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Legal Limits and Criteria for Settlement Fines in Corruption Cases Detrimental to the State Economy

Batas Hukum dan Kriteria Denda Damai terhadap Korupsi yang Merugikan Perekonomian Negara

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Abstract: The proposed application of settlement fines to corruption cases involving national economic losses raises concerns about economic recovery and criminal accountability. This study examines the legal limits of settlement fines and formulates objective and subjective eligibility criteria. Employing normative legal research with statutory and conceptual approaches, legal materials are examined through prescriptive analysis. The findings indicate that settlement fines cannot be extended to corruption through prosecutorial discretion without explicit legislative authorization. The proposed eligibility framework considers offense classification, verified losses, financial capacity, offender cooperation, acknowledgment of responsibility, individual involvement, and criminal history. A preliminary loss threshold of IDR 100 million is proposed for individual offenders, while corporate offenders require stricter institutional scrutiny without a fixed monetary ceiling. The study concludes that implementing settlement fines in corruption cases requires legislative reform establishing clear eligibility standards, proportional recovery obligations, independent oversight, and enforceable compensation mechanisms to reconcile economic recovery with legal certainty and criminal accountability.

Keywords: Corruption; Economic Recovery; National Economic Losses; Prosecutorial Authority; Settlement Fines

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INTRODUCTION

The application of settlement fines (*denda damai*) to corruption offenses causing losses to the national economy presents a fundamental legal problem concerning the scope of prosecutorial authority and the limits of criminal liability under Indonesian law. Article 35(1)(k) of Law No. 11 of 2021 concerning the Amendment to the Prosecutor's Office Law authorizes the Attorney General to handle criminal offenses causing losses to the national economy and to apply settlement fines in economic crimes in accordance with statutory provisions. This authority provides a legal foundation for resolving certain economic offenses outside judicial proceedings through financial payments approved by the Attorney General. Its procedural recognition has

subsequently been strengthened by Articles 65 and 66 of Law No. 20 of 2025 concerning the Criminal Procedure Code, which recognize settlement fines as an extrajudicial case-termination mechanism subject to the applicable legislation. Nevertheless, these provisions do not expressly establish whether corruption offenses causing national economic losses fall within the category of economic crimes eligible for such settlements. This uncertainty raises a fundamental question regarding the permissible boundaries of prosecutorial discretion, particularly when settlement fines are intended not merely to terminate criminal proceedings but also to restore economic losses arising from corruption (Gunawan, 2023).

The uncertainty becomes more complex when the prosecutorial authority to impose settlement fines is examined alongside the substantive principles governing corruption offenses. Article 4 of Law No. 31 of 1999 concerning the Eradication of Corruption expressly establishes that the recovery of state financial or economic losses does not eliminate criminal liability for corruption. Furthermore, the entry into force of Law No. 1 of 2023 concerning the Criminal Code, as adjusted by Law No. 1 of 2026, requires the legal construction of corruption offenses to be examined in light of Articles 603 and 604, which replace the principal offense provisions previously contained in Articles 2(1) and 3 of the Anti-Corruption Law. A further limitation arises under Article 82 of Law No. 20 of 2025, which excludes corruption offenses from the statutory restorative justice mechanism. Although settlement fines and restorative justice constitute distinct procedural mechanisms, their shared emphasis on recovery creates a normative tension when financial settlement is proposed as an alternative to criminal prosecution. Consequently, the existence of prosecutorial authority under the Prosecutor's Office Law cannot automatically be interpreted as authorization to terminate corruption proceedings through settlement fines without a sufficiently specific legal basis. This tension demonstrates the need to distinguish economic recovery as an objective of criminal enforcement from the legal consequences of terminating criminal liability (Handrawan, 2025).

An additional legal complication arises from the conceptual distinction between losses to state finances and losses to the national economy. State financial losses generally concern measurable reductions in public assets or financial resources, whereas national economic losses may extend to disruptions in economic activities, market structures, investment, resource allocation, and public welfare. The latter category therefore encompasses economic consequences that cannot always be identified through conventional financial auditing or expressed as direct losses to the state treasury. The statutory recognition of national economic losses as an element of corruption offenses has nevertheless generated uncertainty regarding the boundaries of the

concept and the evidentiary standards required to establish such losses. These difficulties arise because economic losses frequently involve indirect consequences and broader economic relationships that require interpretation beyond conventional public financial accounting (Rachman & Raspati, 2021). In corruption offenses involving natural resources, the problem becomes particularly significant because environmental degradation, diminished community income, and reduced access to productive resources may generate economic consequences extending beyond direct government expenditure. Establishing these consequences therefore requires a legally accountable assessment supported by relevant economic and scientific evidence rather than speculative calculations (Azrina et al., 2026).

The distinction between these categories of losses has significant implications for the effectiveness of corruption enforcement and the design of appropriate recovery mechanisms. Conventional criminal sanctions, including imprisonment, confiscation of criminal proceeds, and additional compensation payments, serve important punitive and corrective functions. However, the recovery of illegally obtained assets does not necessarily restore the wider economic conditions affected by corruption, particularly where unlawful conduct has disrupted economic activities or caused environmental and social damage. This limitation raises questions concerning whether criminal enforcement should incorporate recovery mechanisms capable of addressing losses suffered by the state and affected communities without reducing the deterrent function of criminal sanctions. From the perspective of economic analysis of law, the consequences of criminal conduct and the costs of enforcement must be considered when evaluating the proportionality and effectiveness of legal sanctions. Financial penalties may provide an alternative means of allocating the economic burden of unlawful conduct to offenders, but their effectiveness depends on the probability of enforcement, the magnitude of sanctions, and the relationship between punishment and the social costs of crime (Becker, 1968). Accordingly, the proposed application of settlement fines requires an assessment that extends beyond procedural efficiency to include adequate compensation, deterrence, and substantive justice.

The need for a more responsive recovery mechanism is particularly relevant to corruption offenses affecting economic sectors in which delays in restoring damaged resources or disrupted activities may increase the losses experienced by society. Prolonged criminal proceedings can create additional enforcement costs while leaving broader economic consequences unresolved. Within this context, the principle of speedy justice offers a rationale for considering alternative case-resolution mechanisms that prioritize timely recovery and efficient allocation of enforcement resources. Nevertheless, the pursuit of efficiency cannot justify the indiscriminate

substitution of criminal prosecution with financial settlements. A settlement mechanism that permits offenders to avoid prosecution merely because they possess sufficient financial resources may weaken deterrence, create unequal treatment, and undermine public confidence in anti-corruption enforcement. Such risks become more serious in corporate corruption cases involving substantial economic losses, where financial capacity does not necessarily correspond to the gravity of the offense. Therefore, the application of settlement fines must be conditioned upon clearly defined eligibility requirements, proportional financial obligations, and transparent institutional supervision. The reconstruction of prosecutorial settlement mechanisms consequently requires a balance between procedural efficiency, economic recovery, legal certainty, and accountability (Utomo et al., 2026).

Previous legal studies have examined settlement fines and economic losses from several perspectives. Research on the legal meaning of national economic losses emphasizes the conceptual uncertainty surrounding economic harm and the difficulties of interpreting such losses within Indonesian anti-corruption legislation (Rachman & Raspati, 2021). Regarding prosecutorial authority, research on settlement fines in economic crimes identifies the Attorney General's discretionary authority and examines the procedural requirements concerning eligible offenses, institutional competence, implementation stages, and settlement conditions (Gunawan, 2023). More specifically, research addressing the application of settlement fines to corruption highlights the normative tension between the Prosecutor's Office Law and the Anti-Corruption Law, particularly the prohibition against treating the return of state losses as a ground for eliminating criminal liability. That research emphasizes regulatory harmonization as a necessary condition for ensuring legal certainty and maintaining the deterrent function of corruption enforcement (Handrawan, 2025). These studies provide an important doctrinal foundation for examining the relationship between prosecutorial discretion, criminal accountability, and economic recovery.

Further research has developed alternative approaches to resolving corruption offenses through settlement-oriented mechanisms. A study concerning petty corruption proposes the reformulation of criminal enforcement through settlement fines, emphasizing proportionality between the value of state losses, enforcement costs, and the objectives of substantive justice (Marlina et al., 2025). Another study develops a broader reconstruction of settlement fines based on prosecutorial discretion, restorative and transformative justice, institutional accountability, and Islamic legal ethics (Utomo et al., 2026). Meanwhile, research addressing corruption in the natural resources sector concentrates on the evidentiary difficulties of establishing national

economic losses and the need for multidisciplinary methods of assessment (Azrina et al., 2026). Although these studies contribute to the development of alternative criminal enforcement and economic recovery mechanisms, they approach the problem primarily through separate analyses of prosecutorial authority, regulatory harmonization, minor corruption, institutional reform, or the quantification of economic losses. The relationship between the legal eligibility of corruption offenses involving national economic losses, the characteristics of offenders, and the conditions necessary to preserve criminal accountability therefore requires further integrated examination.

Based on these studies, the research gap addressed in this article concerns the absence of a sufficiently integrated normative assessment connecting the legal limits of settlement fines in corruption cases with differentiated eligibility criteria based on the characteristics of economic losses and offenders. This study does not merely reconsider whether settlement fines may serve as an alternative enforcement mechanism, but examines the legal conditions under which their proposed application could be justified without undermining the substantive prohibitions governing corruption offenses. Its proposed contribution lies in constructing an eligibility framework that integrates objective criteria, including the classification of offenses, the magnitude and characteristics of economic losses, and financial recovery capacity, with subjective criteria encompassing offender cooperation, acknowledgment of responsibility, individual involvement, and previous criminal conduct. Particular attention is given to differentiating individual and corporate offenders, ensuring proportionality between settlement obligations and the economic harm caused, and establishing safeguards against discriminatory or abusive prosecutorial discretion. Through this framework, economic recovery is positioned as a legally regulated objective that must remain consistent with criminal accountability rather than an independent justification for terminating prosecution.

Based on this background, this study aims to achieve two principal objectives. First, to analyze the legal limits of applying settlement fines to corruption offenses causing losses to the national economy by examining the relationship between prosecutorial authority, the legal characteristics of economic losses, and the principles of criminal liability under Indonesian law. Second, to formulate objective and subjective eligibility criteria for the proposed application of settlement fines that accommodate the urgency of economic recovery while maintaining legal certainty, proportionality, and public accountability. To achieve these objectives, the article first examines the normative boundaries of settlement fines within Indonesia's evolving criminal law framework, particularly the distinction between recovering economic losses and terminating criminal proceedings. It subsequently develops a structured eligibility model integrating the

characteristics of offenses and offenders with recovery obligations and institutional safeguards. This analysis is intended to contribute to the legal reformulation of settlement fines as a carefully regulated mechanism rather than an unrestricted exercise of prosecutorial discretion.

RESULTS AND DISCUSSION

Legal Limits of Settlement Fines in Corruption Causing National Economic Losses

The legal limits of applying settlement fines to corruption offenses causing losses to the national economy must be examined through the relationship between the characteristics of economic losses, the source of prosecutorial authority, and the principles governing criminal liability. Fundamentally, the concept of national economic loss extends beyond the reduction of public financial resources because corruption may interfere with economic activities, resource allocation, market stability, and the welfare of communities affected by unlawful conduct. Article 33 of the 1945 Constitution of the Republic of Indonesia places the national economy within a constitutional framework oriented toward collective welfare and the utilization of economic resources for public prosperity. Accordingly, corruption that disrupts economic activities may produce consequences that cannot be adequately represented solely by the amount of public funds misappropriated. Nevertheless, the recognition of broader economic consequences does not automatically establish a legal basis for terminating criminal proceedings through financial settlements. The legality of settlement fines must therefore be determined independently from the existence of economic losses, particularly because the substantive requirements of corruption offenses and the procedural authority to terminate prosecution constitute different legal questions.

The distinction between state financial losses and national economic losses is essential for determining the nature and scope of recovery obligations. Article 1(22) of Law No. 1 of 2004 concerning the State Treasury defines state financial losses in terms of a definite and measurable shortage of money, securities, or goods resulting from unlawful conduct, whether intentional or negligent. In contrast, the concept of national economic losses under the Anti-Corruption Law encompasses broader economic interests associated with government policies, community economic activities, and the realization of public welfare. This distinction indicates that financial losses are generally identifiable through the reduction of state-controlled financial resources, whereas economic losses may arise through disturbances to production, distribution, investment, public services, and the productive capacity of affected communities. The two categories are not mutually exclusive, however, because a single act of corruption may simultaneously reduce public financial resources and generate wider economic consequences. The conceptual

uncertainty surrounding the meaning of national economic losses demonstrates the necessity of establishing identifiable economic interests and measurable indicators before such losses can constitute the basis of legal responsibility (Rachman et al., 2023).

The broader characteristics of national economic losses become particularly apparent in corruption involving strategic economic sectors and natural resources. Unlawful exploitation of public resources may not only reduce government revenue but also interfere with productive activities, diminish community income, and generate environmental damage whose economic consequences persist beyond the immediate criminal act. For example, corruption associated with the unlawful issuance of natural resource permits may facilitate activities that damage ecosystems and impair the livelihoods of communities dependent on those resources. In such circumstances, the loss suffered by society cannot necessarily be calculated by identifying the value of assets unlawfully obtained by offenders or the financial expenditure incurred by the government. Ecological degradation may involve diminished environmental services, restoration costs, and reduced access to economic resources. However, environmental damage cannot automatically be categorized as national economic loss arising from corruption unless the underlying conduct satisfies the elements of a corruption offense and a demonstrable causal relationship connects the unlawful conduct to the claimed economic consequences. The development of an ecologically responsive interpretation of state losses therefore requires legally accountable methods for establishing environmental harm and distinguishing it from other causes of economic deterioration (Jiwanti & Ervita, 2025).

The evidentiary implications of this distinction are closely connected to Constitutional Court Decision No. 25/PUU-XIV/2016, which eliminated the expression indicating merely potential losses from Articles 2(1) and 3 of the Anti-Corruption Law. This decision shifted the interpretation of the relevant corruption offenses toward the requirement of actual losses rather than hypothetical or speculative consequences. The constitutional interpretation requires prosecutors to establish that the prohibited conduct has produced a legally relevant loss and that the loss is causally attributable to the defendant's unlawful conduct. The requirement is particularly significant in cases involving national economic losses because the relationship between an unlawful act and economic deterioration may be influenced by multiple market, institutional, and environmental factors. Consequently, an assertion that corruption has disturbed the national economy cannot substitute for evidence identifying the affected economic activities, the relevant economic indicators, and the method used to calculate the resulting losses. Such evidentiary limitations demonstrate that the expansion of recoverable losses must remain

consistent with the constitutional requirement of legal certainty and the protection of individuals against liability based merely on estimated or potential harm (Fatkhurohman & Kurniawan, 2017).

The implementation of this evidentiary requirement also demands a distinction between financial auditing and economic loss assessment. State financial losses may be established through documentary evidence, financial examinations, and legally competent auditing institutions, whereas broader national economic losses may require economic expertise capable of evaluating disturbances to production, market transactions, community welfare, and the value of affected resources. In this context, economic experts may provide analytical methods for identifying the extent of losses, including changes in economic output, diminished productive capacity, and the costs associated with restoring affected economic activities. Nevertheless, expert calculations must be based on transparent assumptions, verifiable evidence, and a defensible causal framework. The absence of a universally applicable calculation method creates the risk that different experts may produce substantially different valuations of the same economic consequences. Therefore, the probative value of economic loss assessments must depend not merely on the professional qualifications of the experts but also on the validity of the methods employed and their relationship to the legal elements of the offense. The integration of legal interpretation and economic expertise is essential to prevent the concept of national economic losses from becoming an unrestricted basis for criminal liability or financial recovery claims (Katimin et al., 2024).

Table 1. Legal Characteristics of State Financial Losses and National Economic Losses

Description	State Financial Losses	National Economic Losses
Legal characteristics	A measurable reduction in state financial resources or assets	Economic harm involving activities, interests, or resources relevant to national economic welfare
Scope of impact	State-controlled money, securities, goods, or financial resources	Production, distribution, economic activities, community welfare, and potentially environmental services
Nature of losses	Actual and ascertainable financial losses	Actual economic consequences, which may be direct, indirect, or systemic
Assessment methods	Financial examination, accounting, and authorized audit procedures	Economic valuation, sectoral assessment, and interdisciplinary expert analysis
Evidentiary requirements	Proof of actual losses and their causal connection to unlawful conduct	Proof of actual economic harm, causal attribution, and the reliability of the valuation method
Implications for recovery	Restoration of identifiable public financial losses	Potential restoration of broader economic harm, subject to the applicable legal basis and proof

Principal legal limitation	Financial loss calculations must satisfy the relevant legal and evidentiary requirements	Economic valuation cannot rely solely on speculative projections or automatically establish eligibility for settlement fines

Source: Processed by Author, 2026.

The legal characteristics presented in Table 1 demonstrate that national economic losses require a broader assessment than conventional financial losses, while remaining subject to the same fundamental demand for reliable evidence. This distinction has direct consequences for the formulation of settlement fines because determining the amount of financial compensation requires a prior determination of the economic harm attributable to the offense. In corruption cases involving state finances, recovery may focus on identifiable financial losses and the proceeds of unlawful conduct. In contrast, corruption involving broader economic consequences may require consideration of the losses experienced by affected communities and the costs necessary to restore disrupted economic activities. However, these broader categories must not be added indiscriminately because overlapping calculations may result in double recovery or disproportionate financial obligations. The formulation of national economic losses therefore requires the separation of legally established losses, consequential economic damage, and restoration expenditures, supported by a transparent valuation methodology. Research on the reformulation of national economic losses similarly identifies the absence of clear normative boundaries and standardized calculation methods as significant obstacles to consistent corruption enforcement (Rahmadi et al., 2025).

The legal basis for applying settlement fines is principally established in Article 35(1)(k) of Law No. 11 of 2021 concerning the Amendment to the Prosecutor's Office Law. This provision grants the Attorney General the authority to handle criminal offenses causing losses to the national economy and permits the application of settlement fines to economic crimes in accordance with statutory regulations. The provision contains two related but legally distinct components. The first concerns the Attorney General's competence to handle offenses affecting the national economy, while the second concerns the use of settlement fines as a specific mechanism for resolving economic offenses. These components cannot be interpreted as granting an unrestricted power to terminate every prosecution involving economic harm. The explanatory provision defines settlement fines as the termination of cases outside judicial proceedings through the payment of fines approved by the Attorney General, while connecting their use to the principle of prosecutorial opportunity in taxation, customs, or other economic offenses recognized by legislation. Accordingly, the classification of corruption as an offense producing economic losses is insufficient, by itself, to establish that the offense is eligible for settlement fines.

The applicable law must also provide an adequate legal foundation for the consequences of such settlement.

The distinction becomes clearer when settlement mechanisms under sectoral economic legislation are examined. Article 44B of the taxation legislation, as amended by Law No. 7 of 2021 concerning the Harmonization of Tax Regulations, permits the Attorney General, upon the request of the Minister of Finance, to terminate investigations concerning specified taxation offenses after the relevant tax losses and administrative sanctions have been paid. Comparable mechanisms exist within customs and excise legislation, subject to the particular requirements established by each regulatory framework. These arrangements demonstrate that settlement-oriented enforcement is not based solely on an abstract principle of efficiency or the discretionary preferences of law enforcement officials. Instead, its implementation depends on statutory provisions identifying eligible offenses, the competent authorities, the financial obligations imposed, and the procedural consequences of payment. The significance of these sectoral provisions lies in the legislative determination that particular economic violations may be resolved through defined financial obligations in the interest of public revenue. Consequently, extending an analogous mechanism to corruption would require a legal construction capable of addressing the specific nature of corruption offenses rather than simply transferring a settlement mechanism from taxation or customs law.

The enactment of Law No. 20 of 2025 concerning the Criminal Procedure Code strengthens the procedural recognition of settlement fines. Article 65 identifies the settlement of fines among the powers of public prosecutors, while Article 66(1) defines settlement fines as an extrajudicial mechanism for terminating cases through the payment of fines approved by the Attorney General in accordance with statutory provisions. Article 66(2) further requires the procedural implementation of settlement fines to be regulated by a Government Regulation. Nevertheless, this procedural recognition does not resolve the substantive question of which corruption offenses, if any, can lawfully be subjected to such settlements. The Criminal Procedure Code also distinguishes settlement fines from restorative justice as separate procedural mechanisms. In particular, Article 82 expressly excludes corruption offenses from the statutory restorative justice mechanism. This exclusion does not automatically establish an identical prohibition for settlement fines, because the two mechanisms have distinct normative foundations. However, it prevents prosecutorial authorities from relying on the general provisions governing restorative justice to circumvent the substantive limitations imposed on corruption enforcement.

The principal restriction on the proposed use of settlement fines in corruption cases arises from Article 4 of Law No. 31 of 1999 concerning the Eradication of Corruption, which establishes that the return of state financial or economic losses does not eliminate criminal liability for the corruption offenses addressed by the relevant provisions. This principle must be interpreted alongside the development of the national criminal law framework following the entry into force of Law No. 1 of 2023 concerning the Criminal Code and Law No. 1 of 2026 concerning Criminal Penalty Adjustments. Under the revised framework, Articles 603 and 604 of the Criminal Code regulate the principal corruption offenses previously formulated in Articles 2(1) and 3 of the Anti-Corruption Law. These provisions preserve the importance of unlawful enrichment, abuse of authority, and the consequences of conduct affecting state finances or the national economy. The continuity of the prohibition against treating the return of losses as an automatic ground for eliminating criminal liability creates a fundamental limitation on any interpretation of settlement fines that would allow corruption proceedings to be terminated merely because offenders have fulfilled financial obligations.

From the perspective of the principle of legality, prosecutorial discretion cannot independently create an exemption from criminal liability where substantive legislation does not authorize such an exemption. The Attorney General's authority to exercise prosecutorial discretion and to set aside cases in the public interest must also be distinguished from the authority to terminate cases through settlement fines. The former concerns a specific exercise of prosecutorial power, whereas the latter is a financial settlement mechanism whose application is expressly conditioned upon the relevant statutory provisions. Treating these powers as interchangeable would obscure the legal foundation of prosecution termination and weaken the distinction between administrative settlement and criminal accountability. Accordingly, even where the financial settlement of a corruption case is considered desirable because of its potential economic benefits, those benefits cannot replace the statutory conditions governing criminal prosecution. The relationship between legal certainty and the institutional authority to determine losses further demonstrates that decisions affecting criminal liability must be grounded in legally recognized competence and procedures rather than the discretionary assessment of administrative convenience (Suta et al., 2021).

This normative restriction does not mean that the recovery of economic losses is incompatible with corruption enforcement. Rather, economic recovery and criminal accountability must be understood as complementary legal objectives that may require different procedural instruments. The United Nations Convention against Corruption recognizes

confiscation, the consequences of corrupt acts, and compensation for persons or entities harmed by corruption through Articles 31, 34, and 35. These provisions emphasize the importance of recovering unlawfully obtained assets and providing appropriate remedies for the consequences of corruption, while leaving implementation subject to domestic legal principles. Similarly, international analysis of civil and administrative liability mechanisms demonstrates that criminal punishment, financial recovery, and compensation may operate through complementary legal pathways rather than requiring the replacement of prosecution with negotiated settlements. The availability of civil or administrative remedies therefore provides a potential foundation for broader economic restoration without necessarily removing the criminal consequences of corruption (United Nations Office on Drugs and Crime, 2023).

The implications of this complementary approach are particularly relevant where corruption produces losses that cannot be remedied through the confiscation of criminal proceeds or the payment of money equivalent to the benefits unlawfully obtained. For instance, corruption involving environmental exploitation may generate direct financial losses, reduced community income, and costs associated with repairing damaged ecosystems. Although recovering the proceeds of unlawful conduct may deprive offenders of their economic gains, it does not necessarily restore the economic position of affected communities. Nevertheless, the imposition of additional financial obligations requires an identifiable legal foundation for determining the nature of compensable losses, the persons entitled to receive compensation, and the institutions responsible for administering recovery. Payment into the state treasury cannot automatically be equated with the restoration of affected economic activities, particularly when no mechanism ensures that recovered resources are allocated toward the relevant damage. Consequently, the legal reconstruction of settlement fines must distinguish between the collection of payments as a condition of case termination and the substantive restoration of economic losses. Without this distinction, settlement fines risk becoming instruments of fiscal collection rather than mechanisms capable of achieving comprehensive economic recovery.

The need for an effective economic recovery mechanism must also be balanced against the public interest in maintaining the deterrent function of corruption enforcement. Excessive reliance on financial settlement may create incentives for offenders to regard payment as an acceptable cost of unlawful economic activity, particularly where the expected benefits of corruption exceed the financial obligations imposed. This risk is especially significant in cases involving corporations with substantial financial capacity, because the ability to pay cannot itself justify exemption from criminal prosecution. Furthermore, resolving serious corruption cases

through settlements without adequate transparency may undermine public confidence and create the perception that criminal liability can be negotiated according to the economic resources of offenders. Therefore, any future expansion of settlement fines should be formulated through specific legislation that clearly identifies the eligible categories of corruption, distinguishes recovery obligations from punitive sanctions, and establishes procedures for assessing both the gravity of the offense and the public interest in prosecution. Such reformulation must also ensure that the rights of affected communities are not subordinated to the objective of recovering financial resources for the state.

Based on the foregoing analysis, the legal limits of settlement fines in corruption offenses causing national economic losses are determined by the interaction of substantive criminal law, prosecutorial competence, evidentiary requirements, and the legally recognized objectives of economic recovery. The broader characteristics of national economic losses justify the development of more comprehensive recovery instruments, but they do not independently authorize the termination of corruption proceedings. Article 35(1)(k) of the Prosecutor's Office Law and Articles 65–66 of the Criminal Procedure Code provide a general institutional and procedural foundation for settlement fines, while the Anti-Corruption Law and the Criminal Code establish the substantive limits within which criminal accountability must be maintained. Accordingly, the proposed application of settlement fines to corruption cannot be treated as an existing general prosecutorial entitlement. Its expansion requires an explicit legislative basis, clear eligibility requirements, reliable assessment of actual economic losses, and procedural safeguards capable of preventing the substitution of financial payments for criminal responsibility. Within these limits, economic recovery may be advanced as a complementary objective of corruption enforcement and, where specifically authorized by law, as part of a carefully regulated settlement mechanism that preserves legal certainty, proportionality, and substantive justice.

Objective and Subjective Criteria for Settlement Fine Eligibility and Economic Recovery

The formulation of objective and subjective criteria for settlement fine eligibility constitutes a fundamental requirement for ensuring that the proposed expansion of prosecutorial authority remains consistent with legal certainty, proportionality, and criminal accountability. As established in the preceding discussion, the existence of national economic losses does not automatically justify terminating corruption proceedings through financial settlements. The application of settlement fines must therefore be preceded by a legally structured assessment

capable of distinguishing offenses that may be considered for alternative resolution from those requiring ordinary criminal prosecution. This distinction is particularly important because corruption offenses vary considerably in terms of financial consequences, the degree of individual involvement, institutional abuse, and the broader economic harm imposed upon society. From the perspective of the economic theory of public law enforcement, the determination of appropriate sanctions must consider the probability of detection, the magnitude of punishment, enforcement costs, and the consequences of unlawful conduct. However, economic efficiency cannot independently determine whether criminal liability may be extinguished, because the legality of alternative resolution remains dependent on substantive criminal law (Polinsky & Shavell, 2000). Accordingly, the proposed settlement fine mechanism requires cumulative legal, objective, and subjective conditions rather than discretionary assessments based solely on the willingness of offenders to compensate the state.

The objective criteria primarily concern the classification of criminal offenses, the magnitude and characteristics of economic losses, and the offender's capacity to fulfill legally determined recovery obligations. The first requirement is that the offense must belong to a category expressly authorized by legislation for settlement-based resolution. This condition is indispensable because Article 35(1)(k) of Law No. 11 of 2021 and Article 66 of Law No. 20 of 2025 do not automatically establish the eligibility of corruption offenses merely because the conduct produces adverse economic consequences. Consequently, the proposed expansion of settlement fines must be treated as a legislative reformulation that identifies specific eligible offenses and establishes corresponding limitations. Within such a framework, offenses involving systematic abuse of public office, organized corruption, repeated unlawful conduct, or substantial harm to essential public services should be subject to particularly restrictive assessment. The seriousness of corruption cannot be determined exclusively by the amount of financial loss, because relatively limited monetary losses may nevertheless arise from conduct involving coercion, institutional manipulation, or the deliberate exploitation of vulnerable communities. The classification of eligible offenses should therefore consider both the financial consequences and the substantive gravity of the unlawful conduct.

The second objective criterion concerns the identification and calculation of actual losses attributable to the corruption offense. In contrast to conventional financial losses, which may be assessed through financial records and authorized auditing procedures, national economic losses may involve diminished productive capacity, disrupted market activities, community income losses, and expenses associated with environmental restoration. The determination of settlement

obligations therefore requires an assessment that identifies the affected economic interests, establishes a causal relationship between the unlawful conduct and the resulting damage, and distinguishes legally compensable losses from speculative economic projections. This assessment should be supported by competent financial auditors and relevant economic or environmental experts, according to the characteristics of the case. The involvement of economic expertise does not eliminate the requirement for legal verification, because an economic estimate cannot independently establish the elements of a corruption offense or determine the legal consequences of prosecution. Accordingly, the valuation of national economic losses must remain subject to transparent methodological assumptions, documentary evidence, and procedures for reviewing or contesting expert findings. Without reliable loss determination, settlement fines risk becoming negotiated financial obligations that lack a defensible relationship to the actual harm caused by corruption.

The third objective criterion concerns the differentiation between individual and corporate offenders. For individual offenders, this study proposes a maximum loss threshold of Rp100,000,000 as a preliminary eligibility parameter for corruption cases involving relatively limited losses. This threshold reflects the dissertation's proposed distinction between minor corruption and cases involving more extensive economic consequences, as well as the concern that conventional prosecution may impose disproportionate procedural costs in relatively small cases. The prioritization of major and continuing corruption cases was previously addressed through the Junior Attorney General for Special Crimes Circular No. B-1113/F/Fd.1/05/2010, which emphasized enforcement priorities and the consideration of relatively limited state losses. Nevertheless, an internal prosecutorial circular cannot independently establish a statutory exemption from criminal liability, and the proposed Rp100,000,000 threshold must not be presented as an existing general legal condition for terminating corruption cases through settlement fines. Its adoption would require a sufficiently specific legislative basis, particularly because Article 4 of Law No. 31 of 1999 prevents the return of state financial or economic losses from automatically eliminating criminal responsibility.

The proposed monetary threshold must also be interpreted as a restrictive screening instrument rather than an entitlement to settlement. An individual offender whose unlawful conduct causes losses below Rp100,000,000 should not automatically qualify for settlement fines if the offense involves serious abuse of authority, repeated misconduct, deliberate obstruction of justice, or substantial non-financial harm. Conversely, the existence of a relatively small financial loss does not necessarily imply that the offense has produced equally limited social and

institutional consequences. A corruption offense involving public services, for example, may undermine administrative integrity and community access to essential services despite a comparatively modest financial valuation. The economic rationale for differentiating offenses by their financial magnitude must therefore be complemented by an assessment of culpability and public interest. Research on the proposed use of deferred prosecution agreements for village fund corruption similarly demonstrates that monetary thresholds may serve as preliminary instruments for differentiating case-handling mechanisms, although their normative justification and compatibility with statutory requirements remain essential considerations (Sudarti et al., 2026). Thus, the proposed Rp100,000,000 threshold should operate only within a legally authorized framework and cannot replace a substantive evaluation of the seriousness of the offense.

Different considerations arise in corruption cases involving corporations. The dissertation proposes that corporate offenders should not be subjected to a predetermined maximum value of economic losses when assessing the potential application of settlement fines. This differentiation is based on the characteristics of corporate economic activity, which may involve substantial financial transactions, complex organizational structures, and broader economic consequences than those commonly associated with individual petty corruption. However, the absence of a monetary ceiling must not be interpreted as unrestricted eligibility for corporate settlement. Allowing a corporation to terminate corruption proceedings regardless of the magnitude of the damage merely because it possesses sufficient financial resources would risk transforming settlement fines into a mechanism through which economically powerful offenders purchase immunity from criminal prosecution. The ethical difficulties surrounding negotiated corporate criminal resolutions become particularly significant when serious corruption is resolved through financial arrangements that appear insufficiently responsive to the gravity of the misconduct (De Vita & Vozza, 2024). Accordingly, the absence of a fixed corporate loss ceiling should be accompanied by heightened scrutiny of offense severity, institutional responsibility, repeated violations, the involvement of corporate management, and the wider consequences for public welfare.

The differentiation between individual and corporate offenders must additionally consider the procedural mechanism already recognized under Indonesia's current criminal procedure framework. Article 328 of Law No. 20 of 2025 establishes Deferred Prosecution Agreements as a mechanism applicable to offenses committed by corporations, with the objective of promoting legal compliance, recovering criminal losses, and improving procedural efficiency. Unlike

settlement fines under Article 66, this mechanism requires judicial assessment of the agreement, including the proportionality of imposed obligations and their consequences for victims, society, the environment, and the national economy. The agreement may also require compensation, restitution, improvements in corporate anti-corruption compliance, and cooperation with law enforcement authorities. These provisions demonstrate the importance of distinguishing the proposed expansion of settlement fines from an existing mechanism of conditional prosecution deferral. Although Article 328 provides a procedural foundation for corporate deferred prosecution, its application to particular corruption offenses must still be examined for consistency with the applicable substantive criminal legislation. Furthermore, deferred prosecution and settlement fines cannot be treated as interchangeable mechanisms because they differ in their procedural consequences, supervisory arrangements, and conditions for terminating proceedings.

The relevance of corporate deferred prosecution to the proposed settlement fine model lies primarily in its emphasis on conditional compliance and institutional accountability. International experience demonstrates that negotiated corporate resolutions may provide mechanisms for obtaining financial recovery and organizational reform without immediately imposing the collateral consequences associated with criminal conviction. Nevertheless, such arrangements also generate concerns regarding excessive prosecutorial discretion, insufficient judicial oversight, and unequal treatment among offenders. The imposition of obligations through negotiated resolutions may effectively allow prosecutors to exercise regulatory authority beyond the boundaries normally associated with criminal prosecution, particularly where external supervision is limited (Arlen, 2016). Accordingly, the proposed expansion of settlement fines to corporate corruption must incorporate procedural safeguards capable of preventing arbitrary negotiations and ensuring that settlement obligations remain proportionate to the economic harm and organizational misconduct involved. The corporate offender's economic importance may be relevant when assessing collateral consequences for employees, consumers, and affected communities, but it must not constitute an independent justification for exempting the corporation or its responsible officers from legal accountability.

The final objective criterion concerns financial capacity and the proportionality of settlement obligations. The offender must possess an objectively verifiable capacity to satisfy the financial requirements imposed under the proposed settlement mechanism. For individual offenders, financial capacity may be assessed through the ownership of assets, lawful income, and available resources. For corporations, the assessment may include financial statements, asset

ownership, liquidity, beneficial ownership arrangements, and the ability to finance economic or environmental restoration. Nevertheless, the offender's capacity to pay must be distinguished from the amount of compensation legally owed. Financial capability cannot justify reducing the established value of economic losses merely to facilitate settlement, nor should superior financial resources provide preferential access to alternative criminal resolution. The monetary obligations imposed must reflect the legally established consequences of the offense, while the offender's financial condition determines whether those obligations can realistically be performed and secured. The application of these requirements should prevent settlement fines from becoming a discriminatory mechanism that benefits financially capable offenders at the expense of legal equality.

In addition to these objective requirements, the proposed mechanism must incorporate subjective criteria that assess the conduct, responsibility, and criminal history of offenders. The first subjective criterion concerns the degree of cooperation demonstrated during the investigation and assessment of losses. Cooperation should be established through observable conduct, including the voluntary provision of relevant documents, the identification of unlawfully obtained assets, assistance in clarifying corporate transactions, and the absence of attempts to obstruct evidence collection. The offender's willingness to participate in economic recovery may provide an indication of responsibility, but mere expressions of cooperation should not be considered sufficient. In negotiated corporate criminal settlements, voluntary disclosure and cooperation are frequently considered alongside remediation and institutional compliance measures, although such considerations remain dependent on clearly defined prosecutorial standards (OECD, 2021). Consequently, the proposed Indonesian settlement fine model should require cooperation to be documented and independently verifiable rather than assessed solely through discretionary judgments concerning the offender's attitude.

The second subjective criterion concerns acknowledgment of responsibility and the offender's willingness to repair the consequences of unlawful conduct. The significance of acknowledgment lies in establishing that financial recovery is accompanied by a meaningful acceptance of responsibility rather than a purely transactional attempt to avoid prosecution. Nevertheless, such acknowledgment must be obtained voluntarily and must not undermine the presumption of innocence or procedural rights. A settlement mechanism should not require individuals to make involuntary admissions or surrender essential procedural protections merely as a condition for avoiding ordinary prosecution. The tension between negotiated criminal resolutions and the presumption of innocence demonstrates the importance of ensuring

that admissions of relevant facts are supported by evidence and subject to adequate procedural safeguards (Shiner & Ho, 2018). Accordingly, any proposed requirement concerning acknowledgment of responsibility should be accompanied by access to legal assistance, clear information regarding legal consequences, and a procedure for examining whether the agreement reflects the offender's voluntary and informed decision.

The third subjective criterion concerns the offender's position and degree of participation in the criminal conduct. In corruption involving public institutions or corporations, criminal responsibility may differ between individuals who design and control unlawful schemes and those whose participation is limited to executing instructions under circumstances of restricted authority. This distinction should not automatically absolve subordinate participants, but it is relevant to evaluating the seriousness of individual culpability and the appropriateness of alternative resolution. The application of settlement fines should therefore distinguish principal organizers, beneficiaries, decision-makers, and subordinate participants based on their actual involvement and the available evidence. Individuals who exercise substantial control over corrupt transactions or deliberately organize systematic misconduct should not be treated as equivalent to participants whose culpability is comparatively limited. In corporate cases, institutional settlement must likewise be distinguished from the personal criminal responsibility of directors, managers, and other individuals involved in the offense. Research on non-trial resolutions for transnational corporate bribery identifies the risk that negotiated corporate settlements may prioritize institutional efficiency while leaving broader questions of responsibility and public justice insufficiently addressed (Lord, 2023).

The fourth subjective criterion concerns the offender's criminal history, particularly whether the offense constitutes repeated corruption or forms part of continuing unlawful conduct. Repeated misconduct indicates a greater concern regarding the offender's willingness to comply with legal obligations and raises questions about the effectiveness of financial settlement as a deterrent. Accordingly, prior convictions, established patterns of unlawful conduct, and documented failures to comply with previous legal obligations should be considered when determining eligibility. The possibility of subsequent misconduct also demonstrates why the effectiveness of negotiated resolutions cannot be assessed solely through the amount of money recovered. An empirical study examining deferred prosecution and non-prosecution agreements in United States corporate criminal cases identified an association between these agreements and a higher incidence of certain subsequent violations compared with traditional plea agreements, while acknowledging limitations arising from potential

selection bias and differences between cases (De Franco et al., 2025). Although these findings cannot be transferred directly to Indonesia, they indicate the importance of incorporating compliance monitoring and deterrence considerations into the proposed settlement fine mechanism rather than assuming that financial payment necessarily prevents repeated corruption.

Table 2. Proposed Objective and Subjective Criteria for Settlement Fine Eligibility

Criteria	Assessment Parameters	Proposed Legal Implications
Objective: Legal classification	Statutory authorization, offense classification, and compatibility with anti-corruption legislation	Settlement may only be considered where an explicit legal basis permits it
Objective: Economic losses	Verified loss amount, causal relationship, and characteristics of economic harm	Recovery obligations must be based on legally accountable calculations
Objective: Individual offenders	Proposed maximum loss of Rp100,000,000 and assessment of offense gravity	Preliminary eligibility only; no automatic entitlement to settlement
Objective: Corporate offenders	Economic harm, organizational culpability, institutional benefits, and corporate compliance	No proposed fixed monetary ceiling, but serious offenses require heightened scrutiny and possible exclusion
Objective: Financial capacity	Verifiable assets, financial condition, and ability to satisfy recovery obligations	Payment capacity determines feasibility, not legal eligibility by itself
Subjective: Cooperation	Disclosure, assistance in investigation, and non-obstruction of evidence	Verified cooperation may support eligibility assessment
Subjective: Acknowledgment	Voluntary acknowledgment of responsibility and willingness to repair harm	Must preserve procedural rights and the presumption of innocence
Subjective: Individual responsibility	Position, decision-making authority, and degree of participation	Principal organizers and serious offenders receive more restrictive assessment
Subjective: Criminal history	Previous convictions, repeated misconduct, and compliance history	Recidivism or continuing corruption weighs against settlement
Institutional safeguards	Independent review, supervision, transparency, and enforceable recovery arrangements	Essential requirements of any proposed legislative settlement framework

Source: Processed by Author, 2026.

The criteria presented in Table 2 demonstrate that settlement fine eligibility must be determined cumulatively rather than through isolated consideration of monetary losses or offender cooperation. Objective criteria provide measurable and legally verifiable conditions for identifying potentially eligible offenses, while subjective criteria enable a differentiated assessment of culpability, cooperation, and the risk of repeated misconduct. Nevertheless, subjective considerations should not authorize prosecutors to disregard mandatory objective

requirements. Where an offense lacks a specific legal basis for settlement, the existence of cooperation, financial capacity, or willingness to compensate affected parties cannot independently justify terminating prosecution. Similarly, an offense should not become eligible merely because its financial consequences fall below the proposed monetary threshold. The cumulative model therefore places statutory eligibility at the initial stage of assessment, followed by an examination of offense characteristics, personal responsibility, and the feasibility of economic recovery. This arrangement reduces the risk that settlement decisions become dependent on inconsistent personal judgments or informal negotiations between prosecutors and offenders.

The determination of eligibility must subsequently be connected to a recovery mechanism capable of addressing the economic consequences of corruption. The fundamental weakness of a settlement model based solely on payment to the state treasury is that financial collection does not necessarily restore the specific economic activities or communities affected by unlawful conduct. Corruption involving natural resources, public infrastructure, or economic licensing may create losses that require targeted remedial action rather than a general increase in public revenue. In such circumstances, the settlement obligation should distinguish the recovery of directly identifiable state losses, compensation for legally established losses experienced by affected communities, and restoration costs associated with damaged economic or environmental resources. Comparative research concerning negotiated anti-corruption settlements demonstrates that victims and affected states do not necessarily obtain compensation merely because prosecuting authorities secure financial penalties from corporate offenders (Capus & Brodersen, 2022). Consequently, the proposed settlement fine model should identify the beneficiaries of economic recovery and ensure that financial obligations correspond to the actual consequences of corruption.

In corruption cases involving environmental damage, the relationship between financial payment and substantive restoration becomes particularly important. Monetary compensation cannot be presumed equivalent to environmental recovery because ecosystems may require restoration activities, continuous monitoring, and long-term remedial obligations that cannot be completed through a single financial transaction. Where environmental damage is causally connected to an established corruption offense, recovery obligations should incorporate verified restoration costs and legally authorized corrective measures. Nevertheless, the relevant legal framework must distinguish environmental liability arising under sectoral legislation from the financial consequences attributable to corruption, thereby preventing overlapping compensation

or unsupported expansion of criminal liability. Research concerning corporate environmental crimes in Indonesia emphasizes that conventional monetary sanctions may fail to achieve ecological restoration when they are not accompanied by enforceable restoration obligations and organizational compliance measures (Aryani & Mufty, 2026). Therefore, the proposed settlement framework should prioritize the restoration of identified damage and require competent authorities to verify whether the agreed corrective measures have actually been implemented.

The determination of financial obligations may be conceptually organized into three components: the recovery of verified public economic losses, compensation for legally established losses suffered by affected parties, and the financing of authorized restoration measures. These components should be calculated separately to prevent double recovery and to ensure that each obligation has an identifiable legal foundation. Where legislation additionally permits the imposition of a punitive settlement fine, its amount should be determined independently from compensation and restoration obligations, with the applicable rules specifying its purpose, calculation, and legal consequences. This distinction is essential because fines imposed for deterrence and payments intended to repair economic harm perform different legal functions. The proposed model should therefore avoid treating every monetary obligation as a single undifferentiated settlement payment. Moreover, the use and distribution of recovered resources must comply with public financial management requirements; funds cannot simply be allocated directly to affected communities or environmental projects without a legally authorized mechanism. Accordingly, meaningful economic recovery requires not only the calculation and collection of financial obligations but also the establishment of lawful procedures for compensation, restoration, and institutional accountability.

The urgency of adopting an effective recovery mechanism may further be examined through the principle of speedy justice and the economic analysis of criminal enforcement. Conventional prosecution can involve considerable administrative expenditure, investigative resources, judicial proceedings, and enforcement costs. Where the public resources required to prosecute relatively minor offenses substantially exceed the recoverable economic losses, an appropriately regulated alternative mechanism may warrant consideration. Nevertheless, the evaluation of procedural efficiency cannot be reduced to a simple comparison between the monetary value of corruption and the financial costs of prosecution. Criminal proceedings also perform functions relating to deterrence, public condemnation, institutional integrity, and the prevention of future misconduct. The economic theory of public enforcement emphasizes that the social desirability of legal sanctions depends on the interaction between enforcement costs,

the probability of punishment, and the consequences of unlawful activity (Polinsky & Shavell, 2000). Consequently, a settlement mechanism that reduces immediate enforcement expenditure but weakens deterrence may produce greater long-term social costs. The application of speedy justice must therefore be assessed through the combined objectives of timely recovery, proportional enforcement, and the preservation of criminal accountability.

The consideration of economic efficiency also requires attention to the potential consequences of prosecution for third parties who are not responsible for corporate misconduct. Criminal enforcement against large corporations may affect employees, creditors, suppliers, and communities whose economic welfare depends on the continuation of legitimate business activities. Such collateral consequences may provide reasons to consider proportionate and conditional enforcement mechanisms, particularly when corporate wrongdoing can be addressed through financial recovery, organizational reform, and ongoing supervision. However, the protection of innocent stakeholders must not become an unrestricted justification for avoiding corporate criminal responsibility. Comparative analysis of negotiated prosecution arrangements demonstrates that decisions concerning the public interest may be influenced by competing institutional and economic considerations, creating risks of unequal treatment when the relevant criteria are not sufficiently transparent (Lord, 2023). Therefore, the proposed settlement fine framework must differentiate between preserving legitimate economic activities and shielding corporations or responsible individuals from the legal consequences of corruption. Economic continuity is relevant only insofar as it can be achieved consistently with deterrence, proportionality, and the rights of affected communities.

The institutional implementation of the proposed model consequently requires a clear sequence of decision-making and oversight. At the initial stage, the competent prosecutorial authority must establish that the applicable legislation expressly permits the offense to be considered for settlement fines. The second stage involves independent verification of the nature and magnitude of national economic losses, supported by relevant financial, economic, or environmental expertise. The third stage concerns the assessment of objective and subjective eligibility criteria, including the seriousness of the offense, the offender's role, cooperation, criminal history, and capacity to satisfy recovery obligations. The fourth stage requires a written and reasoned decision identifying the legal basis of settlement, the evidence supporting eligibility, the calculation of financial obligations, and the mechanisms available to ensure performance. Finally, an authorized supervisory body must verify compliance and determine the legal consequences of non-performance under the applicable statutory framework. These stages

constitute a proposed legislative design rather than a description of an existing general procedure for settling corruption offenses through denda damai.

The need for external supervision is particularly important because settlement fines involve the exercise of prosecutorial authority outside ordinary judicial proceedings. Without adequate checks, the discretion to determine eligible offenses and negotiate payment obligations may create opportunities for inconsistent decisions, preferential treatment, or institutional abuse. Comparative international standards concerning non-trial resolutions emphasize the importance of clear statutory authorization, transparent eligibility criteria, effective and proportionate sanctions, appropriate institutional supervision, and the publication of relevant settlement information subject to legitimate privacy restrictions (OECD, 2021). These standards provide a comparative reference for designing procedural safeguards, although they do not themselves establish legal authority for applying settlement fines to corruption under Indonesian law. Within the proposed Indonesian framework, independent review, publication of legally disclosable settlement decisions, and procedures for challenging improper agreements should be incorporated into the relevant legislation. Particular protection should also be provided to witnesses and affected communities so that negotiated settlements do not undermine the disclosure of corruption or eliminate legitimate claims for compensation.

The comparative development of non-trial settlements further demonstrates that financial resolution mechanisms cannot be evaluated solely according to the number of cases concluded or the amount of money collected. International studies of negotiated corporate settlements identify substantial differences in the institutional structure, procedural safeguards, and consequences of agreements across jurisdictions. These differences influence the degree to which negotiated resolutions serve accountability, deterrence, and the restoration of harm. In particular, the absence of effective judicial or independent supervision may permit excessive prosecutorial control over the conditions of settlement, while inadequate transparency may weaken the public legitimacy of decisions involving serious corporate misconduct (Arlen, 2016). Accordingly, the design of settlement fines in Indonesia should not simply reproduce foreign models of deferred or non-prosecution agreements. Instead, comparative experience should be used selectively to identify institutional safeguards that can be incorporated into a mechanism consistent with Indonesia's constitutional framework, the Prosecutor's Office Law, the Criminal Procedure Code, and the substantive legislation governing corruption offenses.

Based on the foregoing analysis, the proposed eligibility model requires an integrated assessment of statutory authorization, objective offense characteristics, subjective offender

conditions, proportional financial obligations, and institutional accountability. For individual offenders, the proposed Rp100,000,000 threshold may serve as an initial criterion for differentiating relatively minor cases, but it cannot operate as an automatic ground for terminating prosecution. For corporate offenders, the absence of a predetermined monetary ceiling must be accompanied by more stringent consideration of offense gravity, organizational responsibility, compliance history, and the effectiveness of economic restoration. The distinction between these categories must remain consistent with the principle that financial capacity does not justify immunity from criminal liability. Furthermore, economic recovery should encompass legally established losses suffered by the state and affected communities, together with authorized restoration obligations, rather than being confined to the collection of payments unrelated to the damage caused. The legal legitimacy of the proposed mechanism ultimately depends on whether these conditions can be incorporated into an explicit and coherent legislative framework.

Therefore, the expansion of settlement fines to corruption offenses causing national economic losses should not be understood as a general replacement of criminal prosecution with financial compensation. Rather, it constitutes a proposed reconstruction of prosecutorial authority in which economic recovery is pursued through narrowly defined eligibility requirements and enforceable institutional safeguards. The combination of objective and subjective criteria provides a structured basis for assessing the circumstances of offenders and the consequences of their conduct, while the integration of speedy justice and economic analysis explains the potential benefits and limitations of alternative enforcement. Nevertheless, these considerations remain subordinate to the principle of legality and the substantive requirements of criminal accountability. The proposed model can consequently contribute to the development of a more responsive corruption enforcement framework only where statutory reform clearly defines eligible offenses, regulates the calculation and distribution of recovery obligations, ensures independent oversight, and prevents settlement fines from becoming a means of avoiding criminal responsibility. Such an approach positions economic restoration, prosecutorial efficiency, and substantive justice as complementary objectives within a legally accountable system of anti-corruption enforcement.

CONCLUSION

The application of settlement fines to corruption offenses causing national economic losses remains constrained by the principle of legality, prosecutorial authority, and criminal

accountability. Although Article 35(1)(k) of the Prosecutor's Office Law and Articles 65–66 of the Criminal Procedure Code recognize settlement fines for certain economic offenses, they do not automatically authorize the termination of corruption proceedings through financial compensation. This study proposes an eligibility framework combining objective criteria, including statutory authorization, offense classification, verified losses, and recovery capacity, with subjective criteria encompassing offender cooperation, acknowledgment of responsibility, individual involvement, and criminal history. A preliminary loss threshold of IDR 100 million is recommended for individual offenders, while corporate offenders require stricter scrutiny without a fixed monetary ceiling. Nevertheless, these criteria cannot replace explicit legislative authorization. Accordingly, regulatory reform is necessary to establish eligible offenses, proportional settlement obligations, independent oversight, and enforceable mechanisms for restoring economic, social, and environmental losses. Such reform would reconcile speedy justice and economic recovery with legal certainty, deterrence, and substantive criminal accountability, preventing settlement fines from becoming a means of evading responsibility for corruption.

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