

JURIDICAL REVIEW OF LAW ENFORCEMENT AGAINST CRIMES IN INDONESIAN BANKING

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Abstract

This study aims to analyze the juridical review of law enforcement against banking crimes. The research method used is the normative juridical method with an invitational approach. The results showed that Banking Crime is a behavior, either in the form of doing something (commission) or not doing something (omission), which uses banking products as a means of behavior of the perpetrators or banking products) as the target of the perpetrator's behavior and has been designated as a criminal offense by law. A banking crime is a criminal offense that meets the elements as referred to in Article 46 to Article 50A of the Banking Law or Articles 59 to 66 of the Sharia Banking Law. The scope of banking crimes contained in the Banking Law and the Sharia Banking Law are: 1) Criminal acts related to licensing; 2) Criminal acts relating to bank secrets; 3) Criminal acts related to bank supervision; 4) Criminal acts related to the bank's business activities; 5) Criminal acts relating to affiliated parties; 6) Criminal acts relating to shareholders; 7) Criminal acts relating to compliance with the provisions.

Keywords: Review, Juridical, Law Enforcement, Criminal Acts. Banking.

A. INTRODUCTION

Banking, which is one of the pillars of economic development in Indonesia, has the main function as a collector and distributor of public funds. In the Indonesian legal system, all forms of banking practice are based on the principles contained in the ideology of the Indonesian state, namely Pancasila and the objectives of the Indonesian state in the 1945 Constitution of the Republic of Indonesia.

Banking institutions as one of the financial institutions that have strategic value in the economic life of a country. The institution is intended as an intermediary between parties who have surplus funds with parties who lack and need funds (*lack of funds*). Thus, banks will be engaged in credit activities, and the various services provided, banks serve financing needs and launch payment system mechanisms for all sectors of the economy.¹

The activities of banking institutions are generally carried out by actors who according to their functions and business objectives can be distinguished, namely in the form of *commercial* banks consisting of national foreign exchange banks, both government and private, national private non-foreign banks and foreign or mixed banks. The main activities

of commercial banks, except non-foreign exchange commercial banks, are collecting public funds in the form of current accounts, time deposits and savings, providing credit for working capital and investment purposes, and conducting foreign trade transactions.²

Banking in carrying out its functions as described above does not rule out the possibility of problems that lead to criminal acts. The criminal act referred to here is the Banking Crime. In society, there is no agreement on the use of the term banking crime, because there are those who use the term criminal act in the field of banking and banking crime. The use of the term depends on which angle of looking at it, but according to the author, it is to use the term Banking Crime. However, from a juridical point of view, none of the laws and regulations were found that provided an understanding of banking crimes. Some argue that banking crimes are criminal acts that are regulated only in banking laws, which are internal in nature.³

Banking crimes are more focused on prohibited acts, threatened with criminal penalties that are specifically contained only in the Banking Law and the Islamic Banking Law. A banking crime is a criminal offense that meets the elements as referred to in Article 46 to Article 50A of the Banking Law or Articles 59 to 66 of the Sharia Banking Law. Banking crimes that fall into a special class of criminal acts because of banking crimes and criminal sanctions have been regulated separately in the Banking Law.

The rapid development of banking crimes requires serious countermeasures in terms of supervision of banks given the position of banks as public trust institutions, and so that those beliefs are not misused for personal gain. Therefore, bank guidance and supervision is carried out by Bank Indonesia. Bank Indonesia is authorized and obliged to foster and supervise banks by taking repressive and preventive measures in the form of provisions, instructions, advice, guidance and briefings.⁴

Therefore, the authority of Bank Indonesia in regulating and supervising banks is as a tool or means to realize a sound banking system that ensures the implementation of all laws and regulations related to the implementation of bank business by the bank concerned. In essence, BI's duties as the Central Bank have three tasks, namely setting and implementing monetary policy, regulating and maintaining a smooth payment system and regulating and supervising banks.⁵

Law No. 21 of 2011 concerning the Financial Services Authority (OJK) basically contains provisions for organizational governance and governance of institutions that have regulatory and supervisory authority over the financial services sector. To carry out supervisory duties, OJK has the authority as stipulated in Article 7 of the Financial Services Authority (OJK) Law, including regulation and supervision regarding bank institutions, regulation and supervision regarding bank health, regulation and supervision regarding bank prudential aspects and bank examinations.⁶

B. DISCUSSION

1. Scope of Banking Crimes

Banking Crime is a behavior (*conduct*), either in the form of doing something (*commission*) or not doing something (*omission*), which uses banking products as a means of behavior of the perpetrator or banking products (*banking products*) as the target of the perpetrator's behavior and has been designated as a criminal act by law. Banking Crime is a *conduct*, either in the form of doing something (*commission*) or not doing something (*omission*), which is designated as a criminal act by the Indonesian Banking Law (Law No. 7 of 1992 as amended by Law No. 10 of 1998).⁷

Criminal acts in the banking sector according to Law Number 7 of 1992 concerning Banking Principles, as amended by Law Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 concerning Banking. A criminal act in the banking sector is a criminal act that makes a bank a means (*crime against the bank*).⁸

The scope of tipibank contained in the Banking Law and the Sharia Banking Law are:⁹

a. Criminal acts relating to licensing; b. Criminal acts relating to bank secrets; c. Criminal acts relating to bank supervision; d. Criminal acts related to the bank's business activities; e. Criminal acts relating to affiliated parties; f. Criminal acts relating to shareholders; g. Criminal acts relate to the observance of the provisions.

The Banking Law distinguishes criminal sanctions into two forms, namely crime and violation. Tipibank with the category of crime consists of seven articles, namely Article 46, 47, 47A, 48 paragraphs (1), 49, 50, and Article 50A. Meanwhile, tipibank with the category of offenses with criminal sanctions that are lighter than criminal acts classified as crimes, consists of one article, namely Article 48 paragraph (2). The classification of tipibank into crimes is based on the imposition of the threat of more severe penalties compared to violations. This is because banks are institutions that store funds that the public entrusts to them, so it is necessary to always avoid actions that can result in damage to public trust in the bank, which will also harm the bank and the community. Meanwhile, the Sharia Banking Law does not distinguish between bank criminal sanctions and includes them in eight articles, namely Articles 59 to 66.

2. Law Enforcement against Banking Crimes in terms of Laws and Regulations

Law Enforcement in Banking Crimes based on applicable laws and regulations includes the following:

a. Banking Crimes Related to Licensing

The banking industry is known as a *heavily regulated industry*. To run a bank business, a license from Bank Indonesia (currently OJK) is needed as a regulator with strict requirements.

Article 161 of the Banking Act:

- (1) Every party that carries out activities to collect funds from the public in the form of deposits must first obtain a business license as a Commercial Bank or People's Credit Bank from the Chairman of Bank Indonesia, unless the activity of collecting funds from the public is regulated by a separate law.
- (2) To obtain a business license for a Commercial Bank and a People's Credit Bank as referred to in paragraph (1), at least the following requirements must be met: a. organizational and management structure; b. capitalization; c. ownership; d. expertise in banking; e. feasibility of the work plan.
- (3) The requirements and procedures for bank licensing as referred to in paragraph (2) are set by Bank Indonesia"

Parties who carry out bank business activities before obtaining a permit from Bank Indonesia (currently OJK) are categorized as criminal acts. This crime is called the criminal act of "dark bank." Any party that collects funds from the public in the form of deposits without a business license from the Chairman of Bank Indonesia (currently the Chairman of the OJK) is threatened with severe "dark bank" criminal sanctions, the threat of this punishment can even be imposed on the corporation by prosecuting the party who gave the order or its leader. This provision indicates the necessity of permission from the Chairman of Bank Indonesia (currently the Head of OJK) for public fund raising activities, because it is closely related to the issue of supervision of such activities by Bank Indonesia (currently OJK).¹⁰

The threat of punishment for criminal acts related to licensing is regulated in Article 462 of the Banking Law which reads:

- (1) Whoever collects funds from the public in the form of deposits without a business license from the Chairman of Bank Indonesia as referred to in Article 16, is threatened with imprisonment of at least 5 (five) years and a maximum of 15 (fifteen) years and a fine of at least Rp.10,000,000,000.00 (ten billion rupiah) and a maximum of Rp.200,000,000,000.00 (two hundred billion rupiah).
- (2) In the event that the activities referred to in paragraph (1) are carried out by legal entities in the form of limited liability companies, unions, foundations or cooperatives, then the prosecution of the said bodies shall be made either against those who gave orders to do the deed or who acted as leaders in the act or against both."

b. Banking Crimes Related to Bank Secrets

The scope of bank secrets includes information about the depositor's customers and deposits. The Bank as an intermediation institution in carrying out its business activities always relies on elements of public trust, especially the trust of depository customers who place their deposits in the bank. The Bank as a trust institution is obliged to keep confidential everything related to information about the depository customer and the customer's deposits residing at the bank. The relationship between the bank and its customers is not like an ordinary contractual relationship, but in that relationship there is

also an obligation for the bank not to disclose the secrets of its customers to any party, unless otherwise stipulated by applicable laws. The prevalence that must be kept secret by the bank is all data and information about everything related to finance and other matters from people and entities known to the bank because of its business activities. Bank secrets are needed as one of the factors to maintain the trust of depository customers.¹¹

Exceptions to the bank secrets provision include:¹²

- 1) For tax purposes, by written order from the Chairman of Bank Indonesia (currently the Chairman of the OJK);
- 2) For the settlement of bank receivables that have been submitted to BUPLN / PUPN, with the permission of the Chairman of Bank Indonesia (currently the Chairman of the OJK);
- 3) For the purposes of criminal justice cases, with the permission of the Chairman of Bank Indonesia (currently the Chairman of the OJK);
- 4) In civil cases between the bank and its customers, on information from the bank's directors to the court about the financial situation of its customers;
- 5) In the context of exchanging information between banks, on information from the directors of the bank to other banks about the financial condition of its customers;
- 6) Upon request, consent, or authorization from the depository customer made in writing; and
- 7) At the request of the legal heirs of the deceased depository customer.

The implementation of bank secret opening as in points 1) to 3) must first obtain written permission to open bank secrets from the Head of Bank Indonesia (currently the Chairman of the OJK). Meanwhile, items 4) to 7) do not require permission to open bank secrets from the Chairman of Bank Indonesia (currently the Chairman of the OJK).

Criminal provisions relating to bank secrets are regulated in Article 47 which reads:

- (1) Whoever without bringing a written order or permission from the Chairman of Bank Indonesia as referred to in Article 41, Article 41A, and Article 42, deliberately forces the bank or affiliated party to provide information as referred to in Article 40, shall be threatened with imprisonment of at least 2 (two) years and a maximum of 4 (four) years and a fine of at least Rp.10,000,000,000.00 (ten billion rupiah) and a maximum of Rp.200,000,000,000,000, 00 (two hundred billion rupiah).
- (2) Members of the Board of Commissioners, Board of Directors, bank employees or other Affiliated Parties who deliberately provide information that must be kept secret according to Article 40, are threatened with imprisonment of at least 2 (two) years and a maximum of 4 (four) years and a fine of at least Rp.4,000,000,000.00 (four billion rupiah) and a maximum of Rp.8,000,000,000.00 (eight billion rupiah)",

Section 47A of Law 29 Banking which reads:

"Members of the Board of Commissioners, Board of Directors, or bank employees who deliberately fail to provide information that must be fulfilled as referred to in Article 42A and Article 44A, are threatened with imprisonment of at least 2 (two) years and a maximum of 7 (seven) years and a fine of at least Rp.4,000,000,000.00 (four billion rupiah) and a maximum of Rp.15,000,000,000.00 (fifteen billion rupiah)".

Article 40 paragraph (1) of the Banking Law has been amended based on the Constitutional Court Decision No.64/PUU-X/2012 dated July 27, 2012, to: "Banks are obliged to keep confidential information about depository customers and their deposits, except in the cases referred to in Article 41, Article 41A, Article 42, Article 43, Article 44, 30 and Article 44A as well as for judicial purposes regarding joint property in divorce cases".

c. Banking Crimes Related to Bank Supervision

In order to maintain the survival of a bank, the OJK as the banking authority requires banks to make reports on business activities. This is absolutely necessary, because of the role of banks as institutions that manage public funds based on trust. The Banking Law stipulates that bank guidance and supervision are carried out by the OJK.¹³

The Bank is obliged to submit to the OJK all information and explanations about its business, provide an opportunity for the examination of books and files in the bank and submit reports in the time and form set by the OJK. If the bank deliberately fails to fulfill these obligations, it is threatened with criminal sanctions as stipulated in the provisions of Article 48 paragraph (1) of the Banking Law, and if the bank neglects to convey or carry out such obligations, the bank may be subject to criminal sanctions as stipulated in the provisions of Article 48 paragraph (2) of the Banking Law.

Criminal acts related to bank supervision are regulated in Article 48 of the Banking Law which reads:

- (1) Members of the Board of Commissioners, Board of Directors, or bank employees who deliberately fail to provide information that must be fulfilled as referred to in Article 30 paragraphs (1) and (2) and Article 34 paragraphs (1) and (2), are threatened with imprisonment of at least 2 (two) years and a maximum of 10 (ten) years and a fine of at least Rp.5,000,000,000.00 (five billion rupiah) and a maximum of Rp.100,000,000,000, 00 (one hundred billion rupiah).
- (2) Members of the Board of Commissioners, Board of Directors, or bank employees who neglect to provide information that must be fulfilled as referred to in Article 30 paragraphs (1) and (2) and Article 34 paragraphs (1) and (2), are threatened with imprisonment for at least 1 (one) year and a maximum of 2 (two) years and or a fine of at least Rp.1,000,000,000.00 (one billion rupiah) and a maximum of Rp.2,000,000,000, 00 (two billion rupiah)"

d. Banking Crimes Related to Bank Business Activities

Bank can carry out various business activities, including raising funds, lending, and other activities, such as:¹⁴

1) issuing a letter of recognition of debt; 2) buy, sell, or guarantee securities; 3) moving money, both for the benefit of oneself and its customers; 4) placing funds on, borrowing funds from, or lending funds to other banks; 5) providing a place to store goods and securities; 6) carrying out custody activities for the benefit of other parties under a contract (*custodian*); 7) carrying out factoring activities, credit card business, and trustee activities; 8) carrying out capital participation activities in banks or other companies in the financial sector.

Criminal acts related to business activities, including in the form of creating or causing false records, eliminating, not entering, causing non-recording, changing, obscuring or eliminating records in books or reports of business activities, transaction reports or accounts, or changing, obscuring, removing, hiding or damaging bookkeeping records, not carrying out principles- The precautionary principle in accordance with applicable regulations, requests and/or receives rewards from customers who obtain facilities from the Bank.¹⁵

If the bank violates criminal provisions in the implementation of its business activities, the perpetrators may be subject to criminal sanctions as stipulated in Article 49 of the Banking Law, which reads:

- (1) Members of the Board of Commissioners, Board of Directors, or bank employees who intentionally:
 - a. create or cause false records in the books or in reports, or in documents or reports of business activities, transaction statements or accounts of a bank;
 - b. eliminate or do not include or cause non-recording in the books or in reports or in documents or reports of business activities, transaction statements or accounts of a bank;
 - c. change, obscure, hide, delete, or eliminate the existence of a record in the books or in reports, or in documents or reports of business activities, transaction statements or accounts of a bank, or intentionally change, obscure, eliminate, hide or damage the bookkeeping records, threatened with imprisonment of at least 5 (five) years and a maximum of 15 (fifteen) years and a fine of at least Rp.10,000,000,000, 00 (ten billion rupiah) and a maximum of Rp.200,000,000,000.00 (two hundred billion rupiah).
- (2) Members of the Board of Commissioners, Board of Directors or bank employees who intentionally:
 - a. solicit or accept, permit or agree to receive any reward, commission, additional money, service, money or valuables, for his personal benefit or for his family benefit, in order to obtain or attempt to obtain for another person in obtaining a down payment, bank guarantee, or credit facility from the bank, or in the course of purchase or discounting by the bank on money orders, promissory notes, checks, and trade

papers or other proof of obligations, or in order to give consent for another person to carry out withdrawals in excess of his credit limit to the bank;

- b. failure to implement the necessary measures to ensure the bank's compliance with the provisions of this Law and other provisions of laws and regulations applicable to the bank, shall be punished with imprisonment of at least 3 (three) years and a maximum of 8 (eight) years and a fine of at least Rp.5,000,000,000.00 (five billion rupiah) and a maximum of Rp.100,000,000,000.00 (one hundred billion rupiah)",

e. Banking Crimes Related to Affiliated Parties

Banking Crimes relating to Affiliated Parties are regulated in Article 50 of the Banking Law which reads:

"Affiliated Parties who deliberately fail to implement the necessary measures to ensure the bank's compliance with the provisions of this Law and other laws and regulations applicable to banks, are threatened with imprisonment of at least 3 (three) years and a maximum of 8 (eight) years and a fine of at least Rp.5,000,000,000.00 (five billion rupiah) and a maximum of Rp.100,000,000,000.00 (one hundred billion rupiah)".

The explanation of tipibank in Article 50 of the Banking Act is:

1) Affiliated Parties are the same as the description of the "Affiliated Parties" element above. 2) Deliberately, is the same as the description of the element "Intentionally" above. 3) Failure to implement the necessary measures to ensure the bank's compliance with the provisions of this Law and other laws and regulations applicable to the bank, meaning the Affiliated Party as referred to in:

- a) Letter a) and letter b), then refers to the explanation of the criminal element in Article 49 paragraph (2) letter b.
- b) Letter c), if the person concerned knows, allows, gives advice and/or participates in doing, so that the Bank does not comply with the applicable laws and regulations.
- c) Letter d), if the person concerned takes actions, among others, interfering with and affecting the management of the bank, either directly or indirectly which results in the bank not complying with applicable laws and regulations.

f. Banking Crimes Relating to Shareholders

Banking crimes relating to owners/shareholders are regulated in Article 50A of the Banking Law which reads:

"Shareholders who knowingly order the Board of Commissioners, Board of Directors, or bank employees to do or not take actions that result in the bank not implementing the necessary measures to ensure the compliance of 88 banks with the provisions of this Law and other statutory provisions applicable to banks, shall be threatened with imprisonment of at least 7 (seven) years and a maximum of 15 (fifteen) years and a fine of at least Rp. 10,000,000,000.00 (ten billion rupiah) and a maximum of Rp.200,000,000,000.00 (two hundred billion rupiah)".

The explanation of tipibank in Section 50A of the Banking Act is:¹⁶

- 1) Shareholders are parties who include shares in a bank.
- 2) Deliberately, is the same as the description of the element "intentionally" above.
- 3) Order the board of commissioners, directors, or bank employees to do or not take actions that result in the bank not implementing the necessary measures to ensure the bank's compliance with the provisions of this Law and other laws and regulations applicable to the bank, the act of "telling" is defined as ordering to do or not to take action, it can be in the form of giving orders or instructions, either verbally or in writing to The Board of Commissioners, Board of Directors, or Bank Employees, for the personal benefit of shareholders, resulting in the Bank's disobedience to applicable regulations.

Application of the provisions of Article 50A of the Banking Law, Shareholders are subject to cumulative criminal sanctions, namely imprisonment of 7 to 15 years and a fine of Rp.10,000,000,000.00 to Rp.200,000,000,000.00, if the person concerned intentionally 90 instructs, gives orders orally or in writing to the board of commissioners, directors, or bank employees, which can be proven by documents, recordings of conversations, or the testimony of a witness, to do or not do something, so that the bank concerned violates the provisions of the Banking Act and other statutory provisions.

g. Banking Crimes Related to Obedience

The provisions of banking crimes in Islamic banks or UUS relating to compliance with the provisions are regulated in Article 66 of the Sharia Banking Law which reads:

- (1) Members of the board of directors or employees of Sharia Banks or Conventional Commercial Banks who have a UUS that intentionally:
 - a. Commit acts that are contrary to this Law and such actions have resulted in losses to Sharia Banks or UUS or caused the financial condition of Islamic Banks or UUS to be unhealthy;
 - b. Obstruct the examination or not assist in the examination carried out by the Board of Commissioners or the Public Accounting Firm assigned by the Board of Commissioners;
 - c. Providing disbursement of funds or guarantee facilities by violating the applicable provisions required of Sharia Banks or UUS, which results in losses so as to endanger the business continuity of Sharia Banks or UUS; and/or
 - d. Not taking the necessary steps to ensure the compliance of Sharia Banks or 92 UUS to the provisions of the Maximum Limit for Disbursement of Funds as specified in this Law and/or applicable provisions shall be punished with imprisonment for a minimum of 1 (one) year and a maximum of 5 (five) years and a fine of at least Rp1,000,000,000.00 (one billion rupiah) and a maximum of Rp2,000,000,000, 00 (two billion rupiah).

- (2) Members of the board of directors or employees of Sharia Banks or Conventional Commercial Banks who have a UUS that intentionally misuses Customer funds, Sharia Banks or UUS are sentenced to a minimum of 2 (two) years in prison and a maximum of 8 (eight) years and a fine of at least Rp2,000,000,000.00 (two billion rupiah) and a maximum of Rp4,000,000,000.00 (four billion rupiah)".

The explanation of tipibank in Article 66 paragraph (1) letter a of the Sharia Banking Law is:¹⁷

- 1) Members of the board of directors or employees of Sharia Banks or Conventional Commercial Banks that have a UUS, are parties who:
 - a) appointed as a director or employee in accordance with the provisions applicable to the bank concerned (both permanent and honorary employees, including outsourcing in accordance with applicable labor provisions);
 - b) actively serves as a director or bank employee at the time of the criminal act. Employees of Islamic Banks or Conventional Commercial Banks include bank officials who are authorized and responsible for carrying out bank operational duties and employees who have access to information about the state of the bank.
- 2) Deliberately, is the same as the description of the element "Intentionally" above.
- 3) There are acts that are contrary to this Law that result in losses to Sharia Banks or UUS or cause the financial condition of Sharia Banks or UUS to be unhealthy, Members of the board of directors or employees of Islamic Banks or Conventional Commercial Banks who have UUS commit acts that are contrary to the Sharia Banking Law, resulting in losses for Sharia Banks or UUS, or the financial situation of Islamic Banks or UUS becomes unhealthy.

The application of the provisions of Article 66 paragraph (1) letter a of the Sharia Banking Law, members of the board of directors or employees of Sharia Banks or Conventional Commercial Banks that have a UUS, are subject to cumulative criminal sanctions, namely imprisonment of 1 to 5 years and a fine of Rp.1,000,000,000.00 to Rp.2,000,000,000.00, if you intentionally commit acts that are contrary to the Sharia Banking Law and result in losses to Sharia Banks or UUS or cause circumstances Islamic Bank finances or UUS are not healthy.

The explanation of tipibank in Article 66 paragraph (1) letter b of the Sharia Banking Law is:¹⁸

- 1) Members of the board of directors or employees of Islamic Banks or Conventional Commercial Banks who have UUS, are the same as the description of the element "Members of the board of directors or employees of Islamic Banks or Conventional Commercial Banks 96 who have UUS" above
- 2) Deliberately, is the same as the description of the element "Intentionally" above.
- 3) Obstructing the examination or not assisting the examination, the board of commissioners, the public accounting firm, or the party charged by the board of

commissioners who obstructs the examination or does not assist the examination. Examination is a series of activities to search, collect, process data and / or other information in order to supervise compliance with the Sharia Banking Law and / or other applicable provisions. The purpose of the examination is to test the compliance of Sharia Banks or UUS with the Sharia Banking Law and/or other applicable provisions.

C. CONCLUSION

Banking in carrying out its functions occurs problems that lead to criminal acts. The criminal act referred to here is the Banking Crime. Banking Crime is a *behavior (conduct)*, either in the form of doing something (*commission*) or not doing something (*omission*), which uses banking products as a means of behavior of the perpetrator or banking products (*banking products*) as the target of the perpetrator's behavior and has been designated as a criminal act by law.

Banking crimes are more focused on prohibited acts, threatened with criminal penalties that are specifically contained only in the Banking Law and the Islamic Banking Law. A banking crime is a criminal offense that meets the elements as referred to in Article 46 to Article 50A of the Banking Law or Articles 59 to 66 of the Sharia Banking Law. Banking crimes that fall into a special class of criminal acts because of banking crimes and criminal sanctions have been regulated separately in the Banking Law.

The scope of banking crimes contained in the Banking Law and the Sharia Banking Law are: 1) Criminal acts related to licensing; 2) Criminal acts relating to bank secrets; 3) Criminal acts related to bank supervision; 4) Criminal acts related to the bank's business activities; 5) Criminal acts relating to affiliated parties; 6) Criminal acts relating to shareholders; 7) Criminal acts relating to compliance with the provisions.

The Banking Law distinguishes criminal sanctions into two forms, namely crime and violation. Banking crimes with the category of crimes consist of seven articles, namely Articles 46, 47, 47A, 48 paragraphs (1), 49, 50, and Article 50A. Meanwhile, banking crimes with the category of violations with lighter criminal sanctions than criminal acts classified as crimes, consist of one article, namely Article 48 paragraph (2). The classification of banking crimes into crimes is based on the imposition of the threat of more severe penalties compared to violations.

Footnote

- 1) Hermansyah, Indonesian National Banking Law. Second Edition (Jakarta: Prenadamedia Group, 2014).Pp 3
- 2) Ibid Pp. 20
- 3) Marulak Pardede, Bank Criminal Law. (Jakarta: PT Nusantara Lestari Ceria Pratama, 1995).Pp. 13
- 4) Ibid Pp. 183
- 5) Uswatun Hasanah, Banking Law (Jatim: Setara Press, 2017).Pp. 146
- 6) Hermansyah, Indonesian Banking Law (Jakarta: Kencana Prenada Media Group, 2006).p.216

- 7) Sutan Remy Syahdeini, "Indonesian Banking Crimes, Proceeding Special Criminal Law Training for High Judges" (Makassar: Judicial Commission of the Republic of Indonesia, 2012). Pp. 43
- 8) Hermansyah, Indonesian Banking Law.Pp. 149
- 9) Nelson Tampubolon, Understanding and Avoiding Banking Crimes (Jakarta: Financial Services Authority, 2019). Pp. 9
- 10) Tampubolon.Pp. 12-14
- 11) Tampubolon.Pp. 26
- 12) Ibid Pp. 27
- 13) Tampubolon, Understanding and Avoiding Banking Crimes.Pp. 47
- 14) Tampubolon.Pp. 47
- 15) Tampubolon.Pp. 54
- 16) Tampubolon.Pp. 89
- 17) Tampubolon.Pp. 93-94
- 18) Tampubolon.Pp. 97

Bibliography

- 1) Hasanah, Uswatun. *Banking Law*. Jatim: Setara Press, 2017.
- 2) Hermansyah. *Indonesian Banking Law*. Jakarta: Kencana Prenada Media Group, 2006.
- 3) ———. *Indonesian National Banking Law. Second Edition*. Jakarta: Prenadamedia Group, 2014.
- 4) Pardede, Marulak. *Bank Criminal Law*. Jakarta: PT Nusantara Lestari Ceria Pratama, 1995.
- 5) Shahdeini, Sutan Remy. "Indonesian Banking Crimes, Proceeding Special Criminal Law Training for High Judges." Makassar: Judicial Commission of the Republic of Indonesia, 2012.
- 6) Tampubolon, Nelson. *Understand and avoid banking crimes*. Jakarta: Financial Services Authority, 2019.