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The Practice of Lending Names (Nominees) in the Perspective of Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes

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Abstract

The practice of lending names (nominees) is often found in corporate ownership structures and financial transactions in Indonesia. Although it is not specifically regulated as a separate offense under Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes (TPPU Law), this practice is frequently used to conceal the origin of assets and obscure the identity of the beneficial owner. This research aims to analyze the legal position of nominee practices within the framework of the TPPU Law and to determine the criteria under which a nominee may be held criminally liable. Using normative legal research with statutory and conceptual approaches, this study examines the TPPU Law, the National Criminal Code (Law No. 1 of 2023), criminal law doctrines, FATF Guidelines 2023, and relevant court decisions. The findings show that the TPPU Law does not criminalize nominee status alone, but rather emphasizes the perpetrator's conduct and mental element. Referring to Articles 3, 4, and 5 of the TPPU Law, now reflected in Article 607 paragraph (1) of the National

Criminal Code, a nominee may be prosecuted if two main criteria are fulfilled: first, committing a concrete act included in the offense formulation (actus reus); second, knowing or reasonably suspecting that the managed assets originate from criminal activity (mens rea). Economic benefits received by the nominee can also strengthen indications of intent or negligence. Therefore, law enforcement must clearly distinguish between low-risk nominees who act without knowledge and high-risk nominees who knowingly participate in money laundering schemes.

KEYWORDS
Nominee, money laundering crime, actus reus, mens rea

Introduction

The practice of lending names or *nominees* in corporate ownership structures has become a phenomenon that is increasingly discussed in legal studies in Indonesia. Civilly, the *nominee* is positioned as a *legal owner* who is formally recorded in the register of shareholders or as a company administrator, while the actual control is held by the *beneficial owner*.[1] However, although this practice is prevalent in the business world, legal studies show that the use *of nominees* has the potential to be misused as a means to disguise the origin of assets and obscure the identity of beneficial owners, which is an important issue in the context of money laundering crimes. Normative research on *nominee* practices in the Indonesian legal system suggests that this practice is still not fully regulated explicitly in laws and regulations related to corporate ownership structures and money laundering issues.[2]

In the context of anticipating money laundering, Indonesia has regulated in Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes (TPPU Law) which is now accommodated in Article 607 paragraph (1) of Law Number 1 of 2023

[1] I Made Angga Legawa and Anak Agung Istri Eka Krisna Yanti, "The Legal Position of the Nominee Agreement in the Indonesian Civil Law System," no. April (2025).
[2] Shailawa Ramb Madani, Alifah Hukma Shabiyya, and Deninda Arroyan Putri Kurnia, "The Legal Position of Indonesian Nominee Regulation" 13, no. 5 (2025): 810–25.

concerning the Criminal Code, which requires the existence of elements of actions and mental attitudes to determine criminal liability for an act. However, the Anti-Money Laundering Law does not directly regulate *the practice of nominees*, so the interpretation of the relevance of the practice to the crime of money laundering still requires a normative interpretation. On the other hand, policy developments such as the implementation through Presidential Regulation Number 13 of 2018 concerning the Principle of Recognizing Beneficial Ownership are proof that regulators are aware of the potential of hidden ownership structures as a tool to carry out money laundering and terrorism financing, although they have not answered in detail how the *nominee's criminal liability* must be understood in the Antiquity Law.[3]

The legal literature shows that the *nominee* structure is not only a civil issue but also gives rise to criminal consequences when used to disguise the flow of funds, including in the context of money laundering. Several studies have shown that *nominee* practices can obscure *beneficial owner* involvement, thus raising evidentiary challenges in criminal liability. For example, research on beneficial *owner responsibility* in money laundering crimes states that the removal of the traces of beneficial owners can open up opportunities for money laundering modes through *nominees* if there is no effective transparency mechanism.[4] This shows that the corporate structure and the use of *nominees* have functional relevance to the eradication of money laundering, but the legal authority to assess whether a *nominee's action* is a criminal act still requires a more in-depth study based on elements of the Anti-Money Laundering Law.[5] In addition, several studies

[3] Pancratius Rio Mayrolla, I Gusti Nyoman Yonatan Wiradi, and Yolanda Simbolon, "Analysis of the Principle of Recognizing Beneficial Owners for the Prevention and Eradication of Money Laundering and Terrorism," *Justitia et Pax* 39, no. 2 (2023): 333–63, https://doi.org/10.24002/jep.v39i2.6922.
[4] Khilmatin Maulidah, Muhammad Rizqi Hengki, and Ratna Kumala Sari, "Criminal Liability of Beneficial Owners in Money Laundering," *IBLAM LAW REVIEW*, 2024.
[5] Achmad Khozin Baharuddin and Adhitya Widya Kartika, "Criminal Accountability for Beneficial Ownership of Corporations in the Crime of Money Laundering in Indonesia," *Al-Dustur Journal* 6, no. 1 (2023): 106–23, https://doi.org/10.30863/aldustur.v6i1.4684.

have also discussed the legal aspects *of nominee* agreements from a corporate law perspective and their implications for shareholding rules. A study of the legal consequences of *nominee* matching holders shows that abuse of the *nominee* structure can have broad legal implications, including possible criminal implications such as money laundering if the *nominee* agreement is used to disguise the relationship between the beneficial owner and suspicious flow of funds. Thus, the *practice of nominees* is not only conceptually relevant to the issue of money laundering, but also raises questions about how criminal law should position these actions within the framework of the Anti-Corruption Law which requires proof of acts and mistakes as criminal grounds.[6]

The enactment of Law Number 1 of 2023 concerning the Criminal Code (new Criminal Code) brings consequences for the need to synchronize the rules of special criminal acts that have been in effect previously, including the crime of money laundering Article 2, Article 3, Article 4, and Article 5 of Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes which is now accommodated in Article 607 paragraph (1) letter a, b, and c, Article 607 paragraph (2) and Article 608 of the National Criminal Code. Although there is a change in the numbering of the article, the material elements regarding active acts, namely placing, transferring, concealing and passive, namely receiving and controlling, still have the same essence as Articles 3, 4, and 5 of the Anti-Corruption Law. Therefore, the use of elements in the Anti-Corruption Law in this discussion remains relevant as a primary analysis knife, considering that the doctrine and jurisprudence that have developed so far are rooted in the formulation, which has now been internalized into the new national criminal law system.

[6] Ni Made Gina Anggreni and Nyoman Satyayudha Dananjaya, "Legal Consequences of Comparative Holders *Nominee* for beneficial shareholders in a limited liability company," *Udayana Master Law Journal* 11, no. 4 (2022): 817, https://doi.org/10.24843/jmhu.2022.v11.i04.p08.

With this background, the study of *the Practice of Lending Names (Nominees) in the Perspective of the Money Laundering Crime Law* is important and relevant, both academically and practically. This research is expected to provide conceptual and normative clarity on how the practice of lending names should be positioned in the Anti-Money Laundering Law, whether the act can be directly qualified as a money laundering crime, or only a criminal act under certain conditions that meet the elements of acts and mistakes.

Methods

This study uses a normative legal research method with a descriptive nature. The descriptive research aims to provide a systematic, factual, and accurate picture of the practice of lending names (*nominees*) and its relevance to the provisions of the Money Laundering Crime Law.

The research approach used is a statute *approach*, by examining the provisions in Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes, the Criminal Code, and other laws and regulations related to *nominee* practices and the principle of beneficial *ownership*). In addition, this study also uses a *conceptual approach* by examining the doctrine and views of criminal law experts related to criminal acts, elements of criminal acts, and criminal liability. The legal materials used in this study consist of primary legal materials, in the form of relevant laws and regulations, and secondary legal materials, in the form of legal textbooks, scientific journals, and academic papers that discuss *nominee* practices and money laundering crimes. All of these legal materials are analyzed qualitatively, by debunking, interpreting, and relating the applicable legal provisions to the problem being researched to then draw logical conclusions.

Result and Discussion

1. Legal Status of the Practice of Lending Names (Nominee) according to Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes

The practice of lending names or *nominees* in corporate ownership structures and financial transactions has become a phenomenon that is increasingly discussed in legal studies in Indonesia. *Nominee* is understood as an individual or party whose name is borrowed to act on behalf of another party (*beneficial owner*) in order to hide the identity of the true owner of a certain asset or legal interest.[7] In the practice of modern economic crimes, the use of third parties as *nominees* is one of the modes that is often used to disguise the ownership of assets resulting from criminal acts, including in money laundering (TPPU). In the practice of modern economic crimes, the use of third parties as *nominees* is one of the modes that is often used to disguise the ownership of assets resulting from criminal acts, including in money laundering (TPPU). *Nominee* is understood as an individual or party whose name is borrowed to act on behalf of another party (*beneficial owner*) in order to hide the identity of the true owner of a certain asset or legal interest.[8] This phenomenon poses serious challenges in the enforcement of the TPPU law because the complex and non-transparent ownership structure makes it difficult for law enforcement officials to identify the main perpetrators and illegal flow of funds.[9] In the context of Indonesian law, the existence *of nominees* is often associated with

[7] Madani, Shabiyya, and Kurnia, "The Legal Position of Indonesian Nominee Regulation."
[8] Zahra Khairunnisa Rambe and Adlin Budhiawan, "Legal Consequences of Nominee Agreements Due to the Death of the Beneficial According to Statutory Regulations" 25, no. 2 (2025).
[9] Novariza, "Regulating Beneficial Ownership Transparency in the Financial Services Sector in the Context of Preventing and Eradicating Drug Trafficking" 2 (2021): 37–58.

the concept *of beneficial ownership* adopted from the international standards *of the Financial Action Task Force* (FATF), which aims to increase the transparency of corporate ownership in the context of preventing and eradicating anti-trafficking activities.[10]

The Financial Action Task Force (FATF) as an international institution that formulates global standards for the eradication of money laundering states that nominee arrangements *are one of the mechanisms that need to be anticipated in preventing the misuse of* legal *persons*' ownership. In its *Guidance on Beneficial Ownership for Legal Persons*, the FATF expressly identified that *nominee arrangements* can be misused to conceal the true identity of beneficial owners.[11] The use of *nominee directors* and *nominee shareholders* is referred to as a commonly used technique to obscure the relationship between a person and the assets or companies he controls.[12] At the national level, the Financial Transaction Reporting and Analysis Center (PPATK) in its various publications also identifies *nominee* practices as one of the modus operandi of money laundering. In the 2017 Money Laundering Typology document, PPATK stated that the use of *nominees* or third parties serves to hide the identity of the beneficial owner while making it difficult for law enforcement officials to track the flow of funds from crimes.[13] Even in the latest case, PPATK Main Secretary Alberd Teddy Benhard Sianipar revealed that the syndicate that broke into dormant accounts worth Rp204 billion used *nominee* accounts as a means to

[10] Burhan Jatmiko and Paramita Prananingtyas, "Juridical Study of Provisions on Beneficial Owners of the Company" 16 (2023): 236–52.
[11] FATF, "Guidance on Beneficial Ownership of Legal Persons" (Paris, 2023), http://www.fatf-gafi.org/publications/FATFrecommendations/guidance-beneficial-ownership-legal-persons.html.
[12] FATF, "Concealment of Beneficial Ownership" (Paris, France, 2018), www.fatf-gafi.org/publications/methodandtrends/documents/concealment-beneficial-ownership.html.
[13] PPATK, "Typology of Money Laundering Based on Money Laundering Court Decisions" (Central Jakarta, 2017), https://www.ppatk.go.id.

accommodate and transfer funds from crime before finally being broken into a number of other accounts and digital wallets.[14]

In practice, the use *of nominees* has various forms according to the legal object to which it is lent its name. Based on the literature and typology study developed by PPATK, there are at least several forms of *nominee* practices that are often found in TPPU cases:

a. Nominee Director, which is someone who is formally listed as a director in the company's organizational structure, but actually does not have decision-making authority because all control is in the hands of *beneficial owners* who do not want to reveal their identity. This practice allows *beneficial owners* to control the company from behind the scenes while formal directors deal with authorities and third parties are just "puppets" running orders.[15]
b. *Nominee* shareholder, i.e. a party whose name is recorded as a shareholder in the company's list of shareholders, but the shares are actually owned by someone else. This practice is often done to avoid maximum limits on shareholding in a particular business sector or to hide the identity of the actual owners who may have a bad reputation or engage in corrupt practices.[16]
c. *Nominee* account or borrowed account, which is a bank account opened in someone's name, but the funds in it are fully controlled and controlled by another party. PPATK calls this mode one of the most commonly used in money laundering, where money from crime is transferred to the

[14] Rumondang Naibaho, "PPATK Reveals the Moment of Syndicate That Broke into Dormant Accounts Tracked Rp 204 Billion," detikNews, accessed March 2, 2026, https://news.detik.com/berita/d-8130622/ppatk-ungkap-momen-sindikat-pembobol-rekening-dormant-rp-204-m-terlacak.
[15] Indira, "Director's Responsibility *Nominee* In the Crime of Money Laundering" 6, no. 02 (2024): 9–12.
[16] Annisa Fitria, "BENEFICIAL OWNER POSITION IN A LIMITED LIABILITY COMPANY IN POSITIVE LAW IN INDONESIA" 19, no. April (2022).

nominee's account and then broken down again into a number of other accounts (*smurfing*) to break the tracking trail.[17]

d. *Nominee* assets, which are formal ownership of tangible assets such as land, buildings, vehicles, or other assets that are recorded in the name of a person, but are actually owned and controlled by another party[18]. This practice is often found in corruption cases where public officials hide assets resulting from corruption by registering them in the name of family, relatives, or other trusted parties.

The use of *nominees* in these various forms shows that *nominee* is not just an ordinary civil construction, but has significant criminal implications, especially when used as an instrument to hide or disguise the origin of wealth resulting from criminal acts. As stated in various legal studies, *the nominee* structure can obscure *beneficial owner* involvement and create evidentiary challenges in criminal liability.[19]

Although the *practice of nominees* has been identified as one of the modus operandi in the crime of money laundering, it is important to note that Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes (TPPU Law) does not explicitly regulate *the nominee's* offense as a separate criminal act. The Antiquities Law does not recognize the term "*nominee*" in the formulation of its articles, nor does it mention the practice of lending names as an act that is directly prohibited. This is in contrast to several other countries that expressly prohibit the practice *of nominee arrangement* in their legal systems. In Indonesia, regulations regarding *nominees* are more commonly found in the

[17] PPATK, "Typology of Money Laundering Based on Money Laundering Court Decisions."
[18] Adnan Fawwaz Hadju, "Beneficial Owner: Recognizing Beneficial Owners and Sanctions for Limited Liability Companies" 9, no. 12 (2023): 1–8.
[19] Maulidah, Hengki, and Sari, "Criminal Liability of Beneficial Owners in Money Laundering."

realm of civil law, such as in Law Number 40 of 2007 concerning Limited Liability Companies which regulates the ownership of shares, or in Law Number 25 of 2007 concerning Investment which implicitly prohibits *nominee* agreements for share ownership for foreign investors.[20] However, in the context of TPPU, there is no special article that makes *nominee* status solely as a basis for criminalization.

The absence of this explicit regulation does not mean that *the nominee'* s practice is exempt from the snares of criminal law. The Anti-Corruption Law actually uses a more fundamental approach, namely by formulating criminal acts based on material acts committed by a person, not based on their status or position. In other words, the focus of the Anti-Corruption Law is 'what a person does', not 'who' that person formally. Based on the 2017 Money Laundering Typology Document by PPATK in the systematics of the Anti-Money Laundering Law, the crime of money laundering is formulated in several articles which can be broadly classified into two categories, namely active perpetrators and passive perpetrators.

a. Active Actors

According to research by Agil Faiz, Yusrizal and Hadi Iskandar, Faculty of Law, Malikussaleh University in an article entitled "Legal Aspects of the Crime of Money Laundering with *Smurfing* Mode" published in the Student Scientific Journal, Active Perpetrators are those who carry out acts to transfer the proceeds of criminal acts, for example, people who transfer, make purchases, deliver, change forms, make an exchange or other action related to the property of the criminal act, while he knows or at least should suspect that

[20] Yonna Faradhina, "The Validity of Nominee Shareholders in Positive Law in Indonesia" 6, no. 3 (2025): 745–50.

the property was obtained from a criminal act. This can be found in Article 3 of the TPPU Law which reads:

> *"Every Person who puts, transfers, transfers, spends, pays, grants, deposits, brings abroad, changes the form, exchanges for currency or securities or other acts of Property that he knows or should suspect is the result of a criminal act as referred to in Article 2 paragraph (1) with the aim of concealing or disguising the origin of Property is convicted of the crime of Money Laundering with the maximum prison sentence for 20 (twenty) years and a maximum fine of Rp10,000,000,000.00 (ten billion rupiah)"*[21]

As well as Article 4 of the TPPU Law which reads:

> *"Any person who conceals or disguises the origin, source, location, designation, transfer of rights, or actual ownership of Property that he knows or reasonably suspects is the result of a criminal act as referred to in Article 2 paragraph (1) shall be convicted of the crime of Money Laundering with a maximum prison sentence of 20 (twenty) years and a maximum fine of Rp5,000,000,000, 00 (five billion rupiah)."*[22]

These provisions have now been accommodated in Article 607 paragraph (1) letters a and b of Law Number 1 of 2023 concerning the Criminal Code, where these active perpetrators are then divided into two, namely:

1) *Principle Violater*, namely those who are the perpetrators of the original criminal act as well as transferring money from criminal acts through various means, ranging from transfers, spending, and other forms of action. This perpetrator is actually said to have committed money laundering in full.
2) *Aider*, namely those who make transfers, purchases, exchanges or other actions. They do not have involvement

[21] "Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering" (n.d.).
[22] Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes.

in their parent crimes, but know or at least suspect that what they are channeling or spending is the result of a criminal act[23]

b. Passive Actors

According to the Typology of Money Laundering by PPATK in 2017, it is explained that Article 5 paragraph (1) of the Anti-Money Laundering Law is called the crime of passive money laundering because there is no active act to hide and disguise the wealth of the proceeds of the crime. In the formulation of the elements of Article 5 paragraph (1) of the TPPU Law, which reads

> *"Every person who receives or controls the placement, transfer, payment, grant, donation, custody, exchange, or use of Property that he knows or reasonably suspects is the result of a criminal act as intended in Article 2 paragraph (1) shall be sentenced to imprisonment for a maximum of 5 (five) years and a maximum fine of Rp1,000,000,000.00 (one billion rupiah)."*[24]

Then it has been amended in Article 607 paragraph (1) letter c of Law Number 1 of 2023 concerning the Criminal Code, "receiving" is receiving or accommodating, and so on, something that is given or sent. The phrase "Dominate" means to have power over, hold power over (something) or control directly or indirectly. The phrase "Using" is an act that has a motive to obtain benefits or advantages beyond its reasonableness. While "Wealth" means all movable and immovable objects, both tangible and intangible, which are obtained directly or indirectly. Then "What he knows or should be suspected is the result of a criminal act" is a situation in which a person knows clearly and definitely or at

[23] Agil Faiz, Yusrizal, and Hadi Iskandar, "LEGAL ASPECTS OF THE CRIME OF MONEY LAUNDERING WITH SMURFING MODE" VII (2024).
[24] Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes.

least can estimate based on the facts or information possessed that a certain amount of money or the price of wealth is the result of an unlawful act.[25]

Article 3 of the Anti-Corruption Law, which is now accommodated in Article 607 paragraph (1) letter a of the National Criminal Code, is a legal instrument that reaches active acts in the form of transaction execution to break the trail of wealth, either through placement, transfer, or direct transfer.[26] In line with this, the element of concealment or disguise in Article 4 of the Anti-Corruption Law which is now adjusted in Article 607 paragraph (1) letter b represents the *actus reus* of the perpetrator, where the act is not just a manifestation of an inner attitude, but requires real action to obscure the origin of the property. In this context, the involvement of certain parties is needed to facilitate the realization of money laundering perfectly.[27] Meanwhile, Article 5 of the TPPU Law, which has been accommodated in Article 607 paragraph (1) letter c of the National Criminal Code, reaches parties who receive or control the assets of criminal acts, which in practice are often *nominees* whose accounts are used to accommodate funds or whose names are borrowed for asset ownership.

This legal construction has important implications for determining *the criminal liability of the nominee*. A person who has the status of a *nominee* cannot necessarily be convicted just because his name is recorded as the formal owner of an asset or as a director of the company. Criminal liability can only be imposed if the person concerned commits a real act that meets the elements of a criminal act in Article 3, Article 4, or Article 5 of the Anti-Corruption Law as amended by Article 607 paragraph (1) of the National Criminal Code

[25] PPATK, "Typology of Money Laundering Based on Money Laundering Court Decisions."
[26] Yunus Hussein, *Anti-Money Laundering Potpourri* (Jakarta: Books Terrace & Library, 2007).
[27] PPATK, "Typology of Money Laundering Based on Money Laundering Court Decisions."

and the act was committed by mistake in the form of knowledge or at least should suspect that the property received or controlled by him came from the proceeds of a criminal act.

Thus, the *position of the nominee* in the TPPU Law cannot be separated from the analysis of two fundamental elements in criminal law, namely the element of deed (*actus reus*) and the element of malicious intent (*mens rea*). A *nominee* can be categorized as a perpetrator of the crime of money laundering if:

1. He commits an act that is included in the formulation of Articles 3, 4, or 5 of the Anti-Corruption Law (*actus reus*);
2. He knows or at least should suspect that the property that is the object of his act comes from the proceeds of a criminal act (*mens rea*)

This approach is in line with the principle *of geen straf zonder schuld* which means there is no crime without fault, this principle is one of the foundational principles in Indonesian criminal law and is now affirmed in Article 36 paragraph (1) of Law Number 1 of 2023 concerning the National Criminal Code (KUHP Nasional).[28] In the context of TPPU, this principle emphasizes that a person cannot be convicted just based on his status (for example as a *nominee*), but must be proven to have made a mistake in the form of knowledge or at least forgetfulness.[29]

In order to provide a more concrete picture of how *nominee* practices are positioned in the enforcement of TPPU laws, it is important to trace various court decisions and cases that have been handled by law enforcement officials. One of the important decisions to be reviewed is Decision Number 910/Pid.Sus.2016/PN. JKT. PST

[28] "Law Number 1 of 2023 concerning the Criminal Code" (n.d.).
[29] Mohammad Khairul Muqorobin, "The Implications of the Principle of Geen Straf Zonder Schuld on Court Decisions After the Enactment of the National Criminal Code," *Articles on the Law of the Nusantara Judge*, 2025, http://siganisbadilum.mahkamahagung.go.id/arunika/baca-artikel/implikasi-asas-geen-straf-zonder-schuld-terhadap-putusan-pengadilan-pasca--berlakunya-kuhp-nasional/a-200arny4Xxu.

with the defendant Hilda Rizky. In this case, Hilda Rizky is a private employee in a money transfer service business owned by the 'PR' narcotics network. Hilda was asked by 'MC' who is a money transfer service business owner to establish a Company in the field of remittance services, with all capital coming from 'MC'. Next, Hilda was asked to open a bank account that was used to receive funds transfers from customers, the funds were then withdrawn in cash, exchanged for US dollars, and taken abroad or handed over to other parties. In the construction of the TPPU law, Hilda Rizky is seen as a *nominee account holder* whose account is used to accommodate, transfer and transfer funds from criminal acts. The court stated that Hilda was proven to have violated Article 5 of the Anti-Money Laundering Law because she acted as another party or intermediary in financial transactions, so that the main perpetrator could avoid tracking financial transactions.

The latest case that is also relevant is the disclosure of a syndicate that broke into dormant accounts worth Rp204 billion by the National Police Criminal Investigation Branch with PPATK in September 2025. In such cases, the money from the dormant account is transferred to *the nominee's account*, which is an account opened in the name of someone else but the actual control is in the hands of the perpetrator. After that, the money is broken down again into a number of other accounts and digital wallets through *the smurfing mode*, which is broken down into small transactions. The perpetrators were charged with Article 3, Article 4, and Article 5 of the Anti-Money Laundering Law, showing that the use *of the nominee's* account in the crime scheme was seen as meeting the elements of the crime of money laundering.[30]

[30] Adhi Wicaksono, "PPATK: Rp204 Billion Holding Account Made H-6 Break-in," CNN Indonesia, accessed March 2, 2026, https://www.cnnindonesia.com/nasional/20250925202251-12-1277811/ppatk-rekening-penampung-rp204-m-dibuat-sindikat-h-6-pembobolan.

In addition to the case *of the nominee* account, in judicial practice there are also cases involving the nominee director. In contrast to *nominee account holders* whose role is relatively simple, *nominee* directors have a more complex position because they are formally registered as an organ of the company with all inherent legal rights and obligations, so there is a dualism between formal status as *a legal owner* and reality as a party controlled in a shadow by the *Beneficial Owner*.[31]

The various variations of these cases show that the *practice of nominees* in the TPPU is not monolithic. There is a significant difference between *a nominee* who is just a "tool" without knowledge, and *a nominee* who is knowingly involved in a money laundering scheme. This difference has direct implications for the criminal liability that can be imposed. So it can be understood that the existence *of the nominee* in the context of the crime of money laundering raises juridical issues regarding the limits of criminal liability. Not all parties who have the status of *nominees* can automatically be convicted as money laundering perpetrators, because criminal liability requires an element of error in the form of knowledge or reasonable suspicion about the origin of wealth. Therefore, *the nominee* can be seen as part of the perpetrator who contributes to the act of concealing or disguising the origin of the wealth, especially if the person concerned consciously participates in the series of financial transactions.[32]

2. Criteria for Fulfilling the Elements of Money Laundering Crimes Against Nominee Perpetrators

[31] Denny Salim, "Legal Aspects of the Accountability of Nominee Commissioners in the Company Limited to Criminal Acts Committed by the Company," *Premise Law Journal*, 2016, 1–20.
[32] Baharuddin and Kartika, "*Criminal Accountability for Beneficial Ownership of Corporations in the Crime of Money Laundering in Indonesia*."

in Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes

After understanding that the Anti-Corruption Law does not explicitly recognize *nominee* offenses, the next discussion is to determine when a *nominee* can be held criminally responsible. In criminal law, liability can only be imposed if two fundamental elements are met, namely the existence of an act (*actus reus*) and the existence of malicious intent (*mens rea*) in the perpetrator.[33] The 2017 Money Laundering Typology Document issued by PPATK classifies perpetrators of money laundering into two categories relevant to the construction of *actus reus*. First, active perpetrators regulated in Articles 3 and 4 of the Anti-Corruption Law. Active perpetrators are those who actively commit acts to hide or disguise their assets resulting from criminal acts. Second, passive actors regulated in Article 5 paragraph (1) of the TPPU Law. This category is important because it ensnares parties who are not involved in *predicate crimes*, but receive or control wealth from criminal acts.[34]

As described in the previous section, PPATK identified at least four types of *nominees* that are often used as a mode in the Crime of Laundering, namely *nominee account, nominee shareholder, nominee director, and nominee asset*. In addition to the classification developed by PPATK, there is also an approach used by international institutions such as the *Financial Action Task Force* (FATF) in *the Guidance on Beneficial Ownership for Legal Persons* (2023), categorizing *nominee arrangements* based on the level of risk of abuse. The FATF defines a *nominee* as: *"nominee is an individual or legal person instructed by another individual or legal person ("the nominator") to act on their behalf in a certain capacity regarding a legal person"*

[33] Indira, "The Accountability of the Nominee Director in the Crime of Money Laundering."
[34] PPATK, "Typology of Money Laundering Based on Money Laundering Court Decisions."

Based on this definition, the FATF distinguishes *nominee arrangements* into two categories, namely:[35]

FATF Classification	Definition
Low-risk Nominee arrangements	Use *of the nominee* for legitimate purposes, e.g. in the management of family assets, trusts, or for professional interests such as a *legally recognized nominee director* with adequate supervision
High-risk nominee arrangements	The use *of nominees* to hide the true beneficial owner, avoid tax obligations, or disguise assets resulting from criminal acts. The FATF calls this a "*deliberate device to evade beneficial ownership transparency rules by posing an obstacle to transparency, and thereby facilitating the misuse of companies and other corporate vehicles for money laundering and related crimes.*"

In this case, the FATF expressly distinguishes between *low-risk nominee arrangements* that are used for legitimate purposes such as family asset management or professional trusts with adequate supervision and *high risk nominee arrangements* which are abuses of *the nominee structure* by deliberately avoiding the transparency of *beneficial owners*. This *high risk* category is the main concern in the prevention and eradication of money laundering crimes. Concrete forms of *high risk nominee arrangements* have been identified by PPATK through the 2017 Money Laundering Typology, namely *nominee account, nominee*

[35] FATF, "*Guidance on Beneficial Ownership of Legal Persons.*"

shareholder, nominee director, and *nominee asset*. These four forms are the most common means found in money laundering cases, both those that originate from corruption, narcotics, and other economic crimes. Thus, to determine whether a person who plays the role of a *nominee* can be held criminally responsible, it is not enough to look at his status as a *nominee*, but must examine two fundamental elements in criminal law: *actus reus* (physical act) and *mens rea* (malice/inner attitude). Each form *of nominee* has different characteristics of acts, so it has the potential to be subject to articles of both Articles 3, 4 and 5 of the TPPU Law as amended in Article 607 paragraph (1) of the National Criminal Code. To understand how criminal liability is applied to *nominee* practices, here are some real cases that have been decided by the courts. Each case will be analyzed based on the *elements of actus reus* and *mens rea*.

1. Hilda Rizky Case Decision Number 910/Pid.Sus/2016/PN. JKT. PST

   Hilda Rizky is a private employee who was asked by the 'MC' to set up a money transfer service company and open a bank account in her own name. All capital is felt from the 'MC'. The account is used to receive funds transfers from customers, which are then withdrawn in cash, exchanged for US dollars, and taken abroad or handed over to another party. In this case, Hilda committed the act of "receiving and controlling" the placement, transfer, and withdrawal of cash on funds that entered her account, this act fulfills the elements of Article 5 of the Anti-Corruption Law as a passive perpetrator. Hilda also knew the unusual transaction pattern, namely funds came in and were immediately withdrawn in large amounts, then Hilda also controlled the account. Hilda also received economic benefits from her role so that this proves the knowledge that the funds she received came from criminal acts. Therefore, Hilda Rizky in Decision Number

910/Pid.Sus/2016/PN. JKT. PST was proven to have violated Article 5 of the TPPU Law.[36]

2. Benny Tjokrosaputro Case Decision Number 29/Pid.Sus-TPK/2020/PN. JKT. PST

   In the corruption case of PT Asuransi Jiwasraya (Persero), it was revealed that there was a stock transaction using a borrowing name aka *nominee* on the Indonesia Stock Exchange. Benny Tjokrosaputro as President Director of PT Hanson Internasional Tbk used *nominee shareholders* to hide his share ownership so that state losses reached Rp16.8 trillion. In this case, Benny Tjokrosaputro was proven to "hide or disguise" the actual ownership of shares by using the *nominee shareholding structure* to obscure the identity of *the beneficial owner*. Yunus Husein explained that in this case there is strong evidence that Benny is the beneficial owner who controls PT Sinergi Megah Internusa through a *nominee shareholding structure*. So that Benny Tjokrosaputro was proven guilty of violating Article 2 paragraph (1) of the Anti-Corruption Law and Article 3 of the Anti-Corruption Law.[37]

3. The Case of Philip Hartanto and Rachmat Kurniawan Decision Number 211/PID/2012/PT. DKI

   In this case, Scot Donovan David L bought PT. Ilhung Muliasarana and appointed Philip Hartanto as commissioner and Rachmat Kurniawan as President Director. All capital comes from the Scot, and all the legal acts of the Company whether it is signing contracts, taking care of bank documents, and disbursing funds are carried out on the orders of the Scot. The company is used to commit fraud with false documents and money laundering, namely SKBDN or Domestic Documented Credit Letters, disbursed and transferred to another account. In this case, the *nominee director* performs the

[36] PPATK, "Typology of Money Laundering Based on Money Laundering Court Decisions."

[37] Ari Wibowo et al., *Public Examination of the Verdict in the Corruption Case of PT Asuransi Jiwasraya* (South Jakarta: Indonesia Corruption Watch, 2024).

act of signing contracts, taking care of documents to the bank, disbursing SKBDN and transferring funds so that this act is included in the element of concealing/disguising the origin of the property, so that even though his name is borrowed and acts on the order of the scot, the *nominee* directorUnreasonable transaction patterns and control the Company's accounts. They also received benefits from their role so that in this case the court stated that their knowledge and active involvement met the elements in the Anti-Corruption Law and were proven guilty of being sentenced to 9 years and a fine of 1 billion.[38]

Based on the description of the types of *nominees* according to PPATK, the classification of risks according to the FATF, as well as its application in real cases, it can be concluded that the *nominee*'s criminal liability can only be demanded if there are real acts relevant to the elements of the crime and mistakes that can be proven individually. Law enforcement must be able to distinguish between *nominees* who only act as formal owners without knowledge and mistakes, and *nominees* who are consciously and deliberately involved in the money laundering process, in order to prevent the occurrence of money laundering crimes.

Conclusion

Based on the results of the analysis, it can be concluded that the practice of lending names (*nominees*) is not automatically a crime of money laundering. Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering does not regulate *nominees* as separate offenses, so criminal liability can only be charged if two fundamental

[38] NURCAHYONO EDY, "The Accountability of the Nominee Director in the Crime of Money Laundering," 2017, https://lontar.ui.ac.id/detail?id=20467880&lokasi=lokal.

elements are met, namely *mens rea* and *actus reus*. A *nominee* can be held criminally liable if it is proven that he has committed a real act that meets the criminal formula in Article 3, 4, or 5 of the TPPU Law which has been accommodated in Article 607 paragraph (1) of the National Criminal Code, and has knowledge or at least should suspect that the property he manages comes from a criminal act. The existence of economic benefits received by *the nominee* is also a strong indicator of intentionality or negligence. On the other hand, *nominees* who really do not know and should not suspect the origin of the assets they manage cannot be punished, which is in line with the category of *low-risk nominee arrangements* in the *FATF Guidance on Beneficial Ownership* (2023). Thus, the enforcement of the TPPU law must clearly distinguish between *nominees* who only act as formal owners without knowledge and mistakes, and *nominees* who are knowingly or negligently involved in the money laundering process, in order to prevent excessive criminalization while ensuring fair accountability based on the evidence of *his actus reus* and *mens rea*.

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