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# Reformulation of banking criminal law in handling problematic credit

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**Abstract**
This paper addresses the discord in the enforcement of criminal law with problematic loans within the banking sector, particularly at the intersection of Banking Law and the Corruption Eradication Law (Tipikor). Loans deemed problematic at state-owned banks (BUMN/BUMD) are often classified as criminal acts of corruption due to their perceived harm to public finances, while analogous situations in private banks are just governed by the Banking Law or settled by civil means. This presents significant issues with the concepts of legal certainty and equal treatment under the law, and it may lead to the overcriminalization of banking professionals who have not shown malevolent intent (mens rea). This study underscores the necessity of upholding the principle of lex specialis derogat legi generali, asserting that the criminal provisions in the Banking Law or Law Number 4 of 2023 regarding the Strengthening and Development of the Financial Sector (UU P2SK) should function as special laws in addressing infractions in banking operations. The paper employs a normative legal approach using conceptual and legislative analytic tools and analyzes several court rulings that reveal inconsistencies in law enforcement regarding problematic credit issues. This study's findings reveal that the extensive implementation of the Corruption Law in cases of credit irregularities within state-owned banks has engendered legal ambiguity and overlooked the established special banking legal framework that meticulously delineates the components of the offense, legal entities, and punitive measures. Consequently, normative norms and ius constituendum are required in the form of rules or collaborative guidelines among law enforcement authorities to delineate the distinctions between financial offenses and corruption offenses. This stage is crucial for establishing an equitable and proportionate legislative framework that guarantees the stability of the national banking sector.

**Keywords:** Banking crimes, lex specialis, problem credit

## Introduction

The banking sector serves a pivotal function as an intermediate entity within the national economy. The primary role of banks, which involves collecting money from the public and allocating it as credit, positions banks as essential to economic operations and societal well-being. In financial literacy, banks are seen as financial entities that are integral to a nation's financial and payment systems. In Indonesia, the banking system is categorized into two primary types: privately managed banks and government-run banks, namely BUMN and BUMD. The legality and formal definition of banks are governed by Article 1, number 2 of Law No. 7 of 1992 concerning Banking, as amended by Law No. 10 of 1998. This law defines a bank as a business entity that gathers funds from the public in the form of deposits and allocates them to the public as credit and/or other forms to enhance the standard of living of the populace. Bank law, as a component of positive law, governs all facets related to the existence and operations of banks. Indonesian banking has seen substantial transformations in operations and laws, responding to political, social, economic, and cultural advancements at both national and global scales. The evolution of banking legislation started with legislation No. 14 of 1967 regarding the Principles of Banking, culminating in substantial revisions with the enactment of Law No. 7 of 1992 and its subsequent modification in 1998 by Law No. 10 of 1998. This regulatory change fortifies the legal foundation for banking operations, which are becoming more intricate owing to public expectations for more agile and efficient financial services. Moreover, the Banking Law includes stipulations aimed at deterring illegal activities inside the banking sector due to the rising risk of financial system exploitation.

The fast evolution of the banking industry is inextricably linked to the danger of deviation, arising from both internal stakeholders, such as bank proprietors, executives, and staff, as well as external entities, including clients and other third parties. This deviation, if it contravenes legal restrictions, is classified as a banking offense. Indriyanto Seno Adji delineates the notion of banking crime into two perspectives: a limited and a wide interpretation. In a strict sense, financial crime pertains to conduct clearly defined under the financial Law. In a comprehensive context, it encompasses all varieties of banking-related offenses that are also governed by other legislation, including capital market offenses, cybercrimes, and violations of state-owned enterprises (BUMN/BUMD), customs, and taxation.

Conceptually, a distinction exists between banking offenses and financial crimes. Banking crimes refer primarily to criminal conduct defined by the Banking Law, but the term encompasses a wider range of illicit activities associated with banking operations, including those governed by the Banking Law and other rules. A significant concern often emphasized in financial offenses is discrepancies in credit allocation. The allocation of credit is a primary role of banks for profit generation; yet, non-performing loans or problematic credits pose an intrinsic risk in this endeavor. Bad debts occur when the debtor fails to make timely installment payments, resulting in financial losses for the bank.

Moreover, discrepancies in the credit-issuing procedure often do not adhere to the principles of responsible banking. Instances include extending credit to nonexistent borrowers,

using fraudulent identities, or contravening credit assessment and verification protocols. When similar tactics transpire in state-owned or regionally-owned banks, the resulting losses are often deemed state losses, and the offenders are prosecuted under the Corruption Law. Numerous instances exemplify this, including Decision Number 39/PID.Sus-TPK/2021/PN Jkt. Pst about non-performing loans at Bank BRI, and Supreme Court Decision Number 747 K/Pid.Sus/2012, which determined that credit anomalies at Bank Mandiri constituted acts of corruption. Similarly, in Decision Number 103/Pid.Sus.TPK/2018/PN Mdn, the provision of credit using the identities of others and fabricated papers led to financial losses for the state and was classified as corruption.

Nonetheless, discrepancies emerge when the same circumstances occur in private institutions. For instance, if losses occur from bad loans in private banks, the situation is not classified as a criminal act of corruption, but rather falls under general or civil offenses. This presents the concern of legal dualism or the dual application of criminal activities inside the financial industry. This predicament arises due to the legislative framework that categorizes state capital involvement in BUMN/BUMD as a component of state assets. Law No. 19 of 2003 about State-Owned Enterprises (BUMN) stipulates that state assets designated as BUMN capital are excluded from the state budget system, and their administration is conducted corporately by sound business principles. This indicates that when losses arise in BUMN/BUMD institutions, the resolution should transition from public law to private law.

Article 14 of Law Number 20 of 2001 specifies that breaches of the law's requirements, classified as criminal acts of corruption, may incur penalties under the Corruption Law. The issue is that the Banking Law lacks any clause indicating that infractions of its sections may be classified as criminal acts of corruption. The use of the Corruption Law in addressing problematic loans at state-owned banks generates a legal gray area, thereby affecting legal certainty and fairness. This contradiction indicates that banking legislation requires reorganization to eliminate numerous criminalizations and discrepancies in law enforcement.

The situation is intensified by the broadened definition of state financial losses in the Corruption Law, which stipulates that all types of state assets, regardless of separation, may be prosecuted for corruption if they incur losses while under the control of BUMN/BUMD. Indeed, within the framework of private law, state-owned enterprises (BUMN) are governed by civil law, particularly in instances of default in credit management. Consequently, the implementation of the Corruption Law concerning financial offenses must be scrutinized meticulously to avoid transgressing the boundaries of established norms and fundamental principles within the national legal framework. Therefore, in addressing credit irregularities that lead to losses, it is essential to establish a distinct and proportional differentiation among administrative violations, civil infractions, and outright criminal offenses, ensuring that not all issues of bad debt are indiscriminately classified as corruption solely due to the bank's status as a BUMN/BUMD. Banking law should ideally function as a lex specialis concerning criminal activities inside the banking sector, ensuring that legal protections for banking professionals are harmonized with the state's interests in safeguarding public assets.

Formulation of the problem based on the issue (1): How can the conflict between the concept of lex specialis in banking law and the enforcement of the Corruption Law be systematically examined in addressing problematic loans that influence purported criminal actions of corruption? What is the optimal phrasing of ius constituendum for addressing bad credit in the banking industry to avoid double prosecution and provide legal certainty?

**Research methods**

This study constitutes normative legal research, also known as doctrinal legal research, which concentrates on written legal materials or secondary data, including statutes, regulations, legal literature, and other legal documents. Normative legal studies analyze the law as codified in regulations (law in books) and regard law as a norm or rule that provides a framework for conduct deemed acceptable in society. This study encompasses a wide range of topics, including the examination of legal concepts, legal systematics, the vertical and horizontal synchronization of norms, comparative law across different systems, and the historical analysis of legal evolution.

This research employs two primary methodologies: the statutory approach and the conceptual approach. The statutory method involves analyzing different rules pertinent to the legal problems under examination, namely with banking law, corruption, and state finances. This approach perceives law as a logical, complete, and systematic framework, whereby current rules are interrelated and capable of addressing legal concerns thoroughly. This methodology is used to comprehend the framework of positive legislation governing the resolution of problematic credit and its implementation within the setting of corruption.

Simultaneously, the conceptual method is used to analyze the doctrines and legal perspectives that have evolved in legal scholarship to identify the principles and legal conceptions pertinent to the topics under investigation. This approach enables researchers to formulate robust legal arguments grounded in legal theory, principles of criminal law, and banking law, aimed at establishing a normative framework addressing the complex dualism in the application of law concerning bank credit and its implications for corruption. This strategy entails academics examining the evolution of the ius constituendum discourse as a framework for legal reform, aimed at preventing normative overlap and ensuring equitable legal protection for both state interests and financial entities.

This research categorizes legal resources into primary, secondary, and tertiary sources. Primary legal sources include a range of statutes and regulations that constitute the foundation of the law, including the 1945 Constitution, the Criminal Code, the Banking Law, the Corruption Law, and rules about state finances and state-owned enterprises (BUMN). Secondary legal resources consist of legal literature, scholarly papers, theses, dissertations, and expert views that elucidate and explain primary legal documents. Tertiary legal resources serve to augment and provide further information, including legal dictionaries and legal encyclopedias.

The method of gathering legal materials is conducted via literature reviews, namely by obtaining and examining legal resources from diverse library sources, electronic journals, and pertinent legal documents. All legal resources are

assembled, categorized, and examined according to the identified legal issues. Following the compilation of legal information, the subsequent phase involves doing a qualitative examination. The acquired data or legal materials are processed through the analytical descriptive method, which involves elucidating the existing legal data and subsequently conducting a thorough analysis to comprehend the legal substance, along with offering interpretations and forecasts regarding the legal issues under examination. This examination aims to evaluate the synchronization of rules and suggest areas for legislative renewal (ius constituendum), particularly concerning the resolution of bank loans with consequences for suspected corruption. This method is anticipated to provide a thorough overview and robust legal arguments to support proposals for enhancing the banking sector's legal structure, ensuring fairness and legal certainty.

**Discussion**

**1. Reconstruction of Problematic Credit Settlement from the Perspective of the Lex Specialis Principle**

Banks are crucial entities within the national financial system that serve an intermediate role by gathering money from the public and allocating it as credit. The name bank originates from the Italian word "Banco," signifying a bench where bankers historically performed financial transactions. A bank is defined as a financial entity that offers financial services to the public, while banking encompasses all activities, institutions, and operational procedures related to the bank's functions. Banks, as primary entities in the financial services sector, function based on the notion of trust. Credit extended to debtors is founded on the notion of "credere," signifying confidence. Consequently, the notion of caution is a crucial cornerstone in banking operations, particularly in the credit approval procedure.

The concept of prudence is a normative and technical duty for all banks in the evaluation and determination of loan applications. The widely recognized methodology for credit research is the 5 C's: character, capital, capacity, collateral, and economic circumstances. The implementation of this concept seeks to mitigate the danger of problematic credit, characterized by the inability to repay on time (default) or the deterioration into poor credit. Problematic credit may arise from inadequate risk management by the bank or illicit actions by the debtor. One of the most severe kinds of problematic credit arises from purposeful deviations, such as fabricating the debtor's identity, submitting incorrect information, or using phony collateral.

In the legal environment, variations in the credit approval procedure have legal ramifications. In civil law, adverse credit may be excused if it results from force majeure, such as natural disasters or economic crises. Nonetheless, if the deviation transpires regularly and deliberately, it may be classified as a criminal offense, both under Banking Law and, in certain instances, under corruption statutes. The issue occurs when law enforcement officials apply the Corruption Eradication Law (UU Tipikor) to all cases of problematic credit in state-owned banks (BUMN/BUMD), even though such cases are more suitably addressed under the criminal provisions of the Banking Law.

Numerous judicial rulings exhibit considerable inconsistencies in the enforcement of the law. In the South Jakarta District Court Decision No. 2068/Pid.B/2005, defendant Edward Cornellis William Neloe *et al.,* initially acquitted at first instance because the case fell within the civil domain, were ultimately convicted of corruption by the Supreme Court due to the financial losses affecting state finances, as Bank Mandiri is a state-owned enterprise. Decision No. 747 K/Pid.Sus/2012 further underscored that procedural irregularities by bank personnel in the issuance of credit constitute acts of corruption.

Conversely, such instances at private banks are not promptly classified as criminal acts of corruption. In Sorong District Court Decision No. 251/Pid.Sus/2019, the discrepancies in the credit provided by Suherni AR at BRI Sorong were prosecuted under Article 49 of the Banking Law. Similarly, in the Bank Century case, as delineated in Decision No. 1934 K/Pid.Sus/2016, administrative irregularities in the credit accounting procedure were prosecuted under the Banking Law rather than the Corruption Law.

This circumstance indicates the presence of a double standard in law enforcement, resulting in legal confusion. Law enforcement authorities use the Corruption Law, citing state losses in state-owned or regional banks, although they do not apply the same rationale to private banks, despite the similarity in their operational methods. This occurrence necessitates an assessment of the concept of legality and the norm of lex specialis in the enforcement of criminal law inside the banking industry.

The notion of lex specialis derogat legi generali posits that specific law supersedes general law. If an act is explicitly governed by the Banking legislation, the terms of that legislation should be used rather than the more general Corruption Law. Nevertheless, in reality, this idea is often disregarded. Consequently, a more profound comprehension of the origin of this concept is required, namely the principle of systematic lex specialis (systematische specialiteit), which was formulated within Dutch criminal law theory.

The principle of systematic lex specialis asserts that when a criminal act is delineated in a law that specifically governs the object, subject, and enforcement procedure, that law should be applied as lex specialis in preference to other laws, even if both are classified as special criminal laws. In this sense, the Banking Law shall serve as a systematic lex specialis about the Corruption Law concerning credit irregularities in state-owned or regionally-owned banks. The financial Law has meticulously and rigorously delineated the types of anomalies that may be classified as financial crimes.

Article 49 of the Banking Law delineates criminal penalties for board members, directors, or bank staff who falsify documents, conceal, delete, or fail to adhere to the concept of prudence. This clause has comprehensively addressed all types of deviations often seen in problematic credit situations, including the issuance of counterfeit credit, acceptance of bribes during the credit application procedure, and negligence in credit verification and analysis.

In the formulation of criminal legislation, it is crucial to underscore that not every action detrimental to public finances may be promptly classified as corruption. Indriyanto Seno Adji underscores that illegal activities are not inherently corrupt, and not all state losses stem from corruption. Romli Atmasasmita articulated a similar viewpoint, underscoring that the Corruption Law is not universally applicable to all purported legal infractions, particularly when such infractions fall within a distinct legal framework, such as the Banking Law or the Taxation Law.

Criticism over the extensive application of the Corruption Law is particularly aimed at Article 14, which presents an interpretative gap as a "blank article" that may be supplemented at any moment by infractions of other statutes. Nonetheless, when applied systematically, Article 14 restricts the applicability of the Corruption Law only to other legislative measures that specifically designate infractions of these provisions as criminal acts of corruption. Consequently, if the Banking Law does not classify infractions of its provisions as corruption, the criminal provisions within the Banking Law cannot be directly supplanted by those in the Corruption Law.

From a broad criminal law standpoint, the concept of idealism concursus, as delineated in Article 63 of the Criminal Code, restricts the application of dual penalties for a singular crime. If an action is governed by two provisions, the most explicit provision should be applied. If both provisions are explicit, the one more relevant to the context and content of the act must be applied. The act of credit irregularities in banking operations is more suitably punished under the Banking Law, which systematically governs such conduct. Eddy OS Hiariej delineates three major requirements for characterizing special criminal law as systematic lex specialis: the presence of material criminal provisions that diverge from general law, the existence of specialized procedural law, and the identification of particular legal issues. The Banking Law satisfies these three criteria on criminal rules, oversight, enforcement mechanisms, and restrictions on legal entities that specifically focus on internal banking bodies.

Furthermore, within the realm of state financial institutions, it is crucial to recognize that the assets of state-owned firms constitute the wealth of the state that has been delineated. Law No. 19 of 2003 about State-owned firms stipulates that state capital involvement in these firms occurs via a process that separates it from the State Budget and is thereafter administered according to corporate principles. Consequently, losses incurred by state-owned firms from problematic loans should be classified as corporate losses rather than state losses, unless there is proof of criminal enrichment of oneself or another person.

Considering all these arguments, it may be inferred that law enforcement regarding bank credit irregularities, particularly in state-owned banks, must emphasize the concept of systematic lex specialis. This is crucial to avoid double criminalization, disparities in law enforcement, and legal ambiguity. Erratic and inconsistent law enforcement will undermine public confidence in the criminal justice system and exacerbate the environment inside the financial services sector. Consequently, it is essential to reconcile the provisions of the Banking Law and the Corruption Law via methodical interpretation and legal reform (ius constituendum), which underscores the limits and extent of each law's applicability.

Within the framework of ius constituendum, the optimal legal reform has three elements. Initially, it is affirmed that the provisions of the Banking Law concerning criminal activities are lex specialis about the Corruption Law, save where they have an element of illicit enrichment. Secondly, it is essential to include a provision in the Corruption Law that specifically stipulates that only criminal offenses in designated areas, which fulfill the particular criteria of corruption, are subject to prosecution under this law. Third, enhancing the function of supervision and internal audit inside the financial system to preemptively address deviations via administrative or civil legal measures before they escalate into criminal proceedings.

In conclusion, a systematic, consistent, and proportionate legislative framework would establish equilibrium between safeguarding public budgets and ensuring legal certainty for financial service providers. The idea of lex specialis is not only theoretical; it serves as an ethical and normative framework for law enforcers to ensure equitable and reasonable application of the law, along with its intended aims.

## 2. Direction of Legal Reform on Settlement of Problematic Credit in the Banking Sector: Ideal Formulation of Ius Constituendum for Legal Certainty and Protection

The emphasis on using legal standards as a regulatory mechanism in the national banking sector is founded on the normative legitimacy inherent in these legal norms, coupled with the coercive authority that exerts a deterrent influence on transgressors. Legal standards are not only ethical principles but also the fundamental basis for establishing an orderly and equitable framework within the banking sector's commercial operations. The need for legal certainty in banking operations is rising, particularly in light of the intricate national financial system and the rapid evolution of the banking sector. The strong relationship between legal laws and banking operations highlights the need for systematic and adaptable legal formulation and enforcement to align with contemporary developments. Ingo Walter, in High Performance Financial System Blueprint for Development, underscores the need for meticulous creation and updating of financial sector rules, given the industry's strategic significance and susceptibility to systemic shocks.

In response to the necessity for regulatory reform in the financial sector, the government has enacted Law Number 4 of 2023 regarding the Development and Strengthening of the Financial Sector (UU P2SK), an omnibus law that modifies 17 laws and regulations within the financial sector, including Law Number 10 of 1998 about Banking. The P2SK Law has an extra clause, Article 37E, which prohibits certain actions that compromise the integrity of bank financial records and reporting. This section encompasses a restriction on the creation of fraudulent records, the destruction of records, and the concealment, obfuscation, or deletion of financial documents. Moreover, Article 37E explicitly forbids the acts of bribery and inducement conducted by or against internal bank parties to secure advantages in financing operations, including loans, bank guarantees, or other financial provisions.

The P2SK Law establishes criminal sanctions in Article 49 to reinforce these bans. This article imposes severe criminal penalties on board members, directors, bank staff, or anyone actively participating in or aiding the activities specified in Article 37E. The criminal penalty consists of a minimum of five years and a maximum of fifteen years of imprisonment, and a fine between ten billion and two hundred billion rupiah, demonstrating the state's commitment to addressing offenses within the banking industry. Conversely, external offenders who corrupt bank personnel for personal or collective gain are also liable to corresponding criminal penalties. The scope of legal issues under the P2SK Law is more extensive than that of the former Banking Law, which was primarily confined to the internal affairs of the bank.

Significant alterations are evident in the normative framework and formulation of the regulated criminal law as compared to the prior Banking Law. Law Number 10 of 1998, Article 51, clearly categorizes deviations by bank personnel as crimes (rechtsdelict) to promote enhanced legal compliance. This clause has been eliminated in the P2SK Law. This is believed to be a result of the implementation of the new Criminal Code, which eliminates the distinction between crimes (rechtsdelict) and infractions (wetsdelict) owing to its practical inconsistencies. The elimination of the "crime" designation does not diminish the objective of the P2SK Law in apprehending offenders of banking law infractions. This is shown by Article 37E, which delineates the types of forbidden activities, and Article 49, which specifies the criminal punishments. Consequently, both the previous Banking Law and the P2SK Law have the same objective: to enhance compliance in banking operations and underscore the limits that must not be transgressed in banking activities.

Furthermore, the P2SK Law broadens the range of legal subjects who may be liable for criminal punishment. Prior regulations restricted offenders to the board of commissioners, directors, and bank personnel. In the P2SK Law, the scope is broadened to include all individuals, including those who provide bribes and those who facilitate or engage in financial offenses. The comparative table of the Banking Law and the P2SK Law indicates that the delineation of offenses in the P2SK Law is more extensive and methodical. The P2SK Law not only regulates internal bank entities as legal subjects but also implicates external parties engaged in conspiracy or collaboration in banking operations. This rule is crucial for avoiding financial crimes, which often include foreign parties with economic interests.

Notwithstanding the alignment of legal statutes, the prevailing difficulty is the equitable, consistent, and non-discriminatory execution of law enforcement. Contemporary practices indicate a propensity for law enforcement to exhibit inconsistency, particularly in managing contentious credit matters. Instances of poor credit in state-owned banks, resulting from force majeure or company failure, are often criminalized under the Corruption Crime Law (Tipikor), despite being more appropriately addressed via banking administration procedures or civil litigation. In different circumstances, when fraudulent credit arises in state-owned banks, it is prosecuted under the Tipikor Law due to its perceived harm to state finances; conversely, analogous situations in private banks are addressed via the Banking Law.

This mismatch underscores the pressing need to establish a distinct policy that delineates financial offenses from corruption and other criminal activities. This division seeks to avert overcriminalization, legal discrimination, and inequities in law enforcement. This policy may be formulated as a Joint Decree (SKB) with law enforcement agencies, banking regulators, and other financial regulatory bodies. This SKB will serve as a framework for legal interpretation in addressing problematic loans and elucidate the application of the concept of lex specialis derogat legi generali within the realm of banking offenses. In the civil environment, problematic credit arises from the debtor's incapacity to meet commitments, whether owing to force majeure or an unforeseen fall in business. If the creditor has adhered to the concept of prudence and cooperated with banking regulations, this cannot be classified as a criminal offense. Nonetheless, if there exists an element of purpose characterized by credit engineering, misuse of power, cooperation between the debtor and bank officials, and bribery, it may be classified as banking crimes as delineated in Article 49 of the P2SK Law.

Article 50D of the P2SK Law establishes a legal framework for imposing supplementary criminal penalties, including compensation for losses incurred by the aggrieved party, applicable to both state-owned and private banks in instances of damages resulting from criminal activities. This recompense is executed proportionately and may be substituted with imprisonment if the offender is unable to reimburse the incurred damages. This clause aligns with Ramlan S. Po'oe's theory, which underscores the need for a loss recovery mechanism within the banking criminal system. It is essential to recognize that the enforcement of additional general or specific criminal sanctions, including the Corruption Law, is permissible provided that the bank's acts are not governed by banking criminal statutes.

The implementation of a policy distinguishing financial crimes from other offenses is not designed to undermine criminal law overall, but to prevent the abuse of legal tools in unsuitable settings. This policy must provide normative clarity, promote uniformity in law enforcement, and offer legal certainty for all participants in the banking sector, both governmental and private. This is crucial to prevent law enforcement agents from being entangled in subjective interpretations that may alarm corporate stakeholders, particularly about strategic financial choices.

Conversely, reinforcing the notion of lex specialis systematic is a crucial element of the rationale for this approach. Specific banking criminal prohibitions should take precedence over more general criminal provisions, such as bribery under the Corruption Law. Collusion between potential debtors and bank personnel in submitting credit that contravenes the concept of prudence is explicitly governed by Article 49 of the P2SK Law. Consequently, the implementation of the Banking Law or the P2SK Law requirements must take precedence over other general criminal statutes. The implementation of this policy would safeguard the financial industry from ambiguity and undue criminalization tactics.

This separation strategy must be underpinned by a comprehensive approach that includes all components of the criminal justice system, bank supervisory institutions, and financial regulators. The objective is to safeguard legal interests regarding clarity while also fostering confidence in the legal system's equitable execution of its supervisory and law enforcement roles. Legal clarity in the banking sector is crucial for maintaining national financial stability, fostering a robust investment environment, and safeguarding the rights of debtors and creditors equitably. According to Fence M. Wantu, legal certainty is of more significance than the law itself, since the absence of clarity renders the law ineffective as a behavioral guideline within society. Bisdan Sigalingging underscored that legal certainty encompasses not only the clarity of legal content but also the uniformity of its application.

Consequently, reforming criminal legislation in the banking industry via the P2SK legislation is a crucial measure to preempt many types of misconduct that threaten the national financial system. This reform must be supported by the enhancement of normative policies that delineate the extent of criminal activities according to their features and legal

ramifications. This initiative will yield a law enforcement system that is more equitable, non-discriminatory, and attuned to the issues present in contemporary banking operations.

**Conclusion**

This research demonstrates a conflict in the enforcement of legal provisions regarding irregularities in banking operations, particularly with the allocation of problematic credit, between the Banking Law and the Corruption Law. This discrepancy arises from the disparate legal status of state-owned banks and private banks, whereby losses incurred by BUMN/BUMD are often classified as state losses and are promptly criminalized as acts of corruption. From the standpoint of state financial legislation and corporate principles, assets allocated to BUMN/BUMD should adhere to the tenets of private law rather than public law. Consequently, it is imperative to uphold the concept of lex specialis, asserting that criminal laws within the Banking Law and the P2SK Law should take precedence in evaluating criminal acts within the banking sector, particularly where the content and legal topic are explicitly delineated. The establishment of a distinct criminal law policy that differentiates banking offenses from corruption offenses is a crucial measure to avert overcriminalization, legal inconsistencies, and maintain legal clarity and fairness within Indonesia's economic criminal justice system.

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