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Corruption of People's Business Credit Funds as Part of White-Collar Crime in Indonesia

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Abstract

This article asks when a loss arising from fraudulent People's Business Credit (Kredit Usaha Rakyat, KUR) disbursement in a state-owned bank becomes a state financial loss cognizable under Indonesian anti-corruption law. The question is pressing because Article 4B of Law No. 16 of 2025, the Fourth Amendment to the State-Owned Enterprises Law, provides that the profits or losses of a state-owned enterprise belong to that enterprise rather than to the state. Using normative legal research that combines statutory, conceptual, and case approaches, the study examines two prosecuted KUR cases at Bank Rakyat Indonesia in Kotabaru Regency, South Kalimantan. Three findings emerge. First, the KUR principal is bank money rather than budget money, so the state's exposure runs through its equity participation in the disbursing bank and through the interest subsidy and guarantee fee the budget pays on credit that was fictitious from the outset. Second, Article 4B does not immunize branch-level fraud, because its elucidation confines the provision to losses arising from the management of enterprise assets, and fraud is not management. Third, following Constitutional Court Decision No. 25/PUU-XIV/2016, the loss must be actual and quantifiable, which disqualifies the vocabulary of potential loss. The article contributes a five-element test separating ordinary credit risk from corruption.

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Introduction

White-collar crime, understood as an offense committed through an occupational role by a person whose position gives him access to institutional trust, must be reframed in the Indonesian context. The category is not confined to political officeholders. It reaches civil servants and, equally, personnel within state-owned enterprises (Badan Usaha Milik Negara, BUMN), from the highest level down to the lowest. Prosecutions and convictions of banking officers at the unit and branch level in connection with People's Business Credit (Kredit Usaha Rakyat, KUR) funds establish the point, and the sanctions imposed rest on the existence of a state financial loss. What makes such offenses hard to reach is their detection and proof, because the offender's legitimate presence inside the institution supplies the means of commission and of concealment alike.[1] In KUR cases that difficulty is compounded by a gap within the Indonesian legal order.

This article positions the corruption of KUR funds not as an administrative irregularity in the extension of credit but as white-collar crime operating through the abuse of office, the falsification of documents, the use of citizens' identities as nominal debtors, and the manipulation of banking procedure. A non-performing loan in KUR disbursement is therefore not always an ordinary business risk; it may arise from fraud designed from the outset to divert the benefit of the credit to parties not entitled to it.[2] The research gap lies in the need to draw a firm line between the two, and the argument advanced is that an irregularity in KUR becomes an act of corruption where there is an intent to enrich oneself or another, a manipulation of procedure, and a state financial loss that is real and calculable.

The gap stems from divergent scholarly views on what the governing law is. Mochtar Kusumaatmadja and Arief Sidharta hold that losses suffered by a BUMN cannot be equated with state losses, since such a loss is a loss of the BUMN itself.[3] Recent Indonesian scholarship develops the same position through the doctrine of separate corporate personality, reasoning that a state-owned enterprise holds its own property because the state's participation takes the form of shares, and that an expansive reading of state assets would expose BUMN directors to charges of corruption.[4] Read literally, those views sit awkwardly beside a judicial practice that convicts BUMN officers for harming state finances. The disharmony is not merely apparent. It is written into the statutes themselves.

That disharmony makes it difficult to identify the scope of the applicable rules and to apply them at the level of implementation. Contextually, this study departs from a legal

[1] Michael L. Benson and Sally S. Simpson, *Understanding White-Collar Crime: An Opportunity Perspective*, 2nd ed. (New York: Routledge, 2015), 4–9.
[2] Mohd Afjal, Aidin Salamzadeh, and Léo-Paul Dana, "Financial Fraud and Credit Risk: Illicit Practices and Their Impact on Banking Stability," *Journal of Risk and Financial Management* 16, no. 9 (2023): 386, https://doi.org/10.3390/jrfm16090386.
[3] Mochtar Kusumaatmadja and Arief Sidharta, *Pengantar Ilmu Hukum: Suatu Pengenalan Pertama Ruang Lingkup Berlakunya Ilmu Hukum* (Bandung: Alumni, 2009), 82–83.
[4] Rizky Novian Hartono, Sriwati, and Wafia Silvi Dhesinta Rini, "Kerugian Keuangan Negara pada Badan Usaha Milik Negara (BUMN) dalam Perspektif Doktrin Business Judgement Rule," *KELUWIH: Jurnal Sosial dan Humaniora* 2, no. 1 (2021): 23–32, https://doi.org/10.24123/soshum.v2i1.4392.

issue in which Article 3(1) of Law No. 40 of 2007 on Limited Liability Companies establishes the separate legal personality of a company and confines shareholder liability to the shares subscribed.[5] That principle has now been carried into the law of state-owned enterprises by Article 4B of Law No. 16 of 2025 on the Fourth Amendment to Law No. 19 of 2003 on State-Owned Enterprises, which provides that profits or losses experienced by a BUMN constitute the profits or losses of the BUMN.[6] Read together with that scholarly view, the provision collides with Article 2(g) of Law No. 17 of 2003 on State Finance, which counts within state finance the state assets managed by other parties, including assets segregated into state enterprises.[7] The capital of a BUMN derives from segregated state assets, and by including those assets within the definition Article 2(g) sustains the application of Article 2(1) of Law No. 31 of 1999 on the Eradication of Criminal Acts of Corruption:

> Any person who unlawfully commits an act of enriching himself or another person or a corporation that harms state finances or the national economy shall be punished by life imprisonment or by imprisonment of not less than four years and not more than twenty years and a fine of not less than Rp200,000,000 and not more than Rp1,000,000,000.[8]

That provision was declared inapplicable by Article 622 of Law No. 1 of 2023 on the Criminal Code and replaced by two offenses. Article 603 punishes any person who unlawfully enriches himself, another person, or a corporation in a manner that harms state finances or the national economy. Article 604 punishes any person who, with the aim of benefiting himself, another person, or a corporation, abuses the authority, opportunity, or means available to him by reason of his office in a manner that harms state finances or the national economy. Both carry life imprisonment or imprisonment of two to twenty years, together with a fine of category II to category VI.[9]

The amendment preserves the problem of state financial loss. The Elucidation of Article 603 refers the determination of harm to state finances to the findings of the state financial audit institution, while Article 79 fixes the fines at Rp10,000,000 for category II and Rp2,000,000,000 for category VI. Restitution is regulated separately according to the audited value of the loss, on the footing of Article 1(22) of Law No. 1 of 2004 on the State Treasury, which defines a state loss as a real and definite shortfall in money, securities, and goods resulting from an unlawful act, whether intentional or negligent.[10]

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[5] Law No. 40 of 2007 on Limited Liability Companies, art. 3(1), https://peraturan.bpk.go.id/Details/39965.
[6] Law No. 16 of 2025 on the Fourth Amendment to Law No. 19 of 2003 on State-Owned Enterprises, art. 4B, https://peraturan.bpk.go.id/Details/330668/uu-no-16-tahun-2025.
[7] Law No. 17 of 2003 on State Finance, art. 2(g), https://peraturan.bpk.go.id/Details/43017/uu-no-17-tahun-2003.
[8] Law No. 31 of 1999 on the Eradication of Criminal Acts of Corruption, art. 2(1), https://peraturan.bpk.go.id/Details/45350/uu-no-31-tahun-1999. The word *dapat* (may) was struck by Constitutional Court Decision No. 25/PUU-XIV/2016; the provision is reproduced as it stands after that decision.
[9] Law No. 1 of 2023 on the Criminal Code, arts. 79, 603, 604, and 622, https://peraturan.bpk.go.id/Details/234935/uu-no-1-tahun-2023.
[10] Law No. 1 of 2004 on the State Treasury, art. 1(22), https://peraturan.bpk.go.id/Details/40446/uu-no-1-tahun-2004.

The conflict between enforcement authorities and BUMN administrators turns on the assumption that the assets of a BUMN do not become state assets. That assumption rests on the Elucidation of Article 4B, which affirms that the capital and assets of a BUMN belong to the BUMN, and that any profit or loss of the BUMN, including that arising from the management of its assets in investment or operational activities, is not a profit or loss of the state.

The words "includes, but is not limited to" impose no limitation on scope. It is here that the legal problem generates a paradigm under which non-performing loans in banking, whether engineered at the upper or the lower level, are treated as falling outside the category of state losses. The premise is Article 94A(b), under which all provisions governing the authority over state financial management of separated state assets are rendered inapplicable to the extent that the Act regulates those matters specifically.

This gap may lead defendants to contest the criminal charges brought against them at trial, yet in practice it has not deterred prosecutors from filing indictments, and courts have continued to impose criminal sanctions. The reason is practical, not doctrinal: the engineering of KUR disbursement leaves citizens who need business capital empty-handed with respect to the assistance the government has programmed, because officers appropriate the benefit for themselves. The matter therefore warrants research, and it carries novelty for Indonesian legal scholarship, given the change in state financial governance that has reshaped state-owned enterprises into a holding structure.

Prior scholarship approaches this problem in three separate compartments, and the separation is itself the difficulty. A first body of work treats the question as one of corporate law: Hartono, Sriwati, and Rini read state-owned enterprise losses through the business judgment rule and conclude that a loss incurred in good-faith management is a corporate loss, while Kasma and Andersen, Suwasono and Mahmudah, and Shafira and colleagues reach comparable conclusions from governance and progressive-legal standpoints. None asks what happens when the conduct under review is not a business decision at all. A second body treats the question as one of state-finance law: Sjin Phen and Suartini ask whether a non-performing loan at a state bank can constitute corruption, and Simamora, Sinurat, and Nubatonis examine the application of corruption offenses to bank lending, but both were written before the 2025 amendments rearranged the terrain. A third body is criminological: Lord and Levi map the conceptual disorder of economic crime and Afjal, Salamzadeh, and Dana connect financial fraud to banking stability, yet neither engages Indonesian positive law. A narrower literature addresses KUR itself, examining breach at a BRI branch as a contractual matter, rural access to the program, its policy design, data manipulation as a corruption modus in South Sumatra, and the obstacles prosecutors face. That work is valuable as description, but it does not connect the financing architecture of KUR to the loss regime of the amended State-Owned Enterprises Law, and it supplies no test for the moment at which occupational fraud becomes a corruption offense causing state financial loss. This article closes that gap: it does not assume the conduct in question is a business decision, it works from the consolidated text following Law No. 16 of 2025, it operationalizes white-collar crime against Indonesian statutory elements, and it derives from two prosecuted case records

a five-element test by which a court can decide when a loss in a state-owned bank is legally attributable to state finances.[11]

The problem addressed here also sits inside a wider Indonesian conversation that has not yet been drawn together. Work on the reconceptualization of state financial loss in the misuse of village funds shows that not every diversion of public money produces a loss cognizable as corruption, and that the decisive question is the legal character of the shortfall rather than its public origin[12]; the same distinction governs KUR. Comparable reasoning appears in the extractive sector, where the concurrent use of the Anti-Corruption Law and sector-specific legislation has produced interpretative inconsistency precisely at the boundary between administrative violation and criminal corruption[13], and where corporate corruption risk has been traced to the design of the licensing policy itself[14]. On the state-asset side, scholarship on asset management under good-governance and international-law standards supplies the normative frame against which segregated state capital must be assessed[15], while comparative study of mining regulation shows that legal certainty depends less on statutory text than on institutional coordination and consistency of enforcement[16]. Studies of judicial behavior in corruption adjudication[17] and of judicial integrity-building[18] explain why doctrinally identical facts may be decided differently across courts, which is the practical risk this article's test is designed to reduce. The programmatic side of KUR has its own literature: the economic analysis of legal development for MSMEs[19] and the sustainable-finance obligations now attaching to

[11] Nicholas Lord and Michael Levi, "Economic Crime, Economic Criminology, and Serious Crimes for Economic Gain: On the Conceptual and Disciplinary (Dis)Order of the Object of Study," *Journal of Economic Criminology* 3 (2023): 100014, https://doi.org/10.1016/j.jeconc.2023.100014. On the KUR-specific literature surveyed here, see Nur Wulan N. Moeda, Weny Almoravid Dungga, and Nurul Fazri Elfikri, "Resolution of People's Business Credit (KUR) Breach at BRI Bank, South City," *Estudiante Law Journal* 6, no. 3 (2024): 620–632, https://doi.org/10.33756/eslaj.v6i3.29266, with the works at notes 54, 55, 66, and 72 below.

[12] Dewi Muti'ah et al., "Reconceptualisation of State Financial Losses to Prevent Misuse of Village Funds," *Trunojoyo Law Review* 7, no. 2 (2025): 361–390, https://doi.org/10.21107/tlr.v7i2.29856.

[13] Marolop Pandiangan, Harkristuti Harkrisnowo, and Febby Mutiara Nelson, "The Conflict between Mining Law and Anti-Corruption Law in Indonesia's Extractive Sector: A Study of Legal Justification and Judicial Reasoning," *Volksgeist: Jurnal Ilmu Hukum dan Konstitusi* 9, no. 1 (2026): 111–126, https://doi.org/10.24090/volksgeist.v9i1.14411.

[14] Erma Rusdiana et al., "The Potential for Corporate Corruption in Mining Licensing Policies for Religious Organizations in Indonesia," *Lex Scientia Law Review* 9, no. 2 (2025): 1587–1636, https://doi.org/10.15294/lslr.v9i2.21551.

[15] Syamsir Syamsir et al., "State Asset Management in the Framework of Good Governance and International Law for Sustainable Development," *Jambura Law Review* 8, no. 1 (2026): 250–271, https://doi.org/10.33756/jlr.v1i1.30817.

[16] Nabilla Desyalika Putri, Ellectrananda Anugerah Ash-shidiqqi, and Mutiara Dwi Sari, "Legal Certainty in Mining Regulation: A Comparative Study of Indonesia and Malaysia," *Administrative and Environmental Law Review* 7, no. 2 (2026): 139–154, https://doi.org/10.25041/aelr.v7i2.4589.

[17] Muhammad Ikram Nur Fuady, "To What Extent Do Judges' Ideology and Institutional Justice Influence Corruption Adjudication?" *Substantive Justice International Journal of Law* 8, no. 2 (2025): 84–106, https://doi.org/10.56087/substantivejustice.v8i2.374.

[18] Kiki Kristanto, Zico Junius Fernando, and Papontee Teeraphan, "Anticorruption School: A Solution to Building the Integrity of Judges," *IJCLS (Indonesian Journal of Criminal Law Studies)* 8, no. 2 (2023): 193–220, https://doi.org/10.15294/ijcls.v8i2.45473.

[19] Lukmanul Hakim Lukman, Rifandy Ritonga, and Farida Kaplele, "Reconstructing the Paradigm of Economic Analysis of Legal Development for MSMEs toward Indonesia's Vision of Long-Term Economic Advancement," *LITIGASI* 26, no. 2 (2025): 135–163, https://doi.org/10.23969/litigasi.v26i2.23149.

banking institutions[20] both bear on how subsidized credit ought to be governed, and the private-law literature on the subject element in contract and obligation clarifies who bears what duty when a nominal debtor is interposed[21]. Finally, the normative literature contributes two things this article uses: the Islamic-criminal-law reading of corruption sanctions under the renewed Criminal Code[22], and the institutional-trust argument developed in the context of zakat administration[23], both of which bear on the fiduciary character of the banking officer's position. Adjacent work on agrarian adjudication[24], on the cross-border dimension of environmental and economic crime[25], and on justice in the regulation of new working arrangements[26] confirms that the Indonesian debate now turns on the same underlying question: when does a formally regular transaction become a legally attributable loss? None of this work, however, addresses KUR disbursement at a state-owned bank under the consolidated text of Law No. 16 of 2025, which is the gap this article occupies.

Problem Statement

Three questions follow. First, how do KUR cases at state-owned banking institutions surface as cases of state financial loss and as instances of white-collar crime? Second, under what legal conditions may a loss arising from fraudulent KUR disbursement in a state-owned bank be classified as a state financial loss? Third, what policy should address such losses in the KUR sector? The objectives correspond: to characterize the two Kotabaru case patterns in legal terms, to construct and justify a test for attributing such losses to state finances under the law now in force, and to derive governance and enforcement recommendations from that construction. The article is therefore not descriptive; it advances a legal construction and its policy consequences.

Methods

This study employs the normative legal method with a qualitative approach to analyze the boundary between non-performing loans as a banking business risk and non-

[20] Nurjannah Septyanun et al., "Legal Implications of Islamic Banking in Advancing Sustainable Finance for Indonesia's Net-Zero-Emission Programme," *Jambe Law Journal* 8, no. 2 (2025): 551–588, https://doi.org/10.22437/txgw8142.
[21] Abdullah Mukhlif Tarrad, "The Subject Element in Contract and Obligation: A Comparative Analytical Legal Study," *Indonesia Private Law Review* 6, no. 1 (2025): 1–18.
[22] Fitri Wahyuni, Ishaq Ishaq, and Aris Irawan, "Criminal Sanctions for Corruption Crimes Based on Perspective Study of Renewal Law and the Relationship with Islamic Criminal Law," *Al-Risalah: Forum Kajian Hukum dan Sosial Kemasyarakatan* 21, no. 2 (2021): 219–233.
[23] Sholahuddin Al-Fatih, "Strengthening BAZNAS as the Society's Trusted Zakat Agency to Increase the Welfare of Ummah," *Jurisdictie: Jurnal Hukum dan Syariah* 11, no. 1 (2020): 106–125, https://doi.org/10.18860/j.v11i1.7841.
[24] Rico J. R. Tambunan et al., "Justice, Land, and Sharia: Conceptualizing Agrarian Courts in the Settlement of Land Ownership Disputes," *De Jure: Jurnal Hukum dan Syar'iah* 17, no. 2 (2025): 530–552, https://doi.org/10.18860/j-fsh.v17i2.32486.
[25] Zico Junius Fernando et al., "Transnational Environmental Crime in the Context of International Criminal Law and Victim-Centered Environmental Justice," *Lampung Journal of International Law* 7, no. 1 (2025): 15–30, https://doi.org/10.25041/lajil.v7i1.4338.
[26] Weny Almoravid Dungga et al., "Ensuring Justice in the Trend of Remote Working: Legal Challenges and Implications for Companies and Workers," *Jurnal IUS Kajian Hukum dan Keadilan* 14, no. 1 (2026): 201–227, https://doi.org/10.29303/ius.v14i1.1721.

performing loans that qualify as corruption in the disbursement of KUR at state-owned banks. Three approaches are combined. The statutory approach examines the regulations on state finance, state-owned enterprises, banking, corruption, the state treasury, and the technical policy on KUR. The conceptual approach examines white-collar crime, the business judgment rule, abuse of authority, state financial loss, and the criminal liability of banking officers. The case approach examines court decisions and enforcement practice in KUR corruption cases to identify patterns of irregularity, the modus operandi, and the indicators that separate administrative violation, credit risk, and corrupt conduct. Primary legal materials consist of legislation and court decisions, secondary materials of scholarly literature, expert opinions, and prior research, all collected through documentary study and analyzed qualitatively.

The normative method was chosen because the principal issue lies in a conflict of norms and in divergent interpretations of the status of losses in KUR disbursement at state-owned banks. Non-performing loans are read not only as a business risk but are assessed against the presence or absence of credit engineering, manipulation of debtor data, abuse of office, procedural irregularity, and state financial loss. The norms governing state-owned enterprises, limited liability companies, state finance, banking, and corruption are accordingly analyzed as a system, to fix the boundary between a BUMN loss within the private domain and a loss that qualifies as corruption.

Two cases were selected, not sampled, and the basis of that selection should be stated plainly. Both arose in Kotabaru Regency in consecutive years and both were carried through to prosecution, so the case records are complete and not partial. They occupy the two structural positions of interest: the 2023 matter concerns a branch-level relationship manager operating on Retail KUR, and the 2024 matter a unit-level credit initiator operating on Micro KUR. Together they permit the branch and the unit, the two levels at which the argument operates, to be compared under a single supervisory jurisdiction.

The legal materials are classified conventionally. Primary materials comprise the Constitution, the statutes and implementing regulations cited in the reference list, Constitutional Court decisions, and the decisions and prosecution records of the two cases; secondary materials comprise the literature reviewed above. Analysis proceeds by grammatical, systematic, and teleological interpretation, in that order of priority, with grammatical interpretation controlling where the statutory text and its elucidation are unambiguous.

Corruption of People's Business Credit at State-Owned Banking Institutions

1. Assessing KUR Cases against the Ratio Legis of Article 4B

The key to the legal problem lies in Article 4B of Law No. 16 of 2025 on the Fourth Amendment to Law No. 19 of 2003 on State-Owned Enterprises, under which profits or losses experienced by a BUMN constitute the profits or losses of the BUMN, and in its Elucidation, which confines that proposition to profit or loss arising from the management of part or all of the enterprise's assets in its investment or operational activities.

The positive law changed in the course of 2025, and the change is decisive, not incidental. Law No. 1 of 2025 was superseded by Law No. 16 of 2025, promulgated on October 6, 2025 (State Gazette 2025 No. 162, Supplementary Gazette No. 7142). Three changes matter. First, Article 4B survives intact, so the proposition that the profits or losses of a state-owned enterprise are its own remains positive law and the defense advanced by the accused must be answered on the merits. Second, Article 71 restores the audit authority of the Supreme Audit Board over state-owned enterprises in general terms, which supplies the institution competent to compute the loss. Third, and least noticed, Law No. 16 of 2025 removes the provisions declaring the organs of a state-owned enterprise not to be state administrators, so that the personnel of a state-owned bank are once again exposed to the anti-corruption regime on ordinary principles. The corporate-autonomy reading of Article 4B is therefore narrower today than it was in early 2025.[27]

In contract drafting the words "includes, but is not limited to" signify that all such matters are incorporated into the contract. Once a matter is contractually based it falls within private law, and on that basis the profits and losses of a BUMN are not those of the state. Even so, the contract has its own domain, which must be read from the closing words of the Elucidation of Article 4B, namely in the investment and operational activities of the BUMN concerned. The question is whether the KUR disbursed constitutes a government investment. It does not: the extension of credit is a debt owed by a debtor, the engagement is a debt relationship, and the contract is a loan contract. The source of the funding therefore becomes the touchstone for determining whether a loss is a BUMN loss or a state loss.

The extension of credit by a bank is in essence financial intermediation. Although credit may stimulate investment at the macroeconomic level, within the operational context of a bank credit is not an investment for the bank itself but a receivable. Article 1(11) of Law No. 10 of 1998 defines credit as the provision of money or an equivalent claim, based on a loan agreement, that obliges the borrower to repay the debt after a certain period with the payment of interest.[28] On that definition KUR is not a government investment, and the official program documentation is to the same effect: KUR is a government-subsidized credit program with low interest whose funds are one hundred percent owned by the disbursing institution, channeled to enterprises that are feasible but not yet bankable, with the subsidy taking the form of an interest subsidy and the principal collateral being the business financed.[29] The distinction is set out in the following table.

Table 1. *The Extension of Bank Credit Is Not an Investment*

No.	Scope	Explanation
1.	Credit disbursement is a receivable (asset)	Disbursed credit is recorded as a productive asset on the bank's balance sheet, not as capital ownership or equity.

[27] Law No. 16 of 2025, State Gazette of the Republic of Indonesia 2025 No. 162, Supplementary State Gazette No. 7142, promulgated October 6, 2025.
[28] Law No. 10 of 1998 on the Amendment to Law No. 7 of 1992 on Banking, art. 1(11), https://peraturan.bpk.go.id/Details/45486/uu-no-10-tahun-1998.
[29] Coordinating Ministry for Economic Affairs of the Republic of Indonesia, "FAQ - Pertanyaan yang Sering Ditanyakan," accessed May 31, 2026, https://kur.ekon.go.id/faq-pertanyaan-yang-sering-ditanyakan.

No.	Scope	Explanation
2.	Aim of principal and interest repayment	A bank extends credit to earn interest and to recover the principal within a set period, not to gain from the appreciation of asset value.
3.	Credit risk against investment risk	Credit carries the risk of default, and the bank focuses on collectibility. Investment carries market risk and ownership risk.
4.	Investment credit against working-capital credit	Both remain loans to the customer, not a direct capital investment by the bank.
5.	Intermediation function	The bank bridges surplus and deficit units rather than owning the customer's business capital.

Source: Processed by the authors.

The table shows that the extension of credit is the core business activity of a bank for financing the businesses or consumption needs of the public, the repayment of which is governed by a loan contract distinct in character from an investment.

Contextually, the *ratio legis* that a BUMN loss is not a state loss may be read to mean that the policymaker cannot be punished, since the legislature directed the provision at the holding company as policymaker. Article 94A(b) points the same way, speaking of the authority to manage state finances over state assets segregated into BUMN. The authority to manage is the authority of the policymaker.

What, then, of Article 97(5) of Law No. 40 of 2007 on Limited Liability Companies? A clarification is required, because the provision is frequently mis-cited. Article 97(5) is not a rule about whose loss a corporate loss is. It is the statutory safe harbor of the business judgment rule: a director is not answerable for a loss of the company where he proves that the loss did not arise from his fault or negligence, that he conducted the management in good faith and with prudence for the company, that he had no conflict of interest in the act that caused the loss, and that he took steps to prevent the loss from arising or continuing. The provision is addressed to directors exercising managerial judgment. It says nothing about a relationship manager who inflates an appraisal or a credit initiator who stages photographs of a business that does not exist. The proposition that the profits or losses of a state-owned enterprise are its own belongs to Article 4B, and it is there that the argument must be met.

An important finding follows. There is no regression between the private-law variable and the criminal-law variable in understanding the position of KUR funds sourced from segregated state assets.[30] To assert that such conduct falls entirely within private law has no justification on the *ratio legis* of the provisions in force, because the legislature kept the domain of policy and the domain of policy implementation distinct. Marzena Kordela's account of legal values is to the point: once values acquire the status of being legally valid they constitute a type of value different from moral or customary values, and

[30] Rajah & Tann Asia, *Quick Guide on Anti-Corruption* (Singapore: Rajah & Tann Asia, n.d.), 4, https://www.rajahtannasia.com.

legislative fiat has a decisive character.[31] Two categories therefore remain distinguishable: disbursement carried out by implementing officers under the law, and disbursement engineered to benefit oneself or another. The second is not free from criminal law insofar as the funds are sourced from state finances.

2. People's Business Credit and State Financial Loss

a. The Source of Funding for People's Business Credit at State-Owned Banks

The principal legal problem in the discussion of KUR at state-owned banks lies in determining the boundary between non-performing loans as a banking business risk and non-performing loans that may be qualified as corruption.[32] Not every non-performing loan in the program is corruption, because credit activity always carries the risk of default.[33] Where, however, at the stage of application, verification, approval, or disbursement there has been an unlawful act, an abuse of authority, a falsification of data, the use of fictitious debtors, or a diversion of funds to parties not entitled to them, the non-performing loan no longer stands as a mere private-banking matter.[34] It is in this context that the source of funding, the legal status of the state-owned bank, and the status of segregated state assets become decisive.

State-owned banks, among them Bank Rakyat Indonesia, Bank Negara Indonesia, Bank Mandiri, and Bank Tabungan Negara, obtain their capital from state assets allocated by the Minister of Finance as State Treasurer and established by the President as Manager of State Finance through a Government Regulation. Because they take the form of a Persero, the capital contributed constitutes shares held by the government in the state-owned bank as segregated state assets, and in principle the placement of such funds requires the approval of the House of Representatives.

The scale of the need is worth stating once. The 2025 Intercensal Population Survey records a population of 284.67 million, of whom roughly sixty-nine percent, some 196 million people, fall within the productive age range of fifteen to sixty-four years.[35] That is the denominator against which the reach of any employment-generating credit program must be measured. To meet the need for employment and reduce poverty, the Government has acted by empowering micro, small, and medium enterprises (MSMEs), which absorb labor and sustain the economy.[36] Such enterprises can be empowered only

[31] Marzena Kordela, "Ratio Legis as a Binding Legal Value," in *Ratio Legis*, ed. Verena Klappstein and Maciej Dybowski (Cham: Springer International Publishing, 2018), 19–28, https://doi.org/10.1007/978-3-319-74271-7_2.
[32] Sjin Phen and Suartini, "Analisa Kredit Macet pada Bank Umum Milik Negara Termasuk dalam Tindak Pidana Korupsi Kerugian Keuangan Negara," *Jurnal Hukum to-Ra: Hukum untuk Mengatur dan Melindungi Masyarakat* 10, no. 2 (2024): 200–219, https://doi.org/10.55809/tora.v10i2.367.
[33] Hartono, Sriwati, and Rini, "Kerugian Keuangan Negara," 25–27.
[34] Bangkit Yohannes Pangihutan Simamora, Aksi Sinurat, and Orpa J. Nubatonis, "Penerapan Delik Korupsi pada Kegiatan Usaha Bank yang Merugikan Keuangan Negara," *Jurnal Hukum Proyuris* 6, no. 1 (2024): 1–30, https://ejurnal.undana.ac.id/index.php/JP/article/view/15847.
[35] Statistics Indonesia (Badan Pusat Statistik), *Survei Penduduk Antar Sensus (SUPAS) 2025*, released May 5, 2026, https://www.bps.go.id.
[36] Coordinating Ministry for Economic Affairs of the Republic of Indonesia, "Gambaran Umum," accessed May 31, 2026, https://kur.ekon.go.id/gambaran-umum.

if they have capital, and on that basis the Government has programmed capital assistance through banks under the name People's Business Credit.

The KUR policy has been in operation since November 2007 under the control of the Coordinating Ministry for Economic Affairs, and is intended to strengthen capital capacity, accelerate development of the real sector, and empower MSMEs. The Ministry affirms that KUR is sourced from banking funds made available for working capital and investment and channeled to business actors whose businesses are feasible but not yet bankable.[37] The funding therefore comes from the internal funds of the disbursing bank together with funds obtained from depositors. The Government does not provide the loan funds directly from the state budget; it budgets funds for interest subsidies and guarantee service fees.

Two institutional functions must be kept apart here, since they are frequently conflated. Bank Indonesia is the central bank, and its mandate covers monetary policy, macroprudential policy, and the payment system. Microprudential supervision of individual banks passed to the Financial Services Authority under Law No. 21 of 2011, as amended by Law No. 4 of 2023. Neither institution selects the banks that disburse KUR; that designation is made within the program itself, while the guarantee arrangements are executed by the Ministry of Finance as Budget User Proxy. Only institutions satisfying the program requirements and entering into a cooperation agreement may disburse KUR, because the government subsidizes the interest and pays guarantee service fees to the Guarantor Company from the state budget, calculated on the annual disbursement ceiling.[38]

KUR accordingly receives a subsidy financed by the State Revenue and Expenditure Budget, with the Government bearing the interest in part or in whole. The connection between state finances and KUR cannot be avoided. The state's contribution is a fiscal instrument and not a monetary one, and the distinction is not pedantic: a subsidy and a guarantee fee are expenditures appropriated in the budget and executed by the Ministry of Finance, whereas monetary policy is the constitutional province of Bank Indonesia and operates through different instruments altogether. Describing KUR as monetary policy would place the program under an authority that does not administer it and would obscure the budgetary line on which this argument depends.

Precision is needed about what the state actually places at risk, and three streams must be distinguished. The first is the credit principal. The program documentation is unambiguous that this is one hundred percent the money of the disbursing institution, drawn from its own capital and from third-party funds; it is not an appropriation, and it does not become one merely because the disbursing bank is state-owned. The second stream is the interest subsidy and the guarantee service fee, which are genuine budgetary expenditures, appropriated in the state budget and paid out by the Ministry of Finance as Budget User Proxy on each facility booked. The third is the state's equity participation in

[37] Coordinating Ministry for Economic Affairs, "Gambaran Umum."
[38] Coordinating Ministry for Economic Affairs of the Republic of Indonesia, "Kebijakan KUR," accessed May 31, 2026, https://kur.ekon.go.id/kebijakan-kur; see also Law No. 21 of 2011 on the Financial Services Authority, as amended by Law No. 4 of 2023 on the Development and Strengthening of the Financial Sector.

the disbursing bank, which is separated state property under Article 2(g) of Law No. 17 of 2003 and remains within the state-finance regime on the authority of Constitutional Court Decisions No. 48 and 62/PUU-XI/2013.

The construction adopted here follows from that separation, and it is deliberately the narrower of the available constructions. The state financial loss in a fictitious KUR facility is not the credit principal characterized as budget money, because the principal is not budget money. It consists of two components that can be identified and quantified. The first is the subsidy and guarantee fee actually disbursed from the budget on a facility fictitious from inception: the state paid on a loan that was never a loan, and that payment is a real outflow of appropriated funds. The second is the impairment of the state's separated equity in the bank to the extent that the fraudulent facility is irrecoverable, since a diminution in the value of separated state property is a diminution in state finances within the meaning of Article 2(g). Framing the matter this way removes an internal contradiction that would otherwise be fatal on review and produces a figure an auditor can compute rather than a characterization a court must simply accept.

One consequence follows and should be stated openly. On this construction the quantum of state financial loss will in many cases be smaller than the face value of the fraudulent credit, and the prosecutorial practice of equating the two is open to challenge. It does not weaken the criminal case, because the offense is complete once an actual loss to state finances is established, whatever its size; it affects the computation of the loss and the order for restitution, not the existence of the offense.

The Government has tasked PT Bank Rakyat Indonesia Tbk. with the empowerment of MSMEs and with the Ultra-Micro Holding in two forms: an *inbreng* of shares, a non-cash contribution transferring the state's holdings in PT Pegadaian and PT PNM to BRI with a recognized value of Rp32 trillion, and a rights issue adding to BRI's capital to expand credit in the micro and ultra-micro segments. State Capital Participation through the budget aims to maintain the bank's capital ratio so that it remains able to channel productive credit. Its legal basis is Article 6 of Law No. 17 of 2003: the President holds the authority to manage state finances as part of the power of government, delegated to the Minister of Finance as fiscal manager and Government Representative in the ownership of segregated state assets. Article 3A of the amended BUMN Law affirms the same substance and extends the delegation to the Minister as holder of the Series A Dwiwarna share and to the Agency as holder of the Series B share in the Investment and Operational Holdings.

A BUMN receiving State Asset Participation may receive cash funds, state-owned goods, or state-owned shares. The shares held by the state in PT Bank Rakyat Indonesia Tbk. constitute segregated state assets under Article 4 of Law No. 19 of 2003, regulated most recently by Government Regulation No. 31 of 2023, and amount to 53.19 percent of all shares, comprising one Series A share and 80,610,976,875 Series B shares. That relationship affirms that BRI remains a BUMN: the change of status to a limited liability company in 1992, followed by its becoming a public company, did not eliminate the status of state assets so long as the government holds the controlling shares. Article 4(4) of Law No. 19 of 2003, as amended by Law No. 6 of 2023, provides that every change in state

capital participation, including a change in the structure of state ownership of the shares of a Persero, shall be established by Government Regulation.

The Government also provides an interest subsidy on Micro KUR at BRI, so that debtors pay interest of only six percent. The legal basis for that rate is the Regulation of the Coordinating Minister for Economic Affairs No. 7 of 2024 on the Second Amendment to Regulation No. 1 of 2022. BRI operates both the Briguna program and KUR, and the difference lies in the subsidy: KUR interest is subsidized by the Government, a subsidy that may be understood as a budget entrusted to the bank, whereas Briguna is purely commercial. Both remain connected to state capital participation, though not directly, and their origin remains segregated state finance under Article 2(g) of Law No. 17 of 2003.

b. Cases of Corruption of People's Business Credit Funds at State-Owned Banks

To establish that state financial losses and acts of corruption of KUR funds do occur at the unit and branch level, two prosecuted matters are set out below. The first arose in 2023 at PT Bank Rakyat Indonesia (Persero) Tbk., Kotabaru Branch, and was tried before the Anti-Corruption Court at the Banjarmasin District Court. The conduct ran from 2021 to 2023, and the court decided the case against the branch officer in Decision No. 21/Pid.Sus-TPK/2025/PN Bjm. As set out by the Public Prosecutor of the Kotabaru District Prosecutor's Office:

> There was an engineered realization of Retail KUR credit comprising twenty-eight accounts with a total ceiling of Rp9,225,000,000, processed in cooperation between an internal bank actor with the initials MDI and an external actor with the initials SM, for the personal benefit of both. SM applied for credit by borrowing the names of prospective debtors and prepared the applications, including the place of business and the collateral. Where the collateral belonged to another person, a Deed of Sale and Purchase was drawn up and title transferred into the name of the prospective debtor, SM having first directed the customers to a notary with the initial R to execute a previously prepared Land Sale and Purchase Agreement. MDI then carried out the credit process, completing documents that were not yet in order, arranging matters before the field visit, and appraising the collateral above market price, under an agreement with SM for a fee of five percent of the ceiling realized. For disbursement the customers came at their direction to sign the documents and collect the passbook and ATM card, which they handed to SM; SM distributed the funds, the customers received only a wage, and SM paid MDI the agreed fee.[39]

On October 1, 2025, the panel, presided over by Judge Fidiyawan Satriantoro, convicted MDI on the primary count of unlawful enrichment under Article 2(1) read with Article 18 of Law No. 31 of 1999, as amended by Law No. 20 of 2001, and Article 55(1) of the Criminal Code, rather than on the subsidiary count of abuse of office under Article 3. It sentenced him to seven years' imprisonment and a fine of Rp400,000,000, with two months' confinement in default, and ordered restitution of Rp415,500,000, with two

[39] Kotabaru District Prosecutor's Office, *Berita Acara Pemeriksaan Ahli* (Expert Examination Report), 2023.

years and ten months' imprisonment in default. The indictment relied on an audit by the South Kalimantan Representative Office of the Finance and Development Supervisory Agency (BPKP), dated June 2, 2025, which put the loss at more than Rp9.2 billion, close to the Rp9,225,000,000 aggregate ceiling of the twenty-eight facilities. Restitution follows a different measure. Article 18(1)(b) caps it at the property the offender obtained, so the order is tied to MDI's own proceeds and not to the loss as a whole. SM, tried separately in Decision No. 20/Pid.Sus-TPK/2025/PN Bjm, received eight years' imprisonment and a restitution order of Rp2,163,490,260; her file went on appeal and then to cassation, whereas the case record shows no appeal in MDI's file. The date of the judgment gives it particular weight for this study: the panel found the state-loss element proven while Article 4B, inserted by Law No. 1 of 2025, was in force, and five days before Law No. 16 of 2025 carried the provision forward. The materials available to the authors do not show whether the defense invoked Article 4B. The conviction shows, at a minimum, that the court did not read it as placing branch-level credit fraud outside Article 2(1).[40]

Such conduct is not confined to the branch level. The second matter, prosecuted in 2024, arose at the unit level, at the BRI Unit in Sengayam Village, Pamukan Barat Subdistrict, Kotabaru Regency, and the prosecution file identified the following actors:

1. An internal BRI Sengayam Unit party serving as Credit Initiation, with the initials HPHWS;
2. External parties with the initials H, EW, AA, SN, G, D, and AS;
3. A Bepara Village official with the initials INR;
4. A Kalian Village official with the initials MI; and
5. A Bakau Village official with the initials SNor.

Investigators of the Kotabaru District Prosecutor's Office indicated the presence of fraud, and the indictment stated that credit had been extended through the services of credit brokers and used in part or in whole by the defendants. Six of these actors stood trial before the Anti-Corruption Court at the Banjarmasin District Court, each in a separate file: HPHWS in Decision No. 16/Pid.Sus-TPK/2024/PN Bjm, H in No. 17/Pid.Sus-TPK/2024/PN Bjm, EW in No. 22/Pid.Sus-TPK/2024/PN Bjm, INR in No. 24/Pid.Sus-TPK/2024/PN Bjm, MI in No. 25/Pid.Sus-TPK/2024/PN Bjm, and SNor in No. 26/Pid.Sus-TPK/2024/PN Bjm. The credit initiator received seven years' imprisonment with restitution of more than Rp1.3 billion, and H six years with restitution of about Rp2.6 billion; the case record shows no appeal in either file. On January 7, 2025, the court

[40] Anti-Corruption Court at the Banjarmasin District Court, Decision No. 21/Pid.Sus-TPK/2025/PN Bjm, October 1, 2025 (MDI), and Decision No. 20/Pid.Sus-TPK/2025/PN Bjm, October 1, 2025 (SM), both registered on June 20, 2025, and recorded in the Case Tracking Information System (Sistem Informasi Penelusuran Perkara, SIPP) of the Banjarmasin District Court, https://sipp.pn-banjarmasin.go.id, accessed September 23, 2026. The charges and the BPKP audit are reported in "Sidang Perdana Oknum BRI Cabang Kotabaru, Didakwa Selewengkan Dana KUR Rp9,2 Miliar," *Barito Post*, July 3, 2025, https://www.baritopost.co.id/sidang-perdana-oknum-bri-cabang-kotabaru-didakwa-selewengkan-dana-kur-rp92-miliar/; the sentences in "Eks pegawai bank pemerintah di Kotabaru divonis tujuh tahun," *ANTARA Kalimantan Selatan*, October 1, 2025, https://kalsel.antaranews.com/berita/486565/eks-pegawai-bank-pemerintah-di-kotabaru-divonis-tujuh-tahun, and "Mantan RM BRI Cabang Kotabaru Divonis Tujuh Tahun Penjara," *Lativinews*, accessed May 31, 2026, https://lativinews.com/mantan-rm-bri-cabang-kotabaru-divonis-tujuh-tahun-penjara/. On the cap on restitution, see Law No. 31 of 1999, art. 18(1)(b); on the timing, Law No. 1 of 2025 on the Third Amendment to Law No. 19 of 2003 on State-Owned Enterprises, art. 4B, promulgated February 24, 2025, and Law No. 16 of 2025, promulgated October 6, 2025.

sentenced EW and the three village officials to four years' imprisonment each and a fine of Rp200,000,000 under Article 2(1) read with Article 18 of the Anti-Corruption Law and Article 55(1)(1) of the Criminal Code. It made no restitution order against them, although the prosecution had sought one. Those four judgments went on appeal to the Banjarmasin High Court, and EW's file reached cassation. All six first-instance judgments predate Law No. 1 of 2025, so the two Kotabaru matters fall on either side of the insertion of Article 4B.[41] The state financial loss set out by the prosecutor appears below, reproduced as the prosecution computed it; its status under the actual-loss requirement is examined in subsection (c).

Table 2. *Credit Value and Computed State Financial Loss, BRI Sengayam Unit Case (IDR)*

No.	Category of Fund Utilization	Computed Loss (IDR)
1	Loan proceeds used in their entirety	4,514,052,907
2	Loan proceeds used in part	2,231,970,363
	TOTAL	6,746,023,270
	Settlement / recovery, stage 1	153,300,000
	Total settlement / recovery	153,300,000
	Total unresolved financial loss	6,592,723,270

Source: Kotabaru District Prosecutor's Office.

The modus operandi employed was as follows.

> The internal party, with external parties, sought out the names of debtors to be used in applying for KUR at BRI Sengayam; the victims were on average residents with little knowledge of banking. The perpetrators borrowed names by offering money as the price for the use of a name, together with the identity card and family card required for an application, and told the debtors that the repayments would be made by the perpetrators. The remaining requirements, among them the certificate of domicile, the business certificate, and the collateral, were handled by the perpetrators and submitted to HPHWS for processing. Falsification was pervasive: the Credit Initiation arranged on-the-spot business evidence, including photographs of the debtor's business taken at another person's premises. Once the documents were deemed sufficient, the unit officer submitted the file through BRISPOT to the unit head for decision. For debtors who attended the office to sign, the funds entered the savings account and an ATM card was issued and later handed to the perpetrator, the debtor receiving between Rp500,000 and Rp2,000,000 as a

[41] Anti-Corruption Court at the Banjarmasin District Court, Decisions No. 16/Pid.Sus-TPK/2024/PN Bjm, No. 17/Pid.Sus-TPK/2024/PN Bjm, No. 22/Pid.Sus-TPK/2024/PN Bjm, No. 24/Pid.Sus-TPK/2024/PN Bjm, No. 25/Pid.Sus-TPK/2024/PN Bjm, and No. 26/Pid.Sus-TPK/2024/PN Bjm, with their registration and appellate status as recorded in the Case Tracking Information System (SIPP) of the Banjarmasin District Court, https://sipp.pn-banjarmasin.go.id, accessed September 23, 2026; "Empat Terdakwa Korupsi di BRI Unit Sengayam Kotabaru Divonis 4 Tahun," *Barito Post*, January 7, 2025, https://www.baritopost.co.id/empat-terdakwa-korupsi-di-bri-unit-sengayam-kotabaru-divonis-4-tahun/; "Empat Pembobol Bank Plat Merah Di Sengayam Batulicin Masing-masing Diganjar Empat Tahun," *Kalimantan Post*, January 2025, https://kalimantanpost.com/2025/01/empat-pembobol-bank-plat-merah-di-sengayam-batulicin-masing-masing-diganjar-empat-tahun/, which also reports the earlier sentences of HPHWS and H.

token of thanks; for those who did not attend, the funds remained in the account while the activated passbook and card were taken by HPHWS. The passbook and card were held by the external perpetrator for several days and then passed to the internal perpetrator to serve as bridging funds for the installments on the realized loans. The product most frequently processed was the Micro KUR loan, with a ceiling of Rp50,000,000.[42]

The value of the funds attributed to each actor is as follows.

Table 3. *Value of Funds Enjoyed by Each Actor, by Account Ceiling, BRI Sengayam Unit Case (IDR)*

No.	Perpetrator (initials)	Accounts	Aggregate Ceiling (IDR)
	Fully enjoyed by the perpetrator		
1	HPHWS	30	1,425,000,000
2	H	72	3,600,000,000
3	EW	8	400,000,000
4	AA	4	200,000,000
5	SN	3	150,000,000
6	G	2	100,000,000
7	D	1	50,000,000
8	AS	1	50,000,000
	Partly enjoyed by the perpetrator		
1	HPHWS	46	2,300,000,000
2	EW	7	350,000,000

Source: Kotabaru District Prosecutor's Office.

The two tables measure different things, and the difference must be stated because the totals do not agree. Table 2 reports the loss as computed by the prosecution, at Rp6,746,023,270 gross and Rp6,592,723,270 after the first-stage recovery of Rp153,300,000. Table 3 aggregates the ceilings attributed to each actor and totals Rp8,625,000,000. The gap of Rp1,878,976,730 is explained by the basis of measurement: every figure in Table 3 is a multiple of Rp50,000,000, the standard Micro KUR ceiling, and therefore records the ceiling of each facility rather than the sum actually disbursed and lost. Neither figure should be treated as the state financial loss without the analysis in subsection (c), and the ceiling-based aggregate in Table 3 in particular cannot serve as the measure of loss.

The modus operandi also drew in village government officials, who falsified business certificates stating that the persons concerned operated in the plantation-plasma sector in oil palm or rubber, together with certificates of marital status and certificates of domicile in the name of the prospective customer. Personal data is strongly protected in

[42] Kotabaru District Prosecutor's Office, *Berita Acara Pemeriksaan Ahli* (Expert Examination Report), 2024.

Indonesia,[43] yet these officials were given tips by the perpetrators as assisting agents in fulfilling the credit requirements.

The pattern shows that KUR corruption does not occur merely because debtors fail to repay, but because the disbursement process was engineered from the outset: names were used unlawfully, documents manipulated, and verification not carried out under the banking principle of prudence. The conduct demonstrates the abuse of institutional trust and the exploitation of technical banking knowledge to obtain an unlawful benefit.

Since the concept appears in the title of this article, the white-collar character of the conduct needs demonstration and not mere assertion. Edwin H. Sutherland introduced the term in his 1939 presidential address to the American Sociological Society and developed it a decade later, defining the offense as one committed by a person of respectability and high social status in the course of his occupation.[44] Two features of that definition do the analytical work: the offense is committed through the occupational role, and it consists in a violation of the trust that role confers. Later scholarship refines the category into an opportunity structure, in which the offender's technical knowledge and legitimate presence within the institution supply the means of commission and of concealment alike.[45]

Applying the distinction, the conduct in these two cases is occupational white-collar crime and not corporate crime. The offenders acted for personal enrichment and against the interests of the bank that employed them, rather than on the bank's behalf or in pursuit of corporate advantage, and the bank is among the injured parties. This matters for attribution, because corporate criminal liability does not arise where the employee acts against the corporation, and the liability at issue is personal.

One objection deserves an answer, and it is the point at which this study departs most sharply from the received account. A relationship manager at a district branch and a credit initiator at a village unit are not persons of high social status in the sense Sutherland had in mind, and if status were the criterion these cases would fall outside the category. The better view is that status was never the operative element; it was a proxy for the structural position from which the offense becomes possible. What makes an offense white-collar is occupational access to institutional trust, not standing in society. A unit officer who alone controls the field verification, the appraisal, and the entry of the file into the disbursement system holds concentrated institutional trust, with markedly less supervision than a senior officer at head office would face. The concentration of trust at the point of least supervision is precisely why the modus recurs.

[43] Uu Nurul Huda et al., "Legal Protection for Personal Data Leaks and Its Implications for Citizens' Privacy Rights within the Framework of the Indonesian Legal State," *Jambura Law Review* 8, no. 1 (2026): 144–159, https://doi.org/10.33756/jlr.v1i1.32666.

[44] Edwin H. Sutherland, "White-Collar Criminality," *American Sociological Review* 5, no. 1 (1940): 1–12, https://doi.org/10.2307/2083937; Edwin H. Sutherland, *White Collar Crime* (New York: Dryden Press, 1949). For the contemporary development of the concept, see Benson and Simpson, *Understanding White-Collar Crime*, cited in note 1.

[45] Benson and Simpson, *Understanding White-Collar Crime*, 12–31.

c. From Segregated State Assets to State Financial Loss in KUR Corruption Cases

There is a misappropriation of KUR funds by the implicated unit and branch officers, accompanied by a nominal monetary loss. The question is whether such a loss may be called a state financial loss. The law does include within state finance the assets already segregated for the capitalization of a BUMN, but a distinction must be observed. The element of state financial loss in Articles 2(1) and 3 of the Anti-Corruption Law is confined to loss that is real and quantifiable. The wider consequences of KUR fraud, namely the withdrawal of financing from micro-enterprises entitled to it and the erosion of confidence in state-owned banking, are socio-economic effects: properly pleaded in aggravation and weighed in sentencing, but not components of the loss element.

3. The Actual-Loss Requirement after Constitutional Court Decision No. 25/PUU-XIV/2016

The vocabulary of potential loss, which appears in the prosecution documents, can no longer be used without qualification. In Decision No. 25/PUU-XIV/2016, delivered on January 25, 2017, the Constitutional Court struck the word *dapat* from Article 2(1) and Article 3 of Law No. 31 of 1999, holding it contrary to the Constitution and without binding force, on the reasoning that retaining it left the offense insufficiently determinate and thereby offended the principle of legality. The consequence is categorical: state financial loss must be understood as loss that has genuinely occurred and is real, not as an estimate of loss that might occur.[46]

Two things follow, and they cut in opposite directions. The first is a constraint. A prosecution that computes the loss as the aggregate ceiling of the fraudulent facilities, without establishing what was in fact irrecoverable and without accounting for sums recovered, states a potential rather than an actual figure and is vulnerable on that ground. The Rp153,300,000 recovered at the first stage in the 2024 matter illustrates the point: recovery does not extinguish criminal liability, which is settled, but it does bear on the outstanding quantum. The second is an opportunity. The construction advanced in subsection (a) satisfies the actual-loss requirement precisely because it identifies outflows that have already occurred, namely subsidy and guarantee fees actually paid on facilities fictitious from inception, and an impairment of separated state equity measurable once irrecoverability is established.

The competence to establish that figure is now clearer than it was. Article 71 of Law No. 16 of 2025 makes the Supreme Audit Board the institution competent to determine the loss, and the Elucidation of Article 603 of Law No. 1 of 2023 points the same way. Computations by other bodies retain evidentiary value, but they do not displace that competence.

A further question cannot be left open. Constitutional Court Decisions No. 48 and 62/PUU-XI/2013 held that state assets separated into a state-owned enterprise remain

[46] Constitutional Court of the Republic of Indonesia, Decision No. 25/PUU-XIV/2016, January 25, 2017, https://www.mkri.id/public/content/persidangan/putusan/25_PUU-XIV_2016.pdf.

within the state-finance regime. Do they survive the legislature's intervention through Article 4B? They do, for two reasons. First, Article 4B addresses the attribution of profit and loss as between the enterprise and the state in the ordinary conduct of business; it does not purport to remove separated state property from the definition in Article 2(g) of Law No. 17 of 2003, and a definitional provision is not displaced by implication. Second, the repeal of a criminal norm must be express: Article 94A(b) disapplies provisions on the authority to manage state finances over separated assets, but the elements of the offense in Articles 2 and 3 of the Anti-Corruption Law are not provisions on managerial authority. The *lex posterior* principle does not assist the contrary reading, because a later general provision does not derogate from an earlier special one.

On this basis the article proposes a test. A loss arising in a state-owned bank is legally attributable to state finances, and the conduct producing it is a corruption offense rather than a credit risk, only where each of five elements is established:

(1) Source and legal title of the funds. It must be identified which stream is affected, whether the credit principal owned by the bank, the subsidy and guarantee fee appropriated from the budget, or the state's separated equity in the bank, and the legal title by which the state holds the affected asset must be stated.
(2) Character of the conduct. The conduct must constitute fraud, falsification, or abuse of authority, and not a business decision, however imprudent. Where the conduct is a business decision taken in good faith, without conflict of interest, and within the corporate purpose, the business judgment rule applies and the inquiry ends.
(3) Mens rea and personal benefit. Intention must be shown at the point of origination rather than inferred from the subsequent default, and a benefit must be shown to have accrued to the actor, to another person, or to a corporation.
(4) Actual and quantifiable loss. The loss must be real, presently existing, and capable of computation in the sense required by Decision No. 25/PUU-XIV/2016, with sums recovered accounted for in the outstanding figure.
(5) Causal nexus and attribution to state finances. The loss must be caused by the conduct in element (2), and it must be attributable to state finances through the title identified in element (1) rather than assumed from the ownership status of the bank alone.

The five elements are cumulative, and the final one is the most often passed over in practice: the status of a bank as a state-owned enterprise establishes that the state has an interest in it, but it does not by itself establish that a given rupiah of loss is a loss to state finances. Each element is satisfied on the two Kotabaru matters. The affected streams are the subsidy and guarantee fees paid on facilities that never existed and the impairment of separated state equity in Bank Rakyat Indonesia. The conduct was falsification of collateral documents, appraisals, and business certificates, which is not management. Intention is established by the fee arrangement agreed before origination. The loss is quantifiable from the account records, net of recoveries, and the causal nexus runs directly from the falsified files to the disbursements. Personal liability therefore attaches to the implicated officers, since state liability applies only where a person acts within his function, duty, and authority, in good faith and with prudence.

The conduct of the suspects was aimed at obtaining money, avoiding payment, and securing personal benefit from the credit business of a BUMN. From the business standpoint the Banking Law supplies two relevant offenses. Article 49(1)(a) of Law No. 7 of 1992 as amended by Law No. 10 of 1998 punishes a member of the board, a director, or an employee who intentionally makes or causes a false entry in the books or reports of the bank, with imprisonment of five to fifteen years; Article 49(2)(b) punishes an officer who intentionally fails to take the steps necessary to secure the bank's compliance, with imprisonment of three to eight years. On these facts the first provision is the closer fit, since the falsification of business certificates, appraisals, and disbursement records entered the bank's own credit records. The matter cannot be transposed into the banking-business sector, because bank compliance is not the reference point; the conduct was designed to harm the state through steps regulated in banking, and the Anti-Corruption Law applies. The loss relied upon is actual and not potential: funds left the bank against facilities fictitious from inception, the nominal debtors received nothing beyond a gratuity and incurred no genuine obligation, and the sums are traceable to identified accounts and recipients.[47]

To calculate only the interest subsidy as the loss would contradict the concept of state finance contributed to a BUMN. The parsing of the loss is not in itself an error; what matters is that each component be traced to its source. The state's exposure operates indirectly, through its separated equity in the disbursing bank and through the subsidy and guarantee fee paid on each booked facility, rather than through any direct appropriation of the principal. Because the matter concerns KUR funds it is not ordinary criminal fraud, but a special matter falling under the Banking Law whose resolution proceeds under the Anti-Corruption Law. The salient points are these.

(1) It is no longer necessary to unravel the relation between Article 4B of the BUMN Law and Article 97(5) of the Limited Liability Company Law, since this is not a matter of the business judgment rule, which concerns decisions at the leadership level; Article 4B is directed at policymakers in the sphere of investment and operations.
(2) On these facts the matter is raised as corruption, because the perpetrators, as the implicated BRI officers who took BUMN money for personal benefit through engineering that amounts to window dressing, fall within the Anti-Corruption Law.
(3) An inventory of Article 49(1)(a) and (2)(b) of Law No. 7 of 1992 shows a configuration in which the customers are victims and the bank employees are parties who assist, while some customers are themselves among the perpetrators. The matter is therefore not one of banking crime, but of corruption as the means of resolution.
(4) Examination of the loan-account documents establishes that the implicated officers misappropriated KUR funds by manipulation, in some instances without the debtor's knowledge, after which they made installment payments, but never to full settlement, so that the loans ultimately fell into arrears.

Under Financial Services Authority Regulation No. 42/POJK.03/2017 on the Obligation to Formulate and Implement Credit or Financing Policy for Commercial Banks, an

[47] Law No. 7 of 1992 on Banking as amended by Law No. 10 of 1998, arts. 49(1)(a) and 49(2)(b); see also Law No. 31 of 1999, art. 14, on the relationship between statutes designating an act as a corruption offense.

administrative irregularity has occurred where an element of fraud is later established. It does not follow that an administrative irregularity is itself a corruption offense, and the adage that corruption always begins with maladministration should be resisted, because it inverts the burden of proof. An administrative irregularity is at most the occasion on which the elements of the offense may be found. Escalation to the criminal law requires intentional deception, falsification or diversion, collusion, personal benefit, abuse of authority, a causal nexus, and an actual loss.[48] Two benchmarks may be stated.

The first concerns *samenhang*, the unity of intent between the clause that gave rise to the administrative irregularity and the loss that follows. The clause used in fulfilling administrative requirements is intended for the disbursement of credit; where it is deviated from and a state loss results, the matter is qualified as corruption. The second concerns the boundary between administrative and criminal liability. Administrative liability is personal, and at the level of top policy it is the officeholder there who is fully accountable. Criminal liability is individual and conduct-based, and the forms of participation must be named precisely: Articles 55 and 56 of the Criminal Code, carried forward by Articles 20 to 22 of Law No. 1 of 2023, distinguish the *pleger*, the *doenpleger*, the *medepleger*, the *uitlokker*, and the *medeplichtige*. These are five distinct positions carrying distinct penalties, and they should not be treated as gradations of a single category.[49]

In KUR cases installment payments are frequently made in order to shift the matter to a banking problem of non-performing loans. That move is set aside under Indonesian criminal law, because what matters in the corruption provisions is the intent of the perpetrator, who from the outset planned in a manner contrary to the business judgment rule. An officer is released from a charge of corruption only where the four conditions of Article 97(5) of the Limited Liability Company Law, set out in section 1 above, are satisfied. Conversely, a state financial loss arises where the elements contrary to that rule are made out.

The rule protects a bank officer only where the credit decision was taken within a lawful business framework,[50] in good faith, with prudence, without conflict of interest, and within the corporate purpose.[51] It cannot be invoked where the credit arises from the engineering of debtor data, the use of forged documents, the approval of fictitious credit, or the diversion of KUR funds for personal or third-party benefit.[52] What distinguishes business risk from corruption is not the presence of a loss but its source: a loss arising

[48] Simamora, Sinurat, and Nubatonis, "Penerapan Delik Korupsi," 12–18; Sjin Phen and Suartini, "Analisa Kredit Macet," 210–214.
[49] *Wetboek van Strafrecht* (Criminal Code), arts. 55–56; cf. Law No. 1 of 2023 on the Criminal Code, arts. 20–22, applicable according to the *tempus delicti*.
[50] Wilda Shafira et al., "The Business Judgment Rule in a Progressive Legal Perspective: Essence and Implications in Indonesia," *Rechtsidee* 10, no. 2 (2022): 1–13, https://doi.org/10.21070/jihr.v11i0.790.
[51] Juan Kasma and Christian Andersen, "Business Judgment Rule and Corporate Governance as the Strategic Imperative of Indonesian State-Owned Enterprise," *European Journal of Law and Political Science* 3, no. 4 (2024): 51–58, https://doi.org/10.24018/ejpolitics.2024.3.4.151.
[52] Dedi Suwasono and Siti Mahmudah, "Business Judgment Rules Regulations by Directors in Indonesia," *International Journal of Multicultural and Multireligious Understanding* 11, no. 2 (2024): 33–42, https://doi.org/10.18415/ijmmu.v11i2.5478.

from a reasonable business decision falls within corporate liability, while a loss arising from manipulation and fraud disguised as a banking process does not.

The magnitude of the loss remains contested. The prosecution treats the state loss as equal to the value of the facility from the moment funds left the bank, and treats subsequent installment payments as window dressing intended to conceal conduct already complete. That cannot be equated with rectification in the administrative domain, since the reduction of a state loss occurs after the loss has been calculated and after judgment. The payment of installments is therefore no basis for extinguishing the criminal act, because *mens rea* existed from the outset.

The imposition of a sentence is no arbitrary act, because not every administrative irregularity becomes a criminal case, much less corruption. What is required is that the elements set out above be established one by one, since an administrative irregularity is a starting point for inquiry and not a substitute for proof. The Deputy Chair of the Corruption Eradication Commission has expressed a consonant view:

> A non-performing loan at a state-owned bank is not automatically an act of corruption. It enters the domain of corruption only when it satisfies three crucial elements: an intentional deviation from procedure, an effort to enrich oneself or another, and a financial impact on the state whose value is definite and calculable. There is a firm boundary between civil business risk and a criminal act.[53]

In KUR cases, officers of state-owned banking institutions down to the regional branch level engineered administrative requirements by exploiting citizens with little knowledge, placing them as debtors of loans whose proceeds they never enjoyed and for which they received only tips.

Policy Parameters for Addressing the Problem of People's Business Credit at State-Owned Banking Institutions

1. From Non-Performing Loans to Corruption in the Sphere of People's Business Credit

The policy parameters for addressing the corruption of KUR funds at state-owned banks must be situated within a framework of clean, accountable, people-centered economic governance oriented toward protecting access to financing for MSMEs.[54] Such policy must encompass four directions at a minimum: prevention through strict verification of

[53] "Tiga Unsur Penting Kredit Macet Bank BUMN Dikategorikan Korupsi di Mata KPK," *Hukumonline*, accessed May 31, 2026, https://www.hukumonline.com/berita/a/tiga-unsur-penting-kredit-macet-bank-bumn-dikategorikan-korupsi-di-mata-kpk-lt6972fbeee79f4/.

[54] On the people-centered orientation of legal and economic governance, see Novendri Mohamad Nggilu, Chami Yassine, and Maya Khater, "Constructing Humanitarian-Based Law: A Philosophical Analysis of the Philanthropic Legal Paradigm," *Yustisia* 14, no. 3 (2025): 283–311, https://doi.org/10.20961/yustisia.v14i3.98924; on access to KUR financing for rural MSMEs, see Nur Hidayah Agustin, Andri Brawijaya, and Miftahul Khoir, "Aksesibilitas UMKM Pedesaan terhadap Kredit Usaha Rakyat (KUR) Bank Syariah Indonesia," *NISBAH: Jurnal Perbankan Syariah* 9, no. 1 (2023): 10–20, https://doi.org/10.30997/jn.v9i1.9302.

prospective recipients; detection through the integration of population and business data with risk-based audit; enforcement through a clear boundary between non-performing loans as a business risk and those arising from engineering or abuse of authority; and loss recovery, without extinguishing the criminal liability of the perpetrators.[55] The resolution of the KUR problem is thereby directed not only at handling problematic credit but at protecting the function of KUR as an instrument of productive financing.[56]

ASEAN member states face comparable difficulties. At the 2023 ASEAN Business and Investment Summit, the Secretary-General of ASEAN observed that MSMEs across the region face obstacles in repaying loans from financial institutions, with non-performing loans reaching thirty-nine million business units.[57]

Within the private-law sphere, the regional model for resolving such loans at state-owned banks rests on three pillars: internal restructuring under the 3R program, by rescheduling the tenor, reconditioning the interest rate, or restructuring through additional facilities or a debt-to-equity conversion; the transfer of portfolios to a special management institution, which Indonesia does through PT Perusahaan Pengelola Aset and Malaysia through Danaharta; and an out-of-court route through a state-receivables institution, ensuring that collateral may be seized or auctioned through a lawful channel.

Resolution by private-law means is more advantageous than resolution by criminal means, yet corruption remains a problem in almost all developing countries. The framework of ASEAN central banks encourages stronger governance and transparency in write-off and write-down processes for state banks, a dimension that theoretically prioritizes peaceful settlement with compensation, in line with Roscoe Pound's account of the earliest aims of law, on which justice was at first a device to keep the peace and the law furnished the injured person a substitute for revenge.[58]

That account is not accepted in an era in which states aim to increase economic growth. Where an abuse of authority harming state finances is proven, the criminal law continues to apply and the matter is not confined to a civil dispute. Malaysia, Singapore, the Philippines, Thailand, and Vietnam have strict anti-corruption laws, under which the embezzlement of public funds for business loan facilities is a serious crime, prosecuted in Malaysia under the Malaysian Anti-Corruption Commission Act and in Singapore under the Prevention of Corruption Act.[59] The consequences are cumulative: imprisonment that may reach decades, financial penalties, and asset recovery.

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[55] Wahyu Khairatunnisa and Anza Ronaza Bangun, "Manipulasi Data Kredit Usaha Rakyat sebagai Modus Korupsi: Studi Kasus Kejati Sumatera Selatan di Muara Enim," *Media Hukum Indonesia* 4, no. 1 (2025): 637–643, https://doi.org/10.5281/zenodo.17899092.

[56] Irda Nur Khumaeroh and M. Rizal Bagaskoro, "Asset Recovery as an Effort to Restore State Losses Resulting from Corruption Cases," *Journal of Law, Politic and Humanities* 6, no. 1 (2025): 650–657, https://doi.org/10.38035/jlph.v6i1.2564.

[57] "Jutaan UMKM di ASEAN Terjerat Kredit Macet," *Context.id*, accessed May 31, 2026, https://context.id/read/1298/jutaan-umkm-di-asean-terjerat-kredit-macet.

[58] Roscoe Pound, "The End of Law as Developed in Legal Rules and Doctrines," *Harvard Law Review* 27, no. 3 (1914): 195–234, at 198–199, https://www.jstor.org/stable/1325958.

[59] Nani Mulyati, "Tindak Pidana Korupsi yang Dilakukan oleh Sektor Privat di Negara ASEAN," *UNES Journal of Swara Justicia* 7, no. 2 (2023): 722–738, https://doi.org/10.31933/ujsj.v7i2.373.

In Indonesia, the cases set out above reveal fraud committed by lower-level officers serving a village unit or several villages within a subdistrict, who engineered requirements and ultimately produced non-performing loans to cast them as a debtor's failure to pay arising from business failure, and so to avoid liability for state financial loss. Prosecutors find such cases difficult, hesitating to bring them into the criminal-law domain, and that hesitation deepens when defense counsel argue that a loss of a state-owned enterprise is not a state financial loss and that payment by the debtor establishes an engagement. In truth those modest payments are made by the banking officers themselves, as an anticipatory act of window dressing intended to strengthen the civil aspect should a charge follow. The background is familiar, namely greed and the pursuit of quick money, which brings about a state of mind characterized by the pursuit of fast, easy money with total disregard for ethical standards, let alone the rule of law.[60]

KUR corruption cases have been reported well beyond the units and branches in Kotabaru and Tanah Bumbu presented above. The same has occurred at the BRI Banguntapan Unit in Bantul Regency, with a loss of Rp3.3 billion, and at the BRI Sidakarya Unit in Denpasar between 2025 and 2026, with a fictitious-credit modus using forged identity cards and a loss of Rp1.79 billion.[61] Earlier, in 2022 and 2023, the BRI Kebon Baru Unit involved hundreds of fictitious debtors with a loss reaching Rp19.38 billion, and in 2024 a case at the BNI Bengkalis Branch in Riau reached Rp46 billion.[62] At the Kreneng Unit in Denpasar, seven suspects were named for engineering applications between 2022 and 2025, causing a loss of approximately Rp8.9 billion, and in Muara Enim Regency the South Sumatra High Prosecutor's Office named three further suspects over micro KUR funds, with a loss of up to Rp11.4 billion.[63]

These matters come from prosecution announcements and press reporting, not from systematic data, and no claim about national prevalence is made on their basis. What they support is narrower and still significant: the modus recurs across widely separated jurisdictions and across more than one state-owned bank, which suggests that its causes lie in the design of the program's controls rather than in the character of particular officers.

[60] H. Mohd Yusof, D. Mohd Yusof, and N. Mohd Adnan, "Three Pillars as New Strategy to Curb Corruption in Public Procurement in Malaysia," *International Journal of Humanities Technology and Civilization* 10, no. 2 (2025): 112–130, at 112, https://doi.org/10.15282/ijhtc.v10i2.12895.

[61] "Kejati Bali Tetapkan 5 Tersangka Korupsi Kredit KUR dan KUPRA BRI Unit Sidakarya," *Kejaksaan RI*, accessed May 31, 2026, https://story.kejaksaan.go.id/berita-daerah/kejati-bali-tetapkan-5-tersangka-korupsi-kredit-kur-dan-kupra-bri-unit-sidakarya-mvk.html.

[62] "Dugaan Korupsi KUR Rp46 Miliar, Dua Eks Pegawai BNI Bengkalis Ditahan," *Cakaplah*, February 28, 2024, https://www.cakaplah.com/berita/baca/107916/2024/02/28/dugaan-korupsi-kur-rp46-miliar-dua-eks-pegawai-bni-bengkalis-ditahan.

[63] "Kejati Sumsel Tetapkan Tiga Tersangka Baru Kasus Korupsi KUR Mikro," *Metro TV News*, accessed May 31, 2026, https://www.metrotvnews.com/read/NQAC0xMW-kejati-sumsel-tetapkan-tiga-tersangka-baru-kasus-korupsi-kur-mikr; see also Khairatunnisa and Bangun, "Manipulasi Data Kredit Usaha Rakyat," 639–641.

2. Paradigm and Governance of KUR Funds

a. The Mixed Economy as a Paradigm for State-Owned Bank Officers

BUMN officers have to date been strongly influenced by their status as personnel of private legal entities, and have tended to discount the threat of the criminal law. That posture requires revision. Civil liability is directed at repairing loss as between the parties; criminal liability is directed at the public interest in punishment and deterrence. A relationship that begins in contract is not on that account beyond the reach of the criminal law.

Complexity within the law does arise. In a matter charged as KUR corruption, an acquittal once occurred before the Anti-Corruption Court at the Pontianak District Court: on July 24, 2023, the court held that the defendant, whose initials are J.S., was proven to have committed the act charged but that it did not constitute a criminal offense, and released him from all legal charges (Decision No. 14/Pid.Sus-TPK/2023/PN Ptk). The outcome followed from the difficulty of resolving the dualism in the proposition that the profits and losses of a BUMN are not those of the state. The Public Prosecutor filed a cassation petition in the case of J.S., former Senior Relationship Manager of BNI Pontianak. The cassation panel, presided over by Justice Dwiarso Budi Santiarto with Justices Sinintha Yuliansih Sibarani and Yohanes Priyana, annulled the release and sentenced J.S. to three years' imprisonment; the releases of five co-defendants were likewise set aside, on the ground of abusing the authority available to them by reason of their office, with a state financial loss of Rp14,182,333,020 (Supreme Court Decision No. 48 K/Pid.Sus/2024).[64]

The panel's decision affirms that the Indonesian legal order does not exclude corruption in the sphere of state-owned banking from cases of non-performing loans, consonant with the Corruption Eradication Commission's position that such a loan may be categorized as corruption only where three elements are satisfied: an intentional deviation from procedure, an effort to enrich oneself or another, and a definite state financial loss. The legal order is shaped by the mixed economy, in which economic activity exists within two domains, the purely private and the public domain into which the state enters to intervene in business. Indonesia formerly could not be said to recognize statutory defenses to corporate liability of the kind found in China, Malaysia, and Thailand; since the amendment of the BUMN Law it has adopted such defenses for the state holding company, while for entities outside that holding corporate liability for crimes committed by employees, directors, or agents continues to apply. A shift in the application of the law has therefore occurred, in which the demarcation of domains is normativized in a manner that may give rise to disharmony within the law.

[64] Anti-Corruption Court at the Pontianak District Court, Decision No. 14/Pid.Sus-TPK/2023/PN Ptk, July 24, 2023; Supreme Court of the Republic of Indonesia, Decision No. 48 K/Pid.Sus/2024; "MA Anulir Vonis Bebas Lepas 6 Terdakwa Korupsi Kredit BNI Rp14 Miliar," *Dandapala*, accessed May 31, 2026, https://dandapala.com/article/detail/ma-anulir-vonis-bebas-lepas-6-terdakwa-korupsi-kredit-bni-rp-14-miliar.

b. Legal Conditions and the Improvement of KUR Fund Governance at State-Owned Banks

Jay K. Rosengard and A. Prasetyantoko advance a constructive criticism of Indonesian banking that remains instructive here. They identify two paradoxes: Indonesia has been a global leader in microfinance, yet access to microfinance services is declining; and Indonesian commercial banks are liquid, solvent, and profitable, yet small and medium enterprises face a credit crunch. Their prescription is not to pump out and administratively allocate more credit, but to promulgate smart regulation so that banks maintain sound risk management without pursuing noncompetitive and noninclusive practices.[65]

The declining access to microfinance they describe is caused in part by the many KUR cases, a phenomenon arising because of the opportunities perpetrators can exploit. At the level of legal culture the phenomenon raises a question: if almost all KUR-disbursing banks do the same thing, is the regulation not at fault? The most immediate problem, and one long invoked by suspects in their defense, is the claim that the conduct was merely an administrative irregularity resting on a civil relationship between debtor and creditor. If Indonesian laws are mutually disharmonious, prevention strategy unclear, and the incentive of achievement in handling corruption cases such that criminalization becomes paramount, then the solution lies in the governance of KUR funds within the sphere of oversight. Enforcement alone is insufficient without stronger institutional capacity and better governance of the program itself.[66]

In applying the law to corruption cases, Indonesia tends toward *in personam* forfeiture, in which a person is prosecuted and punished and his property seized; *in rem* forfeiture, under which unexplained wealth is seized without the holder necessarily being punished, remains a subject of debate. A purely civil route is in fact available: Article 32(1) of the Anti-Corruption Law obliges the investigator, where the evidence is insufficient but a state financial loss exists, to refer the matter to the Deputy Attorney General for Civil and State Administrative Affairs. That provision has never been used. Article 513(3) of the reformed Criminal Code now provides that an administrative problem must be resolved before a criminal element can be declared, which is consonant with Law No. 30 of 2014 on Government Administration.[67]

Among the Scandinavian countries, Norway occupies the best position in governance, and the point to note concerns oversight. A strict regulatory framework focused on anti-money laundering and strong enforcement is supported by a culture of transparency and high public participation. Although not free from banking scandals such as Danske Bank,

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[65] Jay K. Rosengard and A. Prasetyantoko, "If the Banks Are Doing So Well, Why Can't I Get a Loan? Regulatory Constraints to Financial Inclusion in Indonesia," *Asian Economic Policy Review* 6, no. 2 (2011): 273–296, https://doi.org/10.1111/j.1748-3131.2011.01205.x.

[66] M. Rizqullah Raffi et al., "Hambatan Penegakan Hukum terhadap Tindak Pidana Korupsi Kredit Usaha Rakyat (KUR): Perspektif Praktik Kejaksaan," *Jurnal Media Akademik* 4, no. 1 (2026): 1–12.

[67] Law No. 30 of 2014 on Government Administration; on abuse of authority under that Law and its review by the State Administrative Court, see Ahmad Ahmad, "Analysis of Abuse of Authority by Government Apparatus in the State Administrative Legal System," *International Journal of Constitutional and Administrative Law* 1, no. 1 (2025): 69–83, https://doi.org/10.66502/v2wdah74.

those scandals lie at the upper level, in international-scale money laundering, while the business-credit sector serving the lower-middle community is protected. That culture rests on public access to official documents and on internal compliance programs with mandatory training in business ethics and due diligence on partners.[68]

On due diligence, Indonesia already has a regulatory solution in the Regulation of the Coordinating Minister for Economic Affairs No. 1 of 2023, which directs the disbursement of KUR through linkage institutions. Article 8(5)(d) provides that technical ministries and regional governments may identify the data of prospective KUR recipients in their respective sectors or regions, but that this does not affect the disbursement process.[69] That identification matters, because the fraud committed by banking officers has centered on fictitious recipients, and the provision has not been realized because the word may renders it non-obligatory. It must be addressed collectively by Indonesian banking institutions as a preventive measure: collective action increases the impact and credibility of individual action and can complement, or temporarily substitute for, weak local anti-corruption practices.[70]

The involvement of regional governments in determining prospective recipients matters for the empowerment of enterprises in their regions. The Government has in any event been unwilling to treat the KUR problem as a purely civil matter, as Government Regulation No. 47 of 2024 shows: although a write-off policy for non-performing MSME receivables was established, the Minister for MSMEs affirmed that KUR is excluded, because it is guaranteed by insurers such as Jamkrindo and Askrindo.[71] It is the system that becomes the footing of governance. The Coordinating Minister for Economic Affairs must replace the present permissive rules with binding ones, given the magnitude of the KUR budget that goes undisbursed or is corrupted at the unit and branch level. Regional governments must be proactive, since local government knows its community far better, and must strengthen the agency responsible for public welfare in cooperation with the local civil registry office. It would be better to record applicants and issue recommendations when the community needs business capital, so that recipients are persons already identified by the relevant agency.

On the basis of this construction, the improvement of KUR governance needs to be directed at five operational policies.[72] First, verification of prospective recipients must be mandated and integrated with population, business, and regional government data, so that recipients are genuinely identified. Second, disbursing banks need an early-warning

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[68] "Pengawasan Perbankan Skandinavia," *Neraca*, accessed May 31, 2026, https://www.neraca.co.id/article/69366/pengawasan-perbankan-skandinavia.

[69] Regulation of the Coordinating Minister for Economic Affairs No. 1 of 2023 on the Amendment to Regulation No. 1 of 2022 on the Guidelines for the Implementation of People's Business Credit, art. 8(5)(d), https://peraturan.bpk.go.id/Details/249011/permenko-perekonomian-no-1-tahun-2023.

[70] Lucie Binder, Vanessa Hans, and Anna Stransky, *Working Paper 48: A Collaborative Approach to Improve Business Integrity in ASEAN; Case Studies of Anti-Corruption Collective Action in the Region* (Basel: Basel Institute on Governance, 2023), 7.

[71] "Pemerintah Tak Masukkan KUR dalam Penghapusan Kredit Macet UMKM," *IKPI*, accessed May 31, 2026, https://ikpi.or.id/pemerintah-tak-masukkan-kur-dalam-penghapusan-kredit-macet-umkm/.

[72] Septrianto Widodo, Khusnaini, and Herru Widiatmanti, "Analisis Model Kebijakan Program Penyaluran 'KUR' dalam Rangka Meningkatkan Perilaku Kepatuhan Wajib Pajak Pelaku 'UMKM'," *Scientax: Jurnal Kajian Ilmiah Perpajakan Indonesia* 6, no. 1 (2024): 67–94, https://doi.org/10.52869/st.v6i1.108.

system for irregular disbursement patterns, such as many debtors within a single network, initial installments paid by the same party, or default shortly after disbursement.[73] Third, KUR audits must be conducted periodically on a risk-based approach, from application and verification through to the use of funds. Fourth, law enforcement authorities need clear guidelines distinguishing non-performing loans as a business risk from those arising from engineering, abuse of authority, or fictitious debtors. Fifth, the recovery of state losses must be positioned as an integral part of enforcement, through the return of losses, seizure, and asset forfeiture, without extinguishing criminal liability.

Conclusion

Three conclusions answer the three questions posed at the outset. On the first, KUR matters at state-owned banks surface as state financial loss and as white-collar crime because the credit is engineered at origination rather than defaulted at repayment; in both Kotabaru cases the identities of villagers with little banking knowledge were used to open facilities from which they received nothing beyond a gratuity, while the documents establishing eligibility, collateral, and business activity were fabricated by the officers who then processed and approved them, so that the conduct is occupational white-collar crime, committed through the occupational role and consisting in the violation of the institutional trust that role confers, its structural signature being the concentration of verification, appraisal, and file entry in a single officer working with little supervision.

On the second question, a loss in a state-owned bank becomes a state financial loss only where five cumulative elements are satisfied: the affected funding stream and the state's legal title to it are identified; the conduct is fraud, falsification, or abuse of authority rather than a business decision; intention and personal benefit are established at origination; the loss is actual and quantifiable in the sense required by Constitutional Court Decision No. 25/PUU-XIV/2016, net of recoveries; and the loss is causally connected to that conduct and attributable to state finances through the identified title, the ownership status of the bank being no substitute for that fifth element.

Applied to the KUR scheme, the state's exposure lies in the subsidy and guarantee fee paid from the budget on facilities fictitious from inception and in the impairment of the state's separated equity in the disbursing bank, not in the credit principal, which is the bank's own money; Article 4B of Law No. 16 of 2025 does not bar that conclusion, since its elucidation confines the provision to profit or loss arising from the management of enterprise assets and the falsification of a credit file is not management, nor can Article 94A(b) be read as an implied repeal of the elements of an offense.

On the third question, policy should follow the structural finding, not the moral one, because the offense is enabled by the concentration of control in a single officer: the operative measures are the segregation of the initiation, verification, and approval

[73] Jaap Beltman, Marcos R. Machado, and Joerg R. Osterrieder, "Predicting Retail Customers' Distress in the Finance Industry: An Early Warning System Approach," *Journal of Retailing and Consumer Services* 82 (2025): 104101, https://doi.org/10.1016/j.jretconser.2024.104101.

functions, independent borrower verification with callback confirmation, anomaly detection for networks of debtors sharing an address, a guarantor, or a repayment source, control over the custody of passbooks and cards after disbursement, and the mandatory identification of prospective recipients against population, business, and regional government data, which Article 8(5)(d) of the 2023 Coordinating Minister's Regulation presently leaves permissive and should make obligatory, with recovery proceeding alongside prosecution and not in place of it. The contribution of this article is the five-element test, which joins three questions that existing scholarship treats separately, namely the corporate autonomy of state-owned enterprises, the state-finance character of separated assets, and the criminology of financial crime, and yields a threshold a prosecutor can plead and a court can apply.

Its limits should be stated. The study rests on two prosecuted cases in one regency, part of the record consists of prosecution documents that are not publicly accessible, and the consolidated text following Law No. 16 of 2025 has not yet been construed judicially, so that the argument remains doctrinal and does not describe settled practice. What would test it is a systematic study of decisions in KUR corruption cases, acquittals included, alongside an empirical assessment of control design across disbursing institutions and analysis of the first decisions to interpret Article 4B in its current form.

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