

State Asset Recovery from the Proceeds of Crime in Money Laundering in Indonesia: An Analysis of the Effectiveness and Urgency of Implementing Non-Conviction Based Asset Forfeiture (NCB)

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Keywords:	ABSTRACT
Money Laundering, Asset Return, Criminal Forfeiture, NCB Asset Forfeiture, FATF.	The return of state assets from money laundering crimes (<i>TPPU</i>) is a strategic component in maintaining the integrity of the financial system, national economic stability, and the effectiveness of the organized crime eradication regime. However, Indonesia's legal regime, which relies on criminal forfeiture—the confiscation of assets after a criminal verdict has obtained permanent legal force—has proven inadequate in dealing with cross-jurisdictional, multilayered, and increasingly complex <i>TPPU</i> . The development of financial technology, digital assets, and the use of shell companies demands a more adaptive approach. This research aims to evaluate the effectiveness of the criminal forfeiture mechanism under Law No. 8 of 2010 and to analyze the urgency of implementing non-conviction-based asset forfeiture (NCB) as an alternative. Using normative legal research methods through legislative, conceptual, and comparative approaches, this study finds that criminal forfeiture faces structural, substantive, and cultural barriers. These obstacles include the low follow-up rate on <i>PPATK</i> reports, the high burden of proof, and the lack of orientation among law enforcement officials toward asset recovery. Comparative studies with other countries show that NCB mechanisms are more effective in cutting off the flow of illicit funds and securing assets at an early stage. This study recommends accelerating the ratification of the Asset Forfeiture Bill, strengthening financial intelligence, and establishing an independent asset management institution as strategic steps to reinforce the asset recovery regime in Indonesia

INTRODUCTION

Money laundering is a form of modern economic crime that has evolved alongside economic globalization, financial system integration, and advances in information technology (Al-khawatreh & Al-Ghoiwari, 2026; Mugarura & Ssali, 2021; Pramanik et al., 2025; Wronka, 2022). This crime not only serves as a means to conceal the origin of proceeds of crime, but also allows perpetrators to enjoy economic benefits in a manner that appears safe and ostensibly legal (Husein & Roberts, 2021). Its cross-sectoral and transnational characteristics make money laundering a serious threat to the stability of the financial system, the effectiveness of state regulations, and the integrity of law enforcement agencies (Greenberg et al., 2009).

In Indonesia, the complexity of money laundering is increasing due to the rapid development of digital financial instruments, such as online banking, cyberpayments, crypto-assets, and the use of shell companies as vehicles to disguise beneficial ownership. The Financial Transaction Reporting and Analysis Center (PPATK, 2025) noted that throughout

2024, the nominal value of suspicious transactions related to predicate crimes reached IDR 1,459 trillion. These figures indicate that the risk of money laundering not only results in financial losses but also threatens national economic resilience and governance.

At the same time, the effectiveness of asset recovery as part of the anti-money laundering regime continues to face serious challenges (Sittlington & Harvey, 2018; Sproat, 2009; Zolkafli et al., 2023). Although Indonesia already has a legal basis through Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes, the mechanism still relies on a criminal forfeiture approach, which only permits the confiscation of assets after a criminal verdict with permanent legal force (Achmad Ali, 2019). In the context of highly dynamic crimes such as money laundering, this model creates significant loopholes, particularly when perpetrators abscond, die, or when evidentiary processes are hindered by the complexity of cross-jurisdictional financial transactions.

Meanwhile, international practice shows that many countries have adopted non-conviction-based asset forfeiture (NCB) as a more effective mechanism for recovering proceeds of crime. The NCB model allows the state to confiscate assets through a civil mechanism directed at the property itself, without having to wait for a criminal conviction of the perpetrator (Greenberg et al., 2009). The Financial Action Task Force (FATF), in Recommendation 4, also encourages countries to adopt NCB mechanisms as a global standard for the recovery of criminal assets. Countries such as the United States, Ireland, and South Korea have demonstrated the effectiveness of NCB in increasing the success rate of asset recovery (Harvard Law Review, 2018; CAB Ireland, 2020).

In the Indonesian context, the urgency of strengthening asset recovery is increasingly evident, considering the dominance of corruption, taxation, and gambling-related offenses as predicate crimes of money laundering. The NCB model is viewed as capable of addressing the limitations of the existing system, particularly those related to evidentiary challenges and the length of the criminal justice process. Therefore, this study assesses the importance of analyzing the effectiveness of the current asset recovery regime and examining the urgency of adopting NCB as part of legal reform in the eradication of money laundering in Indonesia.

Several studies have explored the challenges posed by criminal forfeiture systems in the context of money laundering. For instance, Sudarto (2017) argues that the current system's reliance on conviction-based asset forfeiture hampers timely asset recovery, particularly in dealing with cross-border financial crimes. Similarly, Greenberg et al. (2009) highlight the limitations of relying on criminal convictions for asset recovery, noting that the process often takes too long and allows for the dissipation of criminal assets. Other international studies, including those by Husein (2019), have demonstrated the success of non-conviction-based asset forfeiture (NCB) in countries such as the United States and South Korea, where it has proven effective in recovering assets more swiftly and securely, regardless of the status of the perpetrators.

However, a significant research gap remains in the application of NCB in Indonesia. While global best practices point to the efficiency of NCB in asset recovery, Indonesia has yet to fully adopt this mechanism within its legal framework. The novelty of this research lies in its examination of the urgency and effectiveness of implementing NCB within the Indonesian context, which has not been extensively studied. By evaluating the barriers to criminal forfeiture and comparing them with international practices, this study aims to explore the

potential benefits of NCB in addressing the complexities of modern money laundering crimes in Indonesia.

The formulation of the problem in this study is designed to provide a clear analytical direction for the main issues examined, namely the effectiveness of state asset recovery in money laundering crimes and the relevance of applying non-conviction-based asset forfeiture (NCB). Given the complexity of money laundering, which involves intricate mechanisms for disguising illicit assets, the problem formulation must address the overall normative, structural, and practical challenges faced by Indonesian law enforcement. The key questions explored include: first, how effective is the asset recovery mechanism based on Law No. 8 of 2010 in ensuring the recovery of proceeds of crime? Second, what structural, substantive, and cultural barriers impede the effective implementation of criminal forfeiture in Indonesia? Third, what is the urgency and relevance of adopting non-conviction-based (NCB) asset forfeiture as a more flexible and adaptive alternative to the current legal framework? Finally, what would an ideal regulatory model for asset forfeiture look like in Indonesia, based on successful practices from countries that have effectively implemented such systems? These questions guide the examination of the challenges and opportunities for enhancing asset recovery processes in Indonesia.

This research has several strategic objectives that are interrelated with the main issues concerning the effectiveness of asset recovery and the relevance of implementing NCB asset forfeiture. These objectives are to analyze the effectiveness of the asset recovery mechanism under the existing legal regime, particularly Law No. 8 of 2010; to identify structural, substantive, and cultural barriers within the asset recovery framework in Indonesia; to propose an alternative concept in the form of NCB asset forfeiture as a solution to the weaknesses of the criminal forfeiture system; and to develop policy recommendations based on international best practices to strengthen the asset recovery regime in Indonesia.

METHOD

This research method employed a normative legal research approach, utilizing legislative, conceptual, and comparative approaches to analyze the effectiveness of the asset recovery mechanism in Indonesia and the urgency of implementing asset forfeiture without a criminal conviction (non-conviction-based asset forfeiture/NCB). This research aimed to evaluate the existing legal framework, identify obstacles in the asset recovery process, and compare Indonesia's approach with international best practices.

The legislative approach was used to analyze primary sources of law, particularly Law No. 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes, with a focus on provisions related to criminal forfeiture, as well as the procedural and legal challenges that hindered the effectiveness of asset recovery in Indonesia. The conceptual approach was used to examine the theoretical foundations of asset forfeiture, money laundering, and non-conviction-based asset forfeiture (NCB), including the role of financial intelligence, the burden of proof, and the limitations of existing legal mechanisms.

The comparative approach was conducted by examining asset forfeiture practices in Indonesia alongside those in countries that had successfully implemented the NCB system, such as the United States, South Korea, and Ireland, in order to highlight the benefits, challenges, and potential for implementing the NCB model in Indonesia. This combination of

approaches was expected to provide a comprehensive analysis of the barriers and opportunities within Indonesia's asset recovery system and to generate policy recommendations based on international best practices.

RESULT AND DISCUSSION

Characteristics and Modus Operandi of TPPU

Money laundering is a multi-layered crime consisting of three main stages: placement, layering, and integration (Husein & Roberts, 2021).

Placement: The perpetrator attempts to inject illegal funds into the financial system through methods such as cash deposits, foreign exchange purchases, the use of nominee accounts, or the transfer of assets to a more disguised form. This stage is crucial because it is the entrance for the sharing of proceeds of crime into the formal financial system.

Layering: The core of the undercover process, where the perpetrator performs a complex series of transactions to keep the value of the crime away from its original source. Transactions can be in the form of recurring transfers between banks, the use of shell companies, the purchase of securities, to the use of digital or crypto assets through mixers and tumblers (Basel Institute on Governance, 2021; Europol, 2022). The cross-border character and use of digital instruments make tracking increasingly difficult.

Integration: The final phase in which the asset appears to be legitimate and can be used freely for legal activities such as property investments, business purchases, or project financing. At this point, the proceeds of crime have been mixed with legal economic activities so that it requires a strong legal mechanism to confiscate assets without having to rely on the success of the perpetrator's criminalization.

This increasingly sophisticated modus operandi proves that the asset recovery regime must be able to adapt to dynamic patterns of financial crime, including the development of financial technology. This condition strengthens the argument that the mechanism of non-conviction based asset forfeiture (NCB) is more relevant than criminal forfeiture which is reactive and slow.

Evaluation of the Effectiveness of Criminal Forfeiture in Law No. 8 of 2010

Indonesia's current legal framework still relies on criminal forfeiture which requires a criminal verdict with permanent legal force to be able to seize assets. This model is very ineffective when faced with the complex and cross-jurisdictional character of TPPU (Greenberg et al., 2009). A lengthy criminal process gives time for perpetrators to flee or move assets, so the state loses the opportunity to secure the proceeds of crime.

Weak coordination between agencies is one of the factors for low effectiveness. Based on the PPATK report, only 50.44% of financial intelligence products are followed up by law enforcement officials (PPATK, 2025). This figure reflects the low integration of the system and the lack of capacity of the authorities to use financial intelligence as the basis for investigations.

Law No. 8 of 2010 has significant loopholes, especially Article 8 which allows fines to be replaced with imprisonment. This provision creates a disincentive to asset returns because the perpetrator can choose to serve imprisonment rather than pay fines or return state losses (Achmad Ali, 2019).

Law enforcement still tends to focus on criminalizing perpetrators rather than recovering assets. This mindset is not in line with the follow the money principle used in the global AML regime. All of these obstacles confirm that criminal forfeiture is no longer adequate as the main mechanism in the recovery of TPPU assets.

PPATK Data Analysis and Asset Recovery Challenges

PPATK data shows that in 2024 there will be suspicious transactions of IDR 1.459 trillion, but the assets that have been temporarily stopped are only a small part of this amount. This gap indicates serious obstacles in the process of tracking and securing assets. Technological limitations, lack of database integration between agencies, and lack of use of AI-based risk analysis are major challenges (Global Financial Integrity, 2020).

At the global level, asset recovery is also hampered by the slow pace of mutual legal assistance (MLA). Although UNCAC provides an international legal framework for MLA and asset repatriation, its implementation is often hampered by bureaucracy, differences in legal systems, and the protection of banking secrecy in tax haven countries (World Bank, 2021). The phenomenon of asset dissipation is also becoming more frequent, especially when assets have been converted into digital assets or transferred to hard-to-reach jurisdictions. This condition emphasizes the need for fast, proactive, and non-dependent confiscation actions on the perpetrator's whereabouts or legal status.

The Urgency of Implementing NCB Asset Forfeiture

NCB asset forfeiture offers a forfeiture model that is oriented towards the object of the asset, not the subject of the perpetrator. This mechanism ideally answers the main weakness in criminal forfeiture because it does not require criminal proof against the perpetrator (Greenberg et al., 2009). In the NCB, the state is sufficient to prove that the asset is related to a criminal act through the standard of proof of balance of probabilities.

Globally, the implementation of NCBs is increasingly relevant with the development of technology-based crimes such as crypto-laundering (Basel Institute on Governance, 2021) and asset movements through virtual asset service providers (VASPs). The FATF (2021) emphasizes that the state must have the authority to freeze, confiscate, and seize assets without requiring a criminal verdict. UNCAC Article 54 also provides a strong international basis for states to implement deprivation without penalty, especially in cases where the perpetrator escapes or cannot be brought to court.

NCB's advantages include: the ability to quickly impoverish criminals, prevent asset loss, expand the scope of law enforcement across jurisdictions, and provide legal protection for third parties in good faith. All these advantages make the NCB a more adaptive model to modern financial crime.

International Comparative Model

Comparative analysis shows that various countries have succeeded in improving the effectiveness of asset recovery through the implementation of NCB or hybrid models.

United States: Civil forfeiture mechanisms have been used to recover billions of dollars in assets from international narcotics and corruption. A lawsuit in rem allows the government

to sue assets suspected of being related to criminal acts, regardless of the status of the perpetrator.

Ireland: Through the Criminal Assets Bureau (CAB), it has successfully suppressed organised crime activities using the NCB approach supported by cross-agency investigations and strong financial analysis capabilities [5].

South Korea: Implementing a hybrid model that combines elements of criminal forfeiture and civil forfeiture to improve the flexibility and effectiveness of asset recovery [11].

The success of these countries gives an idea that the implementation of NCB is not only feasible, but also provides strategic advantages in the context of global AML.

The Ideal Model of Indonesia's Asset Forfeiture Bill

The ideal model of the Asset Forfeiture Bill should combine an in rem approach with protection of the rights of third parties in good faith. A balance of probabilities standard of proof should be adopted to provide proportionate flexibility of proof.

Based on comparative studies and the Academic Manuscript of Bill 27, this model should include several fundamental elements; Asset Search, Blocking, and Seizure: The authority is given to investigators or public prosecutors to search assets and order blocking to the authorities if there is a strong suspicion. Blocking can be followed by confiscation in accordance with laws and regulations (Ramelan, 2012). Forfeiture of Assets: An application for forfeiture is filed by the public prosecutor in the district court. This mechanism can be applied in conditions where the suspect/defendant dies, escapes, is permanently ill, whose whereabouts are unknown, or is decided to be released from all charges (Ramelan, 2012). Reverse Proof: The burden of proof is transferred to the owner or party who controls the asset to prove that the property does not come from a criminal act. Asset Management: A professional and accountable Asset Management Institution (LPA) is established to store, secure, and maintain the value of seized assets. Protection of Third Parties: Third parties in good faith may object and are obliged to prove their ownership rights to the assets to be seized and International Cooperation: Strengthening international cooperation for the search, blocking, and seizure of assets located abroad, based on bilateral or multilateral agreements and the principle of reciprocity (Ramelan, 2012).

However, it is important to note that the application of the NCB should not eliminate criminal proceedings against the perpetrators. Both can run simultaneously to ensure that both state assets and criminals receive appropriate punishment.

In addition, an independent asset management institution is needed to ensure that the value of assets is not eroded during the legal process. The integration of financial intelligence technology, beneficial ownership registry (OECD, 2019), and interagency coordination mechanisms must be the main pillars in regulatory design. By adopting this model, Indonesia can build an asset recovery system that is more responsive, modern, and able to deal with the dynamics of financial crime in the digital era.

CONCLUSION

Indonesia's asset recovery regime in money laundering cases remains ineffective at the substantive, structural, and cultural levels, primarily due to its reliance on criminal forfeiture under Law No. 8 of 2010, which requires proof beyond a reasonable doubt—a standard ill-

suited to the complex, transnational, and technology-driven nature of modern money laundering (TPPU). This misalignment reflects weaknesses in legal effectiveness, including rigid legal structures, unadaptive legal substance, and a legal culture that has not fully embraced the follow the money paradigm, as evidenced by the significant gap between suspicious transaction values and recovered assets reported by PPATK. The persistence of asset dissipation and obstacles in tracing, freezing, and seizing assets further highlight the inadequacy of the current system. This study finds that non-conviction-based asset forfeiture (NCB) provides a more flexible and effective alternative, consistent with international standards such as FATF and UNCAC, and successfully implemented in countries like the United States, Ireland, and South Korea, as it focuses on assets rather than perpetrators and allows recovery even in the absence of criminal conviction. Therefore, Indonesia urgently needs to enact the Asset Forfeiture Bill incorporating NCB mechanisms, alongside strengthening institutional capacity, inter-agency coordination, and establishing a professional asset management body to enhance recovery outcomes and legal resilience. Future research should focus on the practical design and implementation challenges of NCB in Indonesia, particularly regarding safeguards for due process, institutional readiness, and the integration of financial intelligence into civil forfeiture proceedings.

REFERENCES

- Al-khawatreh, A., & Al-Ghoiwari, A. I. Y. M. (2026). Modern Technologies in Enhancing the Oversight of Money Laundering Crimes and Their Social Impact. In *Artificial Intelligence for Sustainable Innovation Management and Risk Management: A Systems (and Network) Perspective* (pp. 859–873). Springer.
- Mugarura, N., & Ssali, E. (2021). Intricacies of anti-money laundering and cyber-crimes regulation in a fluid global system. *Journal of Money Laundering Control*, 24(1), 10–28.
- Pramanik, M. I., Ghose, P., Hossen, M. D., Ahmed, M. H., Rahman, M. M., & Bhuiyan, M. R. (2025). Emerging Technological Trends in Financial Crime and Money Laundering: A Bibliometric Analysis of Cryptocurrency's Role and Global Research Collaboration. *Journal of Posthumanism*, 5(6), 3611–3633.
- Sittlington, S., & Harvey, J. (2018). Prevention of money laundering and the role of asset recovery. *Crime, Law and Social Change*, 70(4), 421–441.
- Sproat, P. A. (2009). To what extent is the UK's anti-money laundering and asset recovery regime used against organised crime? *Journal of Money Laundering Control*, 12(2), 134–150.
- Wronka, C. (2022). “Cyber-laundering”: the change of money laundering in the digital age. *Journal of Money Laundering Control*, 25(2), 330–344.
- Zolkafllil, S., Syed Mustapha Nazri, S. N. F., & Omar, N. (2023). Asset recovery practices in combating money laundering: evidence from FATF mutual evaluation report of FATF member countries of Asia pacific region. *Journal of Money Laundering Control*, 26(1), 24–34.
- Achmad Ali. (2019). *Menguak teori hukum dan teori peradilan*. Kencana.
- Basel Institute on Governance. (2021). *Crypto-based money laundering typologies and asset recovery challenges*. Basel Institute.
- CAB Ireland. (2020). *Annual report of the Criminal Assets Bureau*. Government of Ireland.

- Europol. (2022). *From cash to crypto: The evolution of money laundering in Europe*. Europol.
- Global Financial Integrity. (2020). *Trade-based money laundering: A global challenge*. GFI.
- Greenberg, T. S., Brun, J.-P., Gray, L., & Scott, C. (2009). *Stolen asset recovery: A good practices guide for non-conviction based asset forfeiture*. The World Bank.
- Harvard Law Review. (2018). Civil asset forfeiture: A modern-day piracy. *Harvard Law Review*, 131(5), 1555–1578.
- Husein, Y. (2019). *Penjelasan hukum tentang perampasan aset tanpa pemidanaan dalam perkara tindak pidana korupsi*. PSHK & USAID CEGAH.
- Husein, Y., & Roberts, K. (2021). *Tipologi dan perkembangan tindak pidana pencucian uang*. RajaGrafindo Persada.
- OECD. (2019). *Global forum on transparency and exchange of information for tax purposes: Peer review report on the exchange of information on request*. OECD Publishing.
- Ramelan. (2012). *Naskah akademik rancangan undang-undang tentang perampasan aset tindak pidana*. Badan Pembinaan Hukum Nasional.
- Rose, C. (2024). Progressive development of international law on the return of stolen assets. *European Journal of International Law*, 35(3), 701–732.
- Sudarto. (2017). Mekanisme perampasan aset dengan menggunakan non-conviction based asset forfeiture sebagai upaya pengembalian kerugian negara akibat tindak pidana korupsi. *Jurnal Pasca Sarjana Hukum UNS*, V(1), 111.
- World Bank. (2021). *Asset recovery handbook: A guide for practitioners*. The World Bank.