LEGAL PROBLEMATICS OF CREDIT SETTLEMENT IN INDONESIAN BANKING CRIME

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Abstract: *Based on Article 37D of the Law of the Republic of Indonesia Number 4 of 2023 Concerning the Development and Strengthening of the Financial Sector (UUPPSK), OJK can stop investigations into alleged tipibanks. The termination of the investigation is contrary to the terms of termination of the investigation as specified in Article 109 of the Criminal Procedure Code which states that a crime can only be stopped if there is insufficient evidence, the case is not a criminal case and is due to legal interests and Article 1 of the Criminal Code regarding the principle of legality. Tipibank termination conditions are; there is a request from the perpetrator of the suspected bank crime against which the OJK approves and the perpetrator pays all losses and costs incurred as a result of the banking crime. there is a request from the suspected perpetrator of bank fraud that is given to OJK and OJK accepts and approves the said application, whether or not there is settlement of losses arising from tipibank, the amount of the loss and the impact on the banking sector, banks, the interests of customers and/or society. Meanwhile, the investigation termination mechanism is; the application of the alleged perpetrator of the tipibank was approved by the OJK and the perpetrator of the alleged tipibank paid compensation. Some of the problems in solving the alleged bank crime by stopping the investigation include; The condition for terminating a tipibank investigation is contrary to the Criminal Procedure Code and the Criminal Code, the concept of resolving allegations of tipibank through termination of investigation is not in line with the principles of restorative justice and the concept of settlement out of court (mediation). Typical bank generalizations that can be resolved through termination of investigations can eliminate the function and purpose of law. Ambiguity regarding the meaning of violations and bank tipi in the UUPPSK and PP-UUPPSK can cause its own problems in its application.*
Keywords: *Credit, Banking, Investigation, Financial Sector, Indonesia.*

Introduction

Banks are a risky business sector with legal risks and losses (Supaijo, 2010). Realizing this, the government through Bank Indonesia (BI), the Financial Services Authority (OJK) and other related institutions has made the banking industry a highly regulated business sector. In line with that, on January 12, 2023 the government has enacted Law of the Republic of Indonesia Number 4 of 2023 Concerning the Development and Strengthening of the Financial Sector (UUPPSK). The promulgation of the UUPPSK was intended to strengthen

the position and standing of banks in the country's economic system. In consideration of Government Regulation Number 5 of 2023 concerning Investigation of Criminal Acts in the Financial Services Sector (PP-UUPPSK) as an implementing regulation for the UUPPSK it is also stated that one of the main objectives of the UUPPSK is to support synergy between the Indonesian National Police and OJK in law enforcement in financial services sector. This is in line with the statement of the Committee on the Global Financial System which states that banks must be supported by regulations that are able to support banks for the dynamics of business and transactions that occur (Buch & Dages, 2018).

In general, the main business of a bank is collecting (money) and distributing it (credit) back to and from the community. It is hoped that the circulation of money from depositors to user customers (debtors) through these banks is expected to flow money properly and regularly, so that the wheels of the country's economy continue to run in a stable and sustainable manner (Sulaimon, 2018). Seeing the position of banks as intermediaries between money owners and debtors in an economic activity, Douglas (2008) says that banks play an important role in helping a country's economic growth. John L. Douglas further emphasized that the development of banks is part of the development of a country. Seeing the main tasks and functions of banks as described above, it is no exaggeration to say that banks are agents of economic development (Asian Development Bank, 2020). In addition, banks are also profit-oriented business entities. Therefore, apart from providing internal benefits to depositors, banks also benefit from borrowing customers in the form of interest (Harruma, 2022). In relation to the bank's position as a business entity, the main orientation for banks when experiencing a crime or fraud is recovery (Baidi & Yuherawan, 2023), not a deterrent effect or punishment as the aim of criminal law (Sut, 2007).

What the bank hopes for above has actually been accommodated in Article 37D UUPPSK. In that article it is stated that the investigation of banking crimes (tipibank) can be stopped by investigators if the investigation is approved by the OJK and the perpetrator pays all losses and costs incurred as a result of the banking crime. Thus, this article explicitly provides a large space for recovering losses suffered by banks in a banking crime. It is this provision that will be discussed specifically in this paper in relation to the settlement of indicated credit (tipibank) (Tampi, 2011), because in reality even in a credit agreement and conditions have been made, there are still many bad loans even indicated by tipibanks and This condition is very detrimental to the bank and also the country's economy.

Research method

The study and discussion of the problems mentioned above are based on the applicable laws and regulations, especially UU-PPSK and PP-UUPPSK as well as references related to the issues discussed. Therefore, the research method used is normative research or legal research (Hoecke, 2011). The normative juridical research method is legal research based on documents such as laws and regulations, jurisprudence, court decisions, decisions of state or government officials, agreements and literature (Soekanto & Mamudji, 2001).

Result and discussion

Terms and Procedures for Completion of Loans That Are Indicated by Tipibank Based on the UUPPSK Credit indicated as tipibank in this paper is defined as credit reported by creditors (banks), institutions/agencies/organizations or the public to the Indonesian

National Police or OJK on suspicion of tipibank in the credit concerned. The articles on tipibank related to credit in the UUPPSK include the following; Article 49 concerning false registration, Article 50 concerning violations of the principle of prudence or non-compliance with applicable legal provisions by affiliated parties and Article 50A concerning actions of shareholders ordering non-compliance with legal provisions in bank operations and business.

The provisions of the criminal law that apply in the settlement of credit indicated as tipibank are Law Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 concerning Banking as Amended by the UUPPSK, Law Number 31 of 1999 concerning Eradication of Corruption Crimes jo. Law of the Republic of Indonesia Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of Corruption Crimes (UU-Tipikor) if the credit for the crime in question occurs at a bank with the status of a State-Owned Enterprise (BUMN) and the Law Law Number 8 of 2010 Concerning Prevention and Eradication of Money Laundering Crimes (UU-TPPU) if it is proven that the credit provided was used not in accordance with its designation and the Criminal Procedure Code (KUHAP) and PP-UUPPSK (Ganarsih, 2015).

With regard to settlement of credit indicated as a tipibank, Article 37D paragraph (7) states that the OJK has the authority to stop an investigation of a tipibank as long as the termination is approved by the OJK, the losses suffered by the bank as the victim have been reimbursed by the perpetrators of the tipibank concerned. In the process of terminating the alleged bank crime, there are several things that must be considered by investigators. This is regulated in Article 37D paragraphs (5), (6), (7) and (8) which read as follows;

In evaluating the application for settlement of violations and calculating the value of losses for violations as referred to in paragraph (4), the Financial Services Authority considers at a minimum: whether or not there is a settlement for losses arising from criminal acts; transaction value and/or loss value for violations; and the impact on the Banking sector, Banks, and/or the interests of the Customer and/or the public. In the event that the Financial Services Authority approves the request for settlement of violations, the party submitting the application for settlement of violations must carry out the agreement including paying compensation. In the event that the agreement as referred to in paragraph (6) has been fully complied with by the party submitting the request for settlement of the violation, the Financial Services Authority will stop the investigation. Compensation as referred to in paragraph (6) is the right of the injured party and is not the income of the Financial Services Authority.

Before terminating the tipibank, OJK or other investigators first conduct an investigation into the alleged tipibank on the credit. In relation to the duties and powers of this investigation, Article 2 paragraph (3) PP-UUPPSK states that investigators at the Indonesian National Police (Polri) have the authority and responsibility to investigate criminal acts in the financial services sector based on the Criminal Procedure Code. In carrying out their authority and responsibilities as referred to in Article 2 paragraph (4), OJK Investigators are under the coordination and supervision of the National Police. Looking at the provisions of Article 37D paragraph (2) above, if it is related to the purpose of an investigation, it can be said that the investigation carried out by the investigator on allegations of bank fraud on the credit before the application from the perpetrator is decided to be approved or rejected, there must first be clarity about alleged bank crimes or violations committed, who committed them, where and when they were committed, the

amount of the loss and the implications for the bank concerned. In principle, the investigation must be based on existing facts and legal evidence.

Through examination of the facts and evidence, at least make it clear and clear about the bank's alleged fraud that occurred on the credit in question. This is intended so that the decision taken by the OJK regarding the settlement request filed by the perpetrator for the alleged tipibank is correct and based, so that it does not harm the bank and the economy and the decision taken can provide justice and benefits for all parties. In the opinion of the author, the results of the investigation carried out by the investigator as described above, are one of the determining factors for the investigator (OJK) to accept or reject the request for termination of the suspected bank crime, even though it is not explicitly stated in Article 37D UUPPSK. Another thing that becomes an indicator in stopping the examination process for the alleged tipibank is the value of the loss, the compensation payment mechanism and the impact of the alleged tipibank for customers, the bank and or the community.

In connection with the termination of the investigation as described above, Article 8 PP-UUPPSK states that the termination of the investigation is carried out based on the results of the case title meeting and the investigator authorized to stop the investigation or to further handle the suspected bank fraud is the investigator who first handles the alleged criminal bank in question . Another matter related to the investigation and investigation process is the investigator's authority. Article 8 letter c PP-UUPPSK states that regarding allegations of general criminal acts involving alleged tipibanks, the investigation process for these alleged general crimes is the authority of Polri investigators. Therefore, the OJK must hand over the process of further examination of the alleged general crime to Polri investigators. Then, letter d in the same article states that if the investigator will or has stopped the investigation or investigation into the alleged crime, then it must be carried out based on the principles of restorative justice and the principle of ultimum remedium.

Based on the description above, it can be concluded that OJK has the right to stop allegations of bank fraud being carried out at the investigation stage. The conditions for terminating the investigation are; there is a request for settlement from the perpetrator, the application is approved by the OJK, the perpetrator is willing to compensate the bank for losses along with the costs arising from the alleged tipi bank accompanied by the time of payment. While the termination mechanism is carried out based on the results of the case meeting held by the investigator (not an agreement between the perpetrator and the bank (the victim) and the value of the loss and costs is determined by the OJK (not the bank, but belongs to the bank). Furthermore, Article 37D paragraph (9) states that in the event that the application for settlement submitted by the perpetrator is rejected by OJK or the party submitting the application for settlement of violations does not fulfill part or all of the agreement as referred to in paragraph (6), OJK will continue the process of resolving the alleged tipibank in credit to the investigation stage.

In the investigation stage as a follow-up to the examination of alleged tipibanks whose termination of the investigation was rejected by the OJK, the process of examining the tipibanks was continued at the investigation stage. During the investigation, the investigator then examined witnesses and also evidence (Wiriadinata, 2014). The main objective of the investigation is to determine the truth about the occurrence of the alleged tipibank, the place and time of the alleged tipibank and the parties allegedly related to the tipibank concerned (Marasabessy, 2015). If the allegations of bank crime meet the elements

of bank crime reported and have evidence as stipulated in the law, the investigator will then submit the files and perpetrators to the local district attorney for further prosecution through the public prosecutor in a trial at court.

During the trial in court, the judge will decide whether the defendant is proven or not to commit bank fraud as charged by the public prosecutor. If according to the Judge that what the Public Prosecutor charged is proven, then the defendant will be sentenced or criminal (Triwati, et al., 2015). Vice versa, if, according to the judge, the defendant is not proven to have committed a crime as charged by the public prosecutor, then the defendant must be released from the indictment. From the description above, it can be seen that there are several stages and law enforcement agencies that must be passed if a tipi bank is resolved through the courts. These stages make the litigation process in court long and time-consuming (Lisanawati, 2012).

Legal Problems in Settlement of Alleged Tipibank on Credit Based on the PPSK Law

Termination of Tipibank in Article 37D of the UUPPSK is Contrary to the Principles of Legality in the Criminal Code and Criminal Procedure Code

Based on the explanation from Article 37D, Article 1 KHUP and Article 109 KUHAP it can be concluded that there is a contradiction regarding the terms for terminating the alleged crime (tipibank). The contradiction of these provisions, of course, can lead to its own polemic in its application. This problem can actually be solved with consistency in the application of the principles of criminal law, namely lex specialis derogat legi generalis (special provisions can overrule general provisions). However, this solution in practice is still very likely to cause problems, at least it can generate debate, bearing in mind that in practice what is put forward is legal certainty (statutory regulations in force), not unwritten law (legal theory or principles) or the purpose of the law itself (Danil, 2012). The most appropriate way out of this problem is to renew/revise Article 1 of the Criminal Code, Article 109 of the Criminal Procedure Code and other provisions relating to the terms and procedures for terminating criminal acts or bank crimes by stopping investigations. This step, in addition to amputating differences in interpretation of the terms and procedures for ending a crime or tipibank, is also aimed at creating synchronization and integration between the applicable laws and regulations related to stopping a crime or tipibank. Thus, what is the goal of law, namely justice, benefit and certainty can be realized.

Completion of Restorative Justice and Application of the Ultimum Remedium Principle in Termination of Tipibank

Article 37D states that allegations of bank fraud can be resolved by stopping the investigation as long as the perpetrator of the alleged bank crime pays all compensation and costs incurred as a result of the bank crime. Furthermore, Article 7 paragraph (1), Article 8 paragraph (1) letter d and Article 10 PP-UUPPSK stated that the termination and settlement of alleged general and/or tipibank crimes is carried out based on the principles and concepts of restorative justice and ultimum remedium.

In essence tipibank is a crime in the field of property. Therefore, the essential thing in a tipi bank is loss (return of the victim's assets) apart from the actions of the perpetrator (Rukmono, 2018). Amicable tipibank settlements are often referred to as penal mediation. Penal mediation is a model of solving criminal acts that prioritizes legal values that live in society. In this sense, living law in society (living law) is one of the foundations of legal

developments in the future (Sumardiana, 2015). In line with that, Muchtar Kusumaatmadja as quoted by Munzil and Noval (2012) said that legal renewal in the banking sector must consider the interests of national banking.

Settlement of criminal acts has actually occurred a lot in the world of practice. For example, in Central Java, many criminal cases have been resolved peacefully. Peace between perpetrators and victims is sometimes achieved because they are assisted by investigators who examine the alleged criminal acts in question (Raharjo, 2018). Development of laws and sanctions continues until now. This can be seen from the Draft KHUP Legislation Draft (RUU). Part of the Draft Criminal Code Bill includes formulations of norms and criminal sanctions that do not follow the formulation of norms and criminal sanctions as stipulated in Book I of the Criminal Code (Mudzakkir, 2008). Developments and changes bring about several aspects of life in their various goals which have shifted towards protecting various interests and achieving these interests properly without sacrificing other interests. The development of criminal law norms is partly due to the need for legal flexibility in resolving several criminal acts, one of which is tipibank.

This sentencing paradigm has long been the concern of law activists. Recently, the push for changing the goals and patterns of sentencing has been getting stronger. This is based on legal reality which shows that the current criminal system and objectives are not in line with legal objectives, national culture and state objectives (Adawiyah, 2019). The main focus of punishment today is on the perpetrators, not on the victims or society, not on how the perpetrators of crimes because of the law consciously want to acknowledge their actions and return to society. In addition to solving problems, the law should also be able to bring bad people to be good and right. The true law is a law that humanizes humans, not making wrong people right and returning to their essence, namely humans who have good conscience from birth.

The concept of punishment that has been adhered to and carried out by law enforcement officials has led to rejection from various groups (Kusuma, 2016). Today's society wants a shift in the concept of justice, namely from justice on the basis of retributive justice to restorative justice. Justice does not only belong to perpetrators, victims or other interested parties. The true law is for all human beings, regardless of status and position. In such a context, the law should be able to provide punishment that is oriented towards recovery and improvement for everyone who is in conflict with the law, in this case criminal law and punishment. In this regard, several articles in the Criminal Code regulate the basis for the abolition of the sentence. The articles referred to include the following; Article 44 because his soul is legally unhealthy, Article 48 because he defends himself. Article 49 paragraph (1) self-defence out of necessity, Article 50 for executing statutory orders and Article 51 for carrying out legal orders. Seeing the essence of the several articles mentioned above, it can be said that sentencing must be carried out objectively, proportionally and fairly. This is in line with the opinion of Ali Abubakar who said that the protection and restoration of the rights of victims and the community due to the occurrence of crimes is as important as the rehabilitation of perpetrators of crimes and harmonization of relations in the community after the occurrence of a crime (Abubakar, 2014).

Restorative Justice is a concept of conflict resolution that seeks to restore a situation that has changed due to (criminal) conflict to become conducive and harmonious again, as it was before the conflict or crime occurred (Surbakti, 2011). The approach used in restorative justice is kinship by way of deliberation and prioritizing recovery after a conflict

occurs. Settlement through restorative justice involves all parties, not only the perpetrators and victims, but includes the families of the victims or perpetrators and also the community (Susetyo, 2012). Then the interests that are the concern and priority in the intended settlement are not only the interests of the victims, but also the interests of the perpetrators, their families and also the community (Sukardi, 2016). Settlement through restorative justice is a settlement out of court by means of a win-win solution. In restorative justice, the role of victims, perpetrators and also society is very large in determining the rules of the game or agreements taken in resolving the conflict or crime.

The concept of resolving restorative justice is very different from the concept of resolving crimes (crime) adopted in the Criminal Code and the Criminal Procedure Code. As described above, the principle of legality in Article 1 of the Criminal Code emphasizes that there is no act that is not criminalized, if the act is legally subject to a criminal sanction (sanction). Likewise with the contents of Article 109 of the Criminal Procedure Code which states that an act that cannot be punished is only an act that is not a criminal event, the act does not fulfill the elements of the alleged crime and the act must be stopped because there is a legal interest that requires it.

Regulations that substantially contain the value or concept of restorative justice in the settlement of legal disputes include the following; Article 1 paragraph (3) of the Criminal Code which emphasizes the applicability of the law that lives in society which determines that a person should be punished even though the act is not regulated in statutory regulations. Article 51 paragraph (1) letter c of the Criminal Code which stipulates that punishment aims to resolve conflicts caused by criminal acts, restore balance, and bring about a sense of peace in society"; Article 2 paragraph (2) of Law no. 48 of 2009 concerning Judicial Power (Justice Law) which stipulates that the State Courts implement and enforce law and justice based on Pancasila"; Article 5 paragraph (1) of the Judicial Law stipulates that judges and Constitutional Justices are obliged to explore, follow and understand legal values and a sense of justice that lives in society; and Article 14 letter h of the Criminal Procedure Code which states that the public prosecutor has the authority to close cases for the sake of law.

The provisions above and the description of restorative justice, several conclusions can be drawn; First, the main goal of settlement through restorative justice is restoration of circumstances/improvement. Second, restorative justice in principle emphasizes the emergence of a voluntary sense of responsibility from the perpetrator to take responsibility and acknowledge his actions. Third, the main focus of restorative justice is on victims, even though the law requires protection for perpetrators and society. Fourth, the concept of restorative justice settlement is to position victims, perpetrators and also the interests of society in a balanced way. In its settlement, the same rights and protection are given to victims, perpetrators and also the community. Fifth, restorative justice is aimed at preventing crimes from occurring. Sixth, settlement through restorative justice is based on mutual will or will through deliberation to reach a consensus. Seventh, the community or law enforcement officials are parties that cannot be separated from the restorative justice process.

The discussion on restorative justice mentioned above, if it is related to the settlement of tipibanks through termination of investigations, then there are several things that should be noted, including the following;

The tipibank settlement procedure by stopping the investigation is not like the settlement concept adopted by restorative justice.

As described above, the concept of settlement through restorative justice is carried out by involving victims, perpetrators, families and even communities in their position as third parties who assist victims and perpetrators in solving crimes or conflicts that occur. All parties involved in the resolution of the crime gather for deliberations to find a comprehensive and accommodative solution to the interests of all parties regardless of the position and status of the parties participating in the deliberations. Settlement is sought based on consensus or agreement between the perpetrator and the victim or his family. Peace is the main way that is first attempted in solving the crime. Through an agreement which is followed up by implementation by the perpetrator and the victim, it is hoped that it can accommodate all the interests that exist in solving the crime. Losses that arise can be returned, conditions become harmonious and the most important thing is the presence of inner satisfaction for victims and perpetrators, so that such conditions automatically eliminate grudges and foster harmony again, especially between victims and perpetrators.

The concept of tipibank settlement by stopping the investigation is not in accordance with the concept of restorative justice settlement

As described above, settlement through restorative justice is carried out based on peace obtained from deliberations among victims, perpetrators, families and/or communities. Thus the settlement mechanism through restorative justice is carried out based on the will of all parties, especially the perpetrators and victims, regardless of the position and status of each. In this deliberation, victims and perpetrators convey their wishes to be assisted by the community in their position as intermediaries for victims and perpetrators. The options taken in resolving crimes through restorative justice are options that benefit all parties, not only the perpetrators and victims, but also the interests of society. Therefore, the settlement of crimes in restorative justice is holistic and comprehensive. Then these options are obtained on the basis of the victim's own volition, the perpetrator or the community. This is based on the reality that the victims of a crime are not only victims or perpetrators, but also the community. Thus, the concept of settlement through restorative justice often involves the community or other parties who feel aggrieved from the occurrence of the crime in question.

This concept when connected with the concept of tipibank settlement as adhered to in Article 37D UUPPSK and PP-UUPPSK is different. It was said that because the settlement of tipibanks in the UUPPSK and PP-UUPPSK was only carried out by the OJK at the request of the perpetrator, without involving the bank as a victim. The decision to stop the investigation conducted by the OJK is also the OJK's own decision, without involving the bank as a victim. There is no deliberation between perpetrators and victims as is done in solving crimes or criminal acts through restorative justice.

In terms of objectives, the settlement of tipibank through termination of the investigation is not in line with the objectives of settlement with the concept of restorative justice. The main and first goal of settlement through restorative justice is to achieve justice, especially for victims and perpetrators. As for compensation in the concept of restorative justice, it is only a way to realize this justice. Therefore, settlement solutions in restorative justice are discussed through deliberation forums for consensus. It is in this forum that various existing interests can be seen. From this deliberation the victim and the perpetrator conveyed their wishes which were assisted by the community as a mediator. Through this

deliberation it is hoped that all the wishes of the perpetrators, victims and the public can be accommodated, so that all the interests of the parties related to the crime can be protected and conditions can return to normal as before the crime occurred. In restorative justice, the perpetrator's responsibility arises from the will of the perpetrator himself, not coercion. Such conditions are expected to create a sincere sense of responsibility from the perpetrators.

Termination of Alleged Tipibank in Article 37D UUPPSK is General

Referring to Article 37D UUPPSK and PP-UUPPSK, it can be said that all tipibanks can be resolved by stopping the investigation into the alleged tipibank by the OJK. On the one hand, this provision provides legal certainty in the settlement of tipibanks through the termination of investigations. On the other hand, if it is examined further and related to the current reality both regarding the culture and system as well as the nation's moral readiness, especially law enforcement officials and perpetrators of bank crimes (white collar crime), then this provision can cause its own problems, especially in the application and enforcement related to Article 37D UUPPSK and PP-UUPPSK referred to.

This is because these provisions apply in general to all tipibanks, so it is very likely that this can be used by irresponsible people. It is highly likely that tipibanks will flourish because the tipibanks may be more daring to commit tipibanks, bearing in mind that if it turns out that their actions are discovered and legally processed, then the person concerned can escape imprisonment if the person concerned returns the proceeds he obtained from the tipibank. Likewise for law enforcement officials, this provision provides room for abuse of authority. Compensation as one of the requirements for terminating a bank crime investigation automatically opens up room for negotiation for the parties involved in the settlement. This condition certainly opens space for law enforcement officials to abuse their authority. This is based on the concept of negotiations that have not been supported by a transparent system.

The loss of fear for bank criminals automatically eliminates the function and purpose of the law itself. Therefore, ideally the provisions in UUPPSK 37D are not general. These restrictions can at least be made based on four criteria or categories. The criteria referred to include the following;

Seen from the actor's perspective. In this context, there are two things that serve as limitations or criteria for determining whether or not the investigation of the said tipibank is permitted by the OJK, namely as follows; Judging from the position/position of the tipi bank. In this sense, if the perpetrators of tipibank are Shareholders, Directors, Commissioners or Officials at the level of Head of Department up to the Head/Chair of the State Financial Institution (OJK/BI), then the investigation by OJK cannot stop the tipibank. This is based on the consideration that these people are owners and fiduciary duty holders of these banks and financial institutions. Therefore, these people should be at the forefront and exemplary in maintaining their integrity and the place they work. Another consideration is that if these people are perpetrators of tipibank, if the investigation is stopped by the OJK, then this will damage the reputation of the bank and state financial institutions which of course can have an impact on the level of public trust in the bank concerned and the country's economic growth; And

Judging from the status of the perpetrator, is he a recidivist or not? In this sense, if the perpetrator of a crime bank is a recidivist, then the investigation by the OJK may not stop

the tipi bank. In another sense, the tipibank must be legally processed until the alleged tipibank obtains a court decision that has permanent legal force. Thus, in this context the measure is whether the person is a recidivist or not? Against recidivists, exempted from the enforcement of Article 37D UUPPSK. Regarding bank fraud committed by non-recidivist persons, the investigation by the OJK may be terminated against criminal acts committed by the person concerned as long as it fulfills all the requirements stipulated by the UUPPSK and other applicable legal provisions. This is based on the consideration that for recidivists a more severe punishment is needed, such as imprisonment so that the person concerned can realize and regret his actions, so that in the future the person is expected to be better and not repeat his actions. Thus, the media that can be used for imposing prison sentences is only the court, so recidivists as perpetrators of bank crimes should be processed through the courts.

Judging from the aspect of mistakes and crimes that occur in tipibank itself. In this sense, if the level of wrongdoing and crime committed by the perpetrator in the tipibank is "big" or "evil", then the OJK should not stop its investigation. Large in this sense, for example, is "real intention" that is carried out by perpetrators in tipibank and the losses incurred are of great value. Meanwhile, the meaning of "evil" in this sense, for example, is "a conspiracy" that was deliberately carried out by the perpetrators of the tipibank concerned; Viewed from the aspect of the losses incurred. Loss is one of the criteria for terminating a tipibank investigation by the OJK. By looking at various factors and considerations, in the opinion of the author, the value limits for which an investigation may be stopped by the OJK must be clearly defined and limited. This is based on the consideration that the value of the loss is an important indicator in determining whether or not the investigation of the tipibank can be stopped. Determining the value of the loss is based on the calculation of costs, time, thoughts and energy expended if the tipibank is resolved through the courts. For losses that in nominal terms are small or small, if they are still resolved through the court, then this will certainly result in additional losses for the bank; And

Judging from the implications for the reputation of the bank. In this context, whether or not a tipi bank can be resolved by stopping the investigation by the OJK is only based on the size of the impact that the tipi bank has on the bank's reputation. In other words, even if the loss is small, the culprit is a subordinate employee (not a bank or financial institution official), but this has a significant impact on the bank's reputation, so the tipibank should be resolved through court. This is intended to maintain the bank's reputation, considering that banks as a financial industry, the main capital is public trust. This policy or decision is expected to be able to maintain the bank's reputation, so that public trust is maintained and the bank can run as it should. Thus the bank can realize its goal of helping the economic growth and welfare of its people.

It is necessary to confirm the understanding of violations and tipibank

Referring to Articles 37D, 50B and Article 50D UUPPSK and the weighing and deciding section, Article 2 paragraph (4) letter k, Articles 7, 8, 9 and Article 14, PP-UUPPSK it can be concluded that cases that can be stopped by the OJK (investigators)) can be in the form of violations and tipibank. UUPPSK or PP-UUPPSK do not provide a definition or understanding of violations and tipibank. Article 1 number 1 PP-UUPPSK only provides a definition of criminal acts in the financial services sector. In that article it is stated that what is meant by a crime in the financial services sector is any criminal act as stipulated in the law regarding the financial services sector. In this article it is clear that the crime in

question is a crime that occurs in the financial services sector. In this paper it is referred to as tipibank. Meanwhile, in the UUPPSK and PP-UUPPSK there are no articles containing the notion of violations.

The absence of clear regulations regarding violations and bank tipi in the UUPPSK and also PP-UUPPSK at the practical level can certainly raise its own problems, especially regarding the meaning and understanding of these two things. Everyone may have a different understanding or understanding of what constitutes a violation and tipibank. This difference in interpretation will eventually lead to polemics in the application of the article in question. The absence of a clear and separate understanding between violation and tipibank gives us an understanding that the two things are the same, even though editorially/textually the two words have different meanings.

As we all know, one of the legal issues that still confronts us today is regarding the legal interpretation of several articles in statutory regulations. Thus, the unclear understanding of violations and criminal acts in the financial services sector as referred to in the UUPPSK and PP-UUPPSK is clearly a problem and creates ambiguity in its interpretation.

CONCLUSION

Allegations of tipibank can be resolved by stopping the investigation conducted by the OJK (investigators). The conditions and procedures for terminating the investigation are that there must be a request from the perpetrator of the tipibank that is approved by the OJK to stop the investigation and the perpetrator compensates for the losses suffered by the bank as the victim and the costs incurred by the tipibank;

The settlement of tipibank through the termination of the investigation contains several legal issues, among others, namely; Termination of Tipibank regulated in the UUPPSK and PP-UUPPSK Contrary to the Legality Principles in the Criminal Code and Criminal Procedure Code, the concept of tipibank settlement adopted by the UUPPSK and PP-UUPPSK is not the same as the concept of settlement through restorative justice and termination of the Tipibank Allegation as regulated in Article 37D UUPPSK should be limited .

UUPPSK and PP-UUPPSK do not provide a clear understanding of what constitutes a violation and tipibank (financial sector crime). This creates ambiguity in interpretation and creates legal uncertainty.

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