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Implementation of The Banker's Code of Ethics In Providing Protection For Bank Consumers

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Abstract

Code of ethics are moral principles attached to a profession and arranged systematically. This study aims to determine the proper application of the banker's code of ethics in protecting bank consumers. A code of ethics is needed because there are many more complex demands from society, which is the basis for forming professional organizations. This current research is normative legal research by examining library materials which are secondary legal materials, also called library law research. The results show that the application of a banker's code of ethics can be supported by good banking business management, honest and proper quality professional bankers, and strict enforcement of the banker's professional code of ethics.

Keywords: Ethics; code of ethics; banker profession.

1. Introduction

Banking is one of the businesses in the financial sector that plays an important role in the country's development. The bank is a financial institution that collects public funds and distributes them back to the community. Banks function as intermediary institutions, where banks connect people who have a surplus of funds with those who lack funds as stipulated in Article 3 of Law Number 7 of 1992 concerning Banking as amended by Law Number 10 of 1998 (hereinafter referred to as banking law). As a business related to money and finance, banking has a high risk (full-risk business). Besides having a high risk, however, this business can undoubtedly generate huge profits if it is managed properly and correctly. Excellent services to customers will grow customers' trust and comfort [13]. Unfortunately, unscrupulous bankers sometimes misuse customer trust in banks. According to the Black Law Dictionary, a banker is "a person who engages in the business of banking." Meanwhile, Ranuhandoko [9] defines a banker as a person who serves as a leader and or an expert in banking. One of the cases occurred in Indonesia is the embezzlement of priority customer funds by Inong Malinda Dee, the relationship manager of Citibank Landmark [6].

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The fraud was committed by withdrawing the customer's money using a blank withdrawal slip signed by the customer without the customer's knowledge. From the fraud she committed, Malinda Dee resulted in a bank loss of Rp. 16.63 billion. Using almost the same modus operandi, in 2020, Albert Tanudjaja, a Maybank Senior Business Manager, embezzled funds of 7 billion rupiahs [14]. The examples of these cases prove that bankers usually carry out most cases of fraud in the banking business as insiders who already know the loopholes to commit crimes. Fraud is caused by three main factors: pressure (unshareable pressure/incentive), opportunity, and rationalization [15]. The definition of fraud in the banking business is explained in Article 1 point 2 of the Financial Services Authority Regulation Number 39/POJK.03/2019 of 2019 concerning the Implementation of an Anti-Fraud Strategy for Commercial Banks (hereinafter referred to as POJK 39/2019):

"Fraud is an act of deviation or omission that is intentionally carried out to trick, deceive, or manipulate a bank, customer, or other parties, which occurs within a bank environment and/or uses bank facilities so that the bank, customer, or other party suffers a loss and/or perpetrators of fraud gain financial benefits either directly or indirectly".

In addition to the formation of POJK 39/2019 to regulate anti-fraud strategies, the professional ethics of bankers is needed in managing the funds collected from the public. According to Bartens [3], ethics are moral values and norms that guide a person or group in regulating behavior, a set of moral principles or values, and knowledge about good and evil. Ethics is different from law, but ethics inspire the formation of law. Ethics is a concept regarding the good or bad characteristics of a person. A professional banker must comply with the banker's code of ethics in carrying out his work.

Code of ethics are moral principles attached to a profession and arranged systematically. Without a code of ethics, a profession can still run because these moral principles are actually attached to the profession [8]. However, a code of ethics is needed because there are many more complex demands from society, which is the basis for forming professional organizations. The banker's professional code of ethics states that bankers must be held accountable for their actions without violating criminal law. This is aimed at upholding the dignity of the banking profession and guaranteeing public trust in the banking business. A banker's profession differs from other professions, such as an independent lawyer, notary, or doctor [5]. The company will give a sanction to a banker who works for the company. At the same time, violations of the code of ethics carried out systematically by a company will be penalized by Bank Indonesia. Because of this, violations of the bankers' code of ethics that cause losses to customers, banking companies, the national economy, and losses to the Central Bank are not the responsibility of the Indonesian Bankers Association (hereinafter referred to as IBI) but can end in crime, as stipulated in Articles 46-53 Banking Law [2]. Even though they are interrelated, the implementation of the code of ethics differs from the legal regulations that contain criminal sanctions. Compliance with the code of ethics will impact the individual integrity of a banker [7]. Meanwhile, criminal sanctions are given to each legal subject based on their mistakes after fulfilling the criminal elements. Proper regulations regarding the code of ethics for bankers are needed to avoid harm to customers, banks, the state, and the profession [4]. This is because the banker's code of ethics is a basic norm used as a reference for bankers in conducting their jobs. If a banker adheres to the code of ethics of his profession, he will not commit any acts that could harm customers.

2. Research Method

This research is normative legal research, namely research conducted by examining library materials which are secondary legal materials or also called library law research. Research is basically a scientific activity related to analysis and construction, which is carried out methodologically, systematically, and consistently. In normative legal research, there are several approaches. This approach provides information from various aspects regarding the issue to be solved.

3. Discussion

The word ethics comes from the ancient Greek "ethos" which means the usual place of residence, meadows, stables, habits, customs, morals, character, feelings, attitudes, and ways of thinking. Interpreted in the plural form, "ta etha," the word means custom. Ethics was first known during the time of Aristotle in 384-322 BC and was known as moral philosophy. Aristotle described ethics as rules in human association and the respect of every human being for other human beings [9]. This is based on altruistic nature, namely paying attention to other people instead of individual interests (egoism). Ethics can be distinguished in three meanings, namely:

- a. Ethics as values and moral norms that serve as guidelines for each individual or group in regulating their behavior. Examples: Indian ethics, Buddhist ethics, and Protestant ethics.
- b. Ethics as a collection of moral principles or values, such as a professional code of ethics.
- c. Ethics as the science of good and bad. This means ethics is a branch of philosophy.

Ethics serves as a guide in the behavior of every human being in living his life [10]. The objectives of ethics are:

- a. to seek norms that should be connected between individuals and individuals as well as individuals and society.
- b. to study the characteristics of the social order in each society.
- c. to find human qualities and forms of social institutions.
- d. to embody ethical values in people's lives.
- e. to influence the world around him on a larger scale through collaborative endeavors, his ethical vision is not limited by the present limitations.
- f. to create a better human order.

Etymologically, ethics is the teaching of good and bad regarding attitudes, actions, obligations, and so on¹. Ethics can be interpreted as a moral principle that distinguishes good from bad. Ethics is a normative science because ethics play a significant role in discovering whether or not a behavior is permissible for each individual.

In Latin "mos," morals have the meaning of customs [12]. Moral has a narrower sense than ethics, whereas etymologically, morals are defined as the same as ethics as the values and norms that each individual or group adheres to. "Mos," whose plural word is "mores," means custom. Referring to these words, basically, ethics and morals have the same definition. The difference is in the origin of the language, namely ethics from ancient Greek and morals from Latin. Moral as a rule or norm regulates a person's behavior individually and in society. Moral has the characteristic of relying on the awareness of each individual in carrying out every action that is considered good or bad. Even though morals are different from written legal norms, the two have a very close relationship, where legal norms are formed from the existence of moral demands in society. Morality is determined by the motivation and the ultimate goal that come from conscience to achieve happiness [11].

Ethics and morals are often associated with working with theoretical and technical expertise based on honesty and responsibility. However, not all fields of work are professions, such as administrative workers, where an admin does not need a particular educational background to record administration at the company. In a narrow sense, a profession is a job or position carried out by someone based on their expertise. A profession is a permanent job providing services by applying knowledge in a particular field.

A profession is a job possessed by someone who is required to have the expertise obtained from special education to work with high dedication and professionalism in carrying out their work. The benchmarks for professionalism include competence, efficiency, effectiveness, and responsibility. So that someone who pursues a profession is also called a professional. The term code of ethics means the norms and principles accepted by certain groups as a basis for behavior. The code of ethics is the basis for the conduct of professional carriers and fundamental rights in carrying out their profession because the code of ethics contains obligations that must be obeyed. Thus, the code of ethics includes the following provisions:

- a. Obligations to oneself, professional bearers must have integrity in carrying out their jobs. This is a moral responsibility towards the profession undertaken.
- b. Obligations to the general public, as a noble job, a professional bearer is not only responsible for himself, but every action carried out by his profession is accountable to the community around him. It aims to maintain a good image of the profession in the eyes of society.
- c. The obligation of companionship that every professional bearer must respect colleagues.
- d. Obligations to the person or profession served. As the bearer of the profession, they are prohibited from providing poor service to the point of abandoning users of their professional services. This is a form of responsibility and reflects professional work.

As a system of rules governing behavior regarding whether or not it is permissible to carry out a profession, the code of ethics aims to protect everyone served [5]. The existence of a code of ethics guides everyone to work professionally. So that service users get maximum service, and every professional bearer can be held accountable for every behavior they do.

As a profession that provides financial services, bankers have a code of ethics as a form of integrity. To achieve the ideals in accordance with Pancasila and the 1945 Constitution, namely for the sake of realizing professionalism in work, the Association of Indonesian Bankers (IBI) was formed [6]. The organization oversees the behavior of a banker while implementing norms according to professional ethics. This is manifested by a banker's professional code of ethics that serves as a reference for assessing the merits and demerits of a banker at work. The code of ethics for the Indonesian banker profession has nine principles as follows:

- a. A banker obeys and adheres to the applicable laws and regulations. In other words, a banker must comply with the law in carrying out his profession.
- b. A banker keeps correct records of all transactions related to his bank's activities. In this case, the banker must record every banking transaction he has made honestly, correctly, and promptly. The evidence contains the bank's assets, capital, and liabilities which must be kept as written evidence that can be accounted for. Compliance with recording banking transactions can also prevent a banker from committing a banking crime regarding fake recording as stipulated in Article 49 paragraph (1) of the Banking Law [13].
- c. A banker avoids unfair competition. A banker, either intentionally or negligently, should not commit acts that could harm the bank as the place of work or his colleagues (both the manager and other employees of the same profession).
- d. A banker does not abuse his authority for personal gain. A banker is prohibited from using funds from bank assets or funds owned by customers for personal, family, or group interests. In addition, a banker is prohibited from taking advantage of profitable opportunities because of his authority. If a banker performs work for and on behalf of a bank, then all the benefits he obtains are intended entirely for the bank. Likewise, if a banker does something for and on behalf of a customer, then all the benefits he gets are intended entirely for the customer. This serves as a reference for the honesty and integrity of a banker to build customers' trust that their funds can be managed and stored safely. A banker who abuses his authority to enrich himself may be subject to criminal prosecution for money laundering.
- e. A banker avoids being involved in making decisions in the event of a conflict of interest. A banker must be careful in every attitude he makes. A banker should be able to avoid activities outside of banking that can take up time and disrupt his primary duties as a banker. In addition, bankers must avoid actions that can lead to conflicts of interest that may affect or affect their obligations to the bank. Banker's interests must be guarded against disinterested parties, except based on the bank's interests.
- f. A banker protects the confidentiality of customers and the bank. A banker is prohibited from providing data information relating to confidential matters concerning a bank, such as business plans, policies, and internal bank activities. In addition, bankers are required to protect customers' personal data and financial conditions. Bankers are obliged to protect all information from other parties without

authorization from the bank. If a banker is legally proven to have committed this act, he may be subject to criminal sanctions as stated in Article 47, paragraph (2) of the Banking Law.

g. A banker considers the adverse impact of each policy set by the bank on economic, social, and environmental life. For example, bankers are prohibited from giving loans if the financing can cause losses to other parties.

However, in practice, the code of ethics is sometimes not used as a guideline for implementing the profession. In addition, sometimes, there are obstacles or obstacles in implementing the code of ethics. However, this can be overcome in the following ways:

a. Good banking business management. The banking profession is different from other independent professions. In addition, not all bankers are affiliated with and subject to the IBI organization, so the integrity of a banker is also influenced by banking business ethics and is subject to the code of ethics where he works. Business ethics is necessary for correct, sound, and integrity corporate governance. Good Corporate Governance (hereinafter referred to as GCG) is needed in this case. GCG is defined as a system that regulates the company to create added value for all stakeholders. In the banking business, every bank is required to implement GCG principles in every business activity at all levels of the organization as described in Article 2 of Bank Indonesia Regulation Number 8/4/PBI/2006. GCG principles in banking include transparency, accountability, responsibility, independence, and fairness. GCG implementation requires several stages, including:

- 1) Preparatory stage. This stage is divided into several more stages: building awareness about the importance of GCG (awareness building), mapping company conditions to identify steps to prepare for effective GCG implementation (GCG assessment), preparation of manuals or guidelines that include company GCG policies, code of conduct, etc.
- 2) Implementation phase. This phase has the following stages: socialization, implementation, and internalization of GCG implementation.
- 3) Evaluation stage. This stage is a benchmark for how far the effectiveness of GCG implementation in the company is

Each bank has different basic policies according to the internal policies of each company. One example is Bank Central Asia (BCA), where every employee is introduced to the code of ethics to build awareness of the application of business ethics within BCA⁶. If an employee violates the code of ethics, the employee will be given sanctions according to the provisions set. Besides in the form of a pocketbook distributed to all employees, the BCA code of ethics has also been published on the BCA Good Corporate Governance website.

Different things apply to banks under the auspices of BUMN, such as Bank Rakyat Indonesia (BRI), Bank Mandiri, Bank Negara Indonesia (BNI), Bank Tabungan Negara (BTN), and Bank Syariah Indonesia (BSI). In addition to having a basic policy (strategic policy) and a code of ethics in each company, these banks have a standard behavior guide in serving, namely AKHLAK, which stands for Amanah, Kompeten (Competent),

Harmonis (Harmonious), Loyal (Loyal), Adaptif (Adaptive), and Kolaboratif (Collaborative). Each of these values represents a code of ethics and code of conduct implemented at the Ministry of SOEs for all human resources (HR), including the banking profession⁹. The application of GCG principles in every company, especially in the complex banking sector, is urgently needed to reduce the risk of fraud. The application of GCG in maintaining the integrity of a banker is required as a guide in carrying out his profession because good Governance can increase public trust, especially among customers.

a. The quality of a professional banker

Good regulations will not work if there is no awareness of each individual towards the rules that have been formed. According to Soedikno Mertokusumo, legal awareness is awareness of what we should or should not do to other people. In essence, legal awareness is the same as compliance with the law, where a person who obeys the law forms in himself individual honesty. The correlation between compliance and honesty in banking is that an obedient banker carries out his profession honestly. Meanwhile, a fraudulent banker will not comply with the legal regulations that have been made. Therefore, bankers need to have character, morals, honesty, and special expertise in banking to grow customer trust.

The job of a banker is to help manage public funds in the form of investments to generate profits that will be shared (profit sharing) [4]. In addition, a banker must have a creative and innovative mindset in developing a banking product according to market needs such as investment, credit, and so on, so that customers will be interested in using bank services. Bankers do not only work to manage money because banker jobs are divided into several positions, such as frontline staff, account officers, sales/marketing officers, customer service, and collectors. It certainly requires a friendly attitude of a banker as a professional requirement in work.

The professionalism of a banker is also assessed by the adequacy of a banker in carrying out his profession. In his work, a banker has competence or expertise that ordinary people do not have. Therefore, customers ask for help from a banker and trust him to manage the funds stored in the bank. To become a professional banker, the company usually provides special training or courses so that the banker profession can develop broader insights into the banking field. But apart from external factors like that, a professional banker has personal integrity and high social responsibility in carrying out his profession.

b. Enforcement of the code of ethics for the banking profession

Ubi societas ibi ius means where there is society, there is the law. It illustrates that the code of ethics is made as a guideline for professionals in an increasingly complex and dynamic society. Although the code of ethics is a written legal norm, the code of ethics is different from the law. The code of ethics is based on the moral awareness and ethics of the profession. Therefore ethics is broader than law. Any violation of the law is a violation of ethics.

On the other hand, ethical violations are not necessarily legal violations. If ethics is likened to an ocean, then the ship is the law, as emphasized by Earl Warren "Law floats in the sea of ethics." A banker violating company regulations in providing services to customers is an ethical violation that is not in the crime category.

Professional ethics are an inseparable part of a banker's job. In managing customers' funds, bankers are required to be able to carry out their profession with high integrity. For a banker who commits an ethical violation, sanctions must be given as a form of law enforcement. Law enforcement is carried out in the following order [6]:

- 1) Warning to stop the violation and not do it again (attempt);
- 2) The imposition of certain obligations (compensation, fines);
- 3) Allowance or exclusion (revocation of certain rights);
- 4) Imposition of corporal sanctions (imprisonment, death penalty).

Meanwhile, enforcing the code of ethics is an effort to carry out the code of ethics as it should, overseeing its implementation so that no violations occur.

If a violation occurs, the violated code of ethics is reinstated so that it is enforced again. Because the code of ethics is part of positive law, law enforcement norms also apply to the Enforcement of the code of ethics.

Enforcement of the code of ethics will be the basis for an assessment by the public regarding whether the bank is competent. The professional ethics of a banker do not only regulate the relationship between bankers and customers.

Furthermore, relations between colleagues, companies, and the central bank are also influenced by the integrity of a banker. For this reason, ethical enforcement must be carried out so that bankers avoid immoral acts that can lead to criminal acts.

The code of ethics is very influential for the morality of professionals because the code of ethics can protect their behavior from making mistakes in their profession.

The code of ethics is also a guide for someone to behave and act in accordance with their profession.

4. Conclusion

The code of ethics for the banking profession is a written legal product stipulated by a professional organization. The code of ethics is formed based on the ethics and morals regarding professionals' good and bad behavior. The banker's code of ethics aims to prevent bankers from making mistakes in their profession and to guide them in their actions. In addition, efforts to implement a banker's code of ethics are influenced by several things, such as good banking business management, honest and decent banker quality, and strict enforcement of the banker's professional code of ethics. The existence of a banker's code of ethics keeps the banking profession with dignity and integrity. It can foster trust in the community so that customers entrust their deposit of funds to make the banks operate properly and impact national economic development.

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