

## RECONSTRUCTION OF BANK'S AUTHORITY TO PROTECT ITS CUSTOMERS FROM BANKING CRIMES IN INDONESIA BASED ON JUSTICE

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**Abstract:** *The purpose of this study was to examine and to analyze the authority of banks in providing protection to bank customers from banking crimes based on the Republic of Indonesia Law Number 21-year 2011 concerning the Financial Services Authority that has not fulfill the value of justice and to reconstruct the legal authority of the bank in protecting customers from banking crimes based on justice. The approach method used in this research was normative legal research (normative juridical), what is meant by normative legal research method is a method of legal research conducted by examining library material or secondary data. The results of the study found that banking as an institution relied on public trust, so that banks should provide guarantees to the public. The bank is safe and able to keep information confidential about customers and their savings. Thus, banking institutions need to be nurtured and monitored continuously, so that they can function efficiently, fairly, be able to compete and can protect funds deposited by customers.*

**Keywords:** *Bank's Authority, Banking Crime, Customer Protection*

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### Introduction

The function of the state in the economic field, according to W. Friedman is as the provider (provider) of people's welfare, the state as regulator (regulator), state as entrepreneur or run certain sectors through State Owned Enterprises (BUMN), and state as umpire (umpire) to formulate fair standards concerning economic sector including state corporation.<sup>1</sup>

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<sup>1</sup> Wolfgang Friedmann, 1971, *The State and The Rule of Law in a Mixed Economy*, London: Stevens and Sons, page. 3.

In the implementation of banking business activities, customer rights often cannot be implemented properly, causing friction between customers and banks as indicated by the appearance of customer complaints. This customer complaint should be resolved properly by the bank, it is done to avoid potential dispute which in turn can harm both the customer and or the bank. The absence of a standard mechanism in handling customer complaints so far has caused disputes between customers and banks to tend to drag on, among others, marked by sufficient number of customer complaints in various media.

The emergence of complaints spread to the public through various media can reduce the bank's reputation in the eyes of the public and potentially reduce public confidence in banking institutions if not addressed immediately. <sup>2</sup>

In order to avoid misuse of financial customers, special rules are made which prohibit banks from providing recorded information to anyone relating to the financial situation of the customer, deposits and storage as stipulated in Law Number 10-year 1998 concerning Banking except in certain cases mentioned firm in the law. This is what is called the "Secret of the Bank".

Provisions concerning the Secret of the Bank in Law Number 7-year 1992, has regulated certain exclusionary matters which make it possible to know of a bank secret from someone. As for the possibility of opening a bank can be done if there is a general interest in the form of: <sup>3</sup>

1. Taxation.
2. Receivable Settlement handled by the State Receivable and Auction Affairs Agency (BUPLN/PUPN).
3. Courts for both criminal and civil cases.
4. Interest in the smoothness and security of the bank's business activities, including confidential opening requests based on the power of the depositor's own customer or the request of a legal heir.

Seeing the limitations of the original provisions stated in Article (1) of Law Number 7-year 1992, Law Number 10-year 1998, the Bank's Secret provisions were amended, namely to<sup>4</sup>: "Banks are required to keep information about depositors and their deposits confidential, except in the case referred to in Article 41, Article 41 A, Article 42, Article 43, Article 44, and Article 44 A. "

The principle of maintaining the confidentiality of the customer's financial condition is a very important matter in carrying out business activities in the banking sector, because with the guarantee of confidentiality, it will foster a sense of "confidence" for customers who need a "non-disclosure" atmosphere for their financial condition. From that sense of "confidence" there will be a fiduciary relationship between the bank and its customers which will also affect the development of the banking business for the trusted bank.

The regulation of the confidentiality of customer data is not explicitly regulated in Law Number 7-year 1992 concerning Banking as amended by Law Number 10 year 1998

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<sup>2</sup> *Bank Indonesia Regulation No.7/7/PBI/2005*

<sup>3</sup> Muhamad Djumhana, *Hukum Perbankan di Indonesia*, Bandung. PT.Citra Aditya Bakti, tahun 2012, page.162

<sup>4</sup> *Ibid*, page.162

(Banking Law). The Banking Law only regulates the principle of Bank's secret in general, namely in the form of the term 'bank secrets', which is defined as everything related to information about deposit customers and their deposits.<sup>5</sup>

If the bank is able to maintain confidentiality regarding deposit customers, it will make the customer feel comfortable and safe to deposit funds in the bank, so that it will also have an impact on public confidence in the bank. Basically, the principle of secrecy applied in banking business activities is aimed at the interests of the bank itself. The more people who will save their funds in the bank, the more it will increase the profits for the bank.

To overcome the problems as mentioned above, it is necessary to intervene from the authorities in the consumer protection sector in the field of financial services. Protection of consumers of users of financial services is based on Law Number 21-year 2011 concerning the Financial Services Authority. Bank secret is very important, given that banks as trusted institutions must keep everything related to deposit customers and their savings confidential. Therefore, to avoid being subjected to criminal, civil, administrative sanctions and social witnesses from the public, employees and bank management must know about bank secret regulations.

The formulation of articles governing bank secret in Law Number 10-year 1998 concerning Banking, among others:

Article 1 number 28

Mention: Bank's secret is anything that relates to information about the depositing customer and their deposit.

Article 40 paragraph (1)

Mention: Banks must keep information about deposit customers and their deposits confidential, except in the case referred to in Article 41, Article 41 A, Article 42, Article 43, Article 44 and Article 44 A.

The banking crime mentioned in Article 40 of the Banking Law, the problem settlement implication of sanctions is regulated in Article 47 paragraph (2).

Based on the description above, the researchers were interested in assessing deeply the authority of the bank in providing protection to customers based on Law Number 21-year 2011 concerning the Financial Services Authority, so far the Bank is Fair in Providing Protection to Customers, and reconstructing the authority of the bank in protecting customers from banking crime based on justice.

## **Research Methods**

### ***Research Paradigm***

The research method is a scientific and systematic way to find out and investigate a phenomenon related to research conducted.

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<sup>5</sup>Article 1 Number 28 of Act Number 7 of 1992 concerning Banking as amended by Act Number 10 of the Year 1998.

### ***Approach Method***

The approach method used was normative legal research (normative juridical), what is meant by normative legal research method is a method of legal research conducted by examining library material or secondary data.

### ***Research Specifications***

This type of research is specifically more descriptive qualitative, qualitative descriptive method is intended to obtain a good, clear picture, and can provide as much data as possible about the object under study. In this case, it is to describe the Bank's authority in providing protection to customers from banking crimes.

### ***Data Sources***

The initial step taken was to collect legal materials both primary and secondary data with the subject matter. Primary legal material is a legal material whose existence is based or produced by a particular authority, such as the Banking Law Number 10-year 1998, Law Number 8-year 1999 concerning Consumer Protection, Law Number 21-year 2011 concerning the Financial Services Authority, Regulation Bank Indonesia Number 2/19/PBI/2000 Year 2000 and others relevant to research.

### ***Data Collection Techniques***

Data collection techniques were carried out through a review of data that can be obtained from research in one bank, in legislation, textbooks, journals, research results, internet, library magazines and others. Basically, data collection techniques with this approach are carried out on various literatures.

### ***Data Analysis Techniques***

Data analysis technique is a process of data sequence categories, organizing into a pattern, category and unit of basic description, which distinguishes it from interpretation that gives a significant meaning to the analysis. It explains the pattern of descriptions and looks for relationships between the dimensions of description.<sup>6</sup>

## **Theoretical Framework**

### ***Bank and its Function***

Bank is a financial institution that becomes the place for individuals, private business entities state-owned enterprises, even government institutions to save funds owned.<sup>7</sup> The traditional function of banks is to collect funds from the public and channel funds to the public<sup>8</sup>. Bank is a financial institution that can provide funds in the form of loans to the community for business development.<sup>9</sup>

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<sup>6</sup> Iskandar, *Metode Penelitian Kualitatif*, Gaung Persada 2009, page.136.

<sup>7</sup> Hermansyah, *Hukum Perbankan Nasional Indonesia Edisi Revisi*, Jakarta: Kencana Prenada Media Group, 2009, page7. See too Anis Mashdurohatun, Redyanto Sidji, Gunarto, *Factors Causing Banking Cyber Crime In Indonesian* , *International Journal of Economic Research*, 2017

<sup>8</sup> Anis Mashdurohatun, Zaenal Arifin and Gunarto, *The Inconsistency of Parate Execution Object Warranty of Rights in Banking Credit Agreement in Indonesia*, *International Journal of Applied Business and Economic Research*, ISSN : 0972-7302, Volume 15, Number 20, 2017,page.267

<sup>9</sup> Bambang Suprabowo, Anis Mashdurohatun, Eman Suparman, *The Inhibiting Factors On Legal Protection For Recipients Of Fiduciary Warranties With Inventory Guaranteed Objects*, *South East Asia Journal of Contemporary Business, Economics and Law*, Vol. 13, Issue4(August) ISSN 2289-1560,2017,page.117.

Increasing the overall implementation of national development, especially economic development, must pay more attention to harmony and balance of the elements of development equality, economic growth and national stability. One of the supporting economic developments in Indonesia is a banking institution that has a large role in carrying out economic policies and is one of the important components of the national economy.

The achievement of these development goals requires the rule of law as a support for the activities of banking institutions, namely the banking law that can provide a fibre system of the legal system that provides certainty in its implementation.

National banking serves as a means of empowering communities and all national economic forces, especially small, medium and corporate entrepreneurs. To achieve this, Indonesian banks must have a commitment. This commitment by Nyoman Moena was translated into banking language, namely Indonesian banking functioned as: <sup>10</sup>

- a. Trusted institution
- b. Institution driving economic growth
- c. Equalization institution.

#### ***Legal Relations and Rights and Obligations of Bank and Customer Parties***

As is known, the banking industry functions as a collector and distributor of public funds, so that the consequences cause 2 (two) legal relationships, namely: first legal relationship between the bank (debtor) and depositors (creditors), in the form of a storage agreement (deposit agreement) funds, and second, the legal relationship between the bank (creditors) and borrowing funds (debtors) in the form of bank credit agreements (financing based on Sharia principles).

In addition to conducting business activities collecting funds from the community and then channelling the funds to the community, the banking industry conducts other bank services that are part of the usual business activities. <sup>11</sup>

#### ***Background of the Establishment of Financial Services Authority***

The Financial Services Authority is a financial services supervisory institution such as the banking industry, capital market, mutual funds, finance companies, pension funds and insurance that had to be formed in 2010. The existence of the Financial Services Authority (FSA) as a financial sector supervisory institution in Indonesia needs to be considered, because it must be well prepared all things to support the existence of the FSA. <sup>12</sup>

For a long time, the establishment of the Financial Services Authority was mandated by the Bank Indonesia Law, namely Law Number 23-year 1999 as amended by Act Number 3-year

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<sup>10</sup>Nyoman Moena, *Rangkuman Sajian Analisis Efisiensi dan efektifitas Hukum Perbankan*, Makalah pada pertemuan Ilmiah BPHN, Desember 1996, page.1-2.

<sup>11</sup>Rachmadi Usman, *Penyelesaian Pengaduan Nasabah dan Mediasi Perbankan*, Bandung: PT. Citra Aditya Bakti 2010, page.77

<sup>12</sup>Siti Sundari, *Laporan Kompendium Hukum Bidang Perbankan, Kementerian Hukum dan HAM RI*, 2011, page. 44

2004 concerning Bank Indonesia, which has faced various controversies over the precise transfer of the banking supervision function that originally handled by Bank Indonesia.<sup>13</sup>

After the issuance of Law Number 21-year 2011 concerning the Financial Services Authority which was promulgated on November 22, 2011, the regulation and supervision of the banking sector which was originally at Bank Indonesia was transferred to the Financial Services Authority. In the explanation of the FSA Law, it is stated that a more integrated and comprehensive financial services sector regulation and supervision agency is needed so that a more effective coordination mechanism can be achieved in handling problems arising in the financial system so as to ensure financial system stability.<sup>14</sup>

## Research Results and Discussion

### *Authority of the Bank Based on Law Number 10-year 1998 concerning Amendments to Law Number 7-year 1992 concerning Banking*

In the banking practice, customers are divided into three, namely: First, depositors' customers. They are customers who deposit funds in a bank, for example in the form of demand deposits, savings deposits and deposits. Second, customers are the user of credit facilities or bank financing, such as home ownership credit, murabahah financing, and so on. Third, customers who conduct transactions with other parties through a bank (walk in customer), for example transactions between importers as buyers with exporters abroad by using letter of credit facilities (L/C).<sup>15</sup>

There are two dominant problems that consumers of banking services often complain about. First, complaints about banking products, such as ATMs (Automatic Teller Machines), Credit Cards, and various types of savings, including complaints about banking products related to promises of gifts and advertisements for banking products. Second, complaints about the workings of officers who are unsympathetic and less professional, especially service point officers, such as tellers, customer service, and security guards.<sup>16</sup>

If we look at Article 40 paragraph (1) of Law Number 10-year 1998 concerning Amendments to Law Number 7-year 1992 concerning Banking (Banking Law), confirms that banks must redeem information regarding deposit customers and their savings. Therefore, the bank is obliged to guarantee the confidentiality of the customer's identity along with the funds that are kept in the bank. This is because bank secrets are very important for customers, because without bank secrets other people will easily learn the financial situation of the customer which can later be used to misuse funds on the customer's account.

However, in its implementation there are still bank confidential violations so that the rules of the banking law are not implemented, thus harming customers, this can be seen as in cases that have occurred such as:

- a. Reduced balance in a large number of customer accounts.

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<sup>13</sup>Ahmad Taqiyuddin, *Undang-Undang OJK Dalam Kajian Hukum dan Pembangunan Ekonomi*, (Pascasarjana Ilmu Hukum Universitas Lambung Mangkurat, Banjarmasin, tahun 2012) page. 15

<sup>14</sup>*Law Number 21 of 2011 concerning the Financial Services Authority, General Explanation*

<sup>15</sup>Yusuf Shofie, 2000, *Perlindungan Konsumen dan Instrumen-Instrumen Hukumnya*, Bandung: PT. Citra Aditya Bakti, page. 32-33.

<sup>16</sup>Sudaryatmo, 1999, *Hukum dan Advokasi Konsumen*, Bandung: PT. Citra Aditya Bakti, page.19-20

- b. Customer failure in investing to make profits, and customers experience bankruptcy in their business due to reduced capital.

Whereas Law Number 8-year 1999 concerning Consumer Protection, in Article 1 number 2, defines consumers: as every person who uses goods and or services available in the community, both for self, family, other people, and other living things and not to be traded. Based on this definition, what is meant by consumers is those who are users of goods and services.

To improve the dignity of consumers, it is necessary to increase the awareness, knowledge, concern, ability and independence of consumers to protect themselves and develop the attitude of responsible business actors.<sup>17</sup>

Legal protection provided by banks for the use of banking services when viewed under the Law of the Republic of Indonesia Number 10-year 1998 concerning Amendments to Law Number 7-year 1992 concerning Banking consists of:

1. Provision of information regarding the risk of loss  
Article 29 paragraph (4)  
For the benefit of customers, banks must provide information regarding the possibility of risk of loss in relation to customer transactions conducted through the bank.
2. Secret of the Bank  
Article 1 number 28  
Bank's secret is everything related to information about deposit customers and their deposits. "  
Article 40 paragraph (1) and (2)
  1. Banks are required to keep information about the Depository Customer and their deposits confidential, except in the case referred to in Article 41, Article 41 A, Article 42, Article 43, Article 44, and Article 44 A.
  2. The provisions referred to in paragraph (1) also apply to Affiliated Parties.
3. Guarantee on customer deposits through the Deposit Insurance Corporation  
Article 47 B paragraph (1) and (2)
  1. Each bank is obliged to guarantee public funds that are deposited with the bank concerned.
  2. To guarantee public deposits at banks as referred to in paragraph (1) a Deposit Insurance Agency is established.

***Legal Protection for Bank Customers by Banking Seen from Law Number 21 Of 2011 Concerning the Financial Services Authority (FSA).***

Consumer protection in the FSA Law includes more complex and complete consumer protection. With this broader scope, FSA's range of duties and authority and responsibility for consumer protection is also increasingly widespread in the field of financial services. FSA institution is formed with the aim that all activities within the financial services sector are able to protect the interests of consumers and society.<sup>18</sup>

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<sup>17</sup>Zaeni Asyhadie, *Hukum Bisnis, Prinsip dan Pelaksanaannya di Indonesia*, Jakarta .Raja Grafindo Persada, tahun 2005, page.191

<sup>18</sup>Article 4 letter c Law of the Financial Services Authority

In Article 30 of the FSA Law, it is stated that for the protection of consumers and the public, FSA has the authority to carry out legal defence which covers, orders or performs certain actions for financial service institutions to resolve complaints of consumers who have been harmed by the financial service institution. Submitting a lawsuit to recover property owned from other party that caused a loss or obtain compensation for losses from the party that caused harm to the consumer.<sup>19</sup>

One of the main factors causing the current banking problems is the lack of integrity of the owner and the low competence of bank managers so that the bank's business activities are no longer managed in a healthy manner and even utilized for the personal benefit of the owners, managers, or other parties (Hasibuan, 2007: 156).<sup>20</sup>

The Financial Services Authority, a state institution established under Law No. 21 year 2011, is an institution established to replace the role of Bapepam-LK in regulating and supervising capital markets and financial institutions and replacing the role of Bank Indonesia in the regulation and supervision of banks and to protect consumers in financial services industry.

In accordance with its vision, mission, functions and duties, the Financial Services Authority (FSA) has the authority to regulate, supervise, examine and investigate and emphasize the protection of the interests of consumers and the public, especially consumers of financial services products. Based on the Financial Services Authority Regulation No. 1/PFSA.07/2013 concerning Consumer Protection, consumer protection applies 5 principles, namely: (1) transparency, (2) fair treatment, (3) reliability, (4) confidentiality and data security/Consumer information and (5) handling complaints and resolving Consumer disputes in a simple, fast and affordable manner.

Settlement of customer complaints by banks regulated in Bank Indonesia Regulation Number 7/7/PBI/2005 dated January 20, 2005 concerning Complaint Settlement of Customers will not always be able to satisfy customers. This dissatisfaction can be caused by the demands of customers who are not fulfilled by the bank, either in whole or in part, so that it has the potential to cause disputes between customers and banks that can harm customers' rights.

### ***The Truth of The Bank in Providing Protection to Customers Has Not Fulfilled the Value of Justice***

In order for customers to be more confident in saving their money at the bank, they must get protection from actions that can harm customers both by bank managers and other parties.

The formulation of articles governing Bank's secret in Law Number 10-year 1998 concerning Banking are:

Article 1 number 28

Mention: The bank secret is anything that relates to information about the depositing customer and his deposit.

Article 40 paragraph (1)

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<sup>19</sup>Fathan Qorib, "Menunggu Gebrakan OJK Lindungi Konsumen Bank", [m.hukumonline.com](http://m.hukumonline.com), accessed on 19 Februari 2017, at 15.15

<sup>20</sup>Erlanandard, "Peran Otoritas Jasa Keuangan (OJK) dalam Perlindungan Konsumen Produk Perbankan", <https://erlanandard.wordpress.com>, diakses tanggal 19 Februari 2017, jam 15.27



Banks must keep information about deposit customers and their deposits confidential, except in the case referred to in Article 41, Article 41 A, Article 42, Article 43, Article 44 and Article 44 A.

However, in its implementation there are still bank confidential violations so that the rules of the banking law are not implemented, thus harming customers, this can be seen as in cases that have occurred such as:

- Reduced balance in a large number of customer accounts.
- Customer failure in investing to make profits, and customers experience bankruptcy in their business due to reduced capital.

In this regard banks should be required to be able to work professionally, be able to read and review and analyze all business activities and the national economy. For this reason, banking institutions need to be nurtured and monitored continuously so that they can function efficiently, soundly, fairly, be able to compete and can protect funds deposited by customers.

In order for customers to be more confident in saving their money in banks, they must be protected from actions that can harm customers both by bank managers and other parties, given that banks as institutions relied on public trust, should try to provide assurance to the public that banks are safe and able to keep information or information about customers and their deposits confidential.

Even though the government has made various laws and regulations to protect customers from banking crimes, the community still feels dissatisfied, considering the various problems that are often experienced by customers where the loss burden is always on the consumer.

***Reconstruction of Bank Authority in Protecting Customers from Actions of Banking Crime Based on Justice According to Law Number 21 Year 2011 Concerning the Financial Services Authority***

Provisions on bank's secret have been revised with Law Number 10-year 1998 concerning Amendments to Law Number 7-year 1992 concerning Banking. Bank's secret on the one hand is legal protection, but in practice it is often seen as a criminal factor or a factor that causes criminal acts, where the articles governing the bank's confidentiality issues are:

Article 1 number 28

Mention: Bank's secret is anything that relates to information about the depositing customer and his deposit.

Article 40 paragraph (1)

Banks must keep information about deposit customers and their deposits confidential, except in the case referred to in Article 41, Article 41 A, Article 42, Article 43, Article 44 and Article 44 A.

Considering the application of criminal sanctions on the Banking Law, regulated in Chapter VIII of criminal provisions starting from Articles 46 to Article 51, and administrative witnesses starting from Article 52 to Article 53.

With regard to criminal sanctions against Bank's secret carried out by the bank, pursuant to Article 40, the criminal sanctions regulated in Article 47 paragraph (2), according to the Banking Law, are subject to imprisonment of at least 2 (two) 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

rupiahs). In the researchers' opinion, the criminal sanction of the body regulated in Article 47 paragraph (2) is very mild, this does not cause fear for Members of the Board of Commissioners, Directors, bank employees or other Affiliated Parties to committing crimes against Bank's secret.

Considering Article 1 number 2 in Banking Laws, banks are business entities that collect funds from the public in the form of deposits and channel them to the public in the form of credit and/or other forms in order to improve the living standards of the people. If we look at Article 40 of the banking law, related to criminal sanctions, the body contained in Article 47 paragraph (2) needs to be revised with the following reasons:

1. Article 47 paragraph (2) the threat of criminal sanctions by the body does not apply a maximum threat but only a minimum threat of 2 (two) 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).
2. Law Number 8 of 1981 Concerning the Criminal Procedure Code (KUHAP), where the conditions of detention are set out in:

Article 21 paragraph (1):

"An order of detention or further detention is carried out against a suspect or defendant who is suspected of committing a criminal act based on sufficient evidence, in the event of a condition that raises concerns that the suspect or defendant will flee, damage or eliminate evidence and / or repeat the crime. "

Article 21 paragraph (4):

"Such detention can only be imposed on a suspect or defendant who commits a crime and/or trial or giving assistance in the crime in the event that the offense is threatened with imprisonment of five years or more;

Guided from the 2 (two) points above, then Article 47 paragraph (2) of the Banking Law, it is necessary to carry out special reconstruction of criminal sanctions on his body, by applying maximum sanctions as Article 21 paragraph (4) letter a KUHAP (Criminal Procedure Code in order to be detained, this is as mandated by Article 4 of the Law on the Financial Services Authority. The FSA is formed with the aim that all activities within the financial services sector:

- i. Organized regularly, fairly, transparently and accountably;
- ii. Able to realize a financial system that grows sustainably and stably; and able to protect the interests of consumers and society

**Legal reconstruction table as follows:**

<b>Before Reconstruction</b>	<b>Weaknesses</b>	<b>After Reconstruction</b>
Article 47 paragraph (2) of Law No. 10 year 1998 concerning Amendments to Law No. 7 year 1992 concerning Banking, Members of the Board of Commissioners, Directors, employees	Article 40 of Law No. 10 of 1998, the criminal sanction of the body in accordance with Article 47 paragraph (2), does not cause fear for the perpetrators to	Article 47 paragraph (2) of Law No. 10 year 1998 concerning Amendments to Law No. 7 year 1992 concerning Banking, Members of the Board of Commissioners, Directors, employees of banks or other Affiliated Parties deliberately

<p>of banks or other Affiliated Parties intentionally provide information that must be kept confidential according to Article 40, subject to imprisonment of at least 2 (two) 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).</p>	<p>commit crimes against Bank's secret, because the perpetrators cannot be detained, as mandated by Article 21 paragraph (4) letter a KUHAP, because the threat of a criminal sentence is under 5 (five) years, because detention cannot be carried out. It is feared that the perpetrator will flee, destroy or eliminate evidence and/or repeat the crime.</p>	<p>provide information that must be kept confidential under Article 40. If maximum sanctions for criminal bodies are applied, then:</p> <ol style="list-style-type: none"> <li>1. Will cause fear for the bank to commit a crime in its connection with Bank's secret.</li> <li>2. The perpetrator can be detained, so that the perpetrator will not be able to escape, it is impossible to damage or eliminate evidence and/or is not possible to repeat a crime, this is as mandated by Article 4 of the FSA Law that the FSA is formed with the aim that the overall activities in the service sector finance: <ol style="list-style-type: none"> <li>a. Organized regularly, fairly, transparently and accountably;</li> <li>b. Able to realize a financial system that grows sustainably and stably; and able to protect the interests of consumers and society</li> </ol> </li> </ol>
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## Conclusion

### *Summary*

Banking as an institution that relies on public trust, it should provide guarantees to the public that the bank is safe and able to keep information about customers and their savings confidential. Banks are required to be able to work professionally, to be able to read and review and analyze all activities of the business world and national economy. Therefore, banking institutions need to be nurtured and monitored continuously so that they can function efficiently, soundly, be able to compete and be able to protect stored by the customer. Article 40 of the banking law where criminal sanctions are regulated in Article 47 paragraph (2), the threat of criminal sanctions by the body does not apply maximum threats, only a minimal threat, considering Article 21 paragraph (4) letter a of Law Number 8 year 1981 concerning The Criminal Procedure Code (KUHAP) against the perpetrator cannot be detained because of the criminal threat of under 5 (five) years, this is feared that the perpetrator will flee, damage or eliminate evidence and / or repeat a crime.

### **Suggestions**

Banking as an institution that relies on public trust should try to provide guarantees to the public that the bank is safe and able to keep information confidential about its customers and deposits, so as not to be subject to criminal, civil, administrative sanctions and social witnesses from the public. Employees and bank management should be required to know about bank secret regulations.

Considering banking crimes as regulated in Article 40 of the banking law, where criminal sanctions against Bank's secret, the perpetrators are carried out by the bank, according to Article 47 paragraph (2), it needs to be revised, because criminal sanctions are so light that they do not cause fear for Members of the Board of Commissioners, Directors, bank employees or other Affiliated Parties to commit crimes against Bank's secret.

### **Implications**

This research has theoretical implications and practical implications, which are as follows:

#### 1. Theoretical implications

It is hoped that it can open insight and mindset in understanding and exploring Banking Crime, especially Bank's secret.

#### 2. Practical implications

This research can contribute ideas and provide meaningful input for banks in solving problems related to the Bank's Authority in Protecting Customers from Banking Crime based on Justice according to Law Number 21-year 2011 concerning the Financial Services Authority.

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