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Corporate Liability in Banking Crimes under the PPSK Law: Between Legal Framework and Enforcement Challenges

Jhon Feri Sariaman Saragih
University of Indonesia, Indonesia
email: jhonferisariamansaragih@gmail.com

Abstract

This research addresses the legal issue of corporate liability in banking crimes as regulated under Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector (PPSK Law). The study aims to analyze the normative framework governing banking crimes committed by corporate legal subjects, particularly the absence of specific implementing regulations. The research employs a normative legal method, with the statute approach and conceptual approach as the main analytical tools. The findings show that, due to the lack of implementing provisions within the PPSK Law, Supreme Court Regulation Number 13 of 2016 concerning Procedures for Handling Criminal Cases by Corporations (PERMA Korporasi) remains applicable. This regulation provides procedural guidelines on examination, evidence, and technical aspects in cases where corporations are defendants, and therefore can be extended to corporate banking crimes.

Keywords: Banking, Banking crimes, Corporations

INTRODUCTION

Banks have a very strategic role in a country's economy because they function as intermediaries between parties who have funds and parties who need funds, which is known as the banking function intermediary *(Renniwaty Siringoringo, 2012)*. Therefore, banking regulations are needed to govern banking operations, such as providing credit, meeting financing needs, and implementing payment system mechanisms for all economic sectors. The banking sector is a vital part of a country's economic life, both now and in the future. Individuals and institutions interact with the banking sector for various purposes, from social to business. It is widely believed that banking is the "lifeblood" of a country's economy due to its importance. Article 3 of Law Number 7 of 1992 concerning Banking as amended by Law Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 concerning Banking (hereinafter referred to as the Banking Law) mandates that the primary function of Indonesian banking is to collect and distribute public funds (Undang-Undang Nomor 7 Tahun 1992 Tentang Perbankan, n.d.). Banks act as financial intermediaries between those with excess funds and those with insufficient or needing funds. Those with excess funds are those who have funds to deposit in banks or invest. Conversely, those with insufficient or needing funds to finance business or household needs can borrow from banks.

The purpose of Indonesian banking, according to Article 4 of the Banking Law, is to support national economic progress by increasing equity, economic growth, and stability, thereby improving public welfare. Meanwhile, Article 2 of the Banking Law stipulates that banking operates based on economic democracy and the principle of

prudence. Essentially, banks are economic instruments accessible to everyone in Indonesia. However, because the funds provided by banks to customers are essentially public funds deposited in the bank, banks must apply the principle of prudence in their operations (Rachmadi Usman, 2001). However, with the advancement of electronic and digital banking services and the increasing complexity of banking types and businesses, opportunities for irresponsible parties to gain personal gain are increasing. These include individuals such as directors, employees, supervisors, and even bank customers themselves who have the ability or potential to use banks as a means to commit crimes known as banking crimes or banking crimes. There is no specific definition of the terms "banking crime" and "banking crime." Legal experts and law enforcement officials also do not provide a clear definition of these terms, and there is no law that explicitly defines "banking crime" or "banking crime."

The Financial Services Authority (OJK) attempts to provide a terminological definition of the differences between banking crimes and crimes within the banking sector. Banking crimes encompass all violations related to banking operations. Therefore, regulations governing banking operations, including both criminal and general criminal provisions, may apply to these violations, provided there is no specific criminal law that threatens and punishes such violations. However, banking crimes focus more on violations prohibited or subject to criminal penalties specifically stipulated in the banking law (Otoritas Jasa Keuangan, 2015).

Banking crimes can be defined as actions (*conduct*), either in the form of doing something (*commission*) or not doing something (*omission*) committed by the perpetrator as determined as a criminal act by law legally and formally or as determined as a criminal act by the Banking Law (Pratywi Precilia Soraya, 2013). The legal subject of banking crimes regulated in the Banking Law is limited to only being able to ensnare internal parties of the bank, namely Shareholders, Commissioners, Directors and bank employees, but has not been able to ensnare external parties who commit or participate together with Shareholders, Commissioners, Directors or bank employees and cause banking crimes to occur. Especially for banking crimes that can be committed by corporations such as in the case that occurred in 1997 which was caused by a multidimensional crisis that resulted in 16 (sixteen) Banks in Liquidation (BDL), 10 (ten) Banks Frozen Operations (BBO), 5 (five) Bank Take Over (BTO), and 18 (eighteen) Banks Frozen Business Activities (BBKU) due to the provision of credit that did not pay attention to the principle of prudence to the related company (violating the BMPK) and the existence of bookkeeping engineering carried out by managers and owners or can be classified as*white crime collar (Djony Edward, 2010)*. Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector The PPSK Law, also known as the Banking Law, expands the legal framework within the Banking Law to include corporations as legal subjects in banking crimes, addressing the increasingly complex needs of banking law enforcement (Undang-Undang Nomor 4 Tahun 2023 Tentang Pengembangan Dan Penguatan Sektor Keuangan , n.d.). Criminal penalties for corporations are outlined in Articles 50B to 50D of the PPSK Law. This expansion is expected to significantly improve law enforcement and compliance efforts in the banking sector, which is crucial to the national economy.

Looking at the background of the problem, previous research on banking crimes by corporations, including a study conducted by Yudha Ramelan entitled "Implementation of Corporate Criminal Sanctions in Banks and Their Implications" (Yudha Ramelan, 2019). This study focuses on the implications of imposing criminal

sanctions on bank directors suspected of committing banking crimes, as banks cannot yet be prosecuted criminally under the Banking Law. Another study by Frilly Margaret Wurangian is entitled "Criminal Liability of Banking Corporations Due to Bank Robbery Crimes" (Wurangian Frilly Margaret, 2015). The research focuses on the accountability of bank managers or directors in the event of a bank breach because it does not allow corporations to be held accountable, because the Banking Law itself does not regulate corporate accountability. The difference between previous research and the current research lies in the changes to the Banking Law in the PPSK Law so that the Banking Law now adheres to the principle of corporations as legal subjects so that banks can be prosecuted criminally, although there are no further provisions in law enforcement.

Previous research by Riski Yunus et al. (2025) examined law enforcement against corporate crimes within PT Permodalan Nasional Madani, Palu Branch. Their findings indicate that although criminal sanctions have been imposed on individual perpetrators, corporate liability as a legal entity has not been addressed, thereby weakening the overall effectiveness of law enforcement (Riski Yunus et al., 2025). Meanwhile, research by Imro'atul Khusnaeni (2023) highlighted the urgency of granting the Financial Services Authority (OJK) exclusive authority as the sole investigator in financial technology crimes under Law Number 4 of 2023 on the Development and Strengthening of the Financial Sector. The study criticized the potential overlap of authority among law enforcement institutions and the risks of abuse of power in its implementation (Imroatul Khusnaeni, 2023).

In contrast to these studies, the present research specifically focuses on banking crimes committed by corporations under the PPSK Law of 2023, with particular attention to the recognition of corporations as criminal legal subjects. The novelty of this research lies in its normative analysis of the position of corporations as perpetrators of banking crimes and its implications for the application of Supreme Court Regulation No. 13 of 2016 on Corporate Criminal Liability, an issue not yet elaborated upon in previous studies.

In contrast to these studies, the present research specifically focuses on banking crimes committed by corporations under the PPSK Law of 2023, with particular attention to the recognition of corporations as criminal legal subjects. Unlike the pre-PPSK legal framework, which only recognized individuals—shareholders, directors, commissioners, and employees—as perpetrators of banking crimes, the PPSK Law explicitly includes corporations as legal subjects and introduces detailed criminal sanctions applicable to them. This shift represents a paradigm change in Indonesian banking law enforcement, as it moves from an individual-centric liability model to a mixed individual–corporate liability model. The novelty of this research lies in its normative analysis of this transformation and its implications for the application of Supreme Court Regulation No. 13 of 2016 on Corporate Criminal Liability, an issue not yet elaborated upon in previous studies.

METHODS

This study uses the normative legal research method, which focuses on the study of legal norms contained in legislation, legal provisions, and relevant legal doctrines. The approach used is a conceptual approach, conducting a theoretical analysis of various legal sources and scientific literature related to the issues under review. The normative position of this study emphasizes the analysis of positive law,

particularly Law Number 4 of 2023 concerning Financial Sector Development and Strengthening (PPSK Law), along with other regulations governing banking crimes by corporations. The purpose of this study is to understand and analyze the legal substance within the framework of strengthening the financial sector legal system in Indonesia, with a particular emphasis on corporate criminal liability as part of efforts to strengthen the integrity and accountability of national financial institutions.

DISCUSSION AND RESULT

Corporations as Legal Subjects of Banking Crimes in the Banking Law as Amended in the PPSK Law

In Law No. 7 of 1992 in conjunction with Law No. 10 of 1998, there are no regulations regarding corporate legal subjects as perpetrators of crimes or regulations regarding criminal penalties for parties outside the bank who together with internal parties of the bank commit banking crimes that violate the provisions of Article 49 of the Banking Law. Article 49 of the Banking Law only regulates internal parties of the bank, namely members of the board of commissioners, directors, or bank employees. The legal subjects of banking crimes in Article 49 of the Banking Law only regulate internal parties of the bank. Meanwhile, the legal subjects of corporations as perpetrators of banking crimes are not found in the provisions of the articles contained in the Banking Law (Nurul Sasmita, 2016). This means that the bank as a corporation or*right person*cannot be held criminally responsible for banking crimes. In criminal law, only the perpetrator can be held accountable, namely the person who has committed a particular crime and the formulation made by the legislator. Thus, it does not establish the legal subject of banking as*right personin* the Banking Law will have a negative impact on law enforcement (Edi Yunara, 2012).

Banks cannot be held criminally responsible for banking crimes because companies are not recognized as subjects of criminal law before corporations become subjects of criminal law. The concept in Law No. 7 of 1992 in conjunction with Law No. 10 of 1998 is in line with the Criminal Code (KUHP Law No. 7 of 1992 in conjunction with Law No. 10 of 1998, which is an administrative regulation containing criminal sanctions, which has not used the paradigm that banks as corporations should be responsible for banking crimes (Ribut Baidi & Deni Setya Bagus, 2023). This can be seen in Article 46 paragraph of Law No. 7 of 1992 jo. Law No. 10 of 1998, which reads: "*In the case of activities as referred to in paragraph (1) being carried out by legal entities in the form of limited liability companies, associations, foundations or cooperatives, then prosecution of the bodies in question shall be carried out either against those who gave the order to carry out the act or those who acted as leaders in the act or against both.*"According to Article 46 paragraph (2), criminal responsibility is not imposed directly on a corporation (limited liability company, foundation and cooperative), but rather on the person who gives the order to collect or gather funds (*funding*), and/or the person acting as the leader to collect the funds if it is a legal entity. The person giving the order or the corporate leader can be held criminally responsible under Article 46 paragraph (2) (Suci Sulistiawati, 2022).

Indonesian criminal law does not regulate banking crimes through specific criminal laws such as the Corruption Prevention Act or the Money Laundering Act. The Banking Act is essentially an administrative law that regulates criminal acts (*administrative penal law*) as regulated in Articles 46 to 50A of the Banking Law (Maikel Pieter Bukara, 2023). However, in reality, perpetrators of banking crimes are not only

individuals but also corporations. Corporations can often act as recipients of the proceeds of crime, as a means and venue for committing crimes, or as beneficiaries of crimes committed by their managers. Ironically, current laws are inadequate to address corporate banking violations, despite the fact that every criminal offense should be held criminally accountable (Edi Yunara, 2012).

This is due to the fact that the Banking Law basically does not consider corporations as subjects of banking crimes, but only considers individuals as subjects (*natural person*). That the provisions in the Banking Law use the same idea as the idea used by Law Number 1 of 1946 concerning Criminal Law Regulations (KUHP), where the idea used by the KUHP also does not explicitly stipulate that corporations are the subject of criminal acts. The KUHP applies the idea *asas society cannot offend* or *Asas, the universe cannot be wronged*, namely the principle which holds that corporations cannot commit criminal acts so that corporations cannot be held criminally responsible (Rainma Rivardy Rexy Runtuwene, 2017). According to this idea, corporate/bank administrators are the ones who should be held criminally liable if the corporation is involved in banking crimes. In cases of banking crimes, the penalties imposed on individuals typically consist of a combination of imprisonment and fines, the amount of which is not large compared to the losses incurred by the crime. This is the main challenge for law enforcement in prosecuting banks as corporations and recovering state financial losses in banking crime cases (Budi Suhariyanto, 2016).

To address these issues, the government has issued improvements to the Banking Law in Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector, which came into effect on January 12, 2023.*to all*The financial services sector has revoked two laws and amended thirty-three related laws in the financial sector. The PPSK Law amends the norms in the Banking Law, as outlined in Chapter IV on Banking, namely Articles 13 and 14, numbers 1 through 58. It also amends the provisions on banking crimes in the Banking Law (Hukumonline, 2025). Some of the contents of the Banking Law were changed by this law to align with the new criminal law norms in the National Criminal Code (*Undang-Undang Nomor 1 Tahun 2023 Tentang Kitab Undang-Undang Hukum Pidana, n.d.*). The new conceptual framework introduced by the National Criminal Code and the PPSK Law regarding the expansion of the subject matter of criminal acts has indirectly changed the position of corporations as legal subjects for banking crimes. This also applies to the possibility of corporate criminal liability in banking crimes. This paradigm shift will undoubtedly impact future law enforcement processes. Therefore, an analysis of this paradigm shift and how the new criminal law paradigm views corporate criminal liability for banking crimes, particularly regarding the legal subject of banking crimes, is necessary (Nurianto, 2018).

The novelty of this research lies in its comparative analysis of the pre-PPSK and post-PPSK legal frameworks regarding corporate criminal liability in banking crimes. Prior to the PPSK Law, enforcement was restricted to individual accountability, focusing solely on directors, commissioners, and employees, which often resulted in sanctions that were not proportional to the systemic harm caused. The PPSK Law fundamentally shifts this paradigm by explicitly recognizing corporations as criminal legal subjects and introducing a comprehensive sanctioning mechanism — including corporate fines, suspension of business activities, and restitution obligations. This research advances the discourse by demonstrating how this legislative change closes

the enforcement gap, strengthens corporate accountability, and aligns Indonesia's banking regulation with modern trends in corporate criminal liability.

For example, in the formulation of Article 37E of the PPSK Law, the term "Whoever" has been changed to "Every Person" as stated in Article 14 number 35 of the PPSK Law which amends the provisions of Article 37E of the Banking Law:

"Everyone is prohibited from:

a. *making or causing false records to be made in bookkeeping or in reports, documents or business activity reports, and/or transaction or account reports of a Bank;*
b. *eliminating, not including, or causing no recording to be made in the books or in reports, documents or business activity reports, and/or transaction reports or accounts of a Bank;"*

By using the phrase "Every person" there is an expansion of the legal subjects adopted in the PPSK Law as defined in the general provisions of the PPSK Law, namely in Article 1 number 51, that"*Every person is an individual, corporation or business entity, whether in the form of a legal entity or not in the form of a legal entity, or other entity*". Therefore, it is necessary to explain the analysis of what is meant by the definition of "Every Person" in relation to the applicable legal provisions, because the explanation of the PPSK Law only provides a "sufficiently clear" statement.

The practical implication of using the term "Every Person" is significant because it enables the direct prosecution of corporations without the procedural necessity of first identifying individual directors, commissioners, or employees as perpetrators. Under this broader formulation, a bank as a corporate legal subject can be held criminally liable when a violation is committed for its benefit or within the scope of its business purpose, consistent with the criteria set forth in Article 50B of the PPSK Law. However, this raises important considerations regarding the principle of *nullum crimen sine culpa* (no crime without fault), as courts must still determine whether fault exists on the part of the corporation — either through the acts or omissions of its governing bodies or through systemic failures such as inadequate internal controls. In practice, this means prosecutors must prove that the corporation had the ability to prevent the crime but failed to do so, thereby satisfying the element of culpability. This development strengthens the preventive function of corporate criminal law by encouraging banks to adopt compliance programs and internal monitoring mechanisms to mitigate potential liability.

1. Individuals; Is an individual, either an Indonesian citizen or a foreign national, namely a person who is capable of carrying out legal acts.
2. A corporation/business entity is an organized group of people and/or assets, which can be in the form of (Muhamad Mahrus Setia Wicaksana, 2020):
    a. Legal Entity, namely an entity established with the approval of the relevant government agency to carry out certain activities, such as a Limited Liability Company (Closed PT or Open PT/go public), Cooperative, Foundation, and Association based on the relevant laws and regulations that regulate them;
    b. Not in the form of a legal entity, namely an entity established in order to carry out business activities whose establishment does not require approval from a government agency, such as CVs, Firms and Civil Partnerships.
    c. Other bodies which can be in the form of associations, societies, associations or community organizations.

Law Enforcement of Banking Crimes by Corporations

Since 2016, through Supreme Court Regulation No. 13 of 2016 concerning Procedures for Handling Criminal Cases by Corporations (PERMA Corporation), the Supreme Court has regulated the procedures for examination, evidence, and technical aspects that need to be considered when examining and trying criminal cases where the defendant in this case is a corporation (Muhammad Indra Kusumayudha, 2025). Thus, this PERMA on Corporations also applies to all criminal acts regulated within and outside the Criminal Code, including corruption and economic crimes, such as banking crimes, as long as there are no specific regulations regarding the legal enforcement of banking crimes by corporations. Article 3 of the PERMA on Corporations stipulates that "*Criminal acts by corporations are criminal acts committed by people based on employment relationships, or based on other relationships, either individually or together, acting for and on behalf of the corporation within or outside the corporate environment..*"(Muhammad Indra Kusumayudha, 2025).

From the definition of this article, it is clear that there are two parties who can be considered to have committed a corporate crime under the PERMA Corporation. First, individuals who have an employment relationship with the company; second, individuals who do not have an employment relationship but have other relationships with the company acting on behalf of the corporation. There are several models of corporate criminal liability based on their position as the perpetrator and the type of criminal liability, including (Peraturan Mahkamah Agung Republik Indonesia Nomor 13 Tahun 2016 Tentang Tata Cara Penanganan Perkara Tindak Pidana Oleh Korporasi, n.d.):

1. The responsible party is the corporate management as the creator and administrator.
2. The responsible party is the corporation as the creator and administrator.
3. Corporations and administrators as creators and also as administrators as responsible parties.

Article 4 of the Supreme Court Regulation on Corporations regulates the criminal penalties that can be imposed and are considered corporate crimes, as well as how to assess corporate misconduct. Article 4 of the Supreme Court Regulation on Corporations is as follows:

1. Corporations can be held criminally liable in accordance with the criminal provisions found in the laws governing corporations.
2. The judge assesses the corporation's errors in deciding criminal penalties against the corporation as per paragraph (1) including:
    a. The crime was committed for the benefit or benefit of the corporation or the corporation made a profit.
    b. The corporation allows the crime to occur; or
    c. The corporation did not take the necessary steps to prevent greater impacts and/or ensure compliance with applicable legal provisions.

The PERMA on Corporations does not specify who can be considered a perpetrator of a corporate crime, but it also does not limit who can be punished, allowing judges to punish individuals outside the corporate organizational structure who benefit from the proceeds of corporate crime. Article 23 of the PERMA on Corporations stipulates:

1. Judges can impose criminal sentences on corporations or their administrators, and also on both corporations and their administrators.

2. The punishment imposed by the judge is based on the respective provisions that regulate the threat of criminal penalties against corporations and/or corporate managers.
3. The imposition of criminal penalties on corporations and/or corporate administrators does not preclude the possibility of imposing criminal penalties on other perpetrators who, based on the provisions of the law, are proven to be involved in the crime.

The process of enforcing banking crimes by corporations/banks with reference to the provisions of the PERMA Corporations, can be described as follows:

1. A corporation/bank is represented by a bank administrator during an investigation as a suspect. Investigators conducting the investigation of the bank summon the corporation with a valid summons. The bank administrator representing the bank during the investigation must be present. If the administrator, duly summoned, fails to appear, refuses to appear, or does not appoint a bank administrator to represent the bank during the investigation, the investigator will select one of the bank administrators to represent the bank and summon officers to forcibly remove the individual (Article 11).
2. The indictment against a bank or corporation is made in accordance with the provisions of the Criminal Procedure Code (KUHAP), with the form of the indictment referring to Article 143 paragraph (2) of the KUHAP by adjusting the contents of the indictment (Article 12).
3. Bank administrators representing the bank at the investigation stage must also be present at the court hearing. However, if the bank administrator is unable to attend due to temporary or permanent incapacity, the judge or presiding judge may order the public prosecutor to select and present another bank administrator to represent the bank as a defendant in the court hearing. If the bank administrator representing the corporation or bank as a defendant has been summoned without a valid reason for not appearing at the hearing, the judge or presiding judge shall adjourn the hearing and order the public prosecutor to recall the bank administrator to appear at the next hearing. If the bank administrator is not present at the next hearing, the judge or presiding judge shall order the public prosecutor to recall the bank administrator to appear at the next hearing (Article 13).
4. Valid evidence is a statement from the corporation/bank. The evidentiary system for handling criminal acts committed by corporations or banks is regulated by the Criminal Procedure Code and procedural provisions specifically stipulated in other laws (Article 14).
5. A bank manager representing a corporation/bank is a suspect or defendant in the same case as the bank. However, another bank manager who is not a suspect or defendant may represent the corporation or bank in the criminal case (Article 15).
6. In PERMA it is stipulated that if a corporation/bank cannot pay the specified fine, the assets or wealth of the corporation/bank can be auctioned to cover the fine (Article 23).

An important point that requires emphasis is the normative harmonization between the PPSK Law and Supreme Court Regulation (PERMA) No. 13 of 2016. While this paper notes that PERMA remains applicable, a deeper normative analysis suggests that PPSK provides an updated substantive framework that should ideally be complemented by procedural alignment. PERMA No. 13/2016 currently offers general

guidance for handling corporate crime cases across all sectors, but it does not yet reflect the specific sanctioning model and expanded corporate liability introduced in Articles 50B–50D of the PPSK Law. Therefore, legal harmonization could take two forms: (i) revising PERMA to explicitly incorporate PPSK provisions on corporate banking crimes, ensuring procedural consistency and clarity for judges and prosecutors, or (ii) issuing derivative regulations under the PPSK Law that formally adopt PERMA's procedural framework with sector-specific adjustments. Either approach would strengthen legal certainty, avoid interpretive gaps, and ensure that the enforcement of corporate liability in banking crimes is both substantively and procedurally coherent.

Accountability for Banking Crimes by Corporations

Criminal liability or*criminal liability*caused by a crime or criminal act committed by the perpetrator of the crime (Mahrus Ali, 2011). Before a criminal charge can be made, the main element that forms criminal responsibility is required, namely fault. Fault itself has three components: the perpetrator has the competence to be responsible (sound mind), there is an element of fault, namely intent (*trick*) or negligence (*blame*), and the absence of any excuse. Some theories about criminal responsibility are*identification theory*, *strict liability*, And *vicarious liability*. Although the theory of criminal liability is known for individuals as legal subjects, it can also be applied to the criminal liability of banks as corporations as legal subjects (Dwiki Agus Hariono, 2021).

Among the various theories of corporate criminal liability, the **vicarious liability** model appears to be the most relevant for the Indonesian banking context. Strict liability, while effective in regulatory offenses, risks undermining the principle of *culpa* because it allows conviction without proving fault, which could conflict with the fundamental principle of *no crime without fault* (*nullum crimen sine culpa*) recognized in Indonesian criminal law. The vicarious liability approach, by contrast, strikes a balance by attributing liability to the corporation through the actions or omissions of its directors, commissioners, or employees acting within the scope of their authority. This model is consistent with Article 50B of the PPSK Law, which requires that corporate liability arise from actions carried out to fulfill the corporation's objectives or that benefit the corporation. It also aligns with PERMA No. 13/2016, which permits judges to impose sanctions on corporations and/or their management based on the proven involvement of responsible persons. Therefore, adopting a vicarious liability framework provides both fairness — by linking liability to identifiable corporate decision-making — and deterrence, incentivizing banks to strengthen internal controls and compliance systems to prevent future violations.

The definition of corporate criminal liability is the criminal responsibility of a corporation for committing a crime or for a corporation as the perpetrator of a banking crime. With the increasing scope of banking crimes, the PPSK Law establishes banks as corporations as subjects of criminal law. This means that all actions taken by banks as corporations are considered similar to those committed by humans. A bank can be held criminally liable for committing banking crimes (Alvi Syahrin et al., 2014). This is in accordance with the theory of Nonet and Selznick, which states that criminal punishment alone is rarely effective in correcting criminal acts. Responsive law (*responsive law*) provides a broader and ideal purpose in the formation and enforcement of law (Ali Majid, 2021).

Banks, as corporations, found guilty of violating the law can be subject to principal criminal penalties and additional penalties. However, unlike individual legal

entities, which can be imprisoned, banks cannot be imprisoned and are therefore subject to fines as the primary penalty (Firmantoro et al., 2024). The concept of corporate responsibility which is only limited to minor criminal acts is ultimately considered insufficient by criminal law experts, thus becoming the reason for the importance of establishing corporations as subjects of criminal law which are deemed to have committed banking crimes and can be held responsible, with justifications including:

1. The amount of profit obtained by the bank as a corporation and the amount of loss suffered by the community is very unbalanced if the company is only punished civilly.
2. Banks as corporations which are the main actors in the economy of a country have the greatest potential to influence rational business behavior.
3. Banking crimes committed by banks as corporations by internal parties of the bank can cause major losses to the community, therefore it is hoped that criminal sanctions will create a "deterrent effect".
4. It is felt that it is less repressive if only corporate administrators are criminalized.

Article 4 paragraph 1 of the Supreme Court Regulation on Corporations states that corporate criminal liability will vary significantly under certain laws, depending on the provisions governing them. Furthermore, Article 4 paragraph 2 of the Supreme Court Regulation on Corporations stipulates that judges can determine whether a corporation is guilty or not based on several aspects, namely (Aji Prasetyo, 2025):

1. criminal acts committed by corporations provide profit or benefits to the corporation;
2. the crime that occurred was allowed to occur by a corporation or;
3. the absence of preventive measures from corporations to prevent greater impacts and ensure compliance with applicable legal provisions to avoid criminal acts.

In the PPSK Law, criminal sanctions for banking crimes by banks as corporations are regulated in:

1. Article 50B

(1) "In the case of criminal acts as referred to in Article 46, Article 47, Article 47A, Article 48, Article 49, Article 50, and Article 5OA committed by a corporation or business entity in the form of a legal entity or not in the form of a legal entity, or other entity, the penalty shall be imposed on the corporation or business entity in the form of a legal entity or not in the form of a legal entity, or other entity and/or members of the board of directors or equivalent, members of the board of commissioners or equivalent, PSP or equivalent, and/or other parties.

(2) Criminal penalties are imposed on corporations or business entities in the form of legal entities or those not in the form of legal entities, or other bodies in the case of criminal acts:
   a. carried out or ordered by members of the board of directors or equivalent, members of the board of commissioners or equivalent, PSP or equivalent, and/or other parties;
   b. carried out in order to fulfill the aims and objectives of a business entity, whether in the form of a legal entity or not, or other entity;
   c. carried out in accordance with the duties and functions of the perpetrator or person giving the order; and

d. carried out with the intention of providing benefits to corporations or business entities in the form of legal entities or those that are not legal entities, or other bodies.

2. Article 50C

(1) The main criminal penalty imposed on corporations or business entities, whether in the form of legal entities or not, or other entities, is a fine with the following provisions:
   a. General Banks at least IDR 50,000,000,000 (fifty billion rupiah) and at most IDR 600,000,000,000 (six hundred billion rupiah);
   b. BPR at least Rp. 5,000,000,000 (five billion rupiah) and at most Rp. 60,000,000,000 (sixty billion rupiah); or
   c. corporations or business entities, whether in the form of legal entities or not, or other entities other than those referred to in letter a and letter b, at least Rp. 50,000,000,000 (fifty billion rupiah) and at most Rp. 600,000,000,000 (six hundred billion rupiah).

(2) In addition to the criminal fines as referred to in paragraph (1), corporations or business entities, whether in the form of legal entities or not, or other bodies, may also be subject to additional penalties in the form of:
   a. announcement of the judge's decision; and/or
   b. freezing of some or all of the business activities of a corporation or business entity, whether in the form of a legal entity or not, or other entity, after receiving consideration from the Financial Services Authority.

3. Article 50D

(1) In addition to being sentenced to imprisonment and a fine as referred to in Article 46, Article 47, Article 47A, Article 48, Article 49, Article 50, Article 5OA, Article 5OB, and Article 50C, the convict may be sentenced to additional punishment in the form of compensation for losses if the crime results in losses.

(2) Additional penalties in the form of compensation for losses as referred to in paragraph (1) are returned to the injured party in the amount of the losses suffered or proportionally if the amount of compensation for losses is insufficient to cover the total amount of losses incurred.

(3) In implementing the criminal decision as referred to in paragraph (1), the convict is given a period of 1 (one) month from when the decision has obtained permanent legal force.

(4) If there is a strong reason, the time period as referred to in paragraph (3) may be extended for a maximum period of 1 (one) month.

(5) If the convict does not pay the fine and additional punishment in the form of compensation as referred to in paragraph (1), the convict's assets will be confiscated and auctioned by the prosecutor to pay off the fine and compensation.

(6) In the event that the confiscation and auction of assets as referred to in paragraph (5) is insufficient or impossible to carry out, the additional penalty in the form of compensation for unpaid losses shall be replaced by a prison sentence as threatened for the crime in question.

(7) Additional penalties in the form of compensation for losses as referred to in paragraph (1) and the length of imprisonment as referred to in paragraph (6) as determined by the judge are stated in the court's decision.

A closer examination of Articles 50B–50D of the PPSK Law shows that the Indonesian model of corporate criminal liability is not a pure strict liability system, but rather closer to the **identification theory**. This is evident because corporate liability under the PPSK Law still requires a nexus between the prohibited act and the conduct of individuals who hold positions of authority within the corporation — such as directors, commissioners, or controlling shareholders — and that the act is committed to fulfill the corporation's objectives or provide benefits to the corporation. In other words, fault is still "identified" through the decision-making organs of the corporation, not presumed automatically. Nevertheless, the PPSK Law also introduces elements that strengthen corporate accountability beyond individual liability, such as allowing simultaneous sanctions on both corporations and their management, which gives it a hybrid character. This design reflects Indonesia's cautious approach: it upholds the principle of *no crime without fault* while ensuring that corporations cannot escape liability merely by hiding behind their managers or complex organizational structures.

As a concrete post-PPSK example, the **Ted Sioeng vs. Bank Mayapada** case illustrates the growing importance of corporate accountability in banking crimes. In this case, the bank's standard operating procedures (SOP) for credit disbursement — such as collateral verification, asset ownership checks, and proper documentation — were called into question (Pasardana.id, 2024). Legal experts and defense counsel questioned whether the loan application process had been properly conducted, including whether credit forms were duly signed and all supporting documents submitted. Under the pre-PPSK framework, enforcement in such cases typically focused only on individuals, such as bank officials or the borrower, with limited room to hold the bank as an institution liable. With the PPSK Law now in effect, however, this case provides an opportunity to apply corporate liability where it can be proven that the bank, through its governing personnel, breached banking regulations or failed to exercise due diligence. The Ted Sioeng case illustrates that without such concrete examples, legal analysis of the PPSK reforms risks remaining abstract; with them, the discussion can demonstrate how the new norms may reshape enforcement practices, including the direct imposition of corporate sanctions.

CONCLUSION

First, regarding the regulation of banking crimes by corporations, the PPSK Law (Law Number 4 of 2023) represents a fundamental paradigm shift by explicitly expanding the scope of criminal subjects to include corporations. This addresses the long-standing weakness of the previous Banking Law, which only recognized natural persons — shareholders, directors, commissioners, and employees — as perpetrators. By positioning corporations as legal subjects, the PPSK Law affirms that banks, as business entities, can be held criminally liable for violations of banking regulations, thereby strengthening corporate accountability and aligning Indonesia's financial sector regulation with global trends.

Second, regarding enforcement, this study finds that the PPSK Law continues to rely heavily on the procedural framework of Supreme Court Regulation (PERMA) No. 13 of 2016 concerning Procedures for Handling Criminal Cases by Corporations. While this provides a functional mechanism for prosecuting corporate defendants, its general nature risks leaving interpretive gaps for sector-specific crimes such as those in banking.

Therefore, this paper argues that the PPSK reform, while necessary, is not yet sufficient to guarantee effective corporate criminal liability in practice. The absence of implementing regulations, as well as the lack of clear coordination mechanisms between the Financial Services Authority (OJK), Bank Indonesia, the Police, and the Prosecutor's Office, may lead to fragmented enforcement. To ensure consistency and legal certainty, derivative regulations under the PPSK Law should either harmonize with or formally adopt PERMA No. 13/2016, complemented by sector-specific guidelines for banking crimes. Strengthening institutional coordination and compliance monitoring will be crucial to transforming the normative framework into tangible deterrence and accountability in Indonesia's banking sector.

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