. This shows that when compared with other countries, Indonesia is in a fairly Risk region against the occurrence of the Criminal Act of Money Laundering and terrorism financing.

Observing the seriousness of ML threat, FATF through Recommendation No.1 encourages each State in order to be able to apply a *Risk-based Approach/RBA* to ensure that the prevention measures or completion of money-laundering cases commensurate with the risks identified. As a concrete form of Indonesia's commitments towards the implementation of FATF Recommendations related to such risk assessment, the Government of Indonesia has conducted a risk analysis of money laundering in Indonesia through the activities of *National Risk Assessment on Money Laundering (NRA on ML)*.

**FIGURE 8:**  
**Indonesia Position in Implementation of AML-CFT Regime**  
**(under 2015 AML Basel Index)**



**Source:** Adopted from "2015 Basel AML Index Report"

Through the activities of the *NRA on ML* it has been identified a variety of ML risk factors in Indonesia, including:

- a. The Likelihood level of the occurrence of ML which is the accumulation of:
  - 1) A variety of potential and real threats of ML, which is specified by:
    - a) Types of predicate crimes of ML in accordance with Article 2 Law on the ML Prevention dan Eradication in 2010, both sourced from domestic, and sourced from abroad; and
    - b) This type of ML Preparator profiles, both individuals and corporations.

- 2) A variety of potential and real vulnerability of ML, specified according to:
  - a) Sectoral Vulnerability, consisting of:
    - The vulnerability of the Reporting Party along with the types of its products/services used as a means of ML; and
    - The vulnerability of law enforcement Officials in law enforcement of ML.
  - b) Vulnerability in terms of geographical regions is reviewed vulnerable region against the occurrence of ML; and
  - c) ML Vulnerability in terms of macro is reviewed from the aspects of Political, economic, social, technological, environmental, and legislation.
- b. ML consequences that can be caused, both to the aspects of economic, physical, social, environmental, and political/structural, specified according to:
  - 1) Types of the predicate crimes of ML;
  - 2) Region;
  - 3) Type of Reporting Party

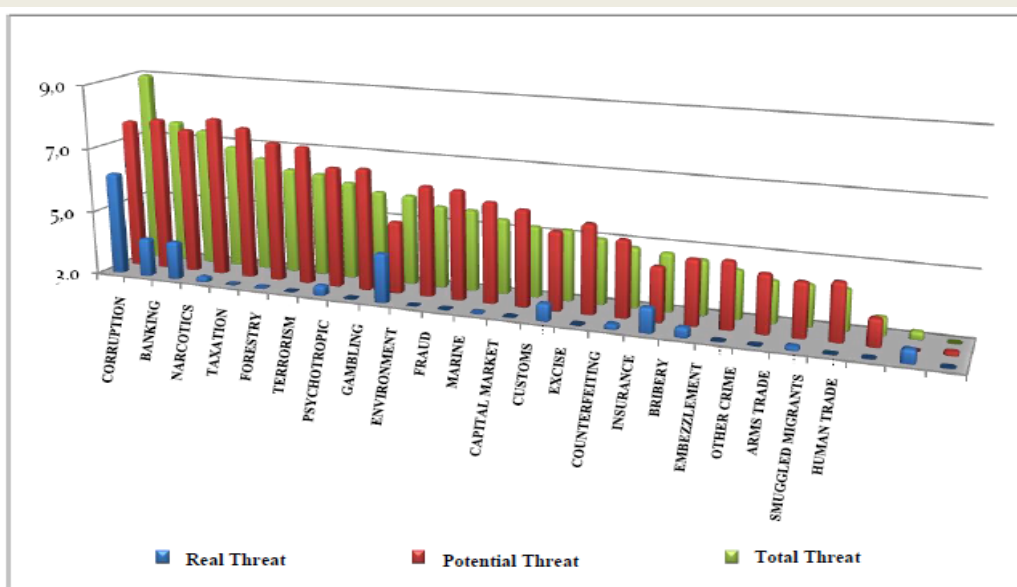
Against a variety of ML risk factors that have been identified, it has been made quantitative and qualitative analysis in order to measure the level of threat, vulnerability, Likelihood, and the consequence caused.

## **A. THE MAIN THREAT OF ML IN INDONESIA, 2011-2014**

### **1) ML Threat According To the Predicate Crimes**

ML Threats can come either from domestic or from abroad. For the threat of domestic ML, based on the analysis results of ML threat level according to the original criminal Act as seen on the chart and table below, it is found the fact that there are 3 (three) predicate crimes of ML having ML threat level on the "high" level, i.e.: corruption with the highest threat level of 9.0, followed by the criminal act of banking of 7.5, and narcotic criminal Act amount of 7.3.

**CHART 1:**  
Threat Level of Domestic ML of Indonesia  
according to the Type of Predicate crimes



Source: Adopted from Work Paper of *NRA on ML*

**TABLE 1:**  
Analysis Results of Threat Level of Predicate Crimes of  
Domestic ML according to Total Threat Level Ranking

ML Treat Ranking	Type of Predicate Crimes	Total Threat Level	Real Threat Level	Potential Threat Level
1	CORRUPTION	9,0	6,2	7,7
2	CRIME OF BANKING	7,5	4,2	7,8
3	NARCOTICS	7,3	4,2	7,5
4	TAXATION	6,9	3,2	8,0
5	FORESTRY	6,6	3,0	7,8
6	TERRORISM	6,3	3,0	7,4
7	PSYCHOTROPIC SUBSTANCES	6,2	3,0	7,3
8	GAMBLING	6,0	3,3	6,7
9	CRIME OF ENVIRONMENT	5,8	3,0	6,8
10	FRAUD	5,8	4,5	5,2
11	CRIME OF MARINE	5,5	3,0	6,4
12	CRIME OF PASARMODAL	5,5	3,0	6,4
13	CRIME OF CUSTOMS	5,3	3,0	6,1
14	CRIME OF EXCISE	5,2	3,0	6,0
15	COUNTERFEITING OF MONEY	5,2	3,5	5,4
16	CRIME OF INSURANCE	5,0	3,0	5,7
17	BRIBERY	4,8	3,1	5,3
18	EMBEZZLEMENT	4,8	3,8	4,7
19	OTHER CRIME OF	4,7	3,3	5,0
20	ARMS TRADE	4,5	3,0	5,0

ML Treat Ranking	Type of Predicate Crimes	Total Threat Level	Real Threat Level	Potential Threat Level
21	LABOR SMUGGLING	4,3	3,0	4,8
22	HUMAN TRAFFICKING	4,3	3,1	4,6
23	MIGRANT SMUGGLING	4,3	3,0	4,7
24	PROSTITUTION	3,5	3,0	3,8
25	THEFT	3,2	3,4	3,0
26	ABDUCTION	3,0	3,0	3,1

Source: Adopted from Working Sheet of NRA on ML

**Note:**

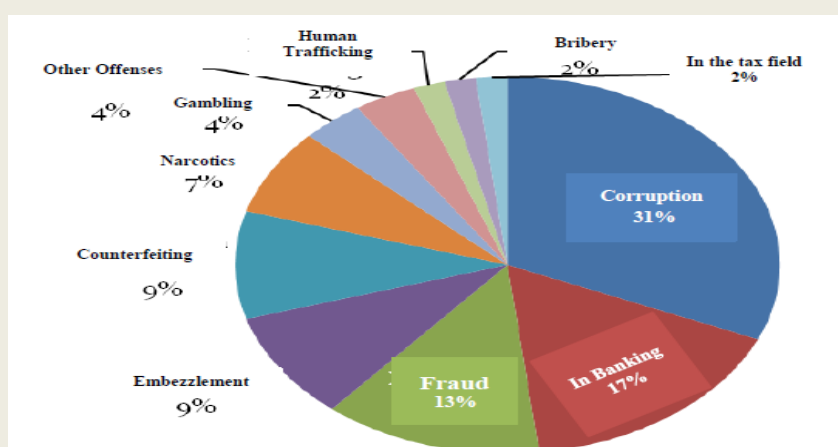
- Predicate Crimes with the threat value of 3,0 - 4,9 categorized to have a threat level "low"
- Predicate Crimes with the threat value of 5,0 – 6,9 categorized to have a threat level "Medium"
- Predicate Crimes with the threat value of 7,0 – 9,0 categorized to have a threat level "high"

The high threat level of domestic ML that comes from the criminal Act of corruption, banking and narcotics due to:

- b. The rampant case of ML that has been revealed in the court, which has been decided by either the Corruption Court, the High Court, or the Supreme Court; and
- c. The magnitude of potential ML shown by:
  - 1) The high number of suspicious financial transaction reporting and analysis result of PPATK, and
  - 2) Law enforcement Official perception associated with the potential occurrence of ML according to the type of its predicate crimes

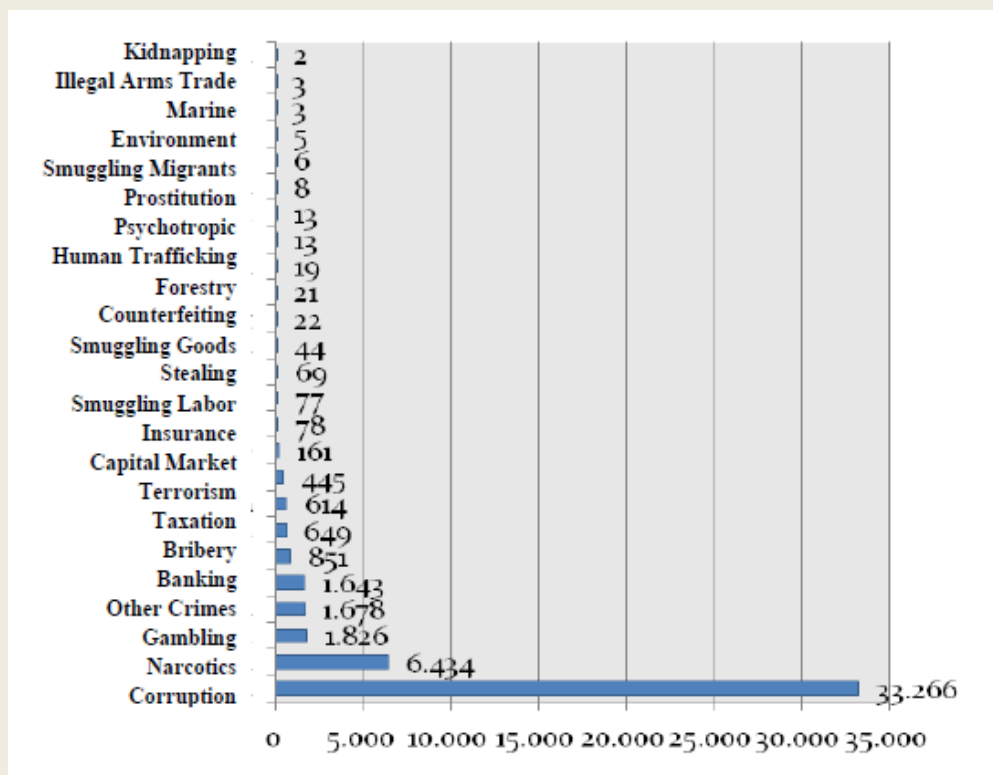
Some data/statistics that support this can be seen in the table and chart below.

**CHART 2:**  
**Cumulative Amount Distribution of Report Submission of PPATK Analysis Result Related to ML according to the Type of Predicate Crimes, 2011-2014**



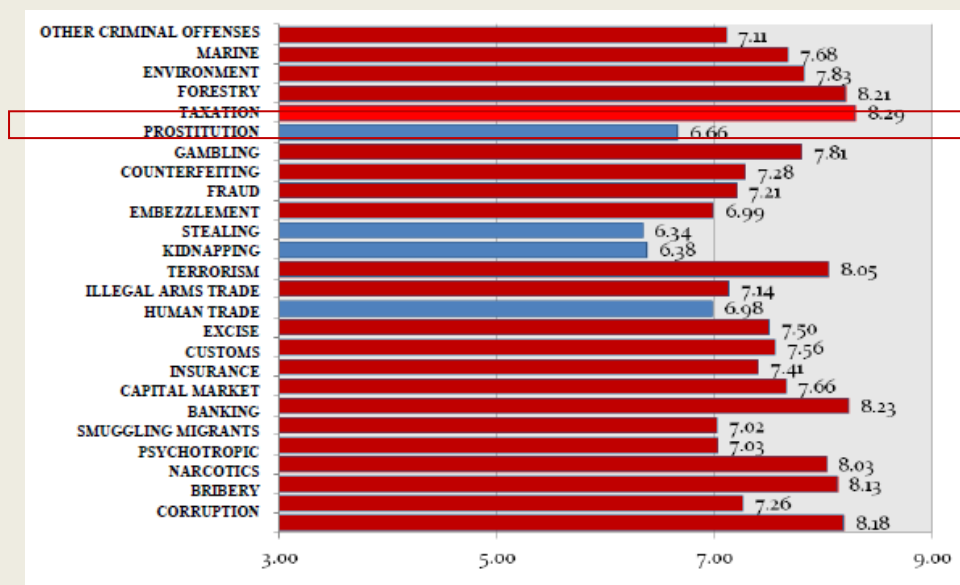
Source : The processed results of a NRA questionnaire submitted to the law enforcement

**CHART 3:**  
**Comparison of Cumulative Amount of STR**  
**according to Indication of Predicate Crimes, Year 2011-2014**



**Source :** Adopted from Statistics Bulletin of Anti money laundering and Countering of Financing of Terrorism PPATK

**CHART 4:**  
**Perception of Law Enforcement Officials Against**  
**the Potential ML according to Type of Predicate Crimes**

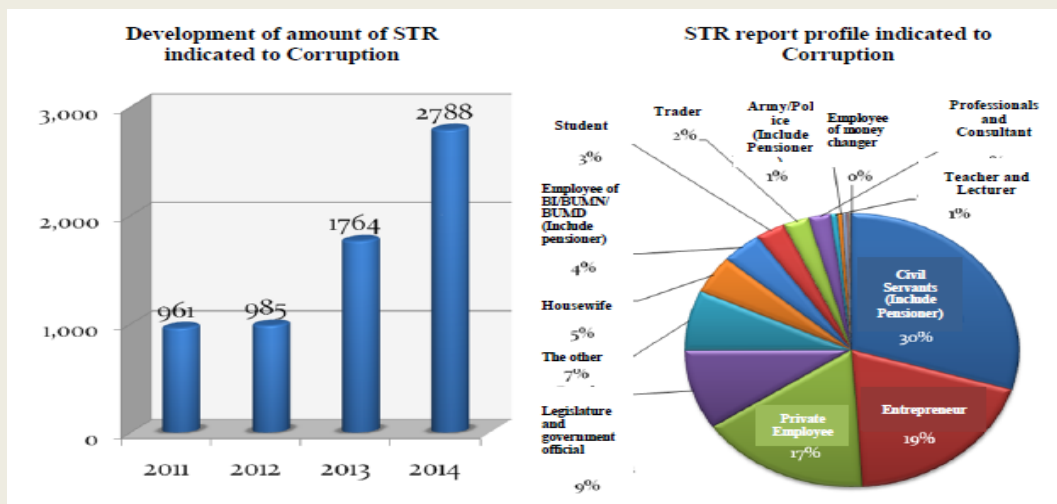


**Source :** Adopted from Work Paper of NRA on ML

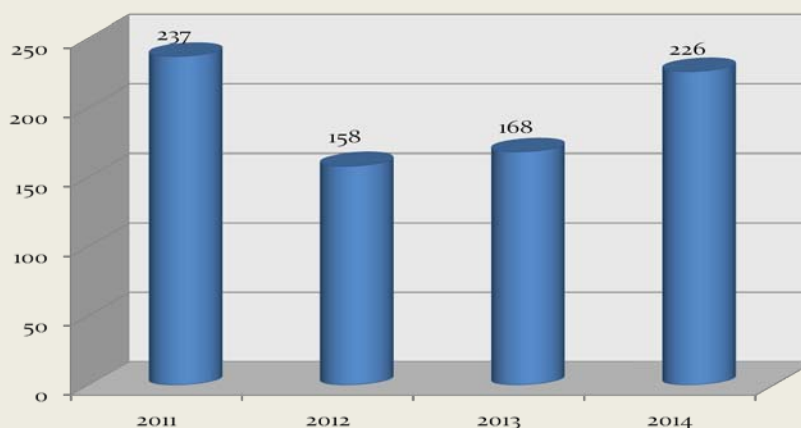
**Note :** The colors reflect the threat level, where Red reflects a HIGH threat, while Blue reflects a "MEDIUM" Threat.

Criminal Act of Corruption has not only the highest threat level of ML but also the threat trend that is increasingly high. This can be seen from the increasing number of STR and analysis results of PPATK with indications of CRIME OF Corruption submitted to Law Enforcement Officials. In addition, the research results of PPATK found the fact that the perpetrators of ML with Predicate Crimes of Corruption involve now not only the PEPs profile (for example: members of the executive, legislative, judicial), or entrepreneurs, but also pretty much the house wife profile, a member of family, as well as students as the *nominee* as well as *gatekeepers* such as notary, accountant, lawyer, and the services of other professions.

**CHART 5:  
STR Trend indicated Corruption and  
Distribution according to the Type of Reported Profile  
Year 2011-2014**

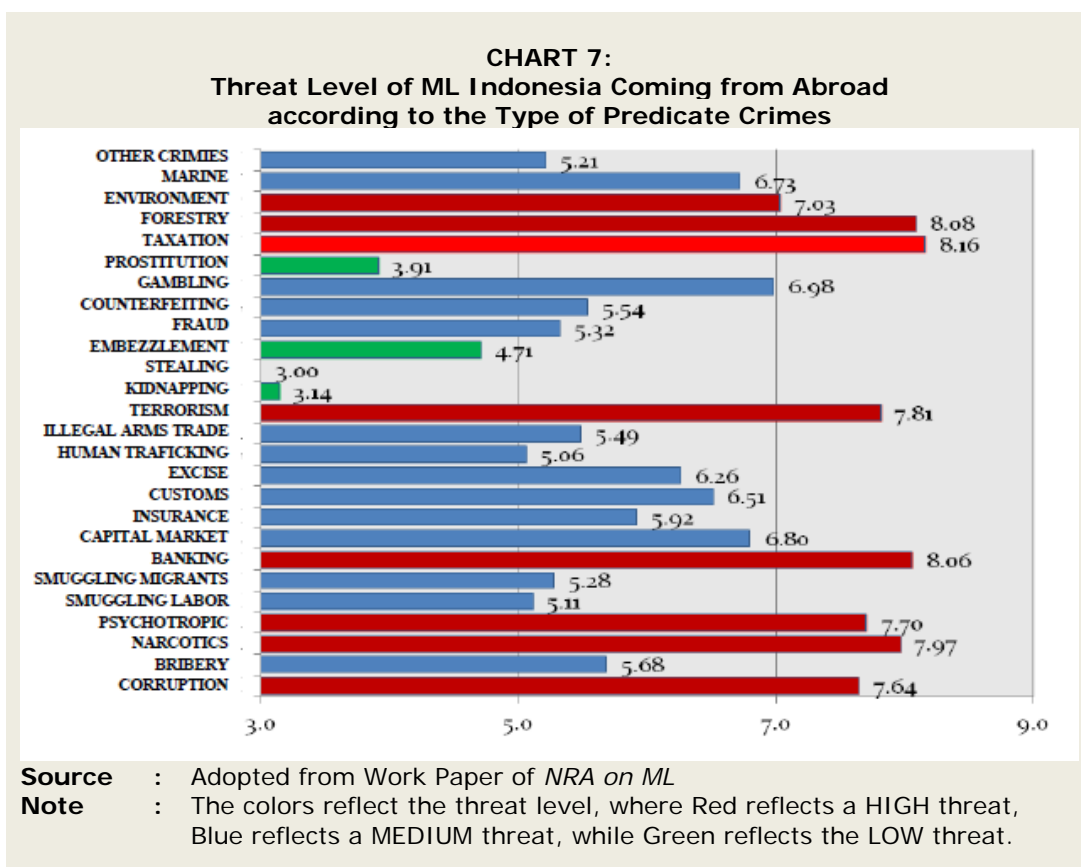


**CHART 6:  
Submission Trend of Analysis Result of PPATK with Indication of  
Corruption Criminal Act, 2011-2014**



**Source** : Adopted from Statistics bulletin AML-CFT PPATK.

As already explained earlier, that as a developing country, Indonesia has a threat level of ML from abroad that is quite high. Based on the analysis results of the potential threat of ML sourced from overseas it is found the fact that Indonesia is quite Risk against ML associated with 8 (eight) predicate crimes, namely the criminal Act of taxation, banking, forestry, terrorism, narcotics, psychotropic drugs, corruption, and the environment. This can be seen from the chart below where the seven predicate crimes have the threat level value above 7.



**2) The Threat According to the Type of ML Preparator Profile**

As already provided for in the Law of PPML in 2010, criminalization against ML can be dropped to the preparator who is an individual or corporation. Based on the threat analysis results against statistics of ML law enforcement in Indonesia and the perception of law enforcement against the potential occurrence of ML in Indonesia based on the type of the preparator, it is known that User Services of Corporation/Business Entity could become more potential as ML preparator than Individual customers. This can be seen in the chart below that the threat level value of Corporate of 7.01 is higher than of individual threat level value of 6,74.



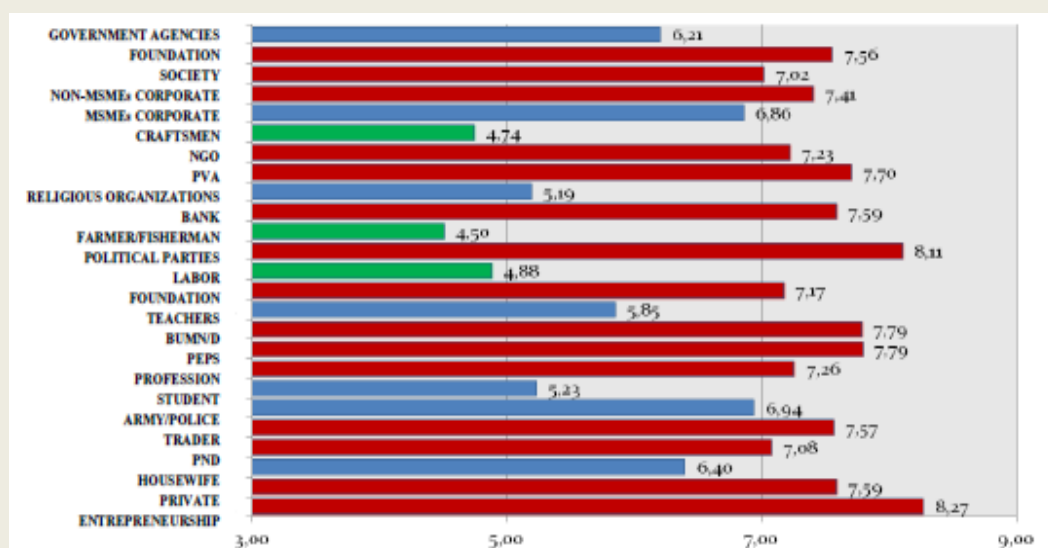
**CHART 8:**  
Threat Level of ML Indonesia  
according to the Type of Perpetrator



Source : Adopted from Work Paper of *NRA on ML*

When analyzed in more detail towards the threat level of corporation/entity customers, it is found the fact that Foundations, Non-SMSEs Corporation as well as Joint Business Entity have the "high" threat level as ML perpetrators. The threat level of three profiles of corporation/entity services user has value above 7, namely each of 7.56 (Foundation), 7.41 (Non-SMSEs Corporation), and 7.02 (Joint Business Entity).

**CHART 9:**  
Threat Level of ML Indonesia  
according to the Type of Individual and Enterprise Perpetrator



Source : Adopted from Work Paper of *NRA on ML*

Note : Colors reflect the threat level, where Red reflects a HIGH threat, Blue reflects a MEDIUM threat, while Green reflects LOW threat.

Meanwhile, despite an average threat level of individual customers is lower than the corporate/agency customers, but some individual Customers profiles have a "high" threat level being the ML perpetrators. There are at least 12 (Twelve) individual profiles who have a "high" threat level with threat value above 7. 4 (four) profiles with the highest threat level among them are Employers, Administrators, Political Parties and Employees of LOCAL/STATE-OWNED ENTERPRISES, PEPs, with the highest threat level, as seen in the chart above.

## **B. HITMAP OF ML RISK IN INDONESIA**

After an analysis against the level of threat, vulnerability as well as the consequence of ML nationally, ML risk levels can be calculated according to the predicate crimes, the reporting party, and the region. The risk level of further hitmap can be composed ML hitmap according to type of predicate crimes, region, Customers profile, State/territorial, and Reporting party to be further evaluated for the preparation of the relevant strategic recommendations.

### **1) Hitmap of ML Indonesia according to the Predicate crimes**

Based on the results of the analysis of the factor risk establishment variables of ML based on the type of criminal Act, consisting of:

- a. Threats:
  - 1) Real Threat:
    - a) Searching ML-indicated transactions:
      - Number of STR
      - Number of Analysis Result Report
      - Number of Examination Result Report
    - b) ML-indicated Examination by Investigators:
      - Number of cases investigated in the predicate crimes;
      - Number of ML cases investigated;
    - c) ML Prosecution:
      - Number of ML cases prosecuted;
    - d) ML Examination in the Court:
      - Number of ML verdict decided by the Court
  - 2) Potential Threat:
    - Perception of Law Enforcement Officials related to potential ML level according to predicate crimes;
- b. ML Vulnerability:
  - a) Vulnerability of Reporting Party:
    - Ability to identify the predicate crimes in suspicious transactions report;

- b) Vulnerability of Law Enforcement Officials according to the handling authority of predicate crimes:
- 1) Internal Vulnerability:
    - Strategic Policy related to Anti-Money Laundering Regime;
    - The Highest Management Support related to Anti-Money Laundering Regime;
    - Policies and Procedures of Anti-Money Laundering Regime;
    - Reliability of Information Systems of Anti-Money Laundering Regime;
    - Human Resource Adequacy and Capability of Money Laundering Regime;
    - Internal Supervision of Anti-Money Laundering Regime;
    - Perception against the Issues related to Anti-Money Laundering Program;
  - 2) Vulnerability of Follow-up of ML Case Handling:
    - The percentage of follow-up over the submission of the Analysis Result Report and/or Examination Result Report to ML Investigators;
- c. ML Consequences:
- 1) Real Consequences:
    - Average Value of the Suspicious Transaction Report;
    - Average Value of ML-indicated in the Analysis Result Report of PPATK;
  - 2) Potential Consequence:
    - Law Enforcement Official perception related to the level of average value of ML according to predicate crimes.

It has been obtained the level of ML risk factors in Indonesia with the details as follows:

**TABLE 2:  
Analysis Result of ML Risk Factors  
according to its Predicate Crimes**

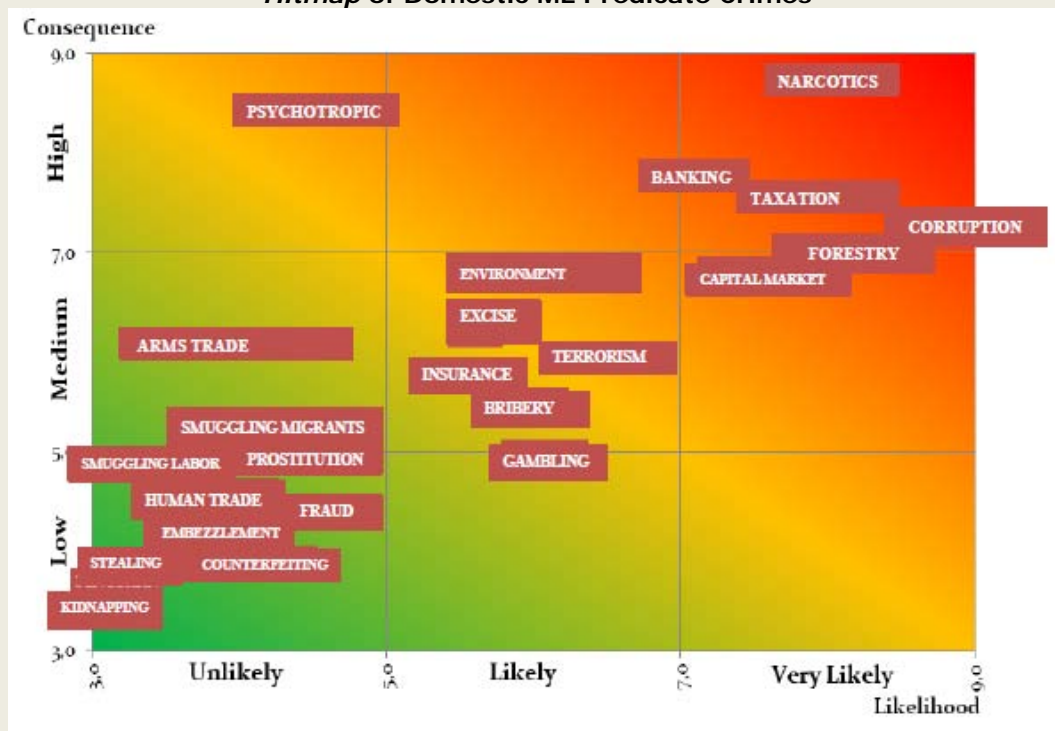
Type of Predicate Crimes	ML Threat Level	ML Vulnerability Level	ML Likelihood Level	ML Consequence Level	ML Risk Category	ML Risk Ranking
<b>NARCOTICS</b>	7,3	8,2	8,1	8,7	High	1
<b>CORRUPTION</b>	9,0	8,2	9,0	7,3	High	2
<b>TAXATION</b>	6,9	7,6	7,5	7,6	High	3
<b>FORESTRY</b>	6,6	9,0	8,1	7,0	High	4
<b>CRIME OF BANKING</b>	7,5	6,5	7,3	7,8	High	5
<b>CRIME OF CAPITAL MARKET</b>	5,5	9,0	7,5	6,8	High	6
<b>CRIME OF ENVIRONMENT</b>	5,8	6,2	6,1	6,7	Medium	7

Type of Predicate Crimes	ML Threat Level	ML Vulnerability Level	ML Likelihood Level	ML Consequence Level	ML Risk Category	ML Risk Ranking
<b>CRIME OF MARINE</b>	5,5	6,3	5,9	6,5	Medium	8
<b>PSYCHOTROPIC SUBSTANCES</b>	6,2	3,0	4,5	8,4	Medium	9
<b>TERRORISM</b>	6,3	6,3	6,4	5,9	Medium	10
<b>CRIME OF CUSTOMS</b>	5,3	6,1	5,7	6,3	Medium	11
<b>CRIME OF EXICE</b>	5,2	6,1	5,7	6,3	Medium	12
<b>BRIBERY</b>	4,8	6,9	5,9	5,5	Medium	13
<b>CRIME OF INSURANCE</b>	5,0	6,1	5,6	5,7	Medium	14
<b>GAMBLING</b>	6,0	5,8	6,0	5,0	Medium	15
<b>ARMS TRADE</b>	4,5	3,7	3,9	6,0	Low	16
<b>FRAUD</b>	5,8	3,4	4,5	4,4	Low	17
<b>OTHER CRIMES</b>	4,7	3,5	3,9	4,8	Low	18
<b>LABOR SMUGGLING</b>	4,3	3,7	3,8	4,8	Low	19
<b>MIGRANT SMUGGLING</b>	4,3	3,7	3,8	4,7	Low	20
<b>PROSTITUTION</b>	3,5	4,1	3,6	4,9	Low	21
<b>HUMAN TRAFFICKING</b>	4,3	3,7	3,8	4,6	Low	22
<b>EMBEZZLEMENT</b>	4,8	3,3	3,9	4,2	Low	23
<b>COUNTERFEITING OF MONEY</b>	5,2	3,2	4,0	4,0	Low	24
<b>THEFT</b>	3,2	3,5	3,1	3,6	Low	25
<b>ABDUCTION</b>	3,0	3,6	3	3,5	Low	26

Source : Adopted from Work Paper of NRA on ML

Based on the identification results and analysis of ML risk factors (threat, vulnerability, and consequence t of ML) as the table above, the hitmap can be composed according to the predicate crimes of ML as follows.

**FIGURE 9:**  
**Hitmap of Domestic ML Predicate Crimes**



**Source** : Adopted from Work Paper of *NRA on ML*

Based on the hitmap, it is known that the highest risk of ML is derived from the criminal Act of narcotics, corruption, and taxation.

#### a) ML risk related to a Narcotic Criminal Act

The narcotic circulation has now already become transnational threats. Statistics notes that abuse of and illicit traffic in drugs are likely to be increasing both quantitatively and its variance. Based on the meeting results of *International Drugs Enforcement Conference Far East Working Group in Da Nang, Viet Nam (2012)*, it is known that illegal drug traffickers syndicate is rising steadily in Far East Asia, among other Iran and Nigeria syndicate (heroin and sabu), China and Malaysia syndicates (ATS), Latin America (cocaine) syndicate, Australia syndicate and domestic syndicate (marijuana). An increase in illicit drugs of the large number of new incoming goods from abroad, where in this case Indonesia is a part of the international community. Victims of the narcotics abuse are growing much, and the majority of which are among the nation's younger generation. The UNODC annual report 2013 showed that in the year 2011, it was estimated at about 3.6-6.9 percent of the population aged 15-64 years, used drugs at least once in a year. This is certainly a potentially very dangerous to the life of society, nation, and State.

In the midst of rapid globalization and information technology, the modus operandi of narcotics transactions develops increasingly complex, using advanced technology and supported by a large network of organizations

(syndicate). Some developing mode of narcotic transactions in Indonesia at the moment, among others:

- a. The traditional mode, i.e. a sale of narcotics from the seller to the buyer as the transaction process for other merchandise.
- b. The use of a network with a system that communication was cut off. The modus operandi develop along with the progress of the times and the technology, where between the narcotic seller or buyer does not met at all or doesn't even know each other.
- c. The use of women to serve as part of a narcotics network syndicate. Women are not only utilized be couriers but also victims even so objects by narcotics traffickers syndicates, initially women are married in the contract then after they are used as courier. Even if they do not want to do so, the women who had been married were threatened their soul including to be reported to law enforcement authorities.
- d. The Modus operandi of narcotics production, where between the owner of funds with those involved in the production process (material maker, raw material provider, packaging and courier of goods distributors) have a more difficult pattern to be detected by officers in the field.

The potential ML of Crime of Narcotic result is very large. UNODC study results recorded that the result of crimes is estimated at US \$125 million, where about 85 percent or about US \$104 comes from Crime of Narcotics. Treasures from the proceeds of narcotic crime that had been washed out as if being a legal property.

Transaction and proceeds of narcotic crime now is more difficult to be traced observing the development of the following mode:

- a. Sales using the *face to face transaction* method.  
Sellers and buyers make deals with the *face to face transaction* method. In general this method is done by the seller that really know and trust the potential buyer or in other word the buyer is the person who already very often bought (made transaction) from the seller. This method can be done at buyer's home or in other places that are already agreed upon by both parties.
- b. With the sale method of transfer systems.  
The buyer will contact the operator, where the operator is the person who trades off Narcotics and psychotropic substances that are not theirs to the end consumer. After ordering from the buyer to the operator, the the buyer will transfer the money to the account specified by the operator, then operator will contact the owner of the goods. The owner of the goods will be sent a courier to put stuff on a specific place, and then the courier will send the address of the goods that he put to the seller. Seller forwards the message to the operator, the operator forwards the message to the buyer (final consumers). From this method it was found the field fact as follows:

- The occurrence of disconnect Relations between the buyer of the goods, Vending operators, sellers, and even courier of goods.
- Lines of communication used by using *handphone*.
- Vending Operators many of which operate from within Jails (LP).
- The determination of who was the operator and courier of stuff is the scenario of the owner of the goods.
- The account that is used by the perpetrators of the narcotic was always use an account belonging to another person/registered at certain banks usually do not use the appropriate registration address.
- *Registered Mobile* Numbers are usually nor registered in accordance with the name and address of the person who holds the *handphone*.
- Vehicles that are used from the courier are always alternated.
- The placement address of the goods and transaction is always changed.

**The verdict of the case on behalf of MA –  
The Former Head Of Nusa Kambangan Narcotic Penitentiary  
as *Success Story* for the case of the ML-related to Narcotics and Bribery**

The case of MA is considered to be one *success story* of the ML case law enforcement considering not only with regards to Crime of Narcotics which is a criminal act which the highest-risk of ML but also associated with Crime of Bribery in connection with his position as law enforcement officers (Nusa Kambangan Narcotic Penitentiary). This case is interesting to be discussed because the modus operandi used in doing ML is using one of the *new payment method*, namely *mobile banking*. Against this case, PPATK in the typology research results of ML has compiled a resume of its typology. Typology of this case is organized based on the verdict having fixed legal force at the level of Appeal, with details as follows:

1. Verdict of the First Level at Cilacap District Court, Case No.114/PID.SUS/2011/PN.CLP dated January 11, 2012.
2. Verdict of the Appeal Level at Semarang High Court, Case No. 38/PID.SUS/2012/PT.SMG dated March 13, 2012.

The following is a summary of the case positions and ML case typology trapping MA. Defendant MA having profession as CIVIL SERVANTS and has served as the head of Nusa Kambangan Narcotic Penitentiary. In October 2009 until February 2011 he was indicted to have done the conspiracy with Inmates Mr. HJB, FOBB, IS alias Cahyono and S alias I alias Capten to commit the criminal Act of narcotics. Based on the authority possessed by the accused as Head of Lapas Nusakambangan i.e. in deciding policies and coordinating tasks in the field of administrative, security and work and coaching activity order had provided an opportunity to the HJB to build the dairy farms by establishing cowshed outside Nusa Kambangan Narcotic Penitentiary, the defendant had allowed the HJB to use *mobile* in Penitentiary and ease of Penitentiary access for the purpose of taking care of the dairy farms. With a variety of amenities and facilities provided by the defendant against HJB eventually it was exploited by HJB to transact narcotics along with Capten in Nusakambangan Penitentiary. The defendant has received the profits from the sale proceeds of narcotics made by HJB and Capten during the period 2009 to 2011 with totaled Rp 260.000.000 (two hundred and sixty million rupiah) with details of Rp 210.000.000

from HJB and from Capten Rp 50.000000 (fifty million rupiah) then the money is transferred using *mobile banking* through HJB shelter account among others: account in the name of MW and RJ and Capten shelter account, among others: account in the name of S, SN, SAG, SN into defendant's child account, namely AP, DA Account and defendant's grandson RK.

Over these deeds, the Former Head of Nusa Kambangan Narcotic Penitentiary was convicted of a criminal Act according to the first primary indictment that refers to the Article 114 section 2 in conjunction with Article 132 section 1 of Law No. 35 of 2009 on Narcotics. And Article 5 section (1) in conjunction with Article 10 of Law RI No. 8 of 2010 on Prevention and Eradication of Criminal Act of Money Laundering in conjunction with Article 84 of Indonesia Criminal Code (KUHP). The pertinent was declared proven to facilitate the criminal Act of narcotics trade controlled by HJB who is an convict of such penitentiary when the defendant was still Head of Penitentiary, by giving special permission to open a dairy farms to Hartoni around the Penitentiary and authorize the person concerned to get ease of access to prison.

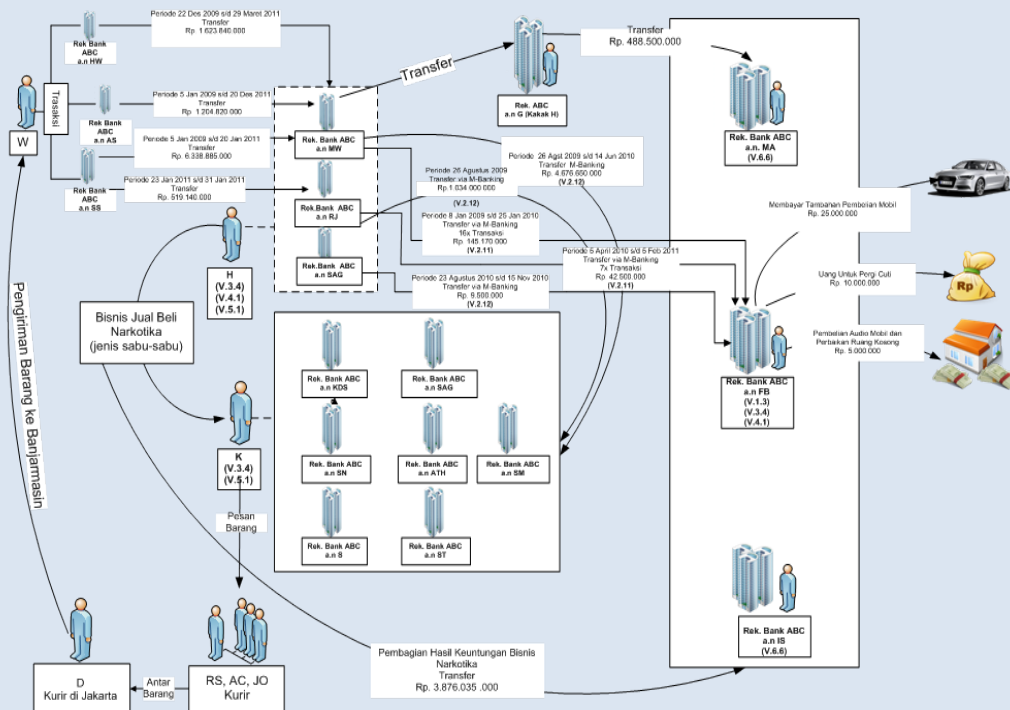
The defendant was also proved to enjoy money proceeds of a criminal act of narcotic trade controlled inmate named H. In addition, the Panel of Judges stated that MA was convicted in the criminal act of money laundering, including:

- The defendant was proven to have asked the account no. belongs to the defendant's child i.e., AP and DA with the aim to be used by the defendant as a shelter account from the remittance of narcotics proceeds made by HJB and Capten.
- The defendant was proven to give the money amount of Rp 185.000.000 (one hundred and fifty-eight million rupiah) to RK as the defendant's grandson and the money was placed into a bank in a manner of ordering RC to open accounts on behalf of RK at the Bank BCA Cilacap by reason of the defendant's identity left in Bekasi. Then the account on behalf of RK was ruled by the defendant to receive a sum of money transfers at the request of the defendant to HJB.
- The defendant was proven to have received and put some money from the result of Narcotics criminal Act committed by HJB and Capten made during October 2009 until February 2011 to the saving account o/b AP, DA and RK.

Over his actions, based on the Verdict of the Appeal Level in the Semarang High Court, Case No.38/PID.SUS/2012/PT.SMG dated March 13, 2012, this Former Head of Nusa Kambangan Narcotic Penitentiary was convicted of 13 (thirteen) years in prison and a fine of Rp 1.000.000.000, when the fines were not paid then it would be replaced with imprisonment for 1 year.



**FIGURE 11:**  
**Typology Scheme of ML Case on behalf of MA**



**Sumber** : Adopted from the ML Typology Research Result of PPATK under Verdict of the First Level at Cilacap District Court and Verdict of the Appeal Level at Semarang High Court

**b) ML Risk related to Crime of Corruption**

The Criminal Act of Money Laundering (ML) derived from criminal act of corruption can be found in various forms of placement, transferring, assignment, purchases, payments, grant, deposit, bringing overseas, sequestration, exchange with currency or securities or other deeds against wealth, with the purpose of concealing or disguising the origin of these treasures.

The deeds of ML can happen before (preceding), at the time (same time), and after (end) of the occurrence of the criminal act of corruption. ML that happens before or precedes the occurrence of the criminal act of corruption such as associated with criminal act of bribery in the process of procurement of goods and services, the process of budget planning, licensing, and others. ML that occurs on or in conjunction with the criminal act of corruption, for example related to the criminal act of authority abuse, budget abuse, embezzlement in office, extortion, and others. Whereas criminal act of money laundering that occurs after the occurrence of the criminal act of corruption such as associated with criminal act of gratuities, bribes and others.

The modus operandi of the criminal act of laundering money derived from criminal Act of corruption also varies, among which are the following:

- a. Transfer the asset of criminal act result of corruption on behalf of the family (children, wife/husband, sister, brother, dan others) or on behalf of any other third parties.
- b. Use the services of third parties as the "Treasurer" regulating the flow of funds and financial transactions by opening the account or *deposit box* to store the results of the criminal act of corruption, as well as do spending and fund distribution of criminal act result of corruption.
- c. A fictitious transaction between the company as if the purchase transactions occur to disguise the money origin of criminal act result of corruption.
- d. Open a tactical fund account, either in the form of *joint accounts* and other unofficial accounts, to accommodate the fund flow of the criminal act results of corruption, whose use is wrapped with the operational activities of *non-budgeter*.
- e. Do the distribution of the fund flow of the criminal act results of corruption under the pretext of channeling funds to the various social organizations as guise, to disguise the use of the funds that could not be accounted for.
- f. Exchange money from corruption criminal act results from Rupiah to foreign currency in the either legal or illegal *money changer*.
- g. Hide & put money/assets of the corruption result in the *safe deposit box* of banking or by transfer to an account abroad.

- h. Receive money of corruption result (either in cash or by transfer) and use it for business activities (such as: property, GAS STATION, dan etc) or for buying property/assets including:
- 1) movable goods (such as: vehicles, jewelry, etc.);
  - 2) immovable goods (such as: land, shophouse, houses, apartments, and others);
  - 3) securities;
  - 4) shares of a company; or
  - 5) insurance premiums.

**Verdict of the case on behalf of AM –  
The Former Chairman of The Constitutional Court of Republic of Indonesia  
As *Success Story* of Handling ML Cases Related To Corruption**

The defendant AM as the former Chairman of the Constitutional Court (MK) was convicted with imprisonment for lifetime after declared proven legally and convincingly in doing criminal Act of corruption and money laundering. Related to the criminal Act of corruption, AM was considered breaking the third alternative assertion and the fourth assertion by Article 11 Law of Eradication of Criminal Act of Corruption in conjunction with Article 64 section 1 of Indonesia Criminal Code, with the following details:

1. Corruption in the handling of the dispute of Regional Elections of Gunung Mas Regency. In this case, AM was declared proven legally and convincingly in accepting bribes Rp3 billion in cash.
2. Corruption in the handling of the dispute of Regional Election of Lebak Regency. In this case AM was declared proven legally and convincingly in accepting bribes Rp1 billion in cash.
3. Corruption in the handling of the dispute of Regional Election of Empat Lawang Regency. In this case AM was declared proven legally and convincingly in accepting bribes Rp10 billion and USD 500,000 in cash and transfer to the account of AM.
4. Corruption in the handling of the dispute of Regional Election in Palembang City. In this case AM was declared proven legally and convincingly in accepting bribes Rp20 billion in cash and the transfer to the giro account in the name of CV Ratu Samagat.
5. Corruption in the handling of the dispute of Regional Election of Buton Regency. In this case AM was declared proven legally and convincingly in accepting bribes Rp1 billion through a balance transfer to a savings account in the name of CV. Ratu Samagat.
6. Corruption in the handling of the dispute of Regional Election of Pulau Morotai Regency. In this case AM was declared proven legally and convincingly in accepting bribes Rp3 billion through a balance transfer to a savings account in the name of CV. Ratu Samagat.
7. Corruption in the handling of the disputed Elections Morotai. In this case AM promised money totaling Rp3 billion.

8. Corruption in the handling of the dispute of Regional Election in Central Tapanuli Regency. In this case AM was declared proven legally and convincingly AM taking bribes Rp1,8 billion through the cash deposit to a savings account in the name of CV. Ratu Samagat.
9. Corruption in the handling of the dispute of Regional Election of Banten Province. In this case AM was declared proven legally and convincingly in accepting bribes Rp7,5 billion through the cash deposit to a savings account in the name of CV. Ratu Samagat.

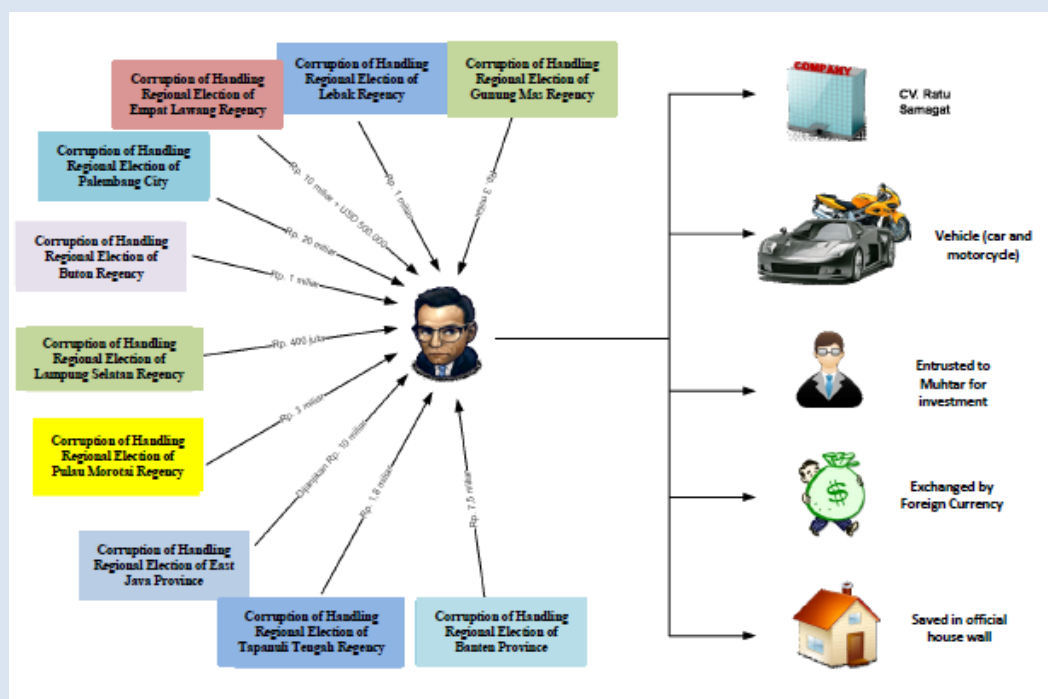
While associated with money laundering, AM was trapped with Article 3 of Law No. 8 of 2010 on Prevention and Eradication of the Criminal Act of Money Laundering, in conjuncti with Article 55 the 1<sup>st</sup> of section 1 in conjunction with Article 65 section 1 of Indonesia Criminal Code. Am was declared proved legally and convincingly in doing money laundering by way of placing, expend, Exchange with foreign currency or other deeds against funds derived from a criminal Act, with details as follows:

- Placement in personal accounts with a total of Rp 6,3 billion.
- Placement in account of CV. Ratu Semagat with a total of Rp 50 billion.
- The car purchases with a total of Rp500 million.
- Dposit to third parties to be invested with a total of Rp35 billion.
- Retention of money on the walls of the Home Office with a total of Rp2,7 billion.

Over the criminal Act that he did, the Court of Criminal Act of Corruption at the Central Jakarta District Court, imposed AM with imprisonment for lifetime. Upon the verdict, AM did a remedy of appeal. However, the High Court of DKI Jakarta Court verdict strengthened the criminal Act of corruption. At the level of Cassation, MA rejected a cassation asked the former Chairman of MK Akil Mochtar so it strengthened to lifetime imprisonment.

In a damning judgment, Akil's deed was judged not to support the Government's efforts in corruption eradication efforts. Akil as the Chairman of a State institution that is the last bastion of the society to seek justice, has been undermining the authority of the judiciary in particular MK. a difficult effort is necessary and requires a long time to restore the trust of the community to MK. In addition, Akil was the chairman of high state institutions that is the last bastion for the people who are looking for justice. Judge holds that Akil should give a good example in integrity problems. While the various achievements of Akil Mochtar were not at all considered by the judge as things lightening.

**FIGURE 12:**  
Typology Scheme of ML Case on behalf of AM



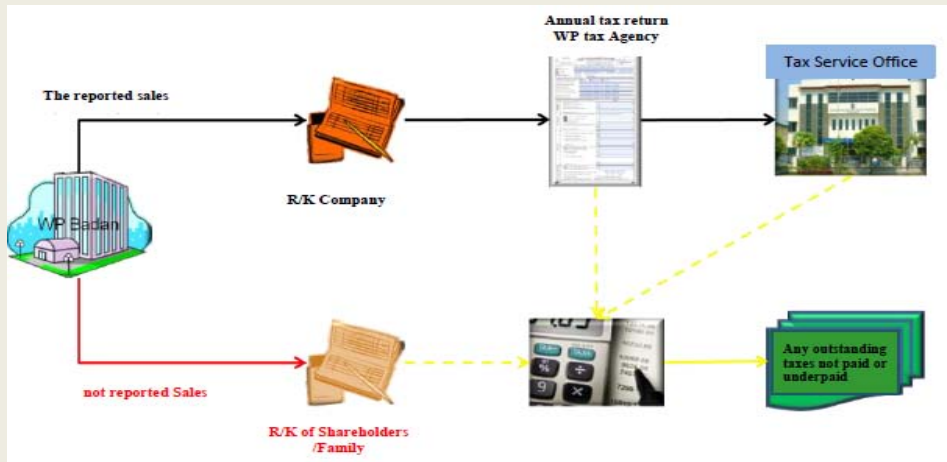
**Source** : Adopted based on the verdict of the Court of the Criminal Act of corruption at the Central Jakarta District Court.

### c) ML Risk Related to Crime of in the Field of Taxation

Criminal Act of Taxation is one of the predicate crimes having the high risk of ML in Indonesia. Some unidentified modus operandi in the investigation are among other things:

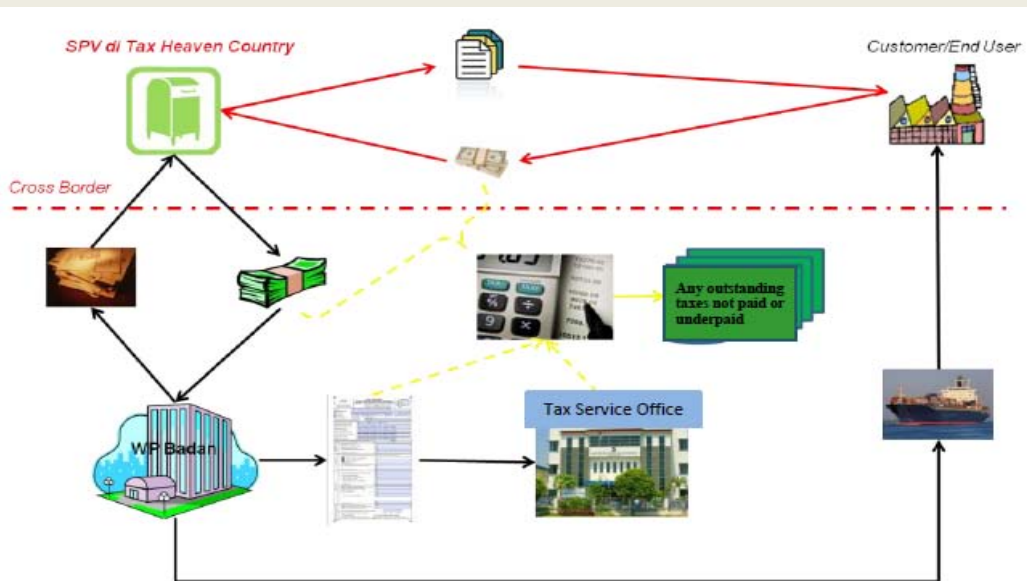
- a. The Taxpayer does not report all sales in Tax Annual Report.
  - Sales reported in the Tax Annual Report, the results are entered into the account of the company while the sales that are not reported in the Tax Annual Report are transferred to the shareholder/family.
  - The sales receipt that is not reported in the Tax Annual Report (or because it does not charge VAT) that goes into a corporate account will be recorded as debts of shareholders.

**FIGURE 13:**  
**Modus Operandi of Crime of Taxation:**  
**Do not report all sales in Tax Annual Report**



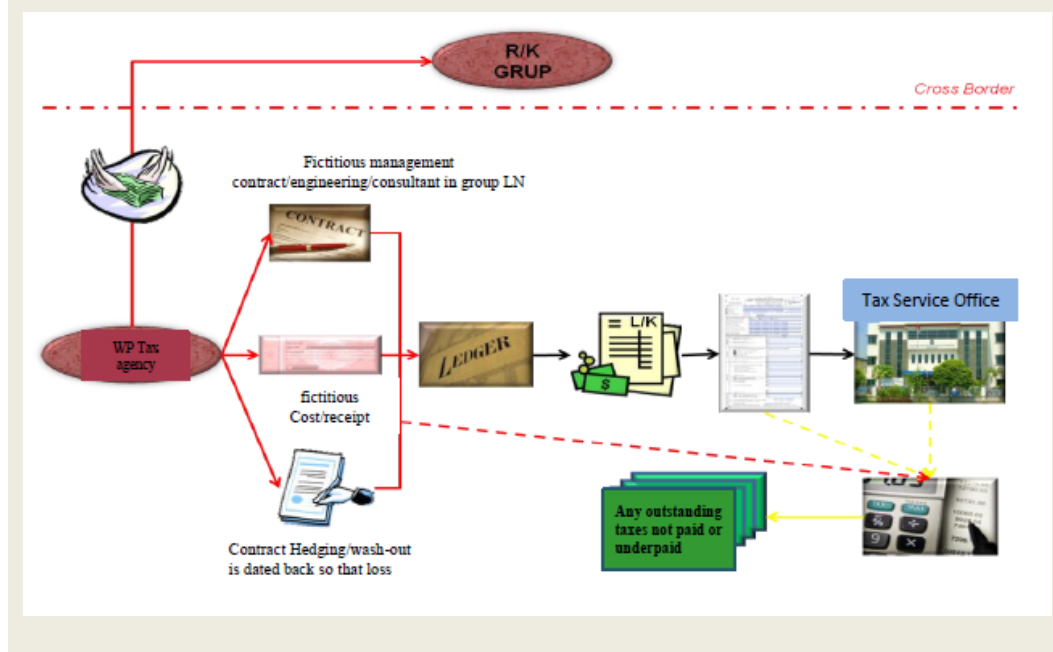
- a. Taxpayers modify export sales
  - By using the company of *SPV (Special Purpose Vehicle)/Paper Company/PO Box Company* abroad and usually in a *tax haven country*, where the SPV is deliberately incorporated by the exporter Taxpayer. Goods are shipped directly to *the customer/end user* but the payment and the document flow is fabricated through SPV which did not have the business substance, sometimes the document made by the SPV is done by employees of the same exporter taxpayer.

**FIGURE 14:**  
**Modus Operandi of Crime of Taxation:**  
**Modified Export Sales**

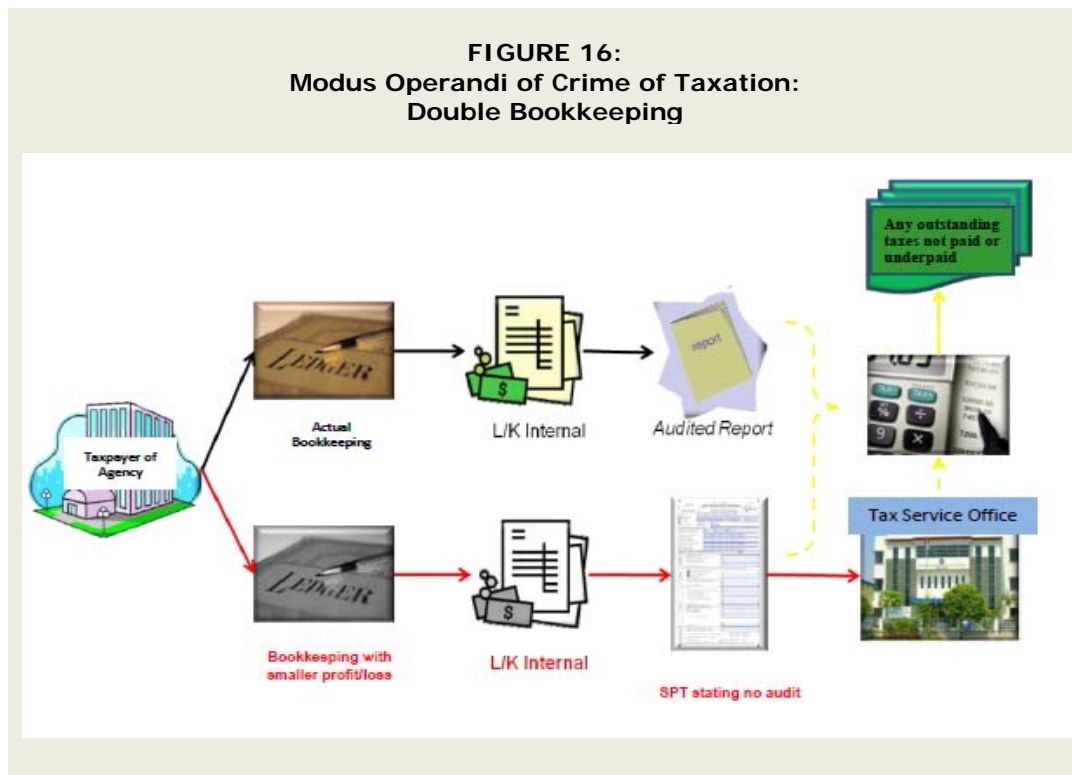


- b. Adding fictive expenses (the expenses actually does not exist).
- Create *management/technical/consultant* contract with the company in a Group in overseas so that it will arise *management fee/fee/technical consultant fee*, but existence of *service* or *service* is not submitted, then to repayment of *management fees/fee/technical consultant fee* will be transferred funds from corporate accounts to accounts of group companies in overseas.
  - Make proof of fees/ receipts that actually no costs incurred, then the money for the payment of the fictive cost will be transferred from the company to a temporary shelter that will then be distributed to the shareholders.
  - Make *hedging* or *wash-out* contracts in the *back dated*, in which Taxpayers will be made always loss in *hedging* or *wash-out* . For the loss payment of *hedging* or *wash-out* it will be transferred funds from corporate accounts to accounts of overseas group companies.

**FIGURE 15:**  
**Modus Operandi of Crime of Taxation:**  
**Fictive Cost Additions**



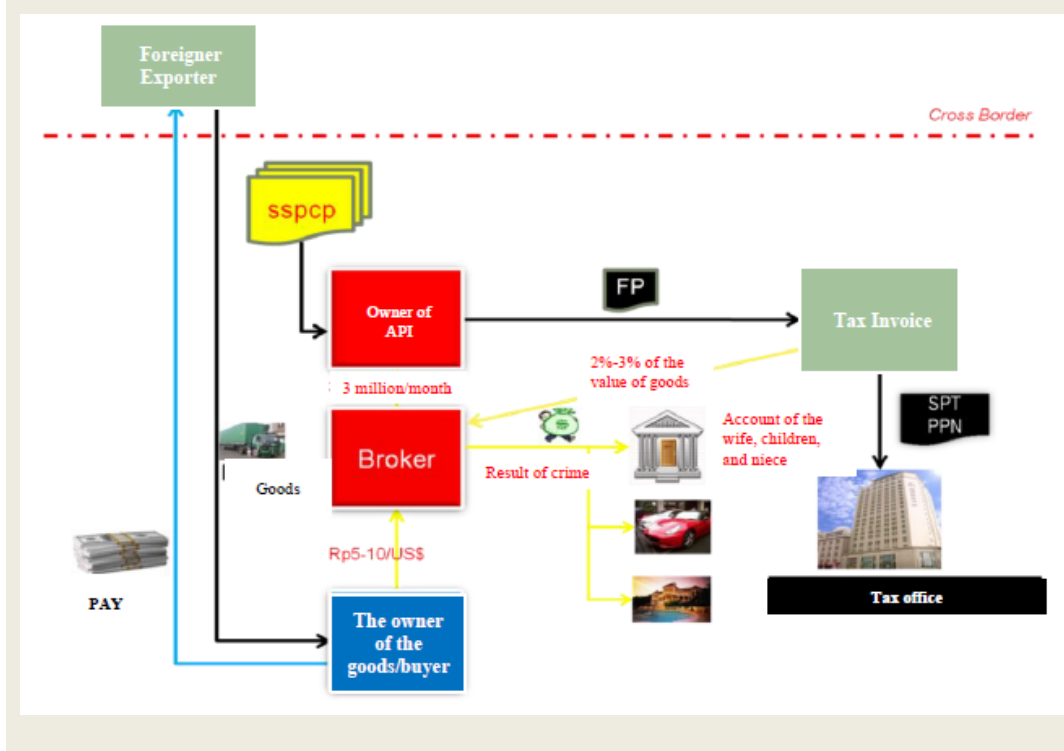
- c. Organizing a double bookkeeping.
- Bookkeeping to tax that is different from bookkeeping to management or bank where bookkeeping to tax is made in order that corporate profits become small or even loss.
  - The company's financial statements are audited by independent auditors (public accounting firm), but the company states in its TAX ANNUAL REPORT that the financial statements are not audited by independent auditors and in fact between the attached financial statements in TAX ANNUAL REPORT is very different from financial statements listed in the Independent Auditor's Report.



- e. Issuing and/or using the tax invoice that is not based on actual transactions.
- The suspect establishes a company and publishes a tax invoice that is not supported by the transaction of money and goods. The company was founded just to sell a tax invoice.
  - The company to reduce the VAT deposit, adds or buys the input tax invoice with tax invoice that is not based on actual transactions.



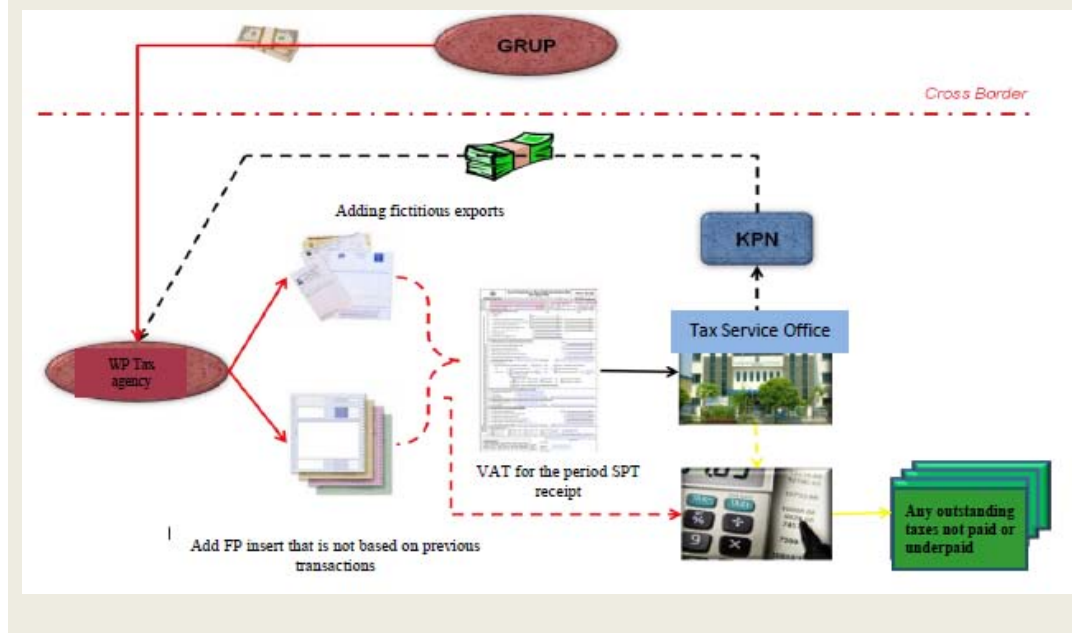
**FIGURE 17:  
Modus Operandi of Crime of Taxation:  
Modified Transactions in Tax Invoice**



- f. Modifying the sale of exports (fictive exports) to get the restitution of value added tax (VAT).

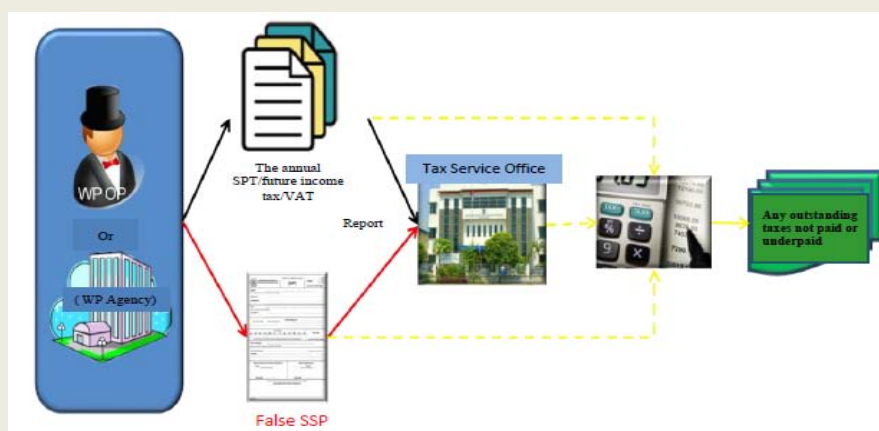
The exporter company adds a fictive export or exports from other businessmen as his company's export sales, then will be looking for an input tax invoice that is not based on actual transactions for the purpose of VAT restitution. To support this modifying is usually made of modified acceptance of export sales by means of visible existence of transfers from overseas company which actually is the transfer of their business group.

**FIGURE 18:  
Modus Operandi of Crime of Taxation:  
Fictive Export for VAT Restitution**



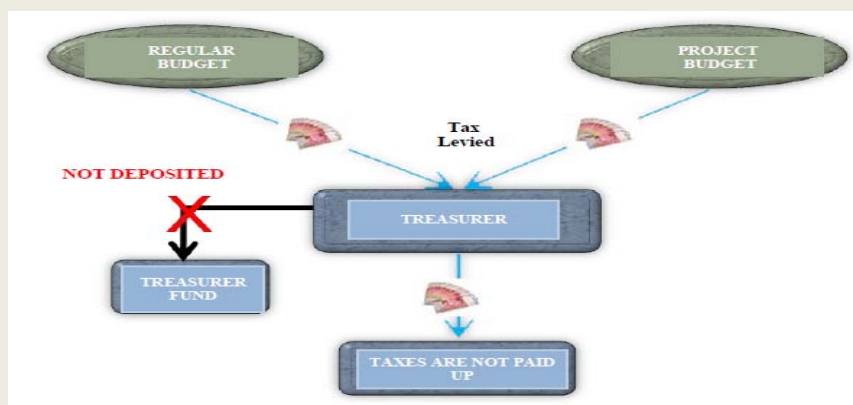
- g. Issuing and/or using tax deposit evidence that is not based on the actual transaction.
- The suspect makes Tax Payment Slip (SSP) where tax payment receipt at perception Bank (impression engines, signature and name of the payment recipient as well as the Perception Bank Seal) is faked, this will be known when confirmed to the Perception Bank of payment recipient it will be answered "no" deposit.
  - The company does not make payment of its tax liabilities (income tax and VAT) by searching SSP that is not based on the actual transactions (False SSP), so SSP that is attached in the TAX ANNUAL REPORT to KPP is not based on the actual transaction.

**FIGURE 19:**  
**Modus Operandi of Crime of Taxation:**  
**Modified Transactions in Tax Payment Proof**



- h. Do not deposit the taxes deducted or withheld either Income Tax Article 21, Income Tax Article 23, Income Tax Article 26 or VAT.
- The Treasurer of the Government deducts Income Tax Article 21 over the salaries of civil servants, Income Tax Article 23 and VAT over a Government project but does not report the deduction to the Tax Service Office (KPP) and does not deposit the tax that has been deducted or withheld to the Perception Bank.
  - The company deducts Income Tax Article 21 over employees' wages, Income Tax Article 23 over the object that should be deducted and the levy of Output VAT over its sales but does not report the tax collection and deduction and does not deposit the tax that has been deducted or withheld to the Perception Bank.

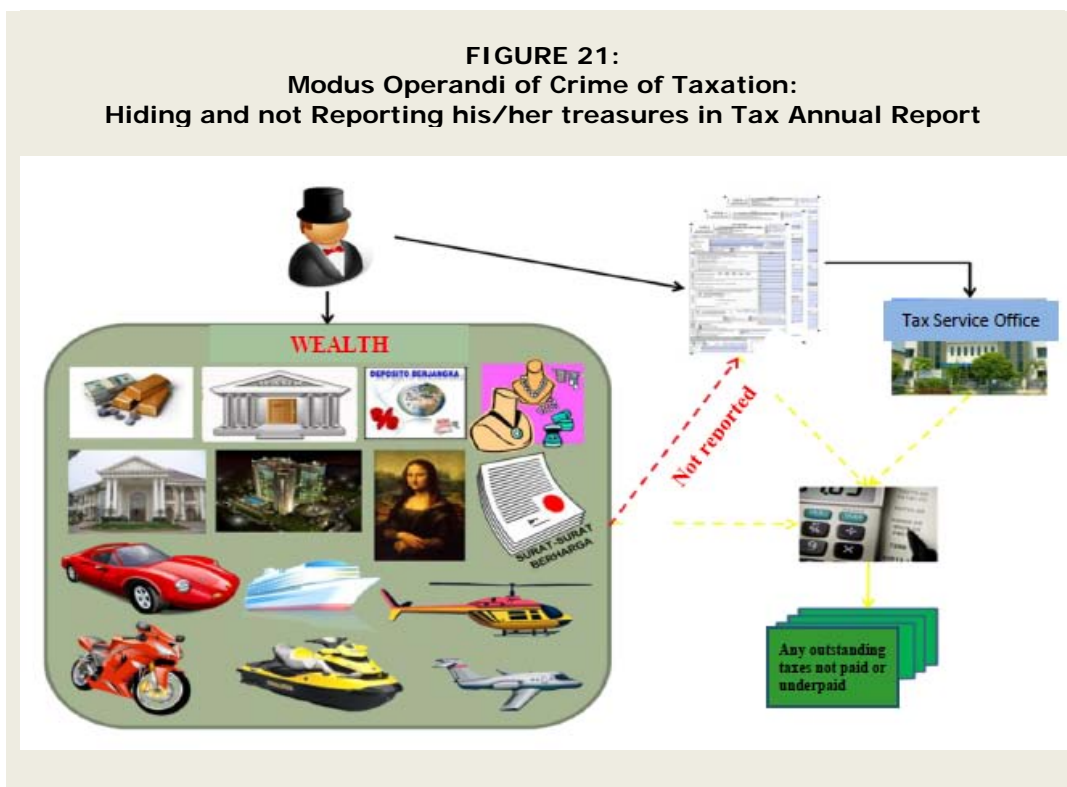
**FIGURE 20:**  
**Modus Operandi of Crime of Taxation:**  
**Do not submit Taxes Deducted or Withheld**



- i. Hide and do not report his treasure in Tax Annual Report.

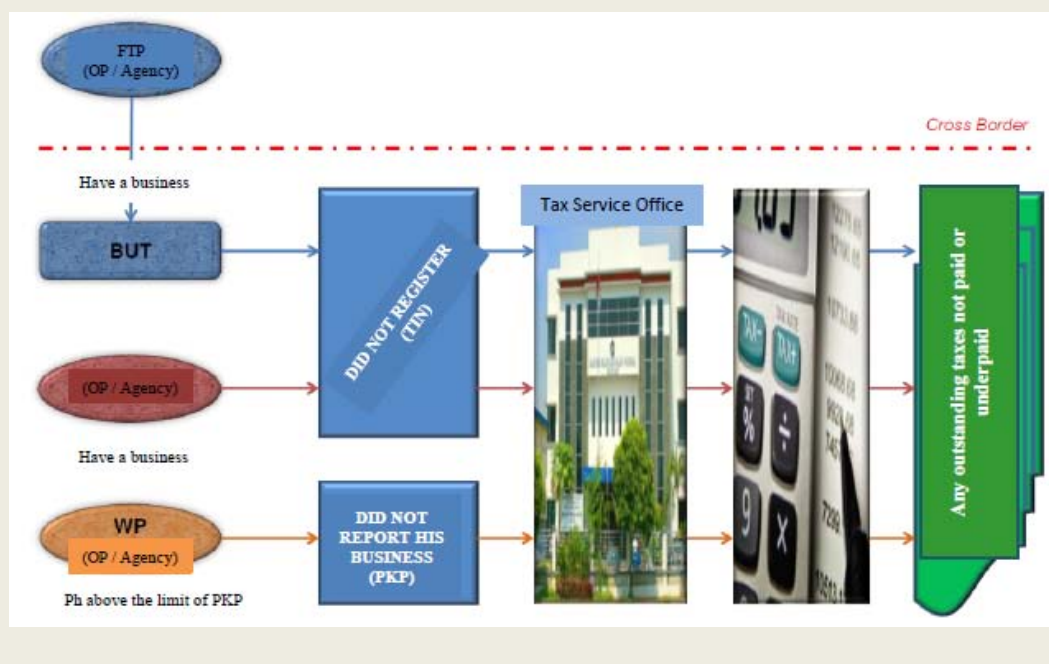
Taxpayers who deliberately do not report his earnings in the Tax Annual Report of Income Tax of Individual Taxpayer, they will usually shrink also lists of the treasure reported /attached in the Tax Annual Report of Income Tax of Individual Taxpayer by hiding or not reporting some of his wealth, for example, do not report a house, an apartment, a car, or part of the shares in bank saving account.

**FIGURE 21:**  
**Modus Operandi of Crime of Taxation:**  
**Hiding and not Reporting his/her treasures in Tax Annual Report**



- j. Do not enroll to be given Taxpayer Identity Number (TIN) or not report his business to be confirmed as a Taxable Entrepreneur (PKP).
- Foreign Taxpayers (Individual or Entity) have a business in Indonesia through a fixed business form (BUT) but do not register to get a TIN, so as not to pay taxes and not report the circumstances of their business to the Directorate General of Taxes.
  - Domestic Companies or Individuals that have business in Indonesia ( *underground economy*) but do not register to get a TIN, so as not to pay taxes and not report their business condition to the Directorate General of Taxes.
  - Employers who submit Taxable Goods (BKP) or Taxable Services (JKP) shrink their business cycle report in order to be categorized as small entrepreneurs who are not required to report their business to be confirmed as PKP that are obliged to charge a Value Added Tax (VAT).

**FIGURE 22:**  
**Modus Operandi of Crime of Taxation:**  
**Having no TIN (NPWP) or Not Reporting the Business as PKP**



**The Verdict of the Supreme Court over the Corporate Group  
 Incorporated in AAG -  
 as a Success Story for Law Enforcement of Cases in the Field of Taxation**

The end of 2012, exactly December 18, 2012, the Tribunal Judges of Cassation which handle the case number: 2239 K/PID.SUS/2012 imposed verdicts that simply seized public attention. Order of verdicts getting public attention is order to pay in cash 2 (two) times the tax payable less paid by 14 (fourteen) companies incorporated in AAG the filling of annual TAX ANNUAL REPORT of which was represented by the Defendant SL. The overall amount of tax payable is 2 x Rp 1.259.977.695.652,- = Rp 2.519.955.391.304,- (two trillion five hundred nineteen billion nine hundred fifty five million three hundred ninety-one thousand three hundred four rupiah) in cash. The tax payable must be paid within 1 (one) year.

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The verdict of the Appeal number: 2239 K/PID.SUS/2012 cancelled the verdict of Jakarta high court No. 241/PID/2012/PT. DKI dated 23 July 2012 which strengthened the verdict of Central Jakarta District Court No. 243/PID. B/2011/PN. JKT. PST. Dated March 15, 2012. In the order, the Central Jakarta District Court granted Premature Exception from the Defendant's Legal Advisor and declared the indictment of District Attorney/Prosecutor against Defendants SL due to the Premature was not acceptable.

This case originated from exposure to 13 Indonesia companies which established shell companies in Commonwealth countries of United Kingdom, British Virgin Island (BVI).

AAG has company in the tax haven country shell, AAAOF Ltd. The establishment of shell company was ultimately used to manipulate financial company in Indonesia in terms of gaining profit. It was also revealed in the verdict of the AAG's trial in the end of 2012.

In the Supreme Court's verdict No. 2239 K/PID.SUS/2012, explained modifying AAG report in tax payment. AAG modified their export reporting by changing the appropriate sale price to the country of destination, to be transferred to other countries the price was lower so that the profits recorded in the corporate tax report was low.

Modifying sales was made through export sales, the good delivery of which is actually directly addressed to the buyer. However, financial documents relating to the export transaction i.e. *Letter of Credit* (LC) and the *Invoice*, made as if sold to companies in Hong Kong namely, TBEO Ltd., GFOF Ltd., UOF Ltd., atau EROFI Ltd.

From Hong Kong, then sold again to a company in Macau (GAOF) or *the British Virgin Island* (AAAOF Ltd.), recently sold to the next buyer.

Whereas companies in Hong Kong, Macau and in the BVI is a shell company used as a facilitator to support the transaction and as a place to accommodate the difference in selling price.

As for the "entire documents (*invoice*) of sales, either for companies incorporated in the AAG or companies in Hong Kong, Macau, and the BVI were conducted by employees of the AAG in Medan, North Sumatra," as written in the verdict of the Supreme Court.

Due to the export sales transactions in this manner, the profits reported by the company in Indonesia became lower than they should be. So the tax payable reported became smaller than it should be.

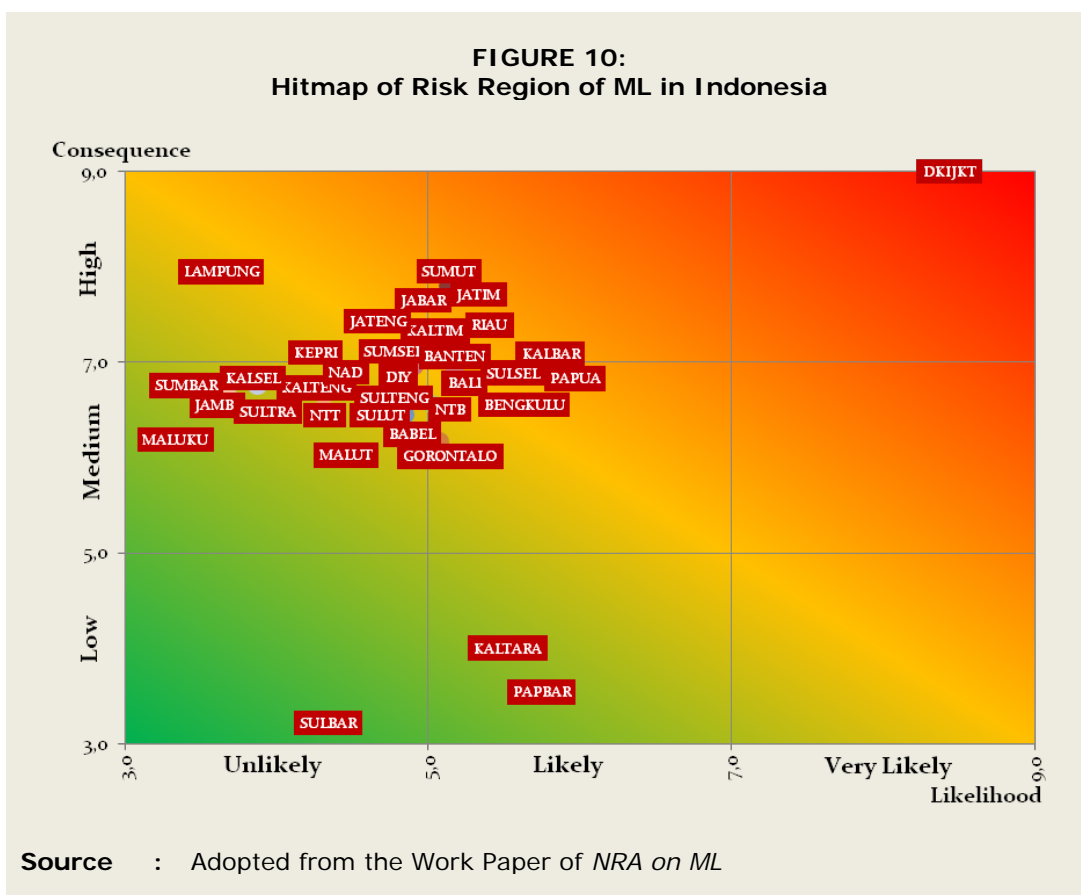
with the Tax financial statements game, the AAG was detrimental to the country amount of Rp1,25 trillion. over this action, the Supreme Court ruled the group to pay a fine of two-fold, namely amount of Rp2,5 trillion.

**Source** : Adopted on the basis of the verdict of the Supreme Court No: 2239 K/PID. SUS/2012.

## 2) Hitmap Indonesia Risk Assessment on Money Laundering Risk according to the region of the Occurrence of the Transaction

As it was known generally, Indonesia is an archipelago with a population of more than 252 million scattered in 34 provinces. Related to ML, each region has a risk that is different ML and highly dependent to economic, social structure, regulation, implementation of the AML-CFT Regime by *stakeholders* as well as the related law enforcement of ML in each region. To find out the risk level of the occurrence of ML in every province in Indonesia, Indonesia NRA Team has conducted the *assessment* to law enforcement and an analysis of suspicious transactions reports by the Reporting parties to PPAATK.

By combining the analysis results of the threat level of ML according to the region, the vulnerability level of law enforcement and the occurrence of ML according to the region and level of the scale and consequence of ML according to region, It was known that Jakarta is high risk against the occurrence of ML, followed by East Java, Papua, North Sumatra, Riau, West Kalimantan, West Java, South Sulawesi, Sumatra, and Bali. This can be seen on a hitmap below. Ten provinces are in region with "Medium" and "high" risk against the occurrence of ML.



**TABLE 3:**  
**Risk Factors of Risk Region of ML in Indonesia**

Province	Likelihood Level	Consequence Level	Risk Level (Likelihood x Consequence)	Risk Category
DKI JKT	8,4	9,0	76,0	High
JATIM	5,2	7,7	40,4	Medium
PAPUA	5,9	6,9	40,4	Medium
SUMUT	5,1	7,8	40,1	Medium
RIAU	5,4	7,4	40,0	Medium
KALBAR	5,8	6,9	39,5	Medium
JABAR	5,0	7,7	38,0	Medium
SULSEL	5,4	6,9	37,4	Medium
BENGKULU	5,6	6,6	36,9	Medium
BALI	5,3	6,8	36,3	Medium
KALTIM	5,0	7,3	36,2	Medium
BANTEN	5,2	7,0	36,0	Medium
JATENG	4,9	7,3	35,7	Medium
SUMSEL	4,9	7,0	34,2	Medium
NTB	5,0	6,6	33,0	Medium
DIY	4,8	6,7	32,0	Medium
SULTENG	4,8	6,6	31,6	Medium
GORONTALO	5,1	6,2	31,3	Medium
BABEL	4,8	6,5	31,3	Medium
NAD	4,5	6,8	30,2	Medium
SULUT	4,6	6,5	30,1	Medium
KEPRI	4,4	6,8	29,8	Medium
KALTENG	4,3	6,7	29,0	Medium
LAMPUNG	3,6	8,0	28,9	Medium
NTT	4,3	6,5	28,2	Medium
MALUT	4,5	6,0	26,9	Medium
KALSEL	3,9	6,8	26,2	Medium
SULTRA	3,9	6,5	25,6	Medium
JAMBI	3,7	6,7	24,5	Low
SUMBAR	3,4	6,8	23,0	Low
KALTARA	5,5	4,0	22,1	Low
MALUKU	3,3	6,2	20,7	Low
PAPBAR	5,7	3,5	20,4	Low
SULBAR	4,3	3,2	14,0	Low

Source : Adopted from the Work Paper of NRA on ML

### 3) Hitmap of Indonesia Risk Assessment on Money Laundering according to profil by customers

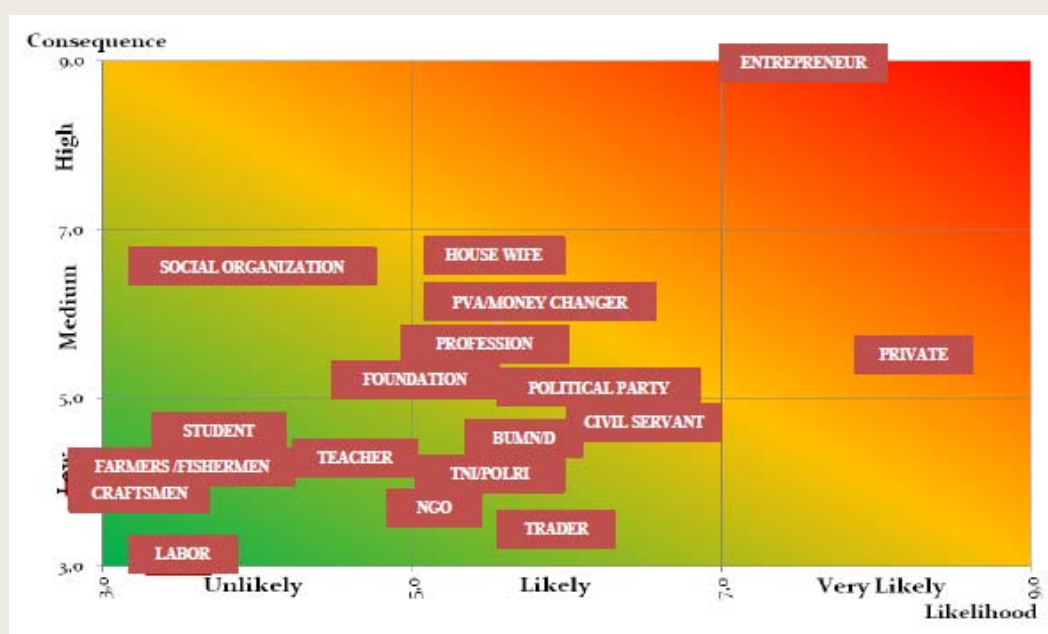
As already provided for in the Law of the Republic of Indonesia Number 8 Year 2010 concerning the prevention and eradication of criminal act of money laundering, the criminalization against ML can be imposed to the perpetrator of which is an individual or Corporation. Based on the results of the statistical analysis of risks to law enforcement of ML in Indonesia and the perception of law enforcement against the potential occurrence of ML in Indonesia based on the type of the peparator, it is known that the service of users of corporations/business entities are more Risk in becoming perpetrators of ML than an individual customers. This is because as explained



earlier that the threat level and the consequence level / scale of ML that could potentially be done by the Corporation/business entity was higher than Individual customers. As for the company profile of the most Risk corporate of ML include NPO/NGO, corporate, and micro-businesses.

However, if risk analysis of the Customers profile is analyzed more comprehensively, it is known that the profile of the entrepreneur, private employees, Bank employee, the house wife, money changer employe, PEPs, the administrator of political parties, CIVIL SERVANTS (including retirees), professionals, administrators of the Foundation and employees of STATE/LOCAL-OWNED ENTERPRISES have a risk of becoming perpetrators of ML on the "high" and "Medium" risk level.

**FIGURE 11:**  
**Hitmap of Individual Perpetrator on Money Laundering**



Source : Adopted from the Work Paper of NRA on ML

**TABLE 4:**  
**Risk Factors of Individual Risk Profile of ML in Indonesia**

Type of Individual Profile	Likelihood Level	Consequence Level	Risk Level (Likelihood x Consequence)	Risk Category
Entrepreneurs	7,4	9	66,3	High
Private Employee	8,2	5,5	45	High
Bank Employee	5,9	6,1	35,9	Medium
House Wife	5,3	6,7	35,1	Medium
Employee of PVA/Money Changer	5,6	6	33,2	Medium
PEPs	6,1	5,1	31,1	Medium
Political Party Administrator	5,9	5,1	30,1	Medium

Type of Individual Profile	Likelihood Level	Consequence Level	Risk Level (Likelihood x Consequence)	Risk Category
<b>CIVIL SERVANTS (including retirees)</b>	6,2	4,8	29,7	Medium
<b>Professional</b>	5,3	5,5	29,5	Medium
<b>Executive Board of The Foundation</b>	5,1	5,2	26,9	Medium
<b>Employee of BUMN/D</b>	5,8	4,4	25,6	Medium
<b>Administrators of Organizations/Religious Institutions</b>	3,6	6,6	23,4	Low
<b>TNI/Polri (including retirees)</b>	5,4	4	21,4	Low
<b>NGO Administrators</b>	5,2	3,8	19,7	Low
<b>Traders</b>	5,7	3,5	19,7	Low
<b>Teachers</b>	4,2	4,3	17,9	Low
<b>Student</b>	3,8	4,4	16,3	Low
<b>Craftsman</b>	3,2	4,1	13,2	Low
<b>Farmers/Fishers</b>	3	4,1	12,2	Low
<b>Labour</b>	3,4	3	10,2	Low

Source : Adopted from the Work Paper of NRA on ML

### C. EMERGING THREAT OF ML IN INDONESIA

#### The Use Of The Bitcoin As A Means Of Money Laundering

Bitcoin is one form of *cryptocurrency-based virtual* payment tools that allows payments between individuals (*peer to peer*) in *real-time* anywhere using the internet without involving a third party as a *central counterparty*. (Nakamoto, 2009)

TABLE 5:  
Development of Electronic Coins

KE (Code)	Year	Inventor
<b>Bitcoin (BTC)</b>	1999	Satoshi Nakamoto
<b>Dogecoin (DOGE)</b>	2013	J. Palmer & B. Markus
<b>Litecoin (LTC)</b>	2011	Charles Lee
<b>Mastercoin (MSC)</b>	2013	J.R. Willett
<b>Namecoin (NMC)</b>	2011	-
<b>Peercoin (PPC)</b>	2012	Sunny King
<b>Primecoin (XPM)</b>	2013	Sunny King
<b>Ripple (XRP)</b>	2013	C. Larsen & J. Mc Caleb

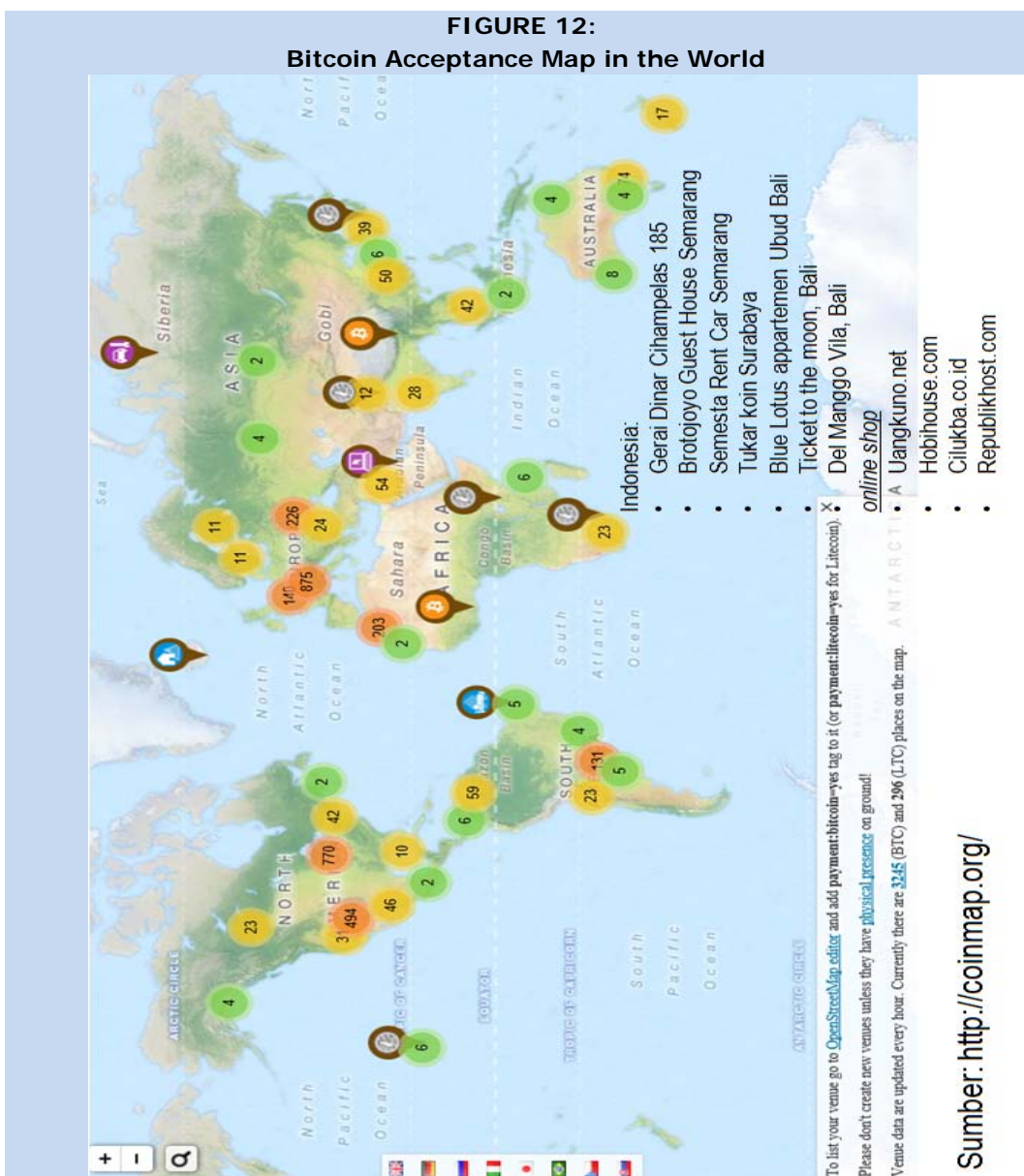
Source : Adopted from various writings on Wikipedia.org

Bitcoin created as *reward* for users who offer their computing power to verify and record payments to General Ledger. This activity is called *mining* and the miners are rewarded with transaction costs and the newly created Bitcoin. In addition to the *mining*, Bitcoin can be obtained in exchange for currencies, products, and services that are different. Users of the Bitcoin also can send and accept Bitcoin for options of transactions.

The use of the Bitcoin as payment form continues to develop, and traders have an incentive to accept it because of the lower cost of the cost normally imposed by the credit card processor namely 2-3%. Unlike a credit card, the fee is paid by the buyer, not the vendor. Bank Europe authorities and other sources have warned that users of Bitcoin is not protected by rights of refund or payment refusal. However, at the moment it has occurred increased rapidly enough in the retail transactions over electronic coins including Bitcoin.

The use of the Bitcoin by criminals has attracted attention from the financial regulator, legislature, law enforcement, and the media. The Criminal Act is especially with regard to black market , theft , and narcotics, nevertheles, officials in the countries such as the United States keep to acknowledge that bitcoin is a legitimate financial services.

**FIGURE 12:**  
**Bitcoin Acceptance Map in the World**



Source : <http://coinmap.org/>



**FIGURE 14:**  
Some Bitcoin uses in Indonesia

The screenshot displays the BitPremier website interface, which is a Bitcoin luxury marketplace. The header includes the logo and navigation links: ABOUT, How It Works, CONTACT, LOGIN, and SELLER SIGNUP. The main content area features a grid of 12 property listings, each with a photograph, a title, and pricing information in multiple currencies.

Property Name	Price (Rp)	Price (\$)	Price (BTC)
LUXURY PRIVATE VILLA COMPLEX IN UMALAS, BALI	₹21,740,076	\$5,000,000.00	~₹1,000,000
MAGNIFICENT VILLA IN CANGGU, BALI	₹13,044,045	\$3,000,000.00	~₹1,000,000
HEAVENLY VILLA AT SAWANGAN, NUSA DUA, BALI	₹10,000,435	\$2,300,000.00	~₹1,000,000
32 HECTARES, 1/3 OF ISLAND, SOUTHWEST LOMBOK	₹43,697,552	\$10,050,000.00	~₹1,000,000
40000 SQ.M. HILLTOP LOT, INDONESIA	₹3,878,429	\$892,000.00	~₹1,000,000
R-G-B BY ANTOINE MERGER	₹82,612	\$19,000.00	~₹1,000,000
LUXURY VILLA, 200M FROM BEACH IN BALI	₹7,171,107	\$1,650,000.00	~₹1,000,000
2BD LUXURY VILLA RENTAL, BALI	₹5,433	\$1,250.00	~₹1,000,000
FABULOUS VILLA AT ECHO BEACH BALI	₹10,865,314	\$2,500,000.00	~₹1,000,000
5-STAR VILLA INVESTMENT IN BALI, INDONESIA	₹360,728	\$83,000.00	~₹1,000,000
TWO VILLAS IN BALI BUILT TO EUROPEAN SPECS	₹3,216,133	\$740,000.00	~₹1,000,000
5BR MANTRA NATURE RETREAT, BALI	₹6,099,635	₹1,255,000.00	~₹1,000,000

Source : [www.biCRIME.Ofremier.com](http://www.biCRIME.Ofremier.com)

## This Man Coming From Mojokerto Buys Monthly Pulse Using Bitcoin

By Siska Amelie F Deil on 15 Feb 2014 at 17:44 WIB

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As a transaction tool that is beyond the authority of government agencies, Bitcoin in fact has been used as means of payment for daily needs. Bayu (32) is one of the users of Bitcoin claiming to always buy pulses by using a virtual currency.

"So far I use Bitcoin recently to buy a pulse only, because for the others, few companies are willing to accept Bitcoin," said this man coming from Mojokerto to Liputan6.com, in Jakarta, Saturday (15/2/2014).

Source : <http://bisnis.liputan6.com/>



Source : <http://bittiraha.fi/>

Minggu 23 Aug 2015, 17.08 WIB

## ATM breaker Bought Customer Data via Website Using Bitcoin

Mei Amelia K - detikNews

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Foto: Mei Amelia

Jakarta - a gang of a large bank ATM breaker used customer data sold on 3 websites. Suspect E alias ES (41) which are criminal leader, buy these customer data used electronic money Bitcoin.

"The suspect E bought the customer data of a number of banks in Indonesia sold in 3 websites using bitCoin," said Kasubdit Resmob Ditreskrim

Polda Metro Jaya AKBP Difik Sugiarto to reporters in Mapolda Metro Jaya, Jakarta, Sunday (23/8/2015).

Source : <http://news.detik.com/>

## Bitcoin Transactions, From Drugs To Hitman

Angga Aliya - detikfinance  
Rabu, 11/12/2013 13:10 WB

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Foto: Reuters

Jakarta - the currency of virtual world or virtual currency, Bitcoin, is getting popularity. Many deals are already done using it, ranging from legal to illegal.

One of the challenges for Bitcoin is a legal expenditure place, as long as Bitcoin has been widely misused to transactions that are not touched by laws.

Already many people have exchanged any dollar, euro or yen to be Bitcoin for doing business in the illegal money market in the virtual world such as the Silk Road and the Black Market Reloaded. On average they are exchanging their money here to do business, such as buying and selling illegal drugs.

So what are the goods purchased using Bitcoin? Check out the results of the investigation detikFinance from various sources below, Wednesday (11/12/2013).

Source : <http://finance.detik.com/>

## This Man Has Bought a Luxurious Car Using Bitcoin

California – use of digital currency, Bitcoin, now grows extremely. Not only can it be used to buy snacks or works of art, but also it could've been used to buy luxury cars.

It has just happened in Newport Beach, California, United States.

A resident of Florida who asked for his name kept secret, buying luxurious cars, Tesla, to the most expensive model i.e. Tesla Model S,



Car bought by Bitcoin (cnnmoney)

costing US \$103,000 or around Rp 1.13 billion using 91.4 Bitcoin on the Lamborghini dealership in Newport Beach on Tuesday (3/12). It is for the first time, the dealer accepts payments with Bitcoin.

Based on record of *CNNMoney*, Bitcoin is a digital currency that was introduced in the world for the first time in 2009 by an unknown person who used the alias name Satoshi Nakamoto. In Bitcoin transactions, it does not use an intermediary, or no bank! In addition, there is no commission or administration fee for each transaction. Any buyer also does not need to give the real name.

Source : [www.beritasatu.com](http://www.beritasatu.com)

## Bitcoin ATM machine in Jakarta at LTC Glodok – BitXatm .

Installed on June 28, 2015

Is this ATM working?  
Status: Available (FAQ)

N/A  
Success

0 votes

ATM Type: BitXatm

City: Jakarta

Find all Bitcoin ATMs in Jakarta and Bitcoin ATMs in Indonesia.

Location: LTC Glodok

Address:  
LTC-Glodok  
Ground Floor 1  
Blok B2 no 2  
Jakarta, Indonesia

Open hours:  
Mon-Fri: 8:30 am - 4:00 pm  
Sat: 8:30 am - 12:00 pm



Don't know how to use a bitcoin ATM?

Read our tutorials:

Source : <http://coinatmradar.com/>



## INDONESIANS CAN NOW BUY BITCOIN AT OVER 10,000 INDOMARET STORES

Caleb Chen 03/09/2014 Announcements, Exchanges, Exclusive, News

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It is now a lot easier for Indonesians to buy Bitcoin. Bitcoin.co.id, Indonesia's rising Bitcoin website, has landed a groundbreaking deal with Indomaret to help Indonesia's over 238 million residents to fund their Bitcoin.co.id accounts. Indonesians now have access to Bitcoin at more than 10,000 Indomaret convenience stores across Indonesia where they can "top up" Indonesian Rupiah on their Bitcoin.co.id account and then trade for Bitcoin.

CCN



Indomaret is headquartered in Jakarta, the capital of Indonesia. In 1988 the first official Indomaret store opened its doors. Other Bitcoin services dedicated towards allowing Indonesian customers to buy Bitcoin include [tuger.in](#) and [artaBit](#) and, technically, [LocalBitcoins](#). However, the reach of Indomaret is not to be underestimated. Indonesians are already accustomed to paying bills at Indomaret; as a result, this on ramp to Bitcoin is incredibly familiar to many Indonesians.

Bitcoin.co.id has previously received international press coverage late in 2013 after an Indonesian publication, the [JakartaGlobe](#), ran a story titled, *Bitcoin Finds Itty-Bitty Market in Indonesia*. Bitcoin.co.id's co-founder Oscar

Darmawan was very hopeful for Indonesian Bitcoiners back in 2013. He admitted to the [Jakarta Globe](#) that

Source : <http://www.cryptocoinsnews.com/>

**FIGURE 37:**  
Potential Use of Bitcoin for ISIS Terrorism Financing

## ISIS-Linked Blog: Bitcoin Can Fund Terrorist Movements Worldwide

Stan Higgins | Published on July 7, 2014 at 19:15 BST



338



207



14



79



The Islamic State of Iraq and Syria (ISIS) has proposed using bitcoin to fund global jihadist efforts.

A blog post entitled 'Bitcoin and the Charity of Violent Physical Struggle' outlines a use case for bitcoin as a vehicle for terrorist financing, noting that its pseudonymous transaction capability fits well within the needs of jihadist organizers. Its author claims to be connected with the Islamic State, the so-called jihadi nation established by the ISIS leadership.



The concept that bitcoin could be used to help fund terrorists has been a long-standing concern among law enforcement and government agencies worldwide. Indeed, many restrictions placed on the use of digital currencies stem from these concerns.

According to the blog post, originally reported on by [Sky News](#), bitcoin makes it difficult for anti-terrorist financing authorities to stop transactions from taking place. Services such as [DarkWallet](#) were specifically cited as methods for making bitcoin payments between terrorists even more untraceable. The blog author noted that bitcoin presents tax evasion benefits as well.

The blog states:

*"This system has the potential to revive the lost sunnah of donating to the mujahideen, it is simple, easy, and we ask Allah to hasten its usage for us."*

Source : <http://www.coindesk.com/>

### Avoiding detection

Terrorist funders may find bitcoin and other digital currencies attractive owing to the broad supervision and monitoring of the global financial system. Specifically, in the post-9/11 world, many governments actively watch for suspicious money movements.

By using bitcoin, ISIS and other organizations could circumvent legal barriers that keep money away from terrorists. The digital currency's borderless transaction capabilities and avoidance of major money conduits make it a logical fit for terrorists – and a likely target for law enforcement officials concerned about this exact application.

The blog author wrote that, as a result of anti-terrorism financial restrictions and cooperation between governments on these efforts, jihadist funding has all but dried up. Only the wealthiest supporters are able to contribute by using traditional currencies and payment methods.

However, bitcoin presents a hard-to-trace option for terrorism funding, the ISIS paper continues. As well, block chain-based smart contracts may be used to support jihadist efforts.

The blog post concluded:

*"This allows our brothers stuck outside of the ardh Dawlatul-Islam to avoid government taxes [and] secretly fund the mujahideen with no legal danger upon them."*

### Call to utilize DarkWallet

For terrorist groups like ISIS, the appeal of bitcoin lies in the ability to mask transactions – or at least hide them amidst the broader movements of the bitcoin network.

The potential use of bitcoin to fund terrorism is [being actively investigated](#) by a number of government agencies, including the US Department of Defense.

The article specifically calls for ISIS to use DarkWallet as a platform of funding, saying:

*"DarkWallet's beta release will be published within the next coming months, the mujahideen of Dawlatul Islam would simply need to set up a wallet and post their wallet address online. Then, Muslims from across the globe could simply copy the wallet address, login to their [wallets], purchase whatever amount of bitcoin they wish to send, and send them over."*

CoinDesk reached out to the DarkWallet development team for comment but did not receive an immediate response.

By citing DarkWallet specifically, the blog highlights potential avenues for terrorist financiers to use freely available bitcoin services. Beyond bitcoin, there are several altcoins that present potential applications of transaction anonymizing technology that could be leveraged to fund terrorism.

Source : <http://www.coindesk.com/>

Related to the increasingly rampant use of Bitcoin in Indonesia which has penetrated as an alternative payment of transaction of properties, luxury vehicles, illegal weapons, even possible for terrorist financing, the Government is expected to give greater attention in order not to further develop Bitcoin to be means of money-laundering, observing that the

transaction with Bitcoin are *intangible, unknown, and untraceable*. However, until now, the Government of Indonesia has not yet set up expressly related to the use of the Bitcoin. By observing Law No. 7 of 2011 on the Currency as well as Law No. 11 of 1999 which is then modified several times, the last by Law No. 6 of 2009, Bank Indonesia issued a statement that Bitcoin and other *virtual currency* are not the legal currency or means of payment in Indonesia. Bank Indonesia as the regulator of payment system encourages community to be wary of Bitcoin and other *virtual currency*. All the related risks of ownership/use of the Bitcoin are borne by the owner/user of Bitcoin and other *virtual currency*. Related to this, the Indonesia Payment System Association (ASPI) under BI will continue to keep an eye on the potential shift of the payment system from the conventional model to the new model. The following statement of some countries/authorities related to the development of the Bitcoin.

**TABLE 6:**  
**Statements of Some Countries/Authorities related to Bitcoin**

Country/ Authority	date	Statement	Description
Thailand: <b>Bank of Thailand</b>	July 2013	<ul style="list-style-type: none"> <li>· BOT refused the permission request of PVA to trade Bitcoin because it does not meet the qualifications.</li> <li>· BOT cannot prohibit Bitcoin trade because the regulation has not existed.</li> </ul>	Based on e-mail communication with BOT officials, Jaturong Jantarangs, Senior Director, Payment System Policy Department
United States: <b>The Federal Reserve</b>	18 Nov 2013	<ul style="list-style-type: none"> <li>· Don't feel the need to have the authority to oversee and regulate directly to the innovation (virtual currency). Nevertheless the virtual currency has a promising long-term prospects.</li> </ul>	Written testimony at hearings in the U.S. Senate about virtual currency, 18-19 Nov 2013
China: -. PBOC -. Ministry of Industry and IT -. Commission of Banking Regulatory -. Commission of Capital Market Regulatory -. Commission of Insurance Regulatory	December 05, 2013	<ul style="list-style-type: none"> <li>· Bitcoin is a virtual commodity the legal status of which is different to the currency.</li> <li>· Financial institutions are prohibited from transacting with Bitcoin.</li> <li>· The public is allowed to trade as a commodity with bearing the Bitcoin risk alone.</li> </ul>	A joint statement of five Chinese Government authorities
French: <b>Bank of France</b>	December 05, 2013	<ul style="list-style-type: none"> <li>· Exchange rates of the Bitcoin compared the official currency fluctuates high and potentially owners have trouble in cashing Bitcoin.</li> <li>· Its anonymous inviting Bitcoin utilization for money laundering and terrorist financing.</li> </ul>	

Country/ Authority	date	Statement	Description
Singapore: <b>Monetary Authority of Singapore</b>	December 23, 2013	<ul style="list-style-type: none"><li>· MAS does not regulate virtual currency</li><li>· MAS will not intervene in the decisions of a business or company that will accept or reject the Bitcoin because it was a business decision</li></ul>	E-mail MAS to Coin Republic which operates trading platforms of Bitcoin in Singapore
India: <b>Reserve Bank of India</b>	December 24, 2013	<ul style="list-style-type: none"><li>· Creation, trade and use of virtual currencies, including Bitcoin, as means of payment was not authorized by a central bank or authority.</li></ul>	Press release on the RBI website

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CHAPTER  
5Conclusions NRA  
on ML

Based on the study of literature, the results of the identification, analysis, and the evaluation of the potential threat variations of ML, vulnerabilities with impacts that may be caused, both to the economic aspects, physical, social, environmental, and political/structural, it can be concluded that:

1. In addition to be one of favourite destination country for foreign investment, Indonesia is also considered to be potentially quite high against money laundering and terrorism Financing.
2. Criminal Act of Taxation is the highest threat of ML sourced from abroad.
3. Based on the response of risk assessment of NRA from the Reporting Party, it is known that Iran, North Korea, Syria, Myanmar, Afghanistan, Sudan, Cuba and countries categorized by OECD are countries with as a *tax haven* countries are the countries having the highest risk of ML.
4. From the domestic side, the crime of Narcotics, Corruption, Tax Crime, becomes the highest risks of the predicate crime ML in Indonesia.
5. DKI Jakarta is a province that has a high risk of ML in Indonesia. It is followed by East Java, Papua, North Sumatera, Riau, West Kalimantan, West Java, South Sulawesi, Bengkulu and Bali which are at medium risk in Indonesia.
6. Banking Industry, Capital Market, Property company/agents, and Motor Vehicle Dealersn have the highest risk of being used as means by ML perpetrators in Indonesia.
7. Business Entity/Corporation Service Users, especially Foundations, and Non Small and Medium Scale Corporations are at higher risk of becoming ML perpetrators than Individual Service Users.
8. However, some individual Customers profiles also have a high risk of becoming ML preparator, such as: Entrepreneurs, private employees. Bank employees, housewives, money changer employees, PEPs, political party staff/managers, civil servants (including retirees), professionals, foundation staffs/managers, and employees of state/regional government-owned companies are categorized as "medium" risk profile.
9. The use of virtual currency (one of them is Bitcoin) in conducting financial transaction is one of the *emerging threat* of ML in Indonesia.

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**NRA Methodology version IMF:**

[www.fatf-gafi.org/media/fatf/documents/reports/Risk\\_Assessment\\_IMF.pdf](http://www.fatf-gafi.org/media/fatf/documents/reports/Risk_Assessment_IMF.pdf)

**NRA Methodology version World Bank:**

[www.fatf-gafi.org/media/fatf/documents/reports/Risk\\_Assessment\\_World\\_Bank.pdf](http://www.fatf-gafi.org/media/fatf/documents/reports/Risk_Assessment_World_Bank.pdf)