

Financial Crime on Investigation in Industrial Revolution 4.0 Era

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Abstract: The advancement of digital technology in the industrial 4.0 era has impacted the growth of economic and financial crime, especially financial technology, or Fintech. It was not followed by legal development to overcome these impacts; therefore, to overcome a gap in financial crime that uses digital technology as a tool in committing crimes, new effective and efficient concepts and methods are needed. One fitting theory is the notion of following the money utilizing the method of a financial crime investigation. This approach uses investigative audit and forensic accounting to trace assets over the profits of the crime. However, to implement the method, it is necessary to modify the substance of the legal system to shift the orientation from the orientation of proof of error to proving the proceeds of crime. The article finds that in the aspect of structure, a synergistic and harmonious coordination system is needed between law enforcers and all related parties. While in the aspect of legal culture, the development of community economic infrastructure is needed, especially business transactions that support data-based systems.

Keywords: Financial crime, fintech, follow the money, financial criminal investigation.

1. INTRODUCTION

Law and economics, according to the classical economics theory in ancient Greek myths in its fundamental principle, view the principle of economics as a separate field and cannot be combined with legal principles. The main reason for this notion is that the attention or motive of economic activity is identical to profit. To exercise its commercial activities, this requires the existence of freedom in carrying out their activities, freedom of creation, and self-development according to their dynamic knowledge and will, so that efforts to obtain maximum profits with the smallest capital can be achieved easily. However, the law has the nature of limiting human actions or behavior so that the antinomy principle between economics and law becomes a reason that law and economics cannot be combined into one.

Economic development efforts done by developing countries in the world are generally oriented to improve and raise the level of welfare of people in these countries so that they can live like the people in developed countries (Susilo, 2002).

Technological developments especially in the field of telecommunications and transportation are considered as locomotives and help accelerate the process of globalization in various aspects of life (Sutarman, 2007). The terms of globalization are developing rapidly and defined by Rudy (2003) as a process of relative social relations that discovers the absence of distance limitations and removes real

boundaries, so the scope of human life is increasingly growing by playing a wider role in the world as a single entity. The telecommunications industry is currently proliferating. It functions to serve the public (public utility) and has become the carrier of online services such as banking, aviation, electronic commerce, and so on (Judharisksawan, 2005). The growth of world communication technology today is considered the biggest revolution that has changed the fate of millions of human beings and modern life.

The forerunner of the Industrial Revolution 4.0 has begun with the invention of the internet the first time by Leonard Kleinrock in 1969 and the invention of the Cellular Phone (Wireless) by Martin Cooper in 1973 under the name "Radio Telephone System" (Sindo News, 2018). The Industrial Revolution 4.0 was first initiated by a group of expert representatives from various fields from Germany, in 2011 at the Hannover Trade Fair. In 2015, Angela Merkel introduced the idea of the Industrial Revolution 4.0 at the World Economic Forum (WEF). Germany has invested € 200 million to support academics, governments, and business people to conduct cross-academic research on the Industrial Revolution 4.0. The United States also drives the Smart Manufacturing Leadership Coalition (SMLC), a non-profit organization consisting of producers, suppliers, technology companies, government agencies, universities, and laboratories that aims to advance the way of thinking behind the Industrial Revolution 4.0.

Industrial Revolution 4.0 applies the concept of automation carried out by machines without the need for human power in its application. The application of the Industrial Revolution 4.0 in factories today is also known as Smart Factory. In the Industrial Revolution

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4.0 era, there are many innovations in Industry 4.0, including the Internet of Things (IoT), Big Data, 3D printing, Artificial Intelligence (AI), self-driving vehicles, genetic engineering, robots, and smart machines. One of the most significant things in the Industrial Revolution 4.0 is the IoT. Big data is all information stored in cloud computing. Big data analytics and cloud computing, will help early detection of defects and production failures, thus enabling the prevention or improvement of productivity and quality of a product based on recorded data. This can occur because of the analysis of big data with the 6c system, namely connection, cyber, content/context, community, and customization (Binus University, 2019).

The Information Technology Association of Canada (ITAC) at the International Information Industry Congress (IIIC) 2000 Millennium Congress in Quebec on September 19, 2000, as quoted from Arifiyadi (2008) that: "Cybercrime is a real and growing threat to economic and social development around the world. Information technology touches every aspect of human life and so can electronically enable crime". Even more worrying is that there is no significant framework in the legislation to ensnare perpetrators in the cyber world because of the difficulty in proving. There is no legal pillar that can handle this cybercrime (at least for now). Moreover, socialization regarding cyber law within the community is still very minimal. Compare with countries like Malaysia, Singapore or the United States that already have laws that stipulate the provisions of the cyber world or even countries like India that already have Cyber Police (Arifiyadi, 2008).

Along with the development of new dimensions of crime by utilizing information technology, computerization, and digital systems as tools in committing crimes, as well as the development of modus operandi of crime in the economic field, while the legal substance, especially criminal law still refers to the provisions of the Criminal Code and the Criminal Procedure Code which have been unable to accommodate world developments crime. There are imbalances in the law enforcement process, which often causes debate, controversy, and conflict in the process of criminal law enforcement.

VUCA (volatility, uncertainty, complexity, and ambiguity) challenges in the business world have used the Business Intelligence (BI) approach since 2002 as an architecture and operational collection which is a data-based decision-making support system. According to DJ Powers (2002), BI is a concept and method of

how to improve the quality of business decision making based on data-based systems, while Scheps (2008) defined it as any activity, tool, or process used to get the best information to support the decision-making process. Further, Kroenke and Auer (2010) elucidated that BI is an information system that helps managers and professionals in analyzing current or past activities and making predictions of future events. This system is integrated with decision-makers and databased applications that provide easy access to business data for business actors (Darudiato *et al.* 2010).

Business Intelligence includes the acquisition of data and information from various sources that vary and process it into decision making with success criteria such as (1) Assisting decision making with better speed and quality (2) Speeding up operations (3) Shorten product development cycles (4) Maximizing the value of available products and anticipating new opportunities, and (5) Creating a better and focused market, also improving relationships with customers and suppliers (Darudiato *et al.* 2010).

According to Edward David (2000), Business Intelligence is a way to collect, store, organize, reshape, summarize data and provide information, both in the form of data on the company's internal business activities, as well as data on the company's external business activities including business activities of competitors which are easily accessed and analyzed for various management activities. The Analytic Business Intelligence Model is categorized into 3 main categories based on Turban (2007) those are *Information and knowledge discovery*; *Decision support and intelligent systems*; and *Visualization*.

Especially the Decision support and intelligent systems model that consists of Decision Support System (DSS), DSS Group and Virtual Group (decision support group), Executive and enterprise support (enterprise information systems); Automated decision Support; Web analytics; Management science, and statistical analysis; Data mining and predictive analysis; and Applied artificial intelligence or Neural computing (artificial neural network-ANN), is a model that can be emulated in building digital law enforcement network system with a big data system and an automated decision support system.

One important field in the era of globalization is the economy and finance. The rapid economic and financial development has caused many fundamental changes in the existing architecture in the financial

sector. Along with the development and growth of the world economy today, the impact on the development of economic crime itself is also known as financial crime or economic crime. The term economic crime is a crime against the economy or an adverse crime in the economic field (Atmasasmita, 1993). The emergence of various kinds of crime with a new dimension, especially in the economic world or financial crime by using a technology system as a means (crime of financial technology) becomes a challenge in business law enforcement.

The emergence of various fintech (financial technology) companies, especially in the form of peer to peer lending (fintech P2P), raises public concern because the public as consumers are not protected by law, and has the potential to become targets of fintech crimes (Pikiran Rakyat, 2019). In Indonesia, there are at least 235 active fintech companies which are generally dominated by start-ups with transaction value reaching 18.65 billion US dollars in 2017. The Indonesian Financial Services Authority, Otoritas Jasa Keuangan (OJK) data states that the number of borrowers in fintech companies reached 260 thousand people in the January 2018 period. If the exchange rate is Rp 14,900 per US dollar, the value reaches around IDR.277.89 trillion. In February 2019, *Pikiran Rakyat* (2019) stated that OJK had stopped the service of 231 online loan providers and made sure all of them were unregistered and unlicensed services. OJK data for October 2019, which the writer obtained directly from OJK Office (2019), there are additional online loan providers as many as 297, totaling 1,773, while those registered and licensed by the new OJK are 127 fintech companies.

From 2018 to October 2019, the Investment Alert Task Force has stopped and announced through Press Releases as many as 1477 peer-to-peer lending fintech entities without OJK's permission. OJK shows that at least there are currently 1,621 Fintech entities, only 144 registered, while 1,477 have not been registered (Zam, 2019). Registered P2P is called legal, while unregistered one is called illegal. This, according to the author, requires in-depth study and discussion regarding the terms legal and illegal.

Data of 2016 to October 31, 2019, OJK Consumer Services received 38,273 service requests (information, questions & complaints) from consumers and / or the public regarding P2P lending fintech. About 45% (17,192 services) are related to illegal P2P Lending Fintech issues, with the following details: in

2016 there were 33 complaints (3 related to P2P), in 2017 there were 305 complaints (P2P 42), in 2017 there were 4,025 complaints (1,496 P2P), in 2018 there were 33,910 complaints (15,65 P2P) and as of October 31, 2019, there were 38,273 complaints (17,192 or (44.92%) P2P). This data shows a very significant increase but is inversely proportional to the development of law in the context of its handling (Zam, 2019).

The fintech financial business in Indonesia has become a controversial spotlight regarding several violations of law. Imagine, in addition to attracting fintech business with a turnover of trillions of rupiah, also offers convenience services, such as loans (lending), payments, financial planning (personal finance), retail investment, financing (crowdfunding). Only with activities at home, it can be done easily.

The development of economic crime is identified by various indicators of very complex fraud identify the development of economic crime such as corruption, misuse of assets, and manipulation of financial statements that are difficult or even cannot be detected by a standard financial audit process. To overcome the development of crime in the economic field, and to overcome various frauds in various fields, forensic accounting, and investigative audit methods have been developed to prevent and disclose fraud in financial management.

Does the research focus on how is the strategic concept of law enforcement against financial crime with the development of Fintech in the industry 4.0 era? It aims to understand how law enforcement's strategic concept against financial crime with the development of Fintech in industrial 4.0. the era in Indonesia.

2. RESEARCH METHODOLOGY

This research uses normative approach research, which examines the Financial Investigation on Crimes of the criminal law system in Indonesia to obtain a description of the possible application in criminal law enforcement in Indonesia.

The data used are in the form of secondary data consisting of primary legal materials in the form of legislation, tertiary legal documents such as reference books, expert opinions, and previous research results, and tertiary legal materials in the form of language dictionaries, legal scientific dictionaries, and black law dictionary.

This paper begins by abstracting primary legal materials, secondary legal materials, and tertiary legal materials, to know the existence of financial crime on an investigation. Followed by analyzing the prospects of their application in the criminal law enforcement system in Indonesia within the industrial revolution 4.0 era, then apply systematization and synchronization. Finally, conclude by using the method of deductive reasoning to construct the application of financial crime on the investigation method in criminal law enforcement in Indonesia.

3. DISCUSSION AND ANALYSIS

Various technical and strategic hindrances faced in the process of law enforcement against financial crime, in the cases such as Corruption, Money Laundering, and other economic crimes, exist in the concept of law enforcement methods implemented. Both in terms of aspects of the legal substance, legal structure, and legal culture.

The government's effort to carry out asset recovery against various state losses caused by economic crime, apparently still leaves multiple constraints such as: the minimal amount of replacement money that has been saved, and the replacement money that has not been deposited to the state of approximately IDR 10 Trillions, the application of the Act has not been maximized to support the return of assets, for example, the Law on Money Laundering, the provisions of Article 69 have not been applied (regarding not require proof of predicate crime) the provisions regarding the inverse proof of unnatural wealth (Articles 77-78 TPPU and 38 B of the Corruption); asset tracing method which is not optimal yet; Application of Mutual Legal Assistance (MLA) is not optimal (long process, slow response, low success, weak coordination, hampered bank secrecy provisions and so on); weaknesses in law enforcement practices (typing errors, no nexus, procedures not implemented, etc.); The asset management is not optimal (confiscated goods that are not maintained, lost, replaced, state losses ± IDR. 30-40 billion because seized sugar is not immediately auctioned, Rattan valued at IDR. 1.5 billion is damaged in State Confiscated Object Storage House), and the sale of assets is not optimal (the auction process does not refer to a fair price, slow process, the alleged loss of the state due to the low price of timber auction ± IDR. 500 billion/ year), as well as various other obstacles and weaknesses in the process of law enforcement and asset recovery.

Efforts to tackle various economic crimes and asset recovery under national law can be made either through criminal, civil, and administrative law. Return of assets across borders, including the process of activities through criminal and civil courts, to search for, freeze and return assets obtained from activities that violate the law to the requesting country. Returning assets across borders require the cooperation of integrated agencies, such as the Financial Transaction Reports and Analysis Centre, Police, the Attorney General's Office, Indonesia's Corruption Eradication Commission, and the Ministry of Justice and Human Rights the concept of Mutual Legal Assistance (MLA). Criminal return of assets can be done with conviction-based asset forfeiture (punish the perpetrators first) and can also be done with non-conviction-based asset forfeiture as formulated in the provisions of Article 67 of the Indonesian Law Number 8 of 2010 concerning the Eradication of the Crime of Money Laundering (without punishing the perpetrators first).

Asset recovery is needed in Financial Crime, generally refer to the white-collar crime but not street crime. Financial Crime is a criminal offense committed with the purpose of finding money or wealth, for example, Corruption, Money Laundering, Drugs, Gambling, Insider Trading. To uncover and prove Financial Crime, it requires Forensic Accounting or Investigative Audit. Forensic is a combination of knowledge and audit, accounting, and legal skills. Thus, forensic accountants can provide legal opinions information to prove financial crime. The forensic accountant's role is essential, among others, to prove the existence of a criminal offense and the alleged culprit and calculate the assets resulting from a criminal offense and state losses. Even one of the financial investigations called Financial Criminal Investigation (FCI) which is applied as in the Netherlands is one of the strategic concepts and methods to optimize criminal law enforcement efforts against financial crimes and can be used as a solution in overcoming various challenges and obstacles that have been faced so far by law enforcement in Indonesia.

Economic crime (financial crime) both conventionally and by using computer technology and the internet as a tool of offense which came to be known as Financial Technology (Fintech), although it has not been regulated explicitly in a specific regulation, materially, the existing substance of criminal law can be applied to these crimes. A fintech is a form of crime that meets the elements of economic and ETI criminal offenses, therefore, rules in the respective

sector can be applied. Indeed, the core of economic crime (financial crime) is the behavior of fraud.

3.1. Fraud and Financial Crime

Fraud is defined as deceptive or fraudulent behavior, which is often identified with dishonesty, infidelity, perfidy, unfairness. Fraud from Financial Criminal Investigation perspectives defined as a series of criminal actions to get money or property belonging to the victim to become the property of the perpetrators. Meanwhile, according to the Association of Certified Fraud Examiners (ACFE), fraud is intentionally abusing positions in an organization to enrich themselves by utilizing the organization's assets or resources (Verland, 2012).

In daily terms, fraud is often labeled with different names, such as theft, seizure, extortion, exploitation, embezzlement, forgery, and others. Following Auditing Standard Statement (PSA) No. 70, Fraud is translated as cheating, while error and irregularities are translated as errors and inconsistencies. Following the previous PSA, PSA No. 32. There are three types of fraud according to the Association of Certified Fraud Examinations (ACFE), namely: (Verland, 2012; Wuysang, 2012)

1. Financial Statement Fraud

A fraud caused in the management sector in the form of material misstatement of financial statements which detrimental to investors and creditors both financially or non-financially.

2. Asset Misappropriation

Asset Misappropriation can be classified as 'cash fraud' and fraud on inventory and other assets, as well as fraudulent disbursements.

3. Corruption

An act can be categorized as corruption and can be charged with a corruption law when it fulfills three criteria, namely: (1) against the law, (2) enriching oneself or another person or corporation, (3) harming the state finance or state economy.

In the context of the world of forensic accounting and investigative auditing, Fraud is the main operating target. Fraud or better known in Indonesia as cheating is the main object that is fought in forensic accounting and proven in investigative audits. Cheating is a

general understanding that includes a variety of ways to be used by human ingenuity, which is used by someone to benefit from others through improper actions. Cheating is an intentional deception, generally in the form of lies, plagiarism, and theft. Cheating is done to obtain benefits in the form of money and wealth, avoid payment or loss of services, avoid taxes, and secure personal or business interests (Sayyid, 2014).

In addition to the above understanding, there are also several other types of fraud, which are compiled by Sayyid (2014) as follows:

1. According to Singleton and Singleton (2010), fraud is an act of deception, cunning, and dishonesty and improper ways to deceive others for one's benefit, thus causing harm to others.
2. According to Bologna, *et al.* (1995), fraud is a criminal deception that intends to provide financial benefits to the fraudster.

Fraud Triangle is a scheme that describes the motives or causes of an act of fraud. This Fraud Triangle is a model that connects three major groups that cause fraud. The first point of this Triangle Fraud is Pressure or the beginning of a pressure that coincides. Such as the need for money for urgent needs. The second point is Perceived Opportunity, or the availability of opportunities for perpetrators of fraud, such as the opportunity to commit fraud without being noticed by others and the lack of supervision by superiors. Finally, the third point is Rationalization, which is seeking justification before committing a crime. The Fraud Triangle can be seen in the chart as follows (Sayyid, 2014).

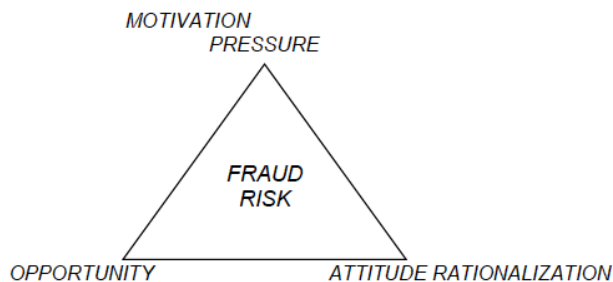


Figure 1: The Fraud Triangle Scheme.

Donald R. Cressey (1953), revealed the concept of Fraud known as the Fraud Triangle. Fraud Triangle is a scheme that describes the motives or causes of an act of fraud. This Fraud Triangle is a model that connects three major groups that cause fraud:

1. Pressure, it starts from a pressure. Such as the need for money for urgent needs.
2. Opportunity, the availability of opportunities for perpetrators of fraud, such as the opportunity to commit fraud without being noticed by others, and the lack of supervision by superiors.
3. Rationalization, seeking justification before committing a crime.

The classification of fraud is as follows:

1. Corruption

The elements of corruption based on Law No. 31 of 1999 as amended based on Law No. 20 of 2001 concerning Eradication of Corruption Crimes as follows: (1) unlawfully/abusing, (2) authority, opportunity or means available to her/him because of her/ his position, and (3) to enrich/benefit oneself or another person or corporation which can be detrimental to finance or economy of the State

2. Asset misappropriation

- a. Embezzlement of money before it is recorded in the company's financial logbook;

- b. Cash Larceny: stealing company revenue after being recorded in the company's financial logbook;

- c. Cash on Hand Misappropriations: embezzling company funds;

- d. Non-cash Misappropriations: stealing/ misusing non-fund assets from the company.

3. Fraudulent Statement

- a. Providing false information/ falsifying information;

- b. Deliberately manipulating company financial statements to get benefits for individuals or groups that directly or indirectly harm others.

Fraud is a *modus operandi* in economic crime that must be overcome by forensic accounting methods and investigative audits. Forensic accounting and investigative audits methods are also implemented in the Financial Criminal Investigation method.

3.2. Forensic Accounting

The term "Forensic Accounting" was first stated by a colleague at the Accounting Firm in New York named Maurice E. Peloubet in 1946 (Tuanakotta, 2017). Forensic Accounting was formed from many collaborations between Accounting and the legal system. Lawyers use forensic accounting to find evidence in white-collar cases that they cannot get, which will help win many cases.

The term forensic accounting in Indonesia has only seen its success after the success of Price water House Coopers (PwC) in dismantling the Bank Bali case (Tuanakotta, 2009). PwC with software in particular can show complicated fund flows just like light diagrams sticking out from the sun (Sunburst). Then, PwC summarizes it into the flow of funds from certain people. The method used in the audit is Follow the Money or following the flow of money from the corruption of Bank Bali and in-depth interviews which then lead to the officials and entrepreneurs involved in this case (Sayyid, 2014).

There are several types of forensic accounting, including the following:

1. According to Theodorus M. Tuanakotta (2009), forensic accounting is the application of the accounting system in the legal field, especially on fraud issues.
2. Meanwhile, according to Larry Crumbley (2005), it can simply be said that forensic accounting is an accurate audit accounting system for legal purposes.
3. According to Jack Bologna (1995), forensic accounting can be defined as accounting relating to the court or regarding the application of scientific knowledge of accounting to legal matters.

Based on the aforesaid information it can be concluded that forensic accounting is the use of accounting expertise combined with investigative ability to solve a problem or suspected fraud. Forensic accounting is a combination of accounting and law where the two disciplines complement each other. That is why forensic accounting can be defined as the use of accounting for legal purposes (Sayyid, 2014).

One model that serves as a reference in the application of forensic accounting in law enforcement in

Indonesia is the Forensic Accounting Triangle model, the forensic accounting model described by Theodor M. Tuanakotta (2017) as follows:

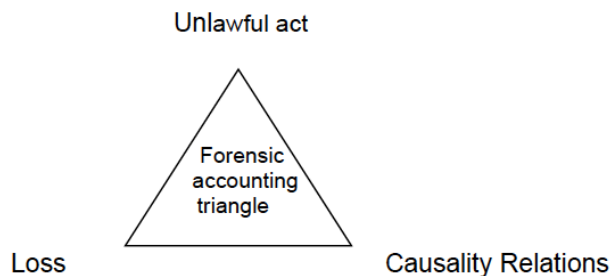


Figure 2: The Forensic Accounting Triangle Model.

Tuanakotta bases his views on the provisions of Article 1365 *Burgerlijk Wetboek* (BW), Indonesian Civil Law Code, to describe the cycle of the forensic accounting triangle, namely that the first point which is the most important legal concept in applying whether or not there is a loss, and if any, how to calculate the concept. Then the second point is the action against the law. Without an unlawful act, no one can be sued for compensation. Furthermore, the third point is the connection between loss and unlawful acts or there is a causal relationship between loss and unlawful acts (Tuanakotta, 2014).

3.3. Investigative Audit

An Investigative Audit can be simply defined as an attempt to prove an error following applicable legal provisions based on Tuanakotta (2017). The term Investigative Audit confirms that what is done is an audit. General audit or financial audit which aims to provide an independent auditor's opinion regarding the fairness of presentation of financial statements. Therefore, this audit is also called an opinion audit. An investigative Audit is directed to prove whether there are fraud and other illegal acts.

Jack Bologna and Linquisdt (1995) stated that fraud or investigative audit is a skill that goes beyond the realms of embezzlement and corporate management fraud, or commercial bribery. Indeed, forensic accounting skills go beyond the general area of collared crime.

According to the BPKP (*Badan Pengawas Keuangan dan Pembangunan*/ Indonesia's National Government Internal Auditor) Training Center (2008), an investigative audit is a systematic and measurable activity to uncover fraud since it is known or indicated a situation/event/transaction that can provide sufficient confidence, and can be used as evidence that meets

the evidence of truth in explaining events that have been assumed earlier to achieve justice. The implementation of investigative audits is intended to determine the truth of the problem through the process of testing, gathering, and evaluating evidence relevant to fraud and to reveal facts of fraud as compiled by Wuysang *et al.* (2012), including: (1) Fraud (subject), (2) Identifying fraud perpetrators (objects), (3) Explaining the modus operandi of fraud (mode), and (4) Quantifying the value of the loss and the impact.

The Association of Certified Fraud Examiners (ACFE) mentions three axioms in conducting investigative audits or fraud checks. These three terms are referred to by ACFE as fraud axioms, which consist of: (Widjaja, 2012; Tuanakotta, 2017).

1. Fraud is hidden

The characteristics of fraud are always hidden. The method or modus operandi always contains tricks to hide the ongoing fraud. Fraudsters are very creative in looking for loopholes to hide their fraud. For example, the Bank's board of directors facilitated their customers by opening fictitious L/C or providing bulging loans that immediately became NPL (Non-Performing Loan).

2. Reverse proof

The purpose of this reverse proof is that fraud checks must be approached from two directions. To prove that fraud occurred, proof must be done by efforts to prove that fraud did not occur, and vice versa. In proving that fraud did not occur, proof must include efforts to prove that.

3. Existence of fraud or determination of fraud by the court

This axiom wants to simply say that only the court has the right to determine the legal status of fraud. To investigate the presence or absence of fraud, the investigator makes allegations about someone guilty or innocent. Only the court has the authority to determine the presence or absence of fraud. So that the person finally receives his sentence.

3.4. Financial Criminal Investigation

Financial Criminal Investigation (FCI) is a method of investigation (inquiry) to find out the assets of suspects obtained from crime, so that they can be confiscated, to be returned to the state and or victims. This method

was developed by the Police Academy of The Netherlands (*Politie Academie*) and applied in the process of investigating all criminal acts. The basic concept of this method is intended to address the development of crime that follows the development of technology. Technological developments through the convergence of telecommunications networks with computerized systems have resulted in an Internet network digitization system that can then be utilized by perpetrators as a means to commit crimes (Sukardi, 2012).

FCI in the Netherlands aims: (1) to prove criminal facts, (2) to prove on criminal profits and (3) property investigation before confiscation. The ultimate goal is to confiscate all proceeds of crime, the profit of the crime, and assets of the defendant that are not by legal income as quoted from FCI Training Materials for Indonesian Police. In comparison with the objectives of investigations in Indonesia, are: (1) To determine whether a crime has occurred, (2) To identify the perpetrators, (3) To catch the perpetrator, and (4) To provide evidence to support the prosecution in court, with the ultimate goal is to prove the defendant's actions whether guilty or not.

The ultimate goal of calculating the proceeds of crime from FCI is to be confiscated and submitted to the state treasury and / or returned to the victim. Thus, the criminal law enforcement process as well as civil law enforcement are incorporated in a Financial Criminal Investigation method. Unlike the criminal law enforcement system in Indonesia which only proves criminal acts committed by perpetrators of crime, so that the return of victims' losses or state losses can be done by civil proceedings.

An overview of the objectives of the Netherlands financial investigation method can be seen in the table below:

The application of Financial Criminal Investigation Method in the Netherlands, which is also identical with the method of impoverishing a criminal actor, can be applied to all criminal acts, in contrast to Indonesia, the method of impoverishing a criminal action is only applied in eradicating corruption and money laundering. Some different concepts between the Indonesian investigation method according to the Criminal Procedure Code and the investigation method in the Netherlands (Financial Criminal Investigation), among others:

3.5. Law Enforcement Strategies Against Economic Crime (Financial Crime)

Law enforcement strategies in the development of crime against financial crime such as illegal investment, financial technology, and so on are through the application of the concept of "Follow the Money" with the method of "Financial Criminal Investigation", Application of Forensic Accounting, and Investigative Audit, and multidoor methods.

The role of law in economic development is basically that the law resolves conflicts because economic life is a source of conflict, as a result of limited economic resources. Everything should be regulated by law to prevent conflict, but when everything is too regulated then motivation, creativity, the dynamic of human beings will die. In the economic world, too strict rules kill economic development, in the contrary too lose the economy becomes chaotic. The world wants a neutral economy between capitalist

Table 1: Financial Investigation Method in the Netherlands

Objects	Proof	To be proven by	Conclusion
Proving the applied article	Meet the elements and accountable	Prosecutor	<ul style="list-style-type: none"> - Undergo punishment - Confiscation of assets <li style="padding-left: 20px;">- Fines <li style="padding-left: 20px;">- Annihilated - Recovery of victims
Investigation of Criminal Outcomes / Benefits	Reasonable evidence	Prosecutor Suspect	Returns of profits: <ul style="list-style-type: none"> - Profit per crime - Benefits with survey methods
Property investigation before confiscation	Reasonable proof	Prosecutor	Sell the assets of the suspect if she/he has been found guilty and must return the proceeds of crime

Table 2: Different Concepts between the Indonesian and the Netherlands Investigation Method

Difference	Indonesia (KUHAP)	Netherlands (FCI)
Investigation & Inquiry	Separated	Not separated
Coordination Of Investigators with Prosecutors	After submission	Since the beginning of the investigation
Purpose	Revealing the perpetrator Proving criminal action Providing the perpetrator's mistake	Proving the criminal acts Proving the advantage of crime Proving the perpetrator's assets
Process	Separating criminal and civil cases	Combining criminal and civil cases
Coordination Network	Bureaucratic, administrative constraints	Highly synergic, can be through mobile phone

thought and the socialist thought, while the role of government is in the middle of those thoughts.

Therefore, the involvement of government must be measured, meaning that the government calculates the extent of government interference in the economic field with three roles: (1) as a regulator; (2) as a Provider; and (3) as an entrepreneur. Whereas the most important function of law is to provide certainty about relation actions in conducting economic relations. The main task of the government is to run the law and the main function of the law is social progress and better standards of life.

Referring to the theory of Lawrence M. Friedman (1975) the legal system has elements: (1) legal structure, (2) legal substance, and (3) legal culture. Thus, to build a system of law enforcement in dealing with the development of financial crime and financial technology, all three elements must be built comprehensive.

First, to develop the legal substance requires changes in the law that can accommodate the needs of legal development, with steps:

1. The similarity of viewpoints and objectives of law enforcement.

The elements in law enforcement systems should have the same vision and mission in achieving legal objectives. The concept of law enforcement in Indonesia is still oriented towards proving mistakes and criminal acts from perpetrators of crime, but it is not yet oriented towards the proceeds of crime. The application of the follow the money concept uses a financial investigation method that follows the flow of financial transactions to calculate the proceeds of crime. Therefore, to strengthen the method of a financial criminal investigation, the viewpoint, and

purpose of law enforcement must be oriented to the profitability of the proceeds of crime.

2. Integral Investigation Methods.

Conventional investigative methods in Indonesia adhering to the concept of specialization and partialization based on the field of law and the justice system, for example, civil cases and criminal cases each stand-alone and are not integrated into one investigation method. For example, cases of fraud and criminal proceedings are based on the provisions of Article 378 of the Criminal Code and criminal procedure code. After the criminal process is completed, the criminal decision can be used as a basis and legal reason for civil lawsuit and cancellation of the Agreement based on Article 1321 BW. Other provisions regarding the homicide under Article 338 of the Criminal Code, separate from the civil lawsuit in Article 1370 BW. The concept of law enforcement like this, inefficient in terms of time and cost, bureaucracy becomes slow and complicated, requires a long time. Unlike the method of a financial criminal investigation in the Netherlands which combines criminal lawsuits with compensation in a civil lawsuit in a method, and the proceeds of crime are determined by the judge fairly, victims' rights will be returned, and other assets are seized by the State.

3. Eliminating the substitute penalty.

In various criminal provisions often covering clauses regarding substitute criminal acts such as in the Corruption Law, for example in the provisions of Article 18 paragraph (3) of Law No. 31 of 1999 concerning Eradication of the Criminal Act of Corruption that:

"If the accused does not have adequate assets to pay the compensation as referred to in paragraph (1) letter b, the

accused is merely sentenced to a period not exceed the maximum sentence of the main crime following the provisions of this Law, with the period of the sentence having been determined in the court's decision."

This provision can be used as a basis for perpetrators of crime to hide wealth resulting from criminal acts. So that the program to impoverish corruptors will only remain as a concept.

To maximize criminal sanctions that have a deterrent effect on corruptors, the substitute criminal should be eliminated and replaced with a clause, the judge orders the Public Prosecutor and the investigator to conduct a property investigation using audit forensic investigation, to find the proceeds of crime from the perpetrators or others assets that can meet the loss of victims of the State. And if the results of the investigation do not find the perpetrator's assets, then the perpetrators are declared to be indebted to the State and are required to repay them in the future by working.

4. Establishing new regulations related to new dimensions of crime such as fintech P2P Lending and other financial crimes.
5. Optimizing applicable laws and regulations such as the implementation of Articles 3, 4, 5, and Articles 77-78 of the Money Laundering Law, Article 38B of the Corruption Law, Correct Interpretation of the Corruption and Money Laundering Law, etc.
6. Reorientation of Asset Management (accelerated auction of confiscated goods, utilization of seized assets, and so on);
7. The acceleration of the completion of the bills such as the Criminal Procedure Code Bill (still needs to improve several articles related to confiscation, and methods of forensic accountants and investigative audits); Criminal Code Bill; Confiscation of Proceeds of Crime Bill; Asset Management Bill; Cash Transactions Restriction Bill; Mutual Legal Assistant Bill (especially related to bank secrecy which is quite hindering); Banking Draft Bill (especially related to bank secrecy provisions which hinder MLA cooperation).

Second, to build a legal structure such steps are required:

1. The application of the Asset Tracing method to the property of the suspect.

Asset tracking is a term borrowed from economics especially in financial investigations or property companies. According to Barry Trevor (2011) that "in legal terms, asset tracing is the procedure of tracking assets or funds that are missing. Asset tracing typically occurs when there is a suspicion or act of fraud, money laundering, and embezzlement."

The motive of economic crime is to benefit oneself or others. While the obligation to report assets (LHKPN) provides an opportunity for the perpetrators to hide the proceeds of crime either in the form (foreign exchange, shares, property) or by using the name of ownership of another person (extended family or other people's names).

Asset tracing method in investigation and inquiry, the results will be very supportive of proving the actions carried out by the suspect. So that the reverse proof is no longer needed, but the efforts of the Investigator and the investigator to prove the assets of the suspect that cannot be accounted for and whose origin is unclear according to law.

According to Verland (2012), the asset tracing method is also used in financial criminal investigations in the Netherlands. Financial Investigation is a method of investigation to find out the assets of suspects obtained from proceeds of crime, so that it can be confiscated, to be returned to the state and or victims.

2. Increase of understanding of the concept of following the money and financial criminal investigation methods.

Based on Husein (2008) the concept of following the money and the financial criminal investigation method in the economic crime investigation system should be understood as a financial investigation method that can be applied to all criminal acts especially criminal acts related to financial crime. The method of investigation of corruption and money laundering cases conceptually is similar, which is sourced from the Criminal Procedure Code which is generally applicable, but the prevailing proof theory is a negative proof system as formulated in the provisions of Article 183 of the Law No. 8 of 1981 concerning Criminal Procedure Code.

Corruption in the Netherlands is not an extraordinary crime but only an ordinary fraud. Therefore, the method of countermeasure corruption is similar to other criminal acts handling. The application of the concept of following the money and the method of a financial criminal investigation in the Netherlands is applied to almost all criminal acts, including other general criminal acts. It is caused by the understanding of the concept of following the money and the method of financial crime investigation is understood as an investigation method by disclosing crime through tracking the evidence of suspect's financial transaction, as well as carrying out asset tracing of the proceeds of crime.

It is different from the understanding of some people who only understand the application of the concept of following the money as a method of investigating money laundering cases so that corruption cases are not applied but instead use conventional methods. Understanding the basic concepts of the concept of following the money with the method of financial crime investigation is the provisions of Article 69 and Article 77 of Law No. 8 of 2010 concerning Prevention and Eradication of Money Laundering Crimes. Article 69 stated that *"To be able to carry out investigations, prosecutions, and examinations in a court of law for a Money Laundering crime it is not compulsory to prove the original criminal act first."* As for Article 77 stated, *"For an examination at a court hearing, the defendant must prove that her/his assets are not the result of a criminal offense."* In contrary to the concept of following the money and the method of a financial criminal investigation in the Netherlands, the proof is carried out by the Investigator together with the Prosecutor in a professional manner (not reverse proof).

3. Application of the Money Laundering Law on financial crime and Fintech.

The application of the Money Laundering Law in an integrated manner with other laws in financial crime and fintech cases is required as an asset tracing method. The law enforcement strategy begins with the immediate formulation of SOPs that adopt the concepts and methods of financial crime investigation. This SOP is related to the mechanism of investigation and prosecution and execution of financial crime perpetrators who are also at the same time convicted of criminal acts of money laundering. Besides, intensive training was conducted on the concepts and methods of a financial criminal investigation for law enforcement.

Improvement of law enforcement management starts with the application of Articles of financial crime as a crime predicate and the Money Laundering Law as a comprehensive asset tracing method. Presentation of facts oriented to the quality of evidence, not quantity, using a scientific evidence system that is oriented to the theory of negative evidence (*negatief wettelijk bewijs theorie*), where a defendant's fault is determined by the judge's conviction based on the method and with legal evidence according to the law and this system combines objective and subjective elements in determining whether wrong or not the defendant personally. It is outlined in the provisions of Article 183 of the Criminal Procedure Code adopted by the Indonesian Criminal Procedure Code which stated "A judge may not convict a person except if with at least two valid evidence she/he has the conviction that a criminal act occurred and that the defendant is guilty of committing it.

The negative proof method (*negatief wettelijk bewijs theorie*) is combined with the theory of *conditio a sine qua non* (Saiful, 2011) with deductive reasoning methods (Mertokusumo, 1996). This is to avoid mistakes in the application of the article and or the cancellation of the determination of suspect by the pretrial judge. The application of laws relating to financial crime and fintech in an integrated manner with the Money Laundering Law provides convenience in disclosing cases, especially because the same investigative methods are applied. Thus, the orientation of law enforcement does not only prove the fact of the guilty act, or loss of the State in the case of corruption, but it is further to prove the benefits resulting from the crime which includes state losses.

4. Harmonious and synergistic coordination system between law enforcement officers.

The system of coordination and collaboration in application of the concept of following the money and the method of a financial criminal investigation in law enforcement system must be built synergistically and harmoniously with the same vision and mission of law enforcement so that law enforcement officials become a unified force in facing the new crime developments such as financial crime and fintech and not pitted sheep by the perpetrators.

The application of the concept of following the money and the method of Financial Criminal Investigation has now been applied and developed in

various countries, but to the law enforcement elements in the criminal justice system in Indonesia, only Indonesian National Police investigators have collaborated with the Netherlands Police Academy on the method of financial crime investigation and have trained has been conducted for investigators throughout Indonesia since 2011. However, the application of the concept of following the money and the Financial Criminal Investigation method in the criminal justice system cannot be done if understood only at the investigation stage and only at the police institution. Therefore, the effectiveness of the application of the concept of following the money and the method of Financial Criminal Investigation can only be done if all elements of the Criminal Justice System in the Police, Attorney General's Office, and at the Corruption Eradication Commission have likened the perception to apply the method.

The challenge of law enforcement in dealing with the development of financial crime and Financial Technology in the industry 4.0 era has been anticipated by law enforcement in the Netherlands so that it has been accommodated in the concept of its law enforcement strategy through the method of a financial criminal investigation in the form of synergistic and harmonious coordination and collaboration system. The synergy of the coordination system is not only at the level of law enforcement agencies and government agencies but also with all private entities. A form of real coordination that helps the investigative audit process and forensic accounting in the asset tracing stage of a financial crime case is a synergized data network system, without complicated bureaucratic processes, and at no costs, supported by regulations and SOPs. For example, in the case of suspect's tracing assets, the investigator can simply call the tax office stating their registration number, then the required suspect tax data is immediately sent via email. Likewise, the suspect's travel trail, simply by calling an existing travel agent, transcript of the conversation, and texting simply call the Provider. This is certainly different from the concept of law enforcement bureaucracy in Indonesia where if law enforcement officials require a suspect's bank account, then the bureaucracy is very long, for example, the suspect must be determined first, the application must be signed by a certain official, the request must be addressed to Bank Indonesia, so that in addition to convoluted, also requires a long time and cost.

In addition to building internal coordination, cooperation, and collaboration of the criminal justice

system elements, coordination, cooperation, and collaboration with all financial service providers, financial transactions, as well as information technology, transaction, and communication technology service providers must be built. This collaboration is needed in criminal cases because it requires access from all these sources to facilitate the process of tracing assets.

5. Establishment of Asset Returns Unit at Law Enforcement Official Agencies (formed by the Asset Management Officer (PPA) join the investigation, investigative audit, and application of forensic accounting); Strengthening the capacity of law enforcement officials (National Police, Attorney General's Office, Judge, PPATK, BPK, BPKP, KPK, OJK, independent auditors and so on); Strengthening the Central Authority in implementing Mutual Legal Assistance (improving databases, improving coordination, etc.); and Strengthening of State Confiscated Object Storage House (Rupbasan) (in terms of capacity improvement, database, etc).

Third, to build a legal culture, steps are needed:

1. Building infrastructure for community business economic activities.

The success of law enforcement tasks against financial crime is largely determined by basic intelligence (preliminary data) which is used as a reference in developing a strategic plan. To collect data and facts using investigative audit methods and forensic accounting. The database system in each institution or entity has not been synergistically connected both offline and online. This has become one of the obstacles in process of tracing assets carried out in the financial investigation method both with investigative audit methods and forensic accounting. The financial transaction data system is strongly influenced by the community's legal culture, especially market orientation, purchasing power, and financial transaction methods, and so on.

The financial transaction system in the Netherlands, for example, which already uses a card system, is very helpful for everyone's transaction data system at the financial services authority. Thus, the effort for asset tracing on each person is greatly helped by the existing transaction data system. However, the method of financial transactions in Indonesia, especially in rural areas, even in some cities there are still conventional

manual transactions. This will complicate the process of tracing asset and material verification in court. This, according to the author, is an obstacle in the aspect of legal culture.

Therefore, to strengthen the existence of investigative audit and forensic accounting as a method of tracing assets in financial investigations, the legal culture especially infrastructure in the business world must be built in line with developments in technological systems, such as the use of card systems, virtual accounts or cryptocurrency, big coins (digital currency), so that digital technology can be utilized as a supporting tool in the financial crime investigation process.

2. Establish a Database system and online data connection.

One of the main obstacles in law enforcement against financial crime is the difficulty in collecting data as evidence in the process of tracing assets. There is no regulation on data systems and data reporting of corporations, institutions and agencies both private and government, making it difficult to collect valid and accurate data. This condition is exacerbated by the absence of a data bank system, big data that is managed online, and connected to all data sources. For example, the population data system (e-KTP) does not even guarantee the accuracy and validity of the entire population's data. This condition hinders the law enforcement process including in the fields of financial crime and financial technology. To strengthen the concept of forensic audits and the framework of investigation of financial crime a data-based system with big data that is professionally managed is needed, and guaranteed accuracy, validity, and confidentiality. This system provides data online with soft and non-bureaucratic procedures.

3. Community participation in law enforcement.

The method of investigation is the process of case reconstruction and legal construction which is built on data, facts or evidence obtained from the process of collecting data and facts in a structured manner. The data and facts are derived from the community as victims as well as a very important source of information. Therefore, community participation based on legal awareness to provide necessary information data in the investigation process is an indispensable matter even in many respects being a determinant of the law enforcement process itself. Thus, strengthening forensic audits in financial crime investigations requires

public participation in providing accurate and valid information and data to determine the final process of the investigation.

4. CONCLUSION

This paper concludes that the development of digital technology in Industry 4.0. era spurred the development of economic globalization, which has an impact beyond economic growth but also influences the development of economic crime (financial crime or economic crime). An emerging new dimension of crimes, especially in the world of the economy or financial crime by using technology systems as a means (to) (crime of financial technology), becomes a challenge in business law enforcement.

It also argues that the challenge of law enforcement against financial crime may adopt the concepts and methods of law enforcement, such as in the Netherlands, by applying the concept of following the money with a financial crime investigation. This method involves Forensic Accounting, investigative auditing in tracing assets in the context of financial investigation.

Finally, this paper suggests that the strategy of law enforcement on financial crime, especially Financial Technology (Fintech), must be developed in a complete legal system both in terms of legal substance, legal structure, and legal culture. The development of legal substances is carried out through regulatory changes that accommodate the advancement of financial crime and financial technology crime. The changes of legal structures are needed in methods of investigation, audit and forensic accounting, internal and external coordination systems of synergistic and harmonious law enforcement; while the development of legal culture is carried out through building databased systems through big data, and online data networking systems, and developing business economic infrastructure by utilizing digital technology.

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