



Expansion of the Crime of Money Laundering in the National Criminal Code: The Problem of Limitations on Threatened Crimes of 4 Years or More

Maswandi^{1*}

¹Faculty of Law, Universitas Medan Area, Indonesia

✉: maswandi@staff.uma.ac.id

Corresponding Author*

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ABSTRACT

Money laundering constitutes a transnational offense that undermines financial system integrity and economic stability, with predicate offense determination in Indonesia relying on a four-year imprisonment *threshold* under Article 2(1)(z) of Law Number 8 of 2010, a criterion textually preserved in Article 607 of the new Criminal Code (Law Number 1 of 2023) without substantive re-evaluation. This study aims to examine the normative consistency of this threshold across both regulatory regimes, identify its legal implications for law enforcement effectiveness, and formulate an ideal concept for expanding predicate offense coverage. Employing normative legal research through *statute* and *conceptual approaches*, the study analyzes primary and secondary legal materials descriptively and argumentatively. Findings reveal that the threshold's textual continuity conceals unresolved substantive gaps, allowing high-value economic crimes particularly taxation offenses to escape prosecution, weakening corporate criminal liability through the *directing mind* doctrine, and obstructing asset recovery via the *follow the money* approach. Comparative analysis with Singapore and Malaysia confirms that Indonesia remains bound to a rigid *predicate crime list* model. The study concludes that lawmakers should introduce alternative mechanisms based on proceeds' value, strengthen *in rem forfeiture* instruments independent of predicate offense proof, and expedite passage of the Asset Forfeiture Bill.

INTRODUCTION

Money *laundering* is a form of cross-border crime that continues to grow along with the complexity of the global financial system. In general, this practice serves as a bridge that turns the wealth of the proceeds of crime into a legitimate one, thus threatening the integrity of the financial system, economic stability, and public trust in law enforcement. Empirical studies show that money laundering has broad macroeconomic consequences, ranging from a decrease in state revenues, disruption of foreign investment flows, to increased volatility of the banking system and exchange rates.¹ This phenomenon confirms that money laundering is not just an individual criminal problem, but a structural threat to a country's economic governance.

In particular, in Indonesia, this problem is even more pronounced when it is associated with the mechanism for determining *predicate offenses* or criminal offenses of origin. Article 2 paragraph (1) letter z of Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes stipulates that other criminal acts outside the explicit list can only be categorized as original criminal offenses if they are threatened with imprisonment of four years or more. This provision is then maintained in the latest codification through Article 607 of Law Number 1 of 2023 concerning the Criminal Code. The four-year threshold refers to the criteria for serious crimes as stipulated in the UNTOC, but in practice it actually creates a legal loophole because a number of criminal acts that generate large profits, for example in the fields of food, land, and copyright, do not meet the threshold so that they escape the trap of TPPU.² On the other hand, fraud is actually recorded as one of the most dominant criminal acts of origin that gives birth to money laundering cases in Indonesian courts³, while efforts to recover assets from corruption as a predicate crime still face significant procedural obstacles.⁴

The research gap arises because previous studies generally discussed the expansion of predicate offenses sectorally such as the environment and natural resources sectors or international cooperation of PPATK without

comprehensively evaluating the normative consistency of the four-year threshold itself after the codification of the new Criminal Code.⁵ There has been no study that specifically analyzes how the threshold criterion interacts with the principle of *lex certa* and the principle of substantive justice after the enactment of Article 607 of the Criminal Code. The novelty of this study lies in the integrated normative analysis of the two regulatory regimes of the PPTPPU Law and the new Criminal Code in order to formulate an argument on the need for a more equitable and responsive predicate offense criterion reformulation to contemporary economic crime dynamics.

Based on this background description, this study formulates the following problems. First, what is the normative consistency of setting the four-year criminal threshold as a criterion for *the predicate offense* of money laundering in Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes and Law Number 1 of 2023 concerning the Criminal Code? Second, what are the legal implications arising from the limited scope of the four-year threshold-based predicate offense on the effectiveness of law enforcement of money laundering crimes in Indonesia? Third, how can the concept of the ideal predicate offense expansion be formulated to strengthen the national money laundering legal system to be more responsive to the dynamics of contemporary economic crimes?

This study aims to: (1) analyze the normative consistency of setting the four-year threshold as a predicate offense criterion in the two regulatory regimes; (2) identify the legal implications of the limited scope of predicate offense on the effectiveness of TPPU law enforcement; and (3) formulate a more comprehensive concept of predicate offense expansion as a contribution to the renewal of economic criminal law policy in Indonesia.

Theoretically, this research is expected to enrich the treasures of criminal law, especially the study of predicate offenses and anti-money laundering regulatory reform. Practically, the results of this research can be considered for lawmakers, law enforcement officials, and the Financial Transaction Reporting and Analysis Center (PPATK) in formulating policies that are more responsive to the complexity

¹ Sadia Nazar, Abdul Raheman, and Muhammad Anwar ul Haq, "The magnitude and consequences of money laundering," *Journal of Money Laundering Control* 27, no. 5 (2024): 808–24, <https://doi.org/10.1108/JMLC-09-2022-0139>.

² Felix Aglen Ndaru, "Limitation of criminal acts in the field of natural resources as a criminal offense originating from money laundering in Indonesia," *Indonesian Journal of Environmental Law* 9, no. 2 (2023): 239–78, <https://doi.org/10.38011/jhli.v9i2.532>.

³ Rara Pitaloka Sirait, Mahmud Mulyadi, and Abdul Aziz Alsia, "A Comprehensive Study of Fraud as a Predicate Crime in Money

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⁴ Yoserwan and Fausto Soares Dias, "Implementing The Anti-Money Laundering Law: Optimizing Asset Recovery In Corruption Cases In Indonesia," *Journal of Law and Justice* 13, no. 2 (2024): 227–50, <https://doi.org/10.25216/jhp.13.2.2024.227-250>.

⁵ Aksa Aksa, Alwan Hadiyanto, and Ciptono Ciptono, "Efforts to Eradicate Money Laundering Crimes by the Center for Financial Transaction Reporting and Analysis through International Cooperation," *USM Law Review Journal* 7, no. 2 (2024): 586–602, <https://doi.org/10.26623/julr.v7i2.8896>.

of economic crimes, as well as making an academic contribution to the development of normative legal studies in the field of money laundering crimes.

METHOD

This study uses a *normative legal research* method, which is a study that focuses on written legal norms, legal principles, and doctrines, rather than on testing field data. The selection of this method is based on the view that the legal research method functions as the main instrument for researchers in tracing the scientific truth of a legal issue that develops in society.⁶ The object of study in this study is in the form of normative problems around the four-year criminal threat limit as a criterion *for predicate offense* money laundering within the framework of the national Criminal Code.

The approaches used include *the statute approach* and *conceptual approach*. The legislative approach is used to systematically examine Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes and Law Number 1 of 2023 concerning the Criminal Code, while the conceptual approach is used to examine the principles of criminal law, the doctrine of *predicate crime*, and the views of experts related to the principle of *lex certa*. These two approaches were chosen because normative legal research "serves as an analytical tool to understand, interpret, and evaluate law as a system that lives in society".⁷

The legal materials used consist of primary legal materials in the form of relevant laws and regulations and decisions of the Constitutional Court, secondary legal materials in the form of books, scientific journals, and the results of previous research, and tertiary legal materials in the form of legal dictionaries to clarify technical terms. The technique of collecting legal materials is carried out through library *research* by tracing and inventorying relevant literature digitally and in print. The analysis of legal materials is carried out qualitatively through descriptive-analytical, interpretive, and argumentative techniques, so that a comprehensive picture of the normative consistency and legal implications of the four-year threshold provisions is obtained, as well as an argument for the formulation

of a more responsive concept of predicate offense expansion.

RESULTS AND DISCUSSION

Normative Consistency of the Four-Year Threshold as a Predicate Offense Criterion in Law Number 8 of 2010 and Law Number 1 of 2023

An analysis of the two regulatory regimes shows that the four-year criminal threshold as a *predicate offense* criterion is basically maintained without substantial changes when moving from Article 2 paragraph (1) letter z of Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering to Article 607 paragraph (2) of Law Number 1 of 2023 concerning the Criminal Code.⁸ A study comparing the two regimes found that the new codification simply moved the old formulation into the national penal structure without being accompanied by a reformulation of the threshold criteria itself, so that the normative issues inherent in the PPTPPU Law were also inherited into the Criminal Code.⁹ This kind of textual consistency on the one hand provides legal certainty because it does not create a vacuum of norms after the enactment of the new Criminal Code, but on the other hand it emphasizes that the fundamental issue of the feasibility of the four-year figure as a *threshold* for the seriousness of crime has never been comprehensively reevaluated.

A deeper inconsistency is seen when the threshold is tested with an economic analysis of criminal law approach. A study of Law No. 8 of 2010 concludes that the formulation of the criminalization of money laundering does not fully reflect the principle of *cost and benefit*¹⁰, so it has the potential to produce inefficient sanctions in preventing or eradicating these crimes.¹¹ This inefficiency is also relevant to the four-year threshold criterion, because the determination of the seriousness of a criminal act solely based on the length of the formal criminal threat is not always directly proportional to the amount of economic benefits generated by the crime. Thus, the normative consistency that appears at the textual level of laws and regulations does not

⁶ Tunggal Ansari Setia Negara, "Normative legal research in Indonesia: Its origins and approaches," *Audito Comparative Law Journal (ACLJ)* 4, no. 1 (2023): 1–9, <https://doi.org/10.22219/aclj.v4i1.24855>.

⁷ Sari Yulis, "Legal research methodology as a framework for analyzing contemporary legal issues," *Locus Journal of Academic Literature Review* 4, no. 9 (2025): 808–18, <https://doi.org/10.56128/ljoalr.v4i9.800>.

⁸ Law of the Republic of Indonesia, "Law (Law) Number 1 of 2023 Criminal Code," 2023.

⁹ Duwi Handoko et al., "Criminal Law Reform Related to Money Laundering Crimes After the Enactment of Law Number 1 of 2023

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¹⁰ Law of the Republic of Indonesia, "Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering," 2010, <https://peraturan.bpk.go.id/Details/38547/uu-no-8->.

¹¹ Erma Denniagi, "Economic Analysis of the Criminalization of Money Laundering in Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering," *Lex Renaissance* 6, no. 2 (2021): 246–64, <https://doi.org/10.20885/jlr.vol6.iss2.art3>.

necessarily reflect substantive consistency in realizing the legal goal of money laundering, namely breaking the chain between the crime of origin and its economic benefits.

Comparisons with other jurisdictions also strengthen the finding that Indonesia's approach is rigid compared to the regulatory model of neighboring countries. A comparative study of Singapore shows that the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act 1992 does not set a rigid criminal threshold, but rather emphasizes on the mechanism for confiscating economic benefits of crime, so that the orientation of its criminal policy is inclined towards asset recovery rather than just the certainty of the delicate formulation.¹² Similarly, a comparison with Malaysia shows that the *Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act* 2001 regulates *predicate offences* more broadly without being limited by a specific criminal threshold, so that the scope of the original crime that can be followed up is much more comprehensive than that of Indonesia.¹³ This comparison confirms that the domestic normative consistency maintained through the new Article 607 of the Criminal Code actually runs in the direction of *a more closed predicate crime list model*, rather than adapting to regional trends that lead to *an all-crime* or outcome-based approach to crime.

Legal Implications of Limited Coverage of Predicate Offense on Law Enforcement Effectiveness

The limited scope of *predicate offenses* based on the four-year threshold has real legal implications for various sectors of law enforcement. In the field of taxation, for example, the characteristics of economic crimes that are administrative in nature make it difficult for a number of tax offenses to meet the four-year threshold, even though the results of tax crimes have great potential to be disguised through money laundering mechanisms that threaten the stability of the country's financial system.¹⁴ This kind of inequality confirms that uniform threshold criteria for all types of criminal acts are not able to accommodate diverse sectoral characteristics, so that

a number of economic crimes that substantially harm the state actually escape the snare of money laundering.

Another implication appears in the aspect of corporate criminal liability. Law enforcement practices show that the application of corporate liability in money laundering cases is still very limited and relies on the doctrine of identification, where law enforcement must be able to prove that the act was carried out by corporate controlling personnel (*directing mind*) for the benefit of the corporation.¹⁵ When predicate offenses involving corporations do not meet the four-year threshold, corporations that enjoy the proceeds of the crime have the potential to escape criminal liability, so that the effectiveness of law enforcement against networked economic crimes is weakened. This implication confirms that the limited scope of predicate offense is not only a matter of norms, but also has a direct impact on the ability of the legal system to reach corporate actors who often become a vehicle for money laundering.

This problem is also exacerbated by the weak asset recovery instrument. A study of the confiscation of assets resulting from corruption shows that law enforcement by the prosecutor's office based on the PPTPPU Law and the Corruption Law has not run optimally without the support of additional legal instruments such as the prosecutor's asset recovery guidelines.¹⁶ When predicate offenses that result in large assets are not included in the list of original crimes due to not meeting the four-year threshold, asset confiscation efforts as a *follow the money* approach cannot be carried out at all, because formally no money laundering crime can be prosecuted. Thus, the legal implications of this threshold limitation are multi-layered: ranging from the difficulty of ensnaring individual and corporate perpetrators, to the inhibition of recovering state losses through the asset forfeiture mechanism.

The Ideal Predicate Offense Expansion Concept for Strengthening the National Money Laundering Legal System

¹² Rahma Sari Nasution et al., "Comparative Law of Money Laundering in the Perspective of Indonesia and Singapore," *Indonesian Journal of Criminal Law* 2, no. 2 (2025), <https://journal.asperhupiki.id/index.php/jhpi/article/view/39>.

¹³ Yuni Priskila Ginting et al., "Comparative Observation of Money Laundering Crimes Between Indonesia and Malaysia," *Journal of Comprehensive Science (JCS)* 3, no. 5 (2024), <https://doi.org/10.59188/jcs.v3i5.684>.

¹⁴ Guntur Rambey, "Criminal Law Enforcement Against Money Laundering Crimes in the Field of Taxation," *Iuris Studia: Journal of*

Legal Studies 3, no. 2 (2022): 184–92, <https://jurnal.bundamedia grup.co.id/index.php/iuris/article/view/247>.

¹⁵ Listawati, "Corporate Criminal Liability in Money Laundering Cases," *Justitia and Pax* 37, no. 2 (2021): 251–66, <https://ojs.uaajy.ac.id/index.php/justitiaetpax/article/view/4412>.

¹⁶ Mariano Adhyka Susetyo, "Asset Confiscation of Money Laundering Crimes Proceeds of Corruption," *Recidive: Journal of Criminal Law and Crime Prevention* 12, no. 1 (2023): 80, <https://doi.org/10.20961/recidive.v12i1.69266>.

Based on these various legal implications, the formulation of the concept of the ideal *predicate offense* expansion needs to rest on a paradigm shift from a formal criminal threshold-based approach to an approach based on substantive justice and the outcome of crime. The study of asset forfeiture from the perspective of justice confirms that the principle of fundamental justice requires that crimes should not benefit the perpetrators, so the scope of asset forfeiture regulation including *civil forfeiture* mechanisms or *in rem forfeiture* needs to be expanded not only to assets stored in financial service providers, but also to all assets related to crime.¹⁷ This kind of shift in orientation is in line with the idea that the effectiveness of money laundering law enforcement should not solely depend on how severe the criminal threat of the predicate offense is, but on the ability of the state to cut off the perpetrator's access to the economic benefits of the crime.

The urgency of this reformulation is also supported by the insistence on the ratification of a more comprehensive legal umbrella. A study of the Criminal Asset Forfeiture Bill shows that the *in rem forfeiture* approach, which focuses on legal action against assets and not on individual perpetrators, is necessary so that perpetrators and other parties do not freely enjoy the proceeds of crime to finance the next crime.¹⁸ This kind of concept is directly relevant to the problem of the four-year threshold, because the asset-based approach does not require rigid proof of the criminal threat of a predicate offense, but focuses on the origin and linkage of assets to criminal acts.

Lessons learned from comparative law also strengthen the direction of this reformulation. As shown by Singapore's experience of prioritizing the mechanism of confiscating economic benefits over the certainty of the formulation of the offense alone¹⁹, as well as Malaysia's experience of regulating predicate offenses more broadly without being limited by certain criminal thresholds²⁰, Indonesia needs to consider a combination of the existing *predicate crime list* approach with elements of a more flexible *all-crime approach*, at least for strategic economic sectors such as taxation, environment, and cybercrime, which have often been hampered by the four-year threshold. Thus, the ideal concept of expanding predicate offense does not mean

completely removing the threshold criterion, but complementing it with an alternative mechanism based on the value of losses or gains from crimes, accompanied by strengthening asset forfeiture instruments as a law enforcement pathway that is independent of formally proving predicate offenses. This kind of reformulation is believed to result in a national money laundering legal system that is more responsive to the dynamics of contemporary economic crimes, as well as answering the gap that has been occurring between textual legal certainty and substantive justice in the enforcement of money laundering crimes in Indonesia.

CONCLUSION

This study concludes that the four-year criminal threshold as a *predicate offense criterion* is consistently maintained textually from Article 2 paragraph (1) letter z of Law Number 8 of 2010 to Article 607 paragraph (2) of Law Number 1 of 2023, but this consistency is not followed by a substantive evaluation of its feasibility, thus causing layered legal implications in the form of the passage of a number of large-value economic crimes, especially in the field of taxation from the trap of TPPU, weak corporate criminal liability due to the difficulty of proving *directing mind*, and the inhibition of the asset recovery mechanism because *the follow the money* approach cannot be carried out without predicate offenses that meet the threshold. Comparisons with Singapore and Malaysia confirm that Indonesia is still stuck in a rigid *predicate crime list* model compared to the crime-outcome-based approach. Therefore, it is recommended that lawmakers formulate alternative mechanisms based on the value of losses or gains from crime as a complement to the formal criminal threshold, strengthen asset forfeiture instruments through *an in rem forfeiture* approach that is independent of proving predicate offenses, and immediately pass the Asset Forfeiture Bill to close the legal loopholes that have allowed perpetrators and corporations to enjoy the proceeds of crime without being adequately ensnared by the national money laundering legal system.

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