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The new Indonesian
Penal Code (*KUHP Baru*)
(Vol. 3): corruption
offenses

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The recent enactment of Indonesia's new Criminal Code (*KUHP Baru*) introduces pivotal changes to the legal framework governing corruption offenses. This legal framework is also adjusted further by Law No. 1 of 2026 concerning Criminal Adjustment.

The inclusion of corruption-related offenses within the *KUHP Baru* represents a significant development in Indonesia's legal landscape, as previous anti-corruption enforcement relied primarily on Law No. 31 of 1999 concerning Eradication of the Crime of Corruption as amended by Law No. 20 of 2001 (**Anti-Corruption Law**).

The codification of corruption-related offenses under the *KUHP Baru* also signals a legislative intent to strengthen the integrity of Indonesia's criminal justice system through a more comprehensive and structured approach. While the sectoral anti-corruption regime remains the primary enforcement tool, the integration of these provisions into the general criminal code reflects a broader effort to harmonise legal norms and close enforcement gaps.

This alert highlights the main provisions related to corruption under the *KUHP Baru* and discusses the potential implications and challenges.

I. Comparison with the Anti-Corruption Law

Under the *KUHP Baru*, corruption-related offenses that were previously governed by the Anti-Corruption Law are now included in the general criminal code. This change reflects a move toward a more integrated legal framework. Additionally, in practical terms, future corruption cases will be considering the provisions under the *KUHP Baru*.

However, under the *KUHP Baru*, the core definitions and elements of corruption crimes, such as bribery, gratification, and causing state financial losses, remain unchanged. This ensures continuity in legal interpretation and enforcement standards. The *KUHP Baru* only introduces changes to the criminal sanctions imposed for corruption crimes. The main changes introduced by the *KUHP Baru* relate only to the penalties imposed for such offenses.

While both the *KUHP Baru* and the existing Anti-Corruption Law aim to address corruption offenses, there are several notable distinctions in how they approach the issue. Firstly, the Anti-Corruption Law classifies corruption as an extraordinary crime, highlighting the gravity of the offense. In contrast, the *KUHP Baru* categorises corruption as a general criminal offense applicable broadly without exceptional status. This shift may affect the perceived seriousness and handling of corruption cases.

Regarding penalties, the Anti-Corruption Law imposes higher minimum sentences and includes ancillary sanctions such as the imposition of replacement money (*pidana tambahan uang pengganti*), which serves as a critical mechanism for recovering unlawful state losses. The *KUHP Baru*, however, reduces the minimum criminal penalties for corruption and does not include provisions for replacement money, potentially weakening restitution efforts.

Law enforcers also have expanded authorities. The Anti-Corruption Law endows the Corruption Eradication Commission (*Komisi Pemberantasan Korupsi/KPK*) with special powers, including the ability to conduct wiretaps without prior judicial approval. In contrast, the *KUHP Baru* mandates that all law enforcement authorities, including the KPK, obtain court permission before undertaking wiretapping, thus potentially limiting the agility and effectiveness of corruption investigations.

On the corporate liability front, the *KUHP Baru* introduces expanded provisions holding corporations criminally accountable for criminal actions, including the corruption-related offenses, whereas the Anti-Corruption Law provides more limited coverage in this regard. This expansion aligns with international legal developments but requires stronger corporate governance compliance to mitigate risks.

Finally, the definition of state financial loss under the *KUHP Baru* is more narrowly tied to audit findings from the State Audit Institution (*Badan Pemeriksaan Keuangan/BPK*), which may constrain the evidentiary basis for prosecution. By comparison, the Anti-Corruption Law allows for a broader determination of state losses, facilitating more flexible and comprehensive investigative and prosecutorial approaches.

Taken together, these differences indicate that the *KUHP Baru* and the Anti-Corruption Law may create overlapping and sometimes conflicting frameworks, which could generate legal uncertainties and practical challenges for enforcement agencies and legal practitioners alike.

In situations where the *KUHP Baru* and the Anti-Corruption Law contain overlapping or divergent provisions, the starting point for determining which regime applies is the rule set out in Article 3 paragraph (1) of the *KUHP Baru* which stipulates that when there is a change in legislation after the commission of an offense, the newer legislation applies, except where the earlier law is more favourable to the perpetrator. Accordingly, for conduct that occurs after the *KUHP Baru* comes into force, the *KUHP Baru* would apply to the extent that it regulates the matter. However, where the Anti-Corruption Law contains provisions that are comparatively more beneficial for the perpetrator (e.g., more lenient penalties or procedural safeguards), those provisions may continue to apply.

Based on the above comparisons, the most significant changes introduced by the *KUHP Baru* are as follows:

- a. **Fine categories:** The *KUHP Baru* replaces the previous fixed monetary fines with a tiered system (Categories II to VI). This categorisation provides greater flexibility in sentencing and aligns penalties with the broader principles of the criminal code.
- b. **Imprisonment terms:** Certain minimum imprisonment thresholds have been recalibrated. For example, offenses involving state financial losses now carry a minimum sentence of two years, compared to four years under the previous regime.
- c. **Increase in maximum penalties:** The upper limit of fines has been substantially raised, reaching up to IDR2 billion. This escalation significantly heightens potential financial exposure for corporations found liable for corruption-related offenses.

II. General implications of incorporating corruption provisions into the *KUHP Baru*

The integration of corruption-related provisions into the *KUHP Baru* marks an important development in Indonesia's criminal law framework. Pursuant to Article 622 paragraph (1) letter I of *KUHP Baru*, rather than replacing the existing anti-corruption regime entirely, the *KUHP Baru* only revokes specific articles, namely Articles 2(1), 3, 5, 11, and 13 of the Anti-Corruption Law, while all other provisions under that law remain fully in force. This means that the Anti-Corruption Law continues to apply for aspects not covered by the *KUHP Baru*, including procedural rules and institutional mandates.

As a result, enforcement will operate under a dual framework: certain offenses will now be prosecuted under the *KUHP Baru*, whereas other aspects, including procedural rules and institutional mandates such as those of the KPK, continue to rely on the Anti-Corruption Law. This layered approach may introduce complexity in interpretation and compliance, requiring corporations to maintain vigilance across both regimes.

III. Consequences for corporations

The integration of corruption-related offenses into the *KUHP Baru* introduces implications for corporate liability. By consolidating these offenses within the *KUHP Baru*, the new concepts regarding Corporate Criminal Liability (**CCL**), participation (*penyertaan*), and other principles regulated under the *KUHP Baru* may be extended to corruption cases. This development means corporations may face broader interpretations of liability, including situations where responsibility is linked to organisational structure, decision-making processes, or actions taken by representatives on behalf of the company.

The *KUHP Baru* also provides clearer criteria for establishing CCL, which will likely influence the prosecution of corruption-related cases. Liability may arise not only from direct involvement but also from omissions such as failing to implement adequate preventive measures or oversight mechanisms. Similarly, the concept of participation could expand exposure to parent companies, subsidiaries, and individuals within the corporate hierarchy, creating a more complex risk environment.

Article 48 of the *KUHP Baru* reinforces this approach by setting out specific conditions under which a corporation can be held criminally liable. One of the most critical factors is whether the corporation has taken necessary steps to prevent the offense, mitigate its impact, and ensure compliance with applicable laws.

In this context, an effective anti-corruption compliance programme is no longer merely a governance best practice; it becomes a key legal safeguard. Failure to adopt preventive measures could satisfy the criteria for liability, while a well-structured programme that includes risk assessment, employee training, reporting channels, and monitoring can serve as strong evidence of due diligence. The *KUHP Baru* therefore elevates compliance from a voluntary initiative to a statutory expectation, underscoring the need for corporations to review and strengthen their frameworks in line with these requirements.

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