

THE FRAUD OF BANKING REVIEW IN LEGAL PERSPECTIVE

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Abstract

The fraud is one of the things that can be done by someone, from the mild to the most severe level of cheating. Fraud is one of the acts of fraud and fraud committed by certain groups in obtaining personal gain and of course having a fairly large level of loss. This research aims to explain the ideas and theories and characteristics of perpetrators of fraud, how to resolve the law that must be enforced in order to face judicial problems and risks for perpetrators and ways and strategies to overcome fraud that occurs within the scope of banking. This study used a method in literature and library research, namely analysis in the form of discussions related to legal ideas, theories and the occurrence of fraud in the banking law perspective so that conclusions can then be drawn in understanding the extent to which actions based on fraud perpetrators can harm themselves or loss to another person/party. Losses caused by fraud are very large losses and can be widespread in the scope of banking. In addition, the bank really avoids all forms of loss, one of which is reputation risk which greatly affects the quality of the bank because it can give a bad image and influence to the wider community due to cases of fraud or fraud. The fraud prevention strategy is in the form of a systematic form that exists in controlling fraud, in this case management is required to mobilize productivity and quality resources so that the strategy in controlling prevention can continue and provide useful effects in reducing fraud cases.

Keywords: Bank; Control; Fraud; Law; Prevention.

A. INTRODUCTION

Banking, namely as an institution that has an influence on people's lives, especially has the aim of being able to collect and as a channel of funds because the more complete the availability of services that banks

provide, the easier it will be to attract the public. In banking, the service must be considered thoroughly for customers who will choose it. Because the bank will as much as possible avoid everything that will have a bad influence on the company by providing the best service in order to establish a relationship of trust that will be obtained for customers. Banks must always carry out periodic checks regarding the quality they have and are carried out for a certain period.

In accordance with the banking explanation contained in the Law of the Republic of Indonesia No. 10 of 1998 explains that a bank is a business entity that runs in the financial economy sector, because the sustainability of existing activities in banking is of course related to financial management activities. One of the banking activities is collecting funds from many people. The implementation of bank activities is supported by all employees or employees to superiors or bosses in it so that the continuity of the banking process must always be maintained smoothly by all people involved in the scope of management within the bank in ensuring public trust.

At least there are several strategies in developing the quality of sales for both products and services, namely by giving special attention to consumers in this case, namely customers based on appropriate and fast service and providing appropriate service quality to make consumers feel satisfied. According to Parasuraman in his journal *Ida Bagus* explained that the development of good quality service on a regular basis and served by the company will get satisfaction from consumers because good service means that it can be presented in a way that is ready to run, has reason and moral values to be nimble or agile in the face of every obstacle.¹

Various efforts have been made by bank employees in ensuring that the services within the bank become of higher quality, such as in building good communication and service for customers, because as previously explained, if a bank has a bad image, it is caused by negligence on the part of the bank, such as employees, it will have an impact on losses received by the bank such as decreased interest in prospective customers so that the activities in it cannot advance the management of existing businesses and cause the quality in banking to decrease due to a lack of public interest.

As with the duties of a bank employee, he is given the obligation to have a deeper understanding of the fields of products and services that exist in the banking system. According to the explanation of legal theory, it is not explained specifically regarding the definition and the main tasks held by a personal banker, but it can be understood that the position held in a personal banker is included as one of the staffing divisions in a bank. Not only that, employees and employees to superiors at the bank must cooperate with each other in advancing the welfare of the company.

The range of life patterns that exist within the scope of everyone in daily activities must always be mutually sustainable because of the existence of legislation or can occur in agreements. If someone is influenced to use

1 Ida Bagus Ngurah Satwika Purwa and I Gusti Agung Ketut Sri Ardani, Peran Kepercayaan Nasabah Dalam Memediasi Pengaruh Kualitas Pelayanan Terhadap Kepuasan Nasabah, *E-urnal Manajemen Universitas Udayana*, Vol.7, No.1 2017, page.192

something else because of the law, so that the part of personal desire does not participate in getting a role. Not the same if bound by the impact of communication caused by a contract. Certain ranks know and deliberately plan the desire to produce benefits or profits that have existed since the beginning, are desired and considered.²

Cooperation planning often takes place in several parties who have executed the contract but suddenly do not fulfill their promise. Not carrying out the rights and obligations that should have been agreed upon on both sides, the impact of being accepted can result in the sustainability of the achievement results not being achieved for one of the parties. Thus, legal problems will arise, even the solution is not so easy and fast and protracted, ultimately ending in a court that requires a judge's decision.

However, in a case where the perpetrator is a party outside the bank's staffing environment or can be said to be an individual acting on behalf of the bank to commit fraud, can it be said to be the fault and responsibility of the bank as well. Fraud is a deviant act whose purpose is to commit acts of fraud, fraud or deception by persons or related parties as employees or people who use the bank as a place to commit fraudulent actions to the detriment of other parties.

The explanation contained in the Criminal Code (KUHP) explains various articles related to the definition of fraud, including: Article 362: Theft, Article 368: Extortion and Threats, Article 372: Embezzlement, Article 378: Cheating, Article 396: It is detrimental to the creditor in bankruptcy, and so on.³ There are so many crimes that occur in this world every day and the occurrence of acts of fraud which is one of the crimes that occur in the banking world, the regulations and laws that exist in banking become a reference in carrying out existing rules but that does not mean the occurrence of inequality committed by the banking sector employees and consumers as customers to the bank concerned cannot be separated from a problem.

It is certain that what exists in the inequality stems from the desire for deviant behavior of a person or certain party in achieving profits spontaneously without first thinking about the risks and losses until the law that will be obtained later. Based on the explanation of the Big Indonesian Dictionary, deviant actions and behaviors can be understood as actions, treatments, and reactions of several groups of people in dealing with social and social environmental conditions that cannot be justified by moral values, norms and applicable laws.

According to Karyono, fraud is an act of deviation and is also an illegal act and is carried out based on an element of intent with the aim of certain desires such as lying, deceit or deceiving based on untrue dreams (mislead) aimed at the parties who are victimized by unscrupulous actors

2 Yahman, *Karakteristik Wanprestasi & Tindak Pidana Penipuan*, 3rd ed. KENCANA, Jakarta, 2016, page.2

3 Joseph Wibowo, *Business Creation, Fraud*, n.d.

and this action can be carried out by certain people occurs within the external scope of the company or organization.⁴

Based on this explanation, in the discussion of this article, it will be explained again related to the law that forms the basis for the implementation of fraud in the scope of banking that is not in accordance with the applicable policies, procedures and rules and the element of intentionality carried out within the bank so that it can cause losses to the bank materially or morally acceptable behavior. The article will discuss theoretical ideas and characteristics of perpetrators of fraud, how to resolve the law that must be enforced in order to deal with appropriate judicial problems for perpetrators and ways and strategies to overcome fraud that occurs in banks.

B. RESEARCH METHODS

The research method used by the author is carried out by reading, examining in search of data in the form of library research, research using sources originating from written works, journals, books or e-books to articles and other online media related to the material which will be explained in the discussion. The research was conducted using a qualitative method and a normative approach because it uses secondary data sources and is based on an introduction to the principles of legislation, what decisions are contained in the risks that occur in fraud that occur within the scope of banking law and theory and are accompanied by opinions from several ranks lawyer. The technique used is data collection in the introduction of existing problems based on phenomena that occur in order to solve problems that occur so that conclusions can be drawn

C. RESULT AND DISCUSSION

1. Fraud's Legal Theory

Fraud is a crime and can be committed by every human being, ranging from minor fraud that harms only a few people and serious fraud that can harm many people to lead to severe losses and penalties. The term used in fraud, namely (*fraud*) is actually still quite foreign among ordinary people in Indonesia because this term is starting to be known in parts of the world with various backgrounds and certain issues related to fraudulent behavior that causes losses to corporate institutions and organizations experiencing problems. The fraud carried out by both individual and group actors has the potential to harm other parties because fraud is an act that stems from the selfishness of someone who wants to gain profit by taking advantage of other people to achieve their desires without thinking.

As one of the problems or issues that are not liked by the public, namely in cases of corruption committed by unscrupulous officials. From this case, the public assumes that it is not easy to believe that pure officials carry out their duties and mandates honestly or who can be called as representatives of the community who should continue to

⁴ Karyono, *Forensic Fraud*, Yogyakarta, 2013

protect and embrace the progress of a better nation and state. Corruption is one example that occurs and proves that fraud can certainly occur and has a wide range or scope.

Cases that occur due to fraud are not only experienced by foreign countries because in Indonesia there are not a few fraud cases that cause losses to the state. These shameful acts are found in Indonesia and most of them are problems based on reports sourced from the Indonesian Supreme Audit Agency in responding to acts of fraud, which cannot be separated from the scope of three characteristics such as treatment of corruption, embezzlement of assets, and manipulative financial notification reports. However, every case that occurs in these three categories has a special concept and then this term is referred to as Corruption Crimes.⁵

In accordance with the acquisition of research sources initiated by Dewi Yuniarti Rozali & Alfian,⁶ based on data obtained and sourced from the Supreme Audit Agency, the Corruption Eradication Commission, the Attorney General's Office and the Supreme Court. Based on the registered BPK report and there have been 1198 cases in 2010 as well as a surprising number of new categories of corruption cases as much as IDR 402,642,266,605.85. According to the data on problem reports with absolute legal force, the occurrence of corruption cases has been raised in the District Court as many as 217 cases, the High Court as many as 49 cases, the Supreme Court as many as 161 cases. The case of the implementation of corruption according to certain regions and has been recorded by the Corruption Eradication Commission explains that this problem has sadly occurred in the ranks of the central government, and has occurred in parts of big cities in Indonesia..

In accordance with BI Circular No. 13/28/DPNP and also based on the Regulation of the Financial Services Authority concerning the Implementation of Anti-Fraud Strategy for Commercial Banks, fraud is behavior that is carried out by someone who intentionally commits a deviant act, intentionally or indirectly carried out by the victim concerned to carry out fraud, deceit and manipulate certain victims who will be harmed such as customers, banks, or certain people or communities with the aim of benefiting the perpetrators. In addition, according to Fahmi, fraud has a fairly diverse scope of meaning, such as deceitful behavior, lying, malicious acts, fraud of goods, falsifying goods, manipulating evidence, falsifying data, falsifying information and manipulating facts.⁷

OJK has a main task for the institution to carry out intensive supervision as a building and distributor institution with the aim of gaining trust and protection for the public in transactions, this is what

5 Siilviani Perbuary and Et Al, *Pencegahan Fraud Di Lembaga Keuangan Mikro Syariah*, 1st ed. CV Budi Utama, Yogyakarta, 2019, page.3–4

6 Rozmita Dewi Yuniarti Rozali and Rizal Alfian, Pengaruh Efektivitas Fungsi Audit Internal Terhadap Pengungkapan Kelemahan Pengendalian Internal, *Jurnal Riset Akuntansi Dan Keuangan*, Vol.2 No.2, 2014, page.326

7 Eko Sudarmanto and Et Al, *Good Corporate Governance (GCG)*, Yayasan Kita Menulis, Medan 2021, page.146.

can be done in tackling the occurrence of a fraud.⁸ It should be remembered that banks have supervisors who are quite competent in adapting to a wide range, therefore monitoring actions by banks will continue to be carried out on an ongoing basis in order to improve BI's performance until the tasks that have been carried out by the Financial Services Authority are even better in the future.⁹

In accordance with the opinion of Luchtman and Vervale, universal universality or commonly referred to as globalization has a real influence in the occurrence of fraudulent acts that occur in the international banking world.¹⁰ In accordance with the opinion of Luchtman and Vervale's ideas, universal universality or commonly referred to as globalization has a real influence in the occurrence of fraudulent acts that occur in the world of international banking.¹¹ Tuanakotta¹² explains that there are three potential situations in the occurrence of fraudulent acts or included in the triangular fraud, among others, there is a background or restraint/pressure, there is an opportunity or opportunity and there is a logical consideration or thinking.¹³

According to the explanation from Barra and Donelson, Ege, & McInnis explained that the workers in that scope are supported by guaranteed productivity in terms of moral and ethical support that is upheld starting from the personal awareness of each employee in the regulations that exist in an organization tend not to recognize the behavior that causes fraud.¹⁴ Individual awareness is supported by habits between employees who prioritize etiquette and behavior to solve a problem, on the other hand if the work environment does not support the habit, namely getting used to the occurrence of negative thoughts and behavior between individuals, it will be easy for actions based on fraud to enter into it. *Adab* / ethics is a reflection of a person's character in dealing with every problem that is passed by each of them.

The problem that exists in fraud has become one of the main enemies for every level of institutions and private and state companies because it plays a role in being one of the problems that spreads to occur in the public sphere and is not something that rarely happens in Indonesia. The role held in carrying out an audit in the reported financial guarantees as well as in order to adjust the effectiveness of an institution is an important task for the holder of the Internal Auditor to address

8 Andi Hamzah, *Kejahatan Di Bidang Ekonomi (Economic Crimes)*, Sinar Grafika, Jakarta, 2017, page.340.

9 Hermansyah, *Hukum Perbankan Nasional Indonesia*, Kencana, Jakarta, 2005, page.164.

10 Romli Atmasasmita, *Hukum Kejahatan Bisnis (Teori Dan Praktik Di Era Globalisasi)*, Kencana, Jakarta, 2014, page.34.

11 Rita Anugerah, Peranan Good Corporate Governance Dalam Pencegahan Fraud, *Jurnal Akuntansi Universitas Riau*, Vol.3 No.1 2014

12 Theodorus M. Tuannakota, *Akuntansi Forensik Dan Audit Investigatif Empat*, Edition 2. Salemba, 201AD, Jakarta,

13 Early Ridho Kismawadi and Et Al, *Fraud Pada Lembaga Keuangan Dan Non Keuangan*, PT Raja Grafindo Persada, Depok, 2020, page.84

14 J. M. Donelson, D. C., Ege, M. S., & McInnis and Weaknesses, Internal Control Theory, and Financial Reporting Fraud, *AUDITING: A Journal of Practice*, Vol.6 No.3 2017, page.45–69,

matters that have the potential for fraud. Giving more power in the field of control such as starting from the company's internal, optimally controlling activities as well as strengthening the rules of internal auditing are some of the designs carried out to prevent fraud.¹⁵

2. Characteristics of Fraud Actors

Setiawan explained related to several conditions that have characteristics in the form of certain tricks or methods in the implementation of fraud where the fraud is carried out based on carefully planned and structured calculations by individual actors with certain backgrounds writing that there are nuances that are tricky in practice fraud.¹⁶ Various tricks of defrauding the rules are used to find loopholes with a specific purpose for the benefit of individuals.¹⁷

Based on the Statement of Auditing Standards, there are two kinds of differences in misstatements, namely the occurrence of errors or unintentional errors and fraud or can be referred to as fraud. Of the two types can have material characteristics or not. If the occurrence of an error can occur due to unintentional grouping and preparation of financial reports, negligence in preparing calculations that occur by accident, while fraud is an act that occurs intentionally and is planned secretly by several parties who do it. Fraud in committing fraud can occur for misappropriation of assets or actions taken by employees in the context of fraud embezzlement of cash or reserves, while for fraudulent financial statements it can be carried out by inappropriate management actions such as submitting reports on presentation of operational balances that are more than the appropriate presentation target the actual sales report, in order to get a double benefit from the presentation of the report that is done.¹⁸ Because fraudulent behavior is a thing that has a bad influence on the characteristics of a person's behavior, this fraud proves that a perpetrator only instills instincts and a short way of thinking because he acts with the intention of obtaining personal or group benefits but is not aware of the impact felt for victims who suffer losses and any excuse made for such action will not be accepted by the laws and norms of society.

Such a human being is easily influenced by people whose position is as an employee who always obeys orders or obligations from superiors and family for fear of losing their work relationship and is considered a failure, they will always carry out the rules and morals without realizing that these conditions and actions have been completely wrong right or even deviate from the right path. The occurrence of fraud is evidence that cannot be avoided because it can happen to people who experience

15 Kartini, Developing Fraud Prevention Model in Regional Public Hospital in West Sulawesi Province, *International Journal of Law and Management*, Vol.60 No.2 2018

16 S. Setiawan, The Effect of Internal Control and Individual Morality on the Tendency of Accounting Fraud., *Asia Pacific Fraud Journal*, Vol.3 No.1 2018, page.33–42.

17 Moh. Khusaini Nurkholis, *Penganggaran Sektor Publik*, UB Press, Malang, 2019, page.164.

18 Hery, *Dasar-Dasar Pemeriksaan Akuntansi, Auditing I*, Kencana, Jakarta, 2011, page.31.

excessive pressure so that they are influenced to commit fraud.¹⁹

According to Albrecht, anyone can become a fraud perpetrator, because the perpetrator can be called a fraudster, it is not easy to distinguish between those who actually become the perpetrators because many of them come from educated, hardworking, diligent and earn good trust in the environment work place. For this reason, perpetrators are not easily detected simply by looking at their quality of life based on the dynamics of people's judgments and attitudes in the social environment as well as how to build relationships with many people. Furthermore, according to Kranacher, in general, they have never had a history of crime and are seen as a reflection of community members as individuals who look fine when assessed directly. A Fraudster perpetrator is usually seen as a competent person and has high confidence in his friends, colleagues, superiors and extended family and if the actual behavior has been revealed, most of the closest people will feel unexpected.²⁰

If the perpetrators of fraud have been identified based on concrete evidence, criminal and civil proceedings will be carried out for the perpetrators. Because based on a criminal act, the perpetrator has violated the law which is included as a public violation for the survival of the public interest. Then based on civil law, it means that the perpetrator has undergone private rights or personal rights against victims who have suffered losses.²¹

Everyone must have the opportunity to carry out fraud because it is quite interesting because the convicts of this fraudulent act are people who look quite ordinary in the view of the environment around the perpetrators, as explained previously because they are generally seen as polite, sociable, understanding individuals of spiritual values, has never consumed drugs or alcohol and has never had a criminal record. Each of these actors also has a great and ambitious spirit to explore their career path and is considered mentally healthy and has strong motivation because they have a fairly good family background, have a personality that looks fine and friendly, coupled with a high attitude of empathy.

Understanding the character and background of the perpetrators of this fraud is quite difficult because their attitude looks like they don't have any problems and looks quite normal. That's why anyone can easily fall into a fraud because it is not easy to investigate this action directly because it is not easy to read the minds of everyone who has different characteristics and characteristics and this is included in the environment of colleagues, superiors, customers, any cooperation suppliers or clients who actually commit fraud or other fraud.²² Mastering control from within

19 Kasdin Sihotang, *Etika Profesi Akuntansi: Teori Dan Kasus*, PT Kanisius, Yogyakarta 2019, page.276–77.

20 John Wiley & Sons and J. T. Wells. Kranacher, M. J., R. A. Riley Jr., *Forensic Accounting and Fraud Examination*, New York, 2011

21 Gugus Irianto Ike Trisia, *Evaluasi Implementasi Strategi Anti-Fraud (Studi Pada Pt. Bank Kalteng)*, Universitas Brawijaya, 2021, page.4

22 Achdiar Redy Setiawan, *Sisi Remang Pengelolaan Keuangan Daerah: Perspektif Aktor, Agama Dan Budaya*, Peneleh, Malang, 2020, page.49.

the work environment is said to be a case that occurs as a quality developer of the company with the target to be ahead in accordance with the benchmarks in analyzing, forming a framework, and making improvements to the progress of activities that occur in the company.²³ Because if the control system that is run in the company has many weaknesses, it will be easier for fraud to occur.

Lack of quality control provides the potential to make the right nest for perpetrators who take advantage of this situation starting from individual ideas to developing into cooperation with certain groups to carry out crimes that are fraudulent acts that refer to fraud.²⁴ According to Agoes, at least the underlying cause for this occurrence started from the lack of consistency in the system that should control the activities in the company and that was caused by the internal audit being unable to carry out the proper function according to its role.²⁵ Then a careful calculation analysis is carried out between the numbers in each report arrangement and the results obtained, comparing the nominal that occurs both from the numbers before and after in a certain period, looking more deeply into the relationship of each number, and analysis based on statistical methods that predict estimates on certain period. This case will then be discussed by the party who has a role in the examination based on analysis and comparative evidence to obtain a clarity on the final result of the examination process on income or profit calculation whether it has conformity or not.²⁶

The urge or excessive desire that underlies oneself continuously to be tempted into fraudulent behavior is influenced by the participation of someone who upholds self-respect and follows the lifestyle of others who have an above average standard of living but do not have sufficient capital and assets and likes and is used to getting into gambling to think of a plan to carry out something that has never been done before in a work environment. At first, this desire was a description of two forms, both real and perceived, real desire became one of the basic meanings related to supporting the crime of fraud.²⁷

The habit of gambling, addiction to drugs or taking drugs can also be the reason for experiencing financial problems that never end. While the pressure that occurs as a form of feeling or perception is based on the imagination in the personal mind of excessive desires beyond common sense and affects the desire to carry out fraudulent behavior. Based on the description of SAS No. 99, according to Rukamwati, there are approximately four kinds of situations that are often experienced due to mental pressure such as financial stability, pressure from third parties,

23 J. E. Warren, C. S., Reeve, J. M., & Duchac, *Pengantar Akuntansi Adaptasi Indonesia* Salemba Empat, Jakarta, 2015

24 Anugerah, *Peranan Good Corporate Governance Dalam Pencegahan Fraud*,

25 Sukrisno Agoes, *Auditing Petunjuk Praktis Pemeriksaan Akuntan Oleh Akuntan Publik.*, 4th ed., Salemba Empat, Jakarta, 2013

26 Nurlita Novianti Gugus Irianto, *Deadling with Fraud*, UB Pres, Malang, 2018, page.106.

27 Posma Sariguna Johnson Kennedy and Santi Lina Siregar, Actors in Indonesia According to Fraud Indonesia Survey, *Buletin Ekonomi FEUKI*, Vol.21 No. September, 2017, page.52

financial influence based on the state of the executives of the institution or company and risk management in achieving targets.²⁸

Having excessive free time and work gaps for employees who are negligent and indecisive opens up the steps and movements of the perpetrators to be able to carry out their targets. Not keeping important assets and information in the company with strict protection, inadequate audit procurement structure accompanied by bad behavior habits in the form of indifference because they have a strong influence on the control system are the main reasons. Opportunities in financial statement fraud can occur in three categories. These situations include the nature of industry, ineffective monitoring, and organizational structure.²⁹

Rational behavior is a strong form and is a reason for fraud perpetrators to provide reasons as a means of justification. Personal initiatives and characteristics of a person with rational reasons for the treatment of fraud and materiality factors in determining management in responding to a situation when doing work as a preparer of financial reports. When the manager's integrity becomes a question mark based on several calculation errors on reports that are considered inappropriate, in treating parties who have participated in fraudulent acts it will easily prove the truth that they have rationally because they are accustomed to preparing for conditions that will be experienced when an inspection is carried out. But for people who have actual moral behavior and honesty, it will be difficult to prove rationally reasons. Perpetrators of fraud can always think rationally as a means of justification in order to save the image and the desired proof of each mistake.

There are at least four types that are included in behavior that comes from pressure to cause someone to commit fraud, including:³⁰

a. Financial Pressure Problems

Financial problems or problems are one of the frightening specters for adults who already have big responsibilities and in achieving independence. That's why a few people will try to achieve the desired needs even if by cheating or fraud. The pressure caused by one of them is from the influence of family talk and the emergence of feelings of excessive prestige that triggers the desire to obtain many things, such as presenting a greedy nature in oneself to obtain wealth spontaneously so that not a few are ultimately trapped in debt or willing to commit fraud or fraud and various crimes. In accordance with fraud in financial statements, according to Imam Sarwoko, fraud that occurs in financial statements has several characteristics so that fraud occurs, including:

28 Dias Rukmawati, *Persepsi Manajer Dan Auditor Eksternal Mengenai Efektivitas Tidak, Metode Pendeteksian Dan Pencegahan Tindakan Kecurangan Keuangan*, Universitas Diponegoro, Semarang, 2011

29 Rukmawati.

30 Anisa Putri, *Kajian: Fraud (Kecurangan) Laporan Keuangan, Faktor Pemicu Fraud, n.d.*, <https://media.neliti.com/media/publications/4473-ID-kajian-fraud-kecurangan-laporan-keuangan.pdf>.

- 1) Manipulative, imitating or falsifying reports and replacing several documents or files as well as financial data in accounting records or other financial sources that have values or cores that exist in a company
- 2) Doing substitutions intentionally in eliminating sources of transactions and financial reports by paying close attention to the existing conditions to carry out their actions in accordance with a mature and careful plan
- 3) Deliberately applying errors in the implementation of financial statement accounting based on the acquisition, form, and results of its preparation

Fraudulent financial reporting or fraud in financial statements can occur because of problems stemming from cooperation or conspiracy in the working relationship for supervisors and supervisory bodies of public accountants with management who build the company.

b. Bad Habits

Generally, habits that are often carried out good or bad tend to be difficult to control, from bad habits that fraud originates and mostly begins with wasteful thoughts such as addiction to debt, gambling, liquor and selling oneself or one's body and other jobs that make capital or finances which must be prepared large enough to always be fulfilled. From these few actions, fraud proves that everything that is only for the sake of obtaining greater wealth by putting aside moral actions is caused by not being able to control lust because it is already over or experiencing excessive addiction.

c. *Work-related pressure*

Building good working relationships is the desire of everyone, including in the world of work. A work relationship that does not work properly causes a person or group of people to have bad thoughts and be shunned by many people. The lack of effective communication within the company opens up opportunities for fraud because the real perpetrators of these employees feel that they are experiencing bad things in their environment due to the treatment they feel is not good between workers and the lack of encouragement and makes excuses for them.

d. *Other pressure*

Feelings of restraint must be experienced by anyone with various problems or reasons behind it. In the case of this fraud or fraud, the perpetrators have various backgrounds that are actually experienced and can be felt by many people on a daily basis such as pressure because of their wives or from people who are considered lovers or partners who threaten to break the relationship because the desired desire is not can be fulfilled. Always competing with fellow friends is also a strong reason for cheating in order to avoid the embarrassment of not being able to achieve higher

success and so on. If they are unable to deal with these various constraints, anyone will surely be provoked to commit crimes in the form of fraud so that they can be recognized and get a lot of attention from their wives, lovers, friends or family.

It is quite possible considering that all these actions can be judged irrationally but humans are unique creatures because they always feel dissatisfied and one way that this negative thing can happen is to take an action that is not based on rational thinking or wrong and wrong considerations. With only the desire to achieve a successful life and have abundant wealth to get recognition from loved ones, really an act of fraud will only make a perpetrator get temporary pleasure replaced by law and losses that will make him fall even more into actions that are sinful in terms of law, religion and also violates the law and values and norms that apply in society, which is caused by fraud

3. Risk of Fraud Loss in Banking Law

Deciding on the results obtained in disclosing fraud cases or referred to as fraud that occurred in banking so that it caused losses to the public who became customers or until the bank gave reasons for BI to act more aggressively in implementing the regulatory system for each or all banks to ensure sustainability banking processes in order to provide prevention and be more vigilant to find out or track fraud perpetrators who carry out their crimes in the banking environment.³¹ Fraud in the sense of the scope of accounting can be said to be fraud in financial statements.

Fraud is a crime with a broad legal meaning because the meaning contained in this definition of the scope of accounting is to falsify intentionally in managing finances. In accordance with the translation of Tunggal in its book, the Indonesian Bankers Association defines fraud as an activity to falsify or misuse money which is carried out in a planned manner with the desire to obtain material in the form of property or money belonging to another person or party who should have rights to the property.³² It could be that the institution that works to expedite the anti-fraud process, which can be referred to as AICPA or an organization that provides services for the continuity of public accounting, is also owned by ACFE or the Association of Certified Fraud Examiners. The institution provides educational training, sources of competence, encouragement, and provides evidence in the form of a statement that is guaranteed to be trusted for workers who are willing to carry out their field in dealing with fraud prevention. This profession has occupied a fairly large position in recent years because if you have obtained Certified Fraud Examiners (CFE) it will make it easier for that person to gain

31 Ikatan Bankir Indonesia, *Mengelola Bank Komersial*, PT Gramedia Pustaka Utama, Jakarta, 2017, page.187.

32 Nur Lazimatul Hilma Sholehah and Et Al, *Kecurangan Akuntansi Ditinjau Dari Pengendalian Internal, Moralitas Dan Personal Culture*, CV AA. Rizky, Banjarmasin, 2020, page.2

benefits in the form of deeper knowledge and more experience, such as in conducting interviews, compliance or legal correctness, such as in dealing with perpetrators, which is a high-ranking or top party who abuses his power.³³

When carrying out a plan to identify and dig deeper into the case and the consequences of the fraud perpetrator, it can provide symptoms that must be remembered in the flow of identifying problems that occurred in the case. Identification should occur without forgetting carefully the bad entity that is the basis for the perpetrator of the fraud. Giving a rational view regarding the reasons that seem to be the pressure that has previously been experienced by the perpetrator based on the characteristics he has so that he commits the crime and what motives make this desire happen. In order to obtain results in the form of evidence that is relevant and in accordance with the purpose of examining the perpetrators of fraud, the investigation of evidence is carried out based on risks that are in accordance with the circumstances that occurred in the case.³⁴

As in accepting ideas that are the influence of the occurrence of crimes that have occurred by identifying the problem by contacting the employee or worker concerned and what factors cause this can be done to detect the extent to which fraud in this case can occur and how severe the level is losses suffered. Developing the internal control of the organization in suppressing fraud and finding out whether the conditions in the control have been carried out in accordance with the rules and regulations or not in accordance with the system that should apply. Performing an examination means not forgetting the element of professionalism, high accuracy and applying every action with prudence and with various circumstances that could be a strong reason for T-shirts by setting aside personal problems outside of work to deal with cases of fraud which, if in this case, has taken place nor will it take place.³⁵

The risk of failure that harms the chain of work carried out originates from small problems and spreads to problems due to human error in living a better life. Based on these problems, the risk of fraud will easily occur, especially in loss of income to the internal chaos that exists in the company. At least the problems experienced by the development system that take place within the bank have been considered as a form of more prudence, especially in the case of fraud or fraud for experienced managers to understand the risks that occur.³⁶

Losses due to fraud are often very large and can disrupt the

33 James A. Hall and Tommie Singleton, *Audit Dan Assurance Teknologi Informasi*, 2nd ed. Salemba Empat, Jakarta, 2007, page.275.

34 Peraturan Badan Pemeriksa Keuangan Republik Indonesia, Standar Pemeriksaan Keuangan Negara, Merancang Pemeriksaan Untuk Mendeteksi Terjadinya Penyimpangan Dari Ketentuan Peraturan Perundang-Undangan; Kecurangan (Fraud); Dan Ketidakpatutan (Abuse), No.20 2007, page.64.

35 Ibid.

36 Ikatan Bankir Indonesia, *Tata Kelola Risiko Perbankan*, PT Gramedia Pustaka Utama, Jakarta, 2016, page.94–96.

existence of banks. The loss due to fraud that most banks want to avoid is reputational risk. That is, the public's perception becomes negative on banks that experience fraud scandals that are widely heard in the community. Efforts to deal with the problem of fraud in the form of fraud are currently considered as an effort to provide strength in a more precise banking system and promote the quality of service for customers, comply with internal and legal regulations as well as the benefits obtained.³⁷ Based on the explanation in the Circular Letter of Bank Indonesia No.13/28/DPNP dated December 9, 2011 concerning the Implementation of Anti-Fraud Strategy for Commercial Banks, it is hoped that Bank Indonesia and in particular the banking sector hope that banking fraud can be prevented or at least can be controlled or reduced.³⁸ However, despite the fact that the control that should be carried out in the directives and regulations that apply in the banking management industry, it is not impossible that cases of fraud can occur slowly by a group of actors by taking advantage of the situation cleverly and on target. The reason is that the increasingly advanced development of technology and information that can make it easier for many people is the reason that the perpetrators of fraud do not only originate from the planning of external actors but also spread to the internal parties of the bank because of the lack of attention to incompetent financial management rules and processes in their fields.

There are various kinds of risks that are owned by fraud for those who are perpetrators, namely as managers and those who take care of banking, which include, among others:³⁹

- a. Asset misappropriation or fraud against assets or assets, which is said to be a form of intentional fraud or certain crimes in managing company assets or revenues, can be in the form of cash or not, such as high-value confidential documents whose purpose is for the benefit of a group of people or individuals without being known to other parties. in the company. It can be understood that fraud on assets is divided into 2 types, namely:
 - 1) Deviations in the management of assets or assets in the form of cash assets such as company finances, such as fraud and manipulation of cash sources, stealing checks belonging to customers and making arrests in the payment process in the form of checks belonging to product or service suppliers.
 - 2) Deviations in the management of assets or assets against non-cash, such as using facilities owned by the company intentionally to obtain data or other means that make it possible to commit fraud for the benefit of individuals.
- b. Statements or fraud in the management of company financial

37 Indonesia, *Tata Kelola Risiko Perbankan*.

38 Hanna Faridah, Jenis-Jenis Tindak Pidana Perbankan Dan Perbandingan Undang-Undang Perbankan, *Jurnal Hukum Positum*, Vol.3 No.2 2018, page.111

39 Faridah, *Jenis-Jenis Tindak Pidana Perbankan Dan Perbandingan Undang-Undang Perbankan*.

information which based on the ACFE description of this type of fraud consists of 2 types, namely financial and non-financial. Each financial data report is manipulated in such a way that it does not match the actual report so that several conditions that are included in fraudulent activities in the financial statements include:

- 1) Deliberately blaming the description or proof of transaction services
 - 2) Provide acknowledgment in transaction services that should not be, whether large or small transactions
 - 3) Implementing inappropriate accounting reports in financial calculations that have increased or decreased profits
 - 4) Carry out the completion of the calculation of assets as if getting a higher gain than it should be.
 - 5) Carry out the process of presenting sources of funds that should not intentionally reduce the value of financial funds compared to the actual original nominal.
- c. *Corruption in accordance with the explanation from ACFE has classified the forms that exist in corruption cases consisting of 2 namely:*
- 1) Conflicts or problems in interest or Conflict of interest can be interpreted easily in cases that occur in a group of people or individuals who do work in an agency or company, which in this case is a management level that builds special relationships with external parties, both groups certain people or organizations who have the authority to manage certain projects, family connections to relatives and so on. If the company wants to run services for external parties and in this case a manager, namely a manager or administrator, is selfish to obtain personal gain, it will be detrimental to the company because it is classified as an act of fraud. In this country, this case can be called an act of conspiracy and nepotism or partisanship to abuse power.
 - 2) Accepting bribes intentionally or Briberies and excoiation, because bribes or bribes in any form and from any party are included in fraud or fraud. Other treatments that are classified as fraud are obtaining rewards, intentionally distributing important company data or other important documents that are hidden and very confidential or in the form of evidence of cooperation or negotiation documents whose interests are highly guarded.

Abuse of authority from within in general can easily occur compared to the main role of external parties because the easiest to understand the bank's performance system is only those who are inside the bank because they better understand the internal intricacies of the company or institution making it easier for individuals to carry out their actions. It can be understood that the greater the gains received by the perpetrator and the level of complexity and methods used in understanding his actions, it can be said that the perpetrator has a high

rank or position. Because the occurrence of infiltration that earns less fraudulent income is generally carried out by employees who have a lower rank, a higher position or power will make it easier for the perpetrators to obtain greater results.⁴⁰

Business fields that are dominated by business are generally concerned with areas of expertise for existing auditors in managing fraud prevention or fraud carried out in order to provide prevention and identify potential fraud due to manipulation of financial statement errors, crime in insurance, depository funds, fraud in investment, requests and bidding, violating the difference between the project budget and bidding, intentionally managing a business or business until it goes bankrupt, fraud in banking, business bribes, rewards with ulterior motives, manipulating misinformation based on technology and others. However, with this, the manifestation of auditing management in fraud is not only critical and understanding in the cases experienced by the fraud, but also must have prevention and preparation in minimizing fraud.⁴¹

Discussion of the Fraud Examination according to W. Steve Albrecht in his book Agus Yulianto Sudarmo which describes 4 important foundations in launching the crackdown on Fraud such as:⁴²

- a. Fraud prevention or it is said to be fraud prevention
- b. Early fraud detection or detection of fraud as early as possible
- c. Fraud investigation or examination in fraud investigation
- d. Follow-up legal action, namely giving up to the imposition of law or the imposition of sanctions

4. Fraud Countermeasures

The agency or commission tasked with supervising is manifested in understanding the triggers for the existence of a detailed financial report on fraud stating that:⁴³

- a. One of the benefits of having an internal audit must be owned by all institutions or companies known in the public sector
- b. The bodies that take place in the audit include non-management directors in the official business entity concerned. The results of this understanding do not merely provide progress on the level of expertise possessed by auditors within the company, because internal audit has increasingly experienced a shift in terms of its use in the last few decades. The main target of the internal auditor is focused on emphasizing and signaling a problem that is indicated as fraud which is understood for the company administration to decide the case into the risk assessment category at that time.

40 Razmy Humris, *Memahami Motif Dan Mengantisipasi Penyalahgunaan Wewenang Dalam Bisnis Perbankan*, PT Gramedia Pustaka Utama, Jakarta, 2014), page.2

41 Agus Yulianto Sudarmo, Sawardi, *Fraud Auditing*, 2008, page.1-2.

42 Sudarmo, Sawardi, *Fraud Auditing*.

43 Mukhlis Faiz Zamzani, Ihda Arifin Faiz, *Audit Internal, Konsep Dan Praktik*, Gadjah Mada University Press, Yogyakarta, 2018, page.4-5.

The dangers that exist in fraud can be overcome by combining the implementation of anticipatory movements and early detection. Moreover, the anticipation and detection movements are more economical than the estimated tempo and budget expenditures as another way of disclosing the examination of fraud cases. The information presented in this document generally applies to entities of all sizes. However, the extent to which certain programs and controls are implemented in smaller, less complex entities and the formalities of their implementation are likely to differ from those of larger organizations.⁴⁴

Financial observers and practitioners recognize that fraud risk occurs as part of a bank's operations (operational risk). To avoid a crime against bank operations carried out by insiders and or in collaboration with parties outside the bank, BI regulations require the board of commissioners and directors to proactively supervise the bank they manage.⁴⁵

The target in suppressing fraud cases is a form of obligation owned by bank employees or managers in financial management in order to prevent fraud. This control is intended for management to be able to expedite its ability in handling fraud that has been applied according to targets and is sustainable. It is understood that the presence of the desired target in suppressing fraud in the banking scope is very necessary because it will limit depreciation in the form of losses for any party such as banks to service recipients such as customers.⁴⁶ Detaining the pace of fraud cases can be indicated from the start in the selection of candidates who will carry out their duties as auditing financial statements and can be done immediately or situationally. Based on Albrecht's statement in his anthology, Ana Sopanah explains that a liar can be prevented by getting used to rules or behavior that is always open, does not lie and has empathy and then has the advantage of holding back fraudulent actions that lead to fraud. From this understanding, it is focused on upholding the right behavior in togetherness to carry out the motivational impulses that each individual has.⁴⁷

Based on the attachment in the Circular Letter of Bank Indonesia No.13/28/DPNP dated December 9, 2011 (Bank Indonesia, 2011) regarding the implementation of the Anti-Fraud strategy, which is in the form of a fraud control system, has 4 pillars, namely: (i) prevention; (ii) detection; (iii) investigation, reporting, and sanctions; (iv) as well as monitoring, evaluation, and follow-up. In the process of implementing each law, the government has mobilized the alleviation of fraud that occurred in the banking sector starting with the applicable regulatory

44 Dewi Indriasih, *Kompetensi Auditor Internal & Karakter Komite Audit, Terhadap Fraudulent Financial Reporting*, CV Cendekia Press, Bandung, 2020, page.91.

45 Robert Tampubolon, *Risk and System-Based Internal Audit*, PT. Elex Media Komputindo, Jakarta, 2005, hal.vii

46 Eko Sudarmanto and Et Al, *Manajemen Risiko Perbankan*, Yayasan Kita Menulis, Medan, 2021, page.110.

47 Ana Sopanah and Et Al, *Bunga Rampai Akuntansi Publik, Isu Kontemporer Akuntansi Publik*, UP Unitomo Press, Surabaya, 2020, page.223.

system based on legal principles and applicable laws. The application of the instrument includes equipment programs as well as with the help of programs run by humans. The right planning program if used by humans correctly will get good benefits too, this applies to cases of bank fraud if the enforcement of laws and regulations is not implemented as wisely as possible then it will present a bad view that is accepted by law enforcers who should have high sense of justice.⁴⁸

Law enforcement instruments must have strong power in banking cases, not recognizing favoritism towards any of the actors involved. As evidence of great responsibility in disclosing legal consequences for fraud perpetrators so that law enforcers have the power to promote more equitable legal justice. Law enforcement instruments that are owned in upholding the implementation of the judicial process include:

- a. Police and/or KPK,
- b. Prosecutor,
- c. Judge,
- d. advocate.⁴⁹

Through this judicial procedure, the target is to produce judicial procedures in the banking sector that can be processed fairly in accordance with the existing system in this country as law enforcement. Understood for the police or the Corruption Eradication Commission, prosecutors and judges are representatives of the state to uphold justice. Then the role of advocates is considered as a representative of the people who want justice and is contained in external instruments.

To produce a law enforcement program that is aligned and solid, it can present a system of justice instruments that takes place positively and maximally for success in suppressing fraud cases in banking that are not easily penetrated by perpetrators or other parties who try to take advantage of their position or rank. Implementers of legal justice must take the courage to resolve cases that are evidence in disclosing cases by putting aside the risk so that they can provide commensurate laws for the perpetrators of fraud so that they get a sense of deterrence from the consequences of their actions.⁵⁰

D. CONCLUSION

Fraud is a crime committed by someone to carry out deviant activities intentionally either directly or indirectly realized by the victim concerned to carry out fraud, deceit and manipulate certain victims who will be harmed such as customers, banks, or people or the public with the aim of benefiting the perpetrator. The problem of fraud has become one of the main enemies for every level of private and state institutions and companies because it plays a role in being one of the problems that spreads to occur in

48 Arus Akbar Silondae, *Integritas Atau Efektivitas Hukum Sebagai Faktor Dominan Dalam Terjadinya Fraud Perbankan?*, *JURNAL KIP*, Vol.IV No.1 (n.d.), page.718–19.

49 Silondae, *Integritas Atau Efektivitas Hukum Sebagai Faktor Dominan Dalam Terjadinya Fraud Perbankan?*

50 Silondae

the public sphere and is not something that rarely happens in Indonesia. Fraud that results in considerable losses can mostly occur in the field of fraud in financial reporting and is a strong enough way that in finding out fraudulent actions can occur by collecting and analyzing data from the financial statements. There are four pressures that result in fraud, including financial problems, bad behavior or habits, pressure at work and pressure by other parties outside of work.

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