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Legal Framework and Employee Liability in Banking Compliance and Crime Prevention: The Case Analysis of Indonesia

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Abstract

These banking crimes, such as fictitious credit, are a significant issue in the banking sector. These crimes involve fraud, such as collusion between bank personnel and affected consumers, leading to losses for banks, clients, the public, and the government. This study provides a comprehensive analysis of the legal implications of employee misconduct in banking, particularly in non-performing loans, focusing on prudential banking principles and statutory regulations. This study used a legal research method with a statutory, conceptual, and case approach. The study reveals the role of bank employees in ensuring bank compliance and preventing banking crimes. It highlights the responsibilities of Credit Decision Makers, Credit Analysts/Marketing, and Credit Administration in ensuring compliance with prudential principles. The author suggests that violations of Article 49 paragraph (2) letter a in Indonesia Banking Law should be classified as banking crimes rather than corruption crimes. A proactive approach from all banking elements, including internal audits and government support, is needed to prevent such crimes. The study also concludes that the legal liabilities of bank employees in non-performing loan cases primarily stem from breaches of prudential principles.

I. Introduction

Banking institutions are fundamental to the economic infrastructure of each country. Banks are financial institutions that facilitate economic operations for individuals, commercial enterprises, and governmental agencies within a country.

Banks facilitate the payment mechanism across all sectors of the economy through credit activity and several other services.

The study analyses a critical issue: ineffective internal controls and accountability systems in Indonesian banking practices, resulting in fraudulent activities and non-performing loans. The primary inquiry is: How do legal frameworks manage employee liability in non-performing loan scenarios, and what preventive actions might be enhanced? (Disemadi, 2019).

Banks originated and evolved from monetary exchange practices established in ancient Babylon, Athens, and Rome. During that period, individuals engaged in currency trading in Athens were referred to as trapezites (those positioned before tables) or argentarius in Rome. Besides executing currency exchange operations, they also engaged in safeguarding and providing loans to needy individuals (Kansil & Kansil, 2013). The banking sector is fundamental to the financial system of every nation. Banks are financial institutions that facilitate economic operations for individuals, commercial enterprises, and governmental agencies within a nation. Banks facilitate payment across all economic sectors through credit activities and additional services (Hermansyah, 2011).

As time progresses, banking operations frequently encounter various fraudulent activities that lead to losses for banks, their clients, the public, and even the government. Fraudulent activities in banks typically include internal stakeholders (bank personnel) colluding with affected consumers to obtain illicit profits. Fraudulent operations in banking, particularly in the credit industry, frequently involve deceptive practices in licensing. This deceptive act is commonly termed false credit. Discourse regarding "fictitious credit" is scarce in academic literature; however, the phrase is frequently employed within the financial sector. Credit is deemed fictitious if the debtor listed as the borrower is nonexistent or the collateral provided in the credit application fails to conform to the credit agreement. Fictitious credit is described as the act of fabricating data.

The problem faced by the banking industry and bank supervisory bodies is monitoring or quickly discovering negligence or intentional misconduct by bank management and/or bank employees, shareholders, or affiliated parties in committing violations or crimes, such as fraud and embezzlement. Forms of legal violations or crimes committed by bank management, employees, and shareholders are often closely related to bank managers' responsibilities and management duties in managing bank business activities, especially related to credit distribution to debtors. Bank Indonesia, the government, and the police, as law enforcement apparatus, are obliged to cooperate to tackle various crimes, such as the theft of public funds in banks in Indonesia (Situru, 2014).

There are only two types of banking crimes: error omission and commission. Error omission violates a provision of systems and procedures that should be complied with but are not implemented. Meanwhile, an error commission is a violation in carrying out something that should not be done, but because it is not written in the system and procedures (Siegel, 1986). Errors of omission and commission in banking crimes, executed with specific intentions and purposes, which encompass elements of fraud or embezzlement, are delineated in Book II of the Criminal Code concerning crimes against property and will consequently incur criminal liability by the offences committed (Winarta, 2007).

In this case, the disadvantaged party is the bank customer whose identity card is used without permission for fictitious credit; bank customers are harmed materially and immaterially. The existence of fictitious credit cases indicates that banks provide insufficient supervision in granting credit, and the prudential principle (prudential banking principle) is not properly implemented. As is known, the prudential principle (prudential banking principle) is very important and must be implemented by banks; the purpose of enforcing the prudential principle (prudential banking principle) is none other than to keep banks always in a healthy condition. In other words, to always be in a liquid and solvent state (Gozali & Usman, 2016).

According to the provisions of Law Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 concerning Banking, Article 1 paragraph (11) states: Credit is the provision of money or claims that can be equated with it, based on a loan agreement or agreement between a bank and another party that requires the borrowing party to repay its debt after a certain period with interest. The granting of credit by banks must be based on the bank's confidence in the ability and willingness of the debtor to repay the debt and must be carried out based on sound credit-granting principles and the prudential principle so that the credit granting does not harm the interests of the bank, debtor customers and depositors, therefore in granting credit it must be stated in the form of a credit agreement. Credit agreements are one of the very strategic parts of banking life. Because the credit agreement is a medium or intermediary for parties with excess funds with parties that lack and need funds (Usman, 2023).

In handling cases in the banking sector, cooperation among law enforcement agencies is necessary because the modes of banking crimes are increasingly diverse, and many arise in society due to the increasingly diverse banking products. The cooperation between law enforcement agencies can make preventing and combating banking crimes more effective and efficient. This study fills a gap in existing literature by providing a comprehensive analysis of the legal implications of employee misconduct in banking, particularly in cases of non-performing loans. It extends previous research by offering solutions rooted in prudential banking principles and statutory regulations. This study employs a normative legal approach, focusing on statutory and conceptual frameworks. Primary legal materials include Indonesian Banking Law No. 7 of 1992 and its amendments. Secondary sources comprise journal articles and case studies related to banking fraud. (Widyantoro, A., 2023)

II. Discussion

A. Criminal Liability of Bank Employees in Non-Performing Loan Cases

Criminal liability is an act that is reproachable by society and is accountable to the perpetrator. For criminal liability to exist, it must first be clear who can be held accountable, which means it must first be ascertained who is declared as the perpetrator of a criminal act. Roeslan Saleh stated that criminal liability is something that is criminally accountable to someone who commits a criminal act or crime (Saleh, 1990). Criminal liability in foreign languages is referred to as "toerekenbaarheid," "criminal responsibility," "criminal liability," criminal liability here is intended to determine whether a person can be held accountable or not for their actions (Sianturi, 1996).

A key issue in non-performing loans stems from the negligence or willful misconduct of bank employees, particularly credit analysts and administrators who fail to adhere to the prudential principles mandated by law.

Perpetrators of criminal acts can be punished if they meet the requirements that the criminal acts they commit fulfill the elements specified in the Law. From the point of view of the occurrence of prohibited actions, a person will be held accountable for these actions if the actions are against the law and there is no justification or elimination of the unlawful nature of the crime committed. Based on this, Hamzah (1997) explains that the perpetrator (dader) must have an element of guilt and be guilty which must meet the elements, namely :

1. The ability to be responsible or accountable from the maker.
2. The existence of a psychological link between the maker and the act, namely the existence of intent or error in the narrow sense (culpa). The perpetrator has awareness in which the perpetrator should be able to know the consequences of his actions.
3. There is no basis for eliminating criminal liability that eliminates the accountability of an act to the maker.

According to Leden (2005), the views of criminal law experts are that there are 3 (three) forms of intent (opzet), namely :

1. Intent as Purpose
   This intent is goal-oriented; the perpetrator can be held accountable and if such intent exists in a criminal act, the perpetrator deserves to be punished.
2. Intent with Certain Knowledge
   This intent exists if the perpetrator (doer or dader) with their actions does not aim to achieve the consequences that form the basis of the offense and knows for certain or is very convinced that in addition to the intended consequences, another consequence will occur.
3. Intent with Possible Awareness (Dolus Eventualis)
   This intent is also called intent with awareness of possibility, that someone performs an act with the aim of causing a certain effect. However, the perpetrator realizes that another consequence that is also prohibited and threatened by law may arise.

Case studies, such as Decision No. 190/Pid.Sus/2014/PN.Bgl, demonstrate how fraudulent actions are often systematic, involving multiple tiers of employee collaboration. These cases underscore the need for stricter internal controls and legal accountability frameworks.

According to Moeljatno, when discussing the understanding of criminal acts, it has been proposed that the term does not include accountability. A criminal act only refers to the prohibition and threat of an act with a punishment. Whether the person who commits the act is sentenced to punishment, as has been threatened, depends on whether in committing the criminal act they have guilt, because the principle in criminal liability is: No punishment if there is no guilt (Geen straf zonder schuld; Actus non facit reum nisi mens sit rea) (Moeljatno, 1983).

Someone who commits an act that is against the law, or commits an act that matches the formulation in criminal law as a criminal act does not mean they are immediately punished, but depends on their guilt. For someone to be punished, there must first be two conditions that become one state, namely an act that is against the law as the basis of a criminal act and an act that can be accounted for as the basis of guilt. The decision to impose punishment must be determined by the existence of a criminal act and the existence of guilt that is proven from evidence with the judge's conviction against an accused person who is prosecuted before the court (Poernomo, 1992).

In the case of criminal acts by bank employees in non-performing loan cases, if associated with banking crimes, although said to be an economic crime, basically banking crimes are already included in crimes in the banking sector. This can be classified into three categories, namely:

1. Physical crimes, meaning banking crimes that involve physical aspects and are conventional crimes related to banking, for example bank robbery, fraud, and others.
2. Violations of Banking Administration, meaning that as banks are public service institutions, many administrative provisions are imposed on them by law, and even violations of some administrative provisions are considered by law as criminal acts. This includes bank operations without a license; failure to meet reporting requirements to the Central Bank; and failure to meet Central Bank regulations on capital adequacy, maximum lending limits, requirements for management and commissioners, mergers, acquisitions and bank consolidations, and others.
3. Bank Product Crimes, meaning banking crimes related to bank products such as improper credit granting, for example, loans without collateral or with fictitious collateral, forgery of documents such as checks, bills of exchange, and letters of credit, forgery of credit cards, transfer of money to unauthorized parties (Salim, 2001).

Bank employees can be held criminally liable for violations of bank procedures on the condition that the violation of the bank's procedural system is intended to commit a crime, namely to illegally or unlawfully control or possess funds deposited with the bank. Meanwhile, other bank employees who also violate the bank's procedural system but do not have the intention to commit a crime cannot be held criminally liable. These violations of the bank's procedural system may also constitute violations of criminal law in the banking sector. This can be reviewed from the actions of violating the bank's procedural system in each case, where bank employees who violate the bank's procedural system are prosecuted and found guilty based on the criminal provisions contained in the Banking Law, but there are also bank employees who violate the bank's procedural system who are not prosecuted based on the criminal provisions contained in the Banking Law.

Law enforcement officials enforce the law against these criminal offenders by referring to the provisions of the Banking Law. If we review the violations of the banking procedural system in these three cases, the modus operandi or practice of violating the bank's procedural system has similarities with each other. The author will describe the similarities between each case of violating bank procedural practices from various perspectives, namely the perpetrators of violations, the modus operandi of violations, and the objectives to be achieved.

The similarities in the practice of violating bank procedural systems reflect the characteristics of violations of banking operational standards as well as banking crimes. The perpetrators of violations of the bank's procedural system in each case have similarities in the number of perpetrators of violations of the bank's procedural system. Based on these three cases, it can be known that there is more than one perpetrator of violations of the bank's procedural system. (Wiwoho, J., 2024)

Each perpetrator of violations of the bank's procedural system cooperates according to their respective duties and authorities. This is considering that internal bank parties have limited duties and authorities, so internal bank parties find it difficult to commit crimes alone. The perpetrators of violations of the bank's procedural system as well as these crimes almost entirely involve internal bank parties, including bank employees. The perpetrators of crimes that include internal bank parties involve the relationship between superiors and subordinates. This means that the perpetrators of violations of the bank's procedural system are tiered, from low-level bank employees to high-level employees can be involved. There is also a cooperative relationship between internal bank parties and outside parties in committing crimes related to violations of the bank's procedural system. When viewed from the perspective of the modus operandi of crimes committed by bank employees in these three cases, there are similarities and characteristics of violations of bank procedural systems and these crimes.

Approval of Superiors Related to Crimes by Bank Employees. Crimes committed by bank employees are almost dominated through the approval process from superiors, whether the approval is given based on negligence or intentional factors. The approval process from superiors is needed by bank employees with lower positions, because this is motivated by the supervision system established by each bank. (Kanter, R. M., 2017)

Approval from superiors is a form of supervision from superiors over subordinates, so that any errors or losses can be prevented as early as possible. Therefore, every action taken by subordinates requires approval from superiors. Bank employees at lower levels are required to request approval for actions related to bank operations from their superiors, including actions related to violations of the bank's procedural system. The role of superiors in every activity by bank employees is very important, especially by bank employees who commit crimes. The existence of approval from superiors can be interpreted that the actions of their subordinates have been properly checked according to applicable procedures, so that the next process or approved action can be carried out by the relevant bank employee (Meissner, M. H., 2018).

In terms of granting credit to debtors, credit analysis is carried out by officers who act and have authority in the process starting from the initial stage, namely deepening customer data, from data completeness, interests or use of credit for what purposes, checking the debtor's collectibility status through SLIK monitoring, then further deepening related to the survey stage of business location, debtor's residence location, so that at the analysis stage then at the final stage, namely submission, checking by superiors and approval of credit taking. (Gebremeskel, F. 2021)

Bank employees can be held criminally liable for actions that violate bank procedural systems on the condition that the violation of the bank's procedural system is intended to commit a crime, namely to illegally or unlawfully control or possess funds deposited with the bank. In the event of a violation of the bank's procedural system and resulting in a criminal offense in the banking sector, the bank as a corporation cannot be held criminally liable for crimes committed by bank employees because banking legislation, especially Article 49 of Law No.10 of 1998, limits perpetrators to individuals only, namely Directors, Commissioners or Bank Employees. (Kiselyova, E., 2020).

The elements of Article 49 Paragraph (2) of Law Number 7 of 1992 concerning Banking as amended by Law Number 10 of 1998 concerning banking Jo. Article 64 Paragraph (1) of the Criminal Code, the elements are as follows:

1. Elements of Members of the Board of Commissioners, Directors, or Bank Employees;
2. Elements that deliberately do not carry out the necessary steps to ensure the bank's compliance.
3. Elements if between several acts, although each constitutes a crime or violation, there is such a relationship that it must be viewed as one continuing act.

B. Implementation of Banking Criminal Cases related to Non-Performing Loans In Several Decisions

1. Case Description with Defendant as Bank Credit Decision Maker

   In decision number 457/Pid.Sus/2017/PN.Smn with defendant Victor Ngaderman, deliberately making or causing false records in bookkeeping in reports or in documents or business activity reports, transaction reports or bank accounts, namely the defendant had approved credit using business data, financial data, conclusions and field inspection results and credit analysis that were incorrect, credits that violated the Legal Lending Limit (Irfani, 2019).

   Then the defendant issued 12 debtors whose names were used to settle these problematic loans with a ceiling of Rp.1,872,000,000.00,- (one billion eight hundred seventy-two million rupiah) from an outstanding balance of Rp.1,474,532,800.00,- (one billion four hundred seventy-four million five hundred thirty-two thousand eight hundred rupiah).

   The defendant determined which debtors would replace the problematic debtors, the name of the marketing who processed the credit, the ceiling amount, the time period, the collateral, and the interest. After being determined by the defendant, Harsono immediately ordered the account officers (AO) to process the credit application by completing business data, financial data, conclusion results, field inspections and analysis that had been engineered (not true).

This was contrary to the decree of the Board of Directors of PT. BPR Restu Mandiri Makmur Number: 0001/SKDIR/BPR-Rim/I/2011 dated January 3, 2011 concerning systems and procedures, job descriptions, at PT. BPR Restu Mandiri Makmur, while the debtor customers whose names were borrowed only signed the forms in the credit file and submitted the required supporting documents to the bank, for the assets pledged as collateral the debtor customers did not know. After the credit was approved, the funds from the credit were not received by the customer but were used to pay installments or pay off loans that exceeded the lending limit. The recording of the credit application and credit disbursement by these debtors was entered into the credit loan register and cash subsidiary ledger and was further recapitulated into monthly reports, quarterly reports, semester reports and annual reports of PT. BPR Restu Mandiri Makmur. Such credit is a fictitious credit because the identities of these people are real but they do not receive the money, this is done to deceive the inspection because it is recorded in the books as if it were true.

However, these fictitious loans eventually became non-performing loans which were then written off. In the write-off, the funds were taken from the PPAP funds (reserve funds used to cover bad loans). This was done to improve the BPR's NPL. The PPAP had been established from the beginning when there was a risk of problematic loans, if not used it would be returned as income. As a result of this write-off, it caused losses to the BPR due to reduced BPR dividends which caused the BPR to suffer losses. The defendant's actions constitute a banking crime as regulated and threatened with criminal sanctions in Article 49 Paragraph (1) letter a of Law No. 7 of 1992 concerning Banking as amended by Law No. 10 of 1998 in conjunction with Article 64 Paragraph (1) of the Criminal Code.

2. Case Description with Defendant as Marketing or Bank Credit Analyst

In decision number 190/Pid.Sus/2014/PN.Bgl. with defendant Dwi Sapto Darmo Prasetyo, deliberately making or causing false records had committed or participated in committing acts by deliberately making or causing false records in bookkeeping or in the reporting process, as well as in documents or business activity reports, transaction reports or bank accounts. The defendant processed credit applications for 7 (seven) debtors not in accordance with the rules set by Bank Danamon, because only their names were used. The seven debtors whose names were used were asked to submit documents in the form of photocopies of ID cards, Family Cards and Marriage Certificates, while the collateral requirements, debtor's place of business and business certificate (SKU) were fictionalized. After the credit was disbursed, these debtors were given compensation money of + Rp.1,000,000,- (one million rupiah) to Rp.1,500,000,- (one million five hundred thousand rupiah).

In the credit granting process, the defendant had made reports that did not match the facts by not conducting direct interviews with the 7 (seven) debtors to determine the ability or feasibility of the debtors / ability to pay, but was only done as a formality, did not carry out proper verification of the place of business which turned out to belong to someone else and included an incorrect business certificate. The defendant had engineered the collateral value on the orders of the UM with the aim that the collateral value would cover the value of the credit application, until receiving a loan disbursement of Rp.1,210,000,000,- (one billion two hundred and ten million rupiah), where the disbursement of funds was received by third parties namely witnesses Husein and Ali Abu Bakar, while the debtors listed in the report, namely 7 (seven) debtors received a commission between Rp.1,000,000,- to Rp.5,000,000,- which in the end resulted in non-performing loans. The defendant's actions as regulated and threatened with criminal sanctions in article 49 paragraph (1) letter a of RI Law No.7 of 1992 as amended by RI Law No.10 of 1998 concerning Banking in conjunction with article 55 paragraph (1) 1st of the Criminal Code. Thus it was decided that the defendant Dwi Sapto Darmo Prasetyo was legally and convincingly proven guilty of committing a banking crime and sentenced the defendant Dwi Sapto Darmo Prasetyo to imprisonment for 8 (eight) years plus a fine of Rp. 10,000,000,000,- (ten billion rupiah) subsidiary 3 (three) months imprisonment reduced by the period of detention.

3. Case Description with Defendant as Bank Credit Administration Officer

In Supreme Court Decision No. 1554 K/Pid.Sus/2014 with defendant Fredy Victory Bey bin Bunyamin, deliberately making or causing false records in bookkeeping or in reports, as well as in documents or business activity reports, transaction reports or bank accounts. In 2007 PT. Natar Perdana Abadi submitted an application for Revolving KKB Joint Financing to the BRI Regional Office Palembang amounting to Rp. 7,525,652,450,-. In 2008 there was a non-performing loan.

Then witness Nizam Iqbal ordered/instructed witness Melin to reuse the credit files that had been disbursed under the names of Consumers/Debtors, and submit them to BRI. In the process, witness Melin could not fulfill the credit file requirements in the form of debtor/consumer photos, at which time Witness Nizam Iqbal stated that he would help provide the photos through the Defendant, with an agreement that witness Melin had to pay Rp. 1000,- (one thousand rupiah) for each photo prepared by the Defendant. In addition, the required documents in the form of fictitious photocopied ID cards, photos in the KKB files that were not of the actual people (fictitious), and did not match the photos on the ID cards, names/addresses/family members on Family Cards were altered/engineered/falsified.

The photocopies of Family Cards were obtained from previous motorcycle buyers and reused repeatedly. Business certificates were altered/engineered/falsified and reused repeatedly. Marriage certificates were not included (for married applicants). The fictitious credits continued repeatedly from 2008 to 2010 in the process of providing KKB facilities for + 10,795 debtors known to be fictitious where they, the Defendant, had deliberately failed to fulfill their obligations as Credit Administration officers. The Defendant's actions as regulated and threatened with criminal sanctions in Article 49 paragraph (2) letter b of the Republic of Indonesia Law Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 concerning Banking in conjunction with Article 55 Paragraph (1) 1st of the Criminal Code in conjunction with Article 64 Paragraph (1) of the Criminal Code.

Meanwhile, for the Case with the Defendant as Marketing or Bank Credit Analyst (Number 190/Pid.Sus/2014/PN.Bgl). Law No. 7 of 1992 Concerning Banking, Article 49 paragraph (1). Article 55 paragraph (1) of the Criminal Code. The elements of Article 49 Paragraph (1) of Law Number 7 of 1992 concerning Banking as amended by Law Number 10 of 1998 concerning banking In conjunction with Article 55 Paragraph (1) of the Criminal Code, the elements are as follows:

a. Members of the Board of Commissioners, Directors or Bank Employees;
b. Deliberately making or causing false records in bookkeeping or in the reporting process as well as in documents or business activity reports, transaction reports or bank accounts;
c. Committing, ordering to commit or participating in committing.

Analysis Results

What is meant by the element of "false recording" is the process or method of recording, the act of recording transactions that are invalid or untrue or fictitious. What is meant by the Element of "recording in bookkeeping or in reports, documents or reports, business activities, transaction reports or bank accounts" is:

a. Bookkeeping, recording in journals, subledgers, and ledgers;
b. Reports, made by Banks both financial and non-financial reports for internal or external purposes;
c. Documents, Bookkeeping evidence such as receipts and slips as well as supporting bookkeeping data including letters (deeds, agreements, billets) and others that can be equated with these;
d. Business Activity Reports, such as Annual Reports, Balance Sheets and Profit/Loss Statements, Publication Reports; Reports on all business activities carried out;
e. Transaction Reports, Transaction details, Reports on all transactions carried out;
f. Current accounts, savings accounts, securities accounts, capital accounts, including all accounts in the bank (individual accounts and/or general ledger accounts).

If associated with the Duties and Responsibilities of Credit Analysts / Credit Marketing, the defendant has violated several things, namely:

a. Creating initial relationships with prospective debtors or debtors to be served;
b. Carrying out their duties based on their professional skills honestly, objectively, carefully and thoroughly;

c. Every credit initiated has complied with banking provisions and sound credit principles as well as the precautionary principle;
d. Believing in the correctness of the initial data and information presented;
e. Examining and ensuring that documents supporting credit decisions are still valid, legal and have legal force;
f. Presenting credit analysis and evaluation in accordance with the applicable format;
g. Presenting in writing identifiable risks based on analysis results;
h. Believing that the type, structure and terms of the proposed credit are protective of BRI.

C. Procedures and Standard Rules Related to Credit Granting

The Indonesian Banking Law does not provide a definition of the meaning of credit agreement. The term credit agreement is found in a Presidential Instruction addressed to the Bank community. It is instructed that in providing credit in any form, banks are required to use a "credit agreement deed" (Credit Policy Guidelines (Presidential Cabinet Instruction No. 15/EK/10) dated October 13, 1966 in conjunction with Circular Letter of Bank Negara Indonesia Unit I No. 2/539/UPK/Pem. dated October 8, 1966 and Circular Letter of Bank Indonesia No. 2/643/UPK/Pemb. dated October 20, 1966).

Based on this description, it can be explained that what is meant by credit is a loan given by a bank to a person to be used up and returned together with interest within a predetermined period of time. Based on this understanding, it can be explained that credit or financing based on Sharia Principles provided by banks contains risks, so that in its implementation banks must pay attention to sound credit or financing principles based on Sharia Principles. To reduce this risk, collateral for granting credit or financing based on Sharia Principles in the sense of confidence in the ability and willingness of debtor customers to repay their obligations as agreed is an important factor that must be considered by banks. (Thalib, P. 2018)

To obtain this confidence, before providing credit, banks must conduct a careful assessment of the character, ability, capital, collateral, and business prospects of the debtor customer. Considering that collateral is one of the elements of credit granting, if based on other elements confidence has been obtained in the ability of debtor customers to repay their debts, collateral can only be in the form of goods, projects, or collection rights financed with the credit concerned. Land with ownership in the form of girik, petuk, and other similar forms can be used as collateral. Banks are not required to request collateral in the form of goods that are not directly related to the object being financed, which is commonly known as additional collateral. (Thalib, P. 2017)

Not only that, in the implementation of credit granting or distribution, the source of rules that become references in its implementation is stated in the Civil Code (BW). In addition, Article 1335 of the Civil Code also states that an agreement made without cause or made for a false or prohibited cause has no legal force. Or there are also requirements that for a contract to be considered legally valid, it must meet certain juridical requirements. There are 4 juridical requirements for a contract to be considered valid, as follows:

1. Objective legal requirements based on Article 1320 of the Civil Code
   a. Certain object / subject matter
   b. Clauses that are allowed / permitted / legalized.
2. Subjective legal requirements based on Article 1320 of the Civil Code
   a. Existence of agreement and will
   b. Competent to act
3. General legal requirements outside Article 1320 of the Civil Code
   a. The contract must be carried out in good faith
   b. The contract must not conflict with prevailing customs
   c. The contract must be carried out based on the principle of propriety
   d. The contract must not violate public interest
4. Special legal requirements
   a. Written requirements for certain contracts
   b. Notarial deed requirements for certain contracts
   c. Certain official deed requirements (other than notary) for certain contracts
   d. Permit requirements from authorized officials for certain contracts.

Recommendations include enhancing employee training on legal compliance, regular audits by external regulatory bodies, and the implementation of whistleblowing mechanisms to detect early signs of fraud. (Shonhadji, N. 2021)

III. Conclusion

From the elaboration of Article 49 of Law Number 7 of 1992, as amended by Law Number 10 of 1998 concerning Banking, it appears that actions of members of the board of commissioners, directors and bank employees that violate the prudential principle (bank compliance) are included in Banking Crimes. The Credit Decision Maker (Manager) is responsible for checking that the approved credit complies with the prudential principle, verifying the accuracy of data and information in credit decisions, ensuring supporting documents for credit decisions are complete, valid, legally binding, and believing that credit analysis and evaluation are by SOP. Credit Analysts/Marketing are responsible for checking credit by SOP and prudential principles, following up on credit applications, verifying the accuracy of data and information, ensuring the legality documents are still valid, legal and have legal force, conducting credit analysis and evaluation by SOP. Credit Administration is responsible for ensuring compliance with the Prudential Principle by providing opinions that credit granting has complied with prudential principles and established criteria have been met, monitoring and evaluating the implementation of credit decisions. These Banking Cases show how criminal liability for violations of Bank credit prudential principles is applied.

Law enforcement personnel must use greater diligence in ascertaining the legal foundations and statutes pertinent to banking offences. The author asserts that breaches of Article 49 paragraph (2) letter a should not be classified as corruption offences but as banking crimes. To avert banking crimes, commitment and diligence are required from all stakeholders involved in banking, including internal entities (regular audit assessments by the respective bank and the OJK) and external parties (government support as the regulatory authority). This framework is essential to maintain public and international confidence, ensuring faith in banks stays unblemished. The study also finds that the legal responsibilities of bank employee in non-performing loan instances primarily arise from violations of prudential rules. To avert such incidents, banks must enhance internal oversight and enforce compliance regulations more rigorously.

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