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Qualifications and Legal Enforcement of Money Cheating and Money Game Actions in Banking Transactions from the Perspective of Banking Laws

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Abstract: Violations of banking regulations and principles in banking practices carried out by certain parties for personal gain, such as commissioners, directors, shareholders, and bank employees. These actions, such as channeling profits to subsidiaries, maintenance billing, credit pipelines, and credit recycling, are categorized as Money Cheating. Meanwhile, Money Game is a form of illegal investment involving unauthorized fund collection, in accordance with the Banking Law. Although both practices appear to be fraudulent crimes, it is necessary to examine whether they constitute banking crimes or financial crimes. In Indonesia, there are no regulations or studies that specifically distinguish between Money Cheating and Money Game, despite the increasing prevalence of both practices in the banking sector. This study uses a normative juridical method to qualify Money Cheating and Money Game actions based on the Banking Law. The results of the study indicate that Money Cheating can be qualified as a banking crime according to Article 49 paragraph (1) of the Banking Law, while Money Game involves the application of several legal rules such as Article 46 paragraph (1) of the Banking Law, Article 378 of the Criminal Code, and Articles 3, 4, and 5 of the Anti-Money Laundering Law. In conclusion, both practices are serious criminal offenses that require strict legal sanctions to maintain the integrity of the banking system.

Keyword: Money Cheating, Money Game, Banking, Law Enforcement.

INTRODUCTION

Banking is an economic institution with the primary function as an intermediary, collecting funds from the public in the form of deposits and then channeling them back to the public in the form of credit or other services to improve the living standards of the Indonesian people (Matthews et al., 2023). Banking encompasses everything related to banking institutions, including organizational structure, business activities, and methods and steps in conducting its business activities (Adiliani et al., 2023). In Indonesia, the term bank is regulated in Article 1 point 2 of Law No. 7 of 1992 concerning Banking, as amended by Law No. 10 of 1998 (hereinafter referred to as the Banking Law). This law defines a bank as a business entity that collects funds from the public in the form of deposits and channels them to the public in the form of credit or other forms to improve the living standards of many people (Haykal et al., 2024).

As a financial institution, banks have a very strategic function in improving the economy and thus play a strategic role in collecting and channeling funds back to the public in the form of credit (Fure, 2016). Considering the central role of banks, various stringent regulations are needed to ensure that banks' operational activities are well-directed, minimize abuse, maintain administrative order, ensure good bank health, and generate substantial profits. The laws and regulations and bank policies in carrying out operational activities need to be supported by Good Corporate Governance (GCG) Principles, Risk Management, Camel, and adequate human resources with competency, expertise, and a good understanding of banking (Lindawati, 2020). However, in practice, actions or transactions often occur that are suspected of violating the law, contravening banking principles, disregarding the arising risks, and causing losses. These actions are carried out with specific intentions and purposes for the benefit of a few parties, such as commissioners, directors, shareholders, bank employees, and affiliated parties (Wiwoho, 2014).

Over time, the aforementioned violations have evolved into more sophisticated ones, including profit transfers to subsidiaries, maintenance billing, credit pipelines, and credit recycling. These actions can be referred to or categorized as money cheating. Money cheating is an intentional act of using company resources inappropriately for personal gain, causing losses to the company or other parties. This fraud frequently occurs in the Indonesian banking sector because it is not difficult for internal bank personnel to commit fraud, especially given the greater opportunity and motivation to do so.

Money cheating practices are common in the business sector and can also occur in banking activities. For example, a case involving bank employees occurred at Bank BRI from July 1, 2021, to March 1, 2023, where a Micro Marketing Manager (MPM) at BRI's Banjar branch instructed all BRI Unit Heads at the Banjar Branch to transfer transactions from GL (General Ledger) Costs to GL (General Ledger) Income to gain benefits in the form of non-performing loan (NPL) targets. Additionally, the manager ordered all BRI Unit Heads at the Banjar Branch to make false entries in the bank's system and books regarding the restructuring process or changes to the credit term that did not comply with regulations. Without customer applications, new credit was realized to settle NPL/DH/PH loans. As a result of these actions, Bank BRI suffered a loss of Rp. 40,393,137,892.

In addition to money cheating, one of the prevalent crimes in banking transactions today is the money game. Money game practices involve collecting public funds or multiplying money by offering commissions and bonuses from the registration or recruitment of new business partners, not from product sales. However, the product sales are merely a facade or lack accountable quality (Ardabili, 2023). In other words, the money game involves fund collection from its members, not from product sales. Money games are typically carried out by fake investment companies that offer investment products supposedly guaranteed to be safe and profitable, but in reality, they are mere deceptions (Harizan, 2017).

Money games are a form of investment fraud that has become increasingly common in recent years (Amanda et al., 2022). Since their activities involve fund collection, money games are illegal investments without licenses, as stated in Article 16 paragraph (1) of Law No. 10 of 1998 concerning Banking: "Any party conducting activities of collecting funds from the public in the form of deposits must first obtain a business license as a Commercial Bank or People's Credit Bank from the Head of Bank Indonesia unless the fund collection activities from the public are regulated by a separate law." Therefore, money games are considered illegal investments. They operate by collecting funds through commissions or bonuses whenever a new member joins. Besides collecting funds from member registration, some money games offer fake investment products.

Although money games have existed for a long time, they have resurfaced and been promoted through online media. The emergence of these crimes needs to be anticipated as early as possible by policymakers, as one of the parameters to determine whether an investment environment is conducive is legal certainty. In Indonesia's positive law, the Financial Services Authority (OJK) oversees financial service activities, including the Non-Bank Financial Industry sector (Abubakar et al., 2013). As an independent state institution free from external interference, OJK has the function of regulating and supervising all activities in the financial services sector in Indonesia. Therefore, OJK plays a crucial role in handling alleged illegal investment cases currently developing in Indonesia.

The first shocking money game case in Indonesia was the Yayasan Keluarga Adil Makmur (YKAM) by Ongkowijoyo in 1987. The foundation offered a cooperative loan-saving scheme with a credit of Rp. 5 million, where participants only needed to pay a registration fee of Rp. 50,000 and save Rp. 30,000 seven times a month. The Rp. 5 million credit repayment could be made up to 15 years, and once paid off, participants were promised a bonus of Rp. 9.6 million (Harizan, 2017).

In banking transactions, an example of a money game practice in Indonesia was carried out by a Maybank employee in 2019 (Susanto & S Sos, 2013). The employee approached several victims to offer fictitious investments or products that seemed genuine bank products with 7-11 percent interest/3 months, whereas banks normally offered 5-6 percent/year deposit interest. Moreover, the employee enticed victims with gold if they invested directly above Rp. 10 million. The employee also created fake business cards and investment forms under Maybank's name to convince the victims. Consequently, the victims trusted the employee and deposited funds, resulting in a loss of Rp. 1,280,000,000.

Money games tempt many people because, in a short time, members who join can earn much higher returns than bank deposit interest. In 1997, bank deposit interest rates were around 30% per year (2.5% per month), whereas PT. BMA (a money game business), for example, offered returns of up to 700% per year (40-60% per month). Thus, this business provided almost twenty times the bank deposit interest rate (Arum, 2012).

At first glance, money cheating and money games can be considered fraud crimes. However, since they occur in banking transactions and involve bank parties, money cheating and money games need to be reviewed to determine whether they fall under banking crimes or financial crimes in the banking sector. As a rule-of-law state, Indonesia must implement law enforcement components well, including enforcement against money cheating and money game actions, to provide legal certainty in society. In Indonesia, there are no regulations or studies distinguishing between money cheating and money games, even though these practices are increasingly prevalent, including in banking. Therefore, this study is necessary to qualify money cheating and money games based on the Banking Law.

METHOD

This research is legal research using a normative juridical approach. The researcher employs normative legal research to produce new arguments, theories, or concepts in analyzing the clarity and certainty of the qualifications of Money Cheating and Money Game actions in banking transactions. The approach methods used are the statute approach, the case approach, and the conceptual approach. These methods involve examining all relevant legislation, cases related to the issues at hand, and discussing and analyzing concepts, theories, and doctrines that address the problems.

The data analysis used is qualitative juridical analysis, meaning that the data obtained, both secondary and primary, is analyzed without using statistical formulas. Instead, it is conducted through a hermeneutical interpretation process. To achieve high-quality writing results, the obtained data must be comprehensive, drawing conclusions from both primary and secondary data.

RESULTS AND DISCUSSION

In this scientific writing, the theories used to analyze the Qualifications of Money Cheating and Money Game Actions in Banking Transactions are as follows:

Theory of Legal Certainty

The Theory of Legal Certainty according to Gustav Radbruch states four fundamental aspects related to the meaning of legal certainty itself: first, the law is positive, meaning positive law is legislation; second, the law is based on fact, meaning the law must be made based on reality; third, the facts stated in the law must be clearly formulated to avoid errors in interpretation and be easily implemented; fourth, positive law should not be easily changed.

Jan M. Otto also expresses his opinion on the Theory of Legal Certainty, stating that legal certainty is a situation that must reflect the following:

a. The availability of clear, consistent, and easily accessible legal rules issued by state authority;
b. That the governing institutions (government) apply these legal rules consistently and also comply with them;
c. That the majority of citizens principally agree with the content and therefore adjust their behavior according to these rules;
d. That independent and impartial judges apply these legal rules consistently when resolving legal disputes; and
e. That judicial decisions are concretely implemented.

Theory of Legal Utility (Utilitarianism)

The Theory of Utility or Utilitarianism, pioneered by Jeremy Bentham in the 19th century, upholds utility as the purpose of the law, defining utility as happiness. Thus, whether a law is just or not is determined by whether it provides happiness to the majority of people. The law should be aimed at providing the greatest happiness for the greatest number of people (Setiady, 2007). Jeremy Bentham argues that humans act in ways to maximize pleasure and minimize suffering. Bentham's theory is mainly applied in the field of crime and punishment, as the severity of the punishment for each crime should not exceed what is necessary to prevent other crimes. Punishment is acceptable if it can provide hope for preventing greater crimes (Rahardjo, 2000).

Law No. 10 of 1998 in conjunction with Law No. 1 of 1992 concerning Banking regulates actions categorized as criminal acts, whether crimes or violations. The distinction between crimes and violations is clarified in Article 51 of the Banking Law, which states: "(1) The criminal acts referred to in Article 46, Article 47, Article 47A, Article 48 paragraph (1), Article 49, Article 50, and Article 50A are Crimes. (2) The criminal acts referred to in Article 48 paragraph (2) are Violations." From Article 51 of the Banking Law, it can be seen that the elements of offense in the Banking Law include:

1. Subjects who can be held accountable (Whoever)

   Refers to all individuals as legal subjects capable of being held accountable, in this case, members of the Board of Commissioners, Directors, bank employees.
2. Prohibited actions

   Actions such as failing to provide the required information as stipulated in Article 30 paragraph (1), paragraph (2), and Article 34 paragraph (1), paragraph (2).
3. Required mental attitude

   In Article 48 paragraph (2), the required mental attitude is negligence.

4. Threatened sanctions

    Includes criminal penalties for perpetrators (individuals either as private persons or representatives of a corporation) and/or fines imposed on both individuals and corporations (Rahardjo, 2000). Two terms are often used interchangeably although their meanings and scopes differ: Banking Crimes and Crimes in the Banking Sector. Juridically, there is no specific regulation defining these terms. However, terminologically, Crimes in the Banking Sector have a broader scope compared to Banking Crimes.

Banking Crimes refer to crimes regulated solely by the Banking Law, which are internal and whose subjects are limited to the bank's organs such as bank employees, shareholders, directors, commissioners, affiliated parties, and shareholders. Meanwhile, Crimes in the Banking Sector encompass all criminal acts occurring within the banking industry, whether regulated by the Banking Law or other legislation outside the Banking Law (Ibrahim & Haykal, 2016).

The scope of banking crimes (Tipibank) covered in the Banking Law is as follows (Aprita, 2021) :

1. **Criminal Acts Related to Licensing**

    The banking industry is known as a heavily regulated industry. To operate a bank, a license from the Financial Services Authority (OJK) is required, with strict conditions as mentioned in Article 16 of the Banking Law. The criminal penalties for acts related to licensing are stipulated in Article 46 of the Banking Law, which states: "Anyone who collects funds from the public in the form of deposits without a business license from the Head of Bank Indonesia as referred to in Article 16 shall be sentenced to a minimum of 5 (five) years and a maximum of 15 (fifteen) years in prison and fined a minimum of Rp. 10,000,000,000.00 (ten billion rupiah) and a maximum of Rp. 200,000,000,000.00 (two hundred billion rupiah)."

2. **Criminal Acts Related to Bank Secrecy**

    According to Article 1 point 28 of the Banking Law, bank secrecy includes all information related to depositor customers and their deposits. It should be noted that credit information and data are not considered bank secrets, but the use of such information or data must comply with applicable requirements and regulations, including those concerning the confidentiality of personal/customer identity data. The criminal provisions related to bank secrecy are outlined in Article 47 of the Banking Law, which states: "Anyone who, without carrying a written order or permission from the Head of Bank Indonesia as referred to in Articles 41, 41A, and 42, intentionally forces a bank or an affiliated party to provide information as referred to in Article 40, shall be sentenced to a minimum of 2 (two) years and a maximum of 4 (four) years in prison and fined a minimum of Rp. 10,000,000,000.00 (ten billion rupiah) and a maximum of Rp. 200,000,000,000.00 (two hundred billion rupiah)."

3. **Criminal Acts Related to Bank Supervision**

    The Banking Law stipulates that the supervision of banks is conducted by the OJK. Banks are required to submit to the OJK financial reports including annual balance sheets and profit and loss calculations, prepared in accordance with generally accepted accounting principles, as well as other periodic reports (Pengadilan Negeri Tasikmalaya, 2024). Additionally, banks must provide the OJK with all necessary information and explanations about their operations, and upon request, allow the examination of books and records, and provide any necessary assistance to verify the accuracy of the reported information, documents, and explanations.

Criminal acts related to bank supervision are covered in Article 48 of the Banking Law, which states: "Members of the board of commissioners, directors, or bank employees who intentionally fail to provide the information required under Article 30 paragraphs (1) and (2) and Article 34 paragraphs (1) and (2) shall be sentenced to a minimum of 2 (two) years and a maximum of 10 (ten) years in prison and fined a minimum of Rp. 5,000,000,000.00 (five billion rupiah) and a maximum of Rp. 100,000,000,000.00 (one hundred billion rupiah) (Asep Nursobah, 2024).

4. Criminal Acts Related to Bank Business Activities

According to Article 49 of the Banking Law, criminal acts related to business activities include, among other things, if a bank:

a. Makes or causes false records;
b. Removes or fails to record or causes records not to be made;
c. Alters, obscures, hides, deletes, or removes records or alters, obscures, hides, or destroys such bookkeeping records;
d. Requests and/or receives compensation from customers who receive facilities from the bank.

Tipibank related to the provisions of Article 49 of the Banking Law is general in nature, meaning it can occur in all business activities of the bank, whether in raising funds, providing credit, or other banking activities.

Based on statistical data and analysis of Tipibank cases handled by the OJK, the highest number of cases occurred in business activities related to lending. This generally happens due to the credit granting process that does not adhere to prudent principles, whether the credit is to related or unrelated parties, leading to non-performing loans (NPLs) and causing the bank to experience financial difficulties. Additionally, there are other deviations in various modus operandi, such as window dressing, misuse of bank assets, exploiting or creating bank facilities for the benefit of parties related to the bank, and embezzlement of bank funds.

5. Criminal Acts Related to Affiliated Parties

Crimes committed by affiliated parties need special attention as they are committed by insiders against the bank (crimes against the bank) and also by those who provide services to the bank. According to Article 1 point 22 of the Banking Law, affiliated parties include: "a. Members of the board of commissioners, supervisors, directors, or their proxies, officers, or bank employees; b. Members of the management, supervisors, managers, or their proxies, officers, or employees of the bank, particularly for banks established as cooperatives in accordance with applicable laws and regulations; c. Parties who provide services to the bank, including public accountants, appraisers, legal consultants, and other consultants; d. Parties who, according to the assessment of Bank Indonesia, influence the management of the bank, including shareholders and their families, families of commissioners, families of supervisors, families of directors, and families of managers."

6. Criminal Acts Related to Shareholders

Tipibank related to shareholders occurs when shareholders instruct the board of commissioners, directors, and bank employees to commit illegal acts or are involved in illegal acts while performing their duties, functions, and authorities in conducting banking activities. This can happen because shareholders have strong interests and access in carrying out the bank’s business activities. Additionally, Tipibank related to shareholders can also occur when shareholders, either directly or indirectly with bad intentions, exploit the bank for personal gain.

From the various types of banking crimes described above, money cheating actions that occur in banking transactions can be classified as banking crimes, particularly crimes related to bank business activities. This is because money cheating practices are closely related to bank business activities and involve fictitious or falsified banking products. In banking transactions, money cheating can take various forms, such as creating fictitious accounts, granting fictitious credits, and assessing fictitious credit collateral.

One of the most common money cheating actions is false record-keeping. For example, in the case of false record-keeping carried out by an Account Officer in the credit department at PT. Bank Perkreditan Rakyat (BPR) Junjung Sirih Solok named Syafwan Jamil. This bank employee created fictitious credits for ten fictitious debtors with a total plafond of Rp. 85,000,000. The fictitious credits were made by using data from debtors who had previously applied for credit, even though these debtors had never applied for credit. Syafwan never conducted a credit analysis on these debtors, and the credit analysis forms were filled in with fabricated information as if an analysis had been conducted and then signed the dropping note (disbursement slip) as if the credit funds had been disbursed and received by the debtors, when in fact the debtors had never received the funds.

False Records are regulated under Article 49 paragraph (1) letter a of the Banking Law, which states: “(1) Members of the Board of Commissioners, Directors, or bank employees who intentionally: (a) create or cause false records in bookkeeping or in reporting processes, as well as in documents or business activity reports, transaction reports, or bank account reports.” From the explanation of this article, it can be concluded that Money Cheating actions can be subject to Article 49 paragraph (1) letter a of the Banking Law, as they fulfill the elements of the Article. The explanation of the elements in Article 49 paragraph (1) letter a of Law No. 10 of 1998 concerning Banking is as follows:

1. **Members of the Board of Commissioners, Directors, or bank employees.**

   According to the explanation of Article 49 paragraph (1) of the Banking Law, the subjects or perpetrators referred to are Members of the Board of Commissioners, Directors, or Bank Employees. In this context, bank employees include all bank officials and staff.

2. **Intentionally**

   The phrase “intentionally” means that the perpetrator is aware of and intends (willens en wetens) the occurrence of the act they perform and understands the consequences that will arise from their actions. This act is not based on negligence, carelessness, or lack of caution. The intentionality of the perpetrator can be seen from:

   a. The existence of both internal and external regulations that are violated/not implemented as they should be.
   b. The perpetrator performed the act consciously.
   c. The perpetrator having the intention/goal in carrying out the act.

3. **Creating or causing false records**

   The term “creating” means to bring something into existence that was not there before, while “causing” refers to the factors that support, encourage, and/or become the reason for something to exist. “False records” refer to a process of recording that is carried out improperly, resulting in records that do not contain accurate information.

   In bookkeeping or in reporting processes, as well as in documents or business activity reports, transaction reports, or bank account reports

   This element refers to the media or location where the criminal act is committed, such as:

   a. Bookkeeping is entries in journals, sub-ledgers, and ledgers.

b. Reports: reports made by the bank, including both financial and non-financial reports for internal or external purposes, such as balance sheets, profit/loss statements, off-balance-sheet accounts, compliance director's reports, legal lending limit (LLL) reports, and foreign exchange position reports.
c. Documents : bookkeeping evidence (e.g., vouchers, receipts, deal slips); supporting data for bookkeeping, including correspondence and other comparable documents.
d. Business Activity Reports: annual reports, balance sheets, and profit/loss statements; publication reports; reports on all business activities conducted.
e. Transaction Reports: transaction details; reports on all transactions conducted.
f. Accounts: descriptions of all individual financial activities recorded in bank bookkeeping, such as checking accounts, savings accounts, bank statements, securities accounts, capital accounts, including all accounts held at the bank (individual accounts and/or general ledger accounts).

Unlike Banking Crimes, Crimes in the Banking Sector, include any unlawful acts related to banking activities, where such acts can be subjected to legal provisions containing criminal sanctions, whether general or specific criminal law. Crimes in the Banking Sector pertain to acts related to banking that are punishable, including violations of the Banking Law or Law No. 21 of 2008 on Islamic Banking, and/or other laws and regulations. Examples of such laws include the Criminal Code (KUHP), Law No. 8 of 2010 on the Prevention and Eradication of Money Laundering Crimes (TPPU Law), and Law No. 31 of 1999 on the Eradication of Corruption Crimes as amended by Law No. 20 of 2001 (Anti-Corruption Law).

Illegal investments are prohibited under laws and regulations. When something is prohibited by law, there are legal consequences for those who violate it. In practice, law enforcement officials often face difficulties in finding appropriate punishments for those involved in money game practices. Several legal provisions frequently used by law enforcement to address money game practices include.

1. Law No. 10 of 1998 in conjunction with Law No. 7 of 1992 on Banking (Banking Law)

   To gain profit, money game perpetrators primarily collect funds from their victims, which is closely related to Law No. 10 of 1998 on Banking. Article 16 paragraph (1) of the Banking Law states: "Any party that conducts activities of collecting funds from the public in the form of deposits must first obtain a business license as a Commercial Bank or Rural Bank from the Head of Bank Indonesia, unless the activity of collecting funds from the public is regulated by a separate law." Those who violate this provision can be subject to criminal penalties as stated in Article 46 paragraph (1) of the Banking Law, which reads: "Anyone who collects funds from the public in the form of deposits without a business license from the Head of Bank Indonesia as referred to in Article 16, shall be subject to imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a fine of at least Rp 10,000,000,000.00 (ten billion rupiah) and a maximum of Rp 20,000,000,000.00 (twenty billion rupiah).

2. Criminal Code (KUHP)

   Money game practices can be categorized as fraud and/or embezzlement. An act is categorized as fraud as stipulated in Article 378 of the Criminal Code, which states: "Anyone who, with the intent to unlawfully benefit themselves or others, either by using a false name or false circumstances, by trickery or deceit, or by making false statements, induces others to hand over any goods, create debt, or cancel debt, shall be punished for fraud with imprisonment for a maximum of four years." One main reason for applying Article 378 of the Criminal Code to money game practices is the manipulative actions of the perpetrators related to data, investment reports, and other supporting data to convince potential investors to invest their money, thus fulfilling the element of "false statements."

In addition to Fraud Crimes, Money Game Practices can also be categorized as embezzlement. An act is categorized as embezzlement as stipulated in Article 372 of the Criminal Code and Article 374 of the Criminal Code. Article 372 of the Criminal Code states: "Anyone who unlawfully takes possession of any goods, either wholly or partly belonging to another, which is in their possession not due to a crime, shall be punished for embezzlement with imprisonment for a maximum of four years or a fine of up to Rp 900,-." Article 374 of the Criminal Code states: "Embezzlement committed by someone who holds the goods due to their job or position or because they receive payment, shall be punished with imprisonment for a maximum of five years."

3. Law No. 8 of 2010 on the Prevention and Eradication of Money Laundering Crimes (TPPU Law)

   Money Laundering Crimes are regulated under Law No. 8 of 2010. Article 1 paragraph 1 states: "Money Laundering is any act that fulfills the elements of a crime as stipulated in this Law." Simply put, money laundering is an effort to obscure or hide assets or money obtained from criminal acts to make it appear as legitimate wealth. Money game practitioners, because of the large and instant gains, will hide the proceeds of their crimes to avoid detection by law enforcement, particularly the Financial Transaction Reports and Analysis Center (PPATK).

   Money Laundering Crimes consist of three stages: Placement (storing the illicit funds in legitimate financial institutions, such as banks), Layering (sending money through various transactions to change its form and make it difficult to trace), and Integration (consolidating the funds back and using them for legal activities).

4. Law No. 8 of 1995 on Capital Market

   Besides the aforementioned regulations, money game activities, including Ponzi schemes, often lack OJK (Financial Services Authority) approval, making them subject to criminal penalties and fines for any party conducting capital market activities without OJK approval, as stipulated in Article 103 of Law No. 8 of 1995 on Capital Market.

   From a criminal law perspective, there are no specific regulations explicitly prohibiting money game practices in Indonesia. The above-mentioned laws do not specifically mention the prohibition of money game practices. The legal rules or articles applied in the enforcement of money games in Indonesia are typically those used in cases of illegal investment. Therefore, it is possible for law enforcement to use other articles to charge the perpetrators of illegal money game practices.

   Money cheating and money game practices are criminal acts closely related to banking transactions. Forms of money cheating and money games include various schemes: money cheating involves false record-keeping, while money games involve fraud where the perpetrator offers investment or high returns in a short period using funds from new investors to pay returns to previous investors. This practice is often disguised as a legitimate business, but in reality, no actual investment activities are taking place. The main goal of the perpetrator is to collect as much money as possible from the public or customers before eventually absconding with the funds. In the context of Indonesian regulations, these practices are strictly regulated to protect the public and maintain the stability of the financial system.

CONCLUSION

This research has analyzed the qualifications of money cheating and money game practices in banking transactions through the perspective of the theory of legal certainty and the theory of legal usefulness. According to the theory of legal certainty proposed by Gustav Radbruch and Jan M. Otto, clarity, consistency, and legal order are crucial to preventing misuse in the banking sector. The theory of legal usefulness, pioneered by Jeremy Bentham, also emphasizes that the law must provide the greatest benefit to society, including preventing and addressing money cheating and money game practices.

Of the various banking crimes outlined above, money cheating in banking transactions can be qualified as a banking crime related to bank business activities as regulated in Article 49 paragraph (1) of the Banking Law. This is because money cheating practices are closely related to bank business activities and fictitious or fraudulent banking products. In banking transactions, money cheating can occur in various forms, such as the creation of fictitious accounts, granting fictitious loans, and fictitious credit collateral valuations.

Unlike money game practices, law enforcement officials in the field find it quite challenging to determine appropriate punishments for perpetrators of money game practices. Several legal provisions frequently used by law enforcement to address money game practices include Article 46 paragraph (1) of the Banking Law, Article 378 of the Criminal Code, and Articles 3, 4, and 5 of the Money Laundering Law (TPPU Law).

Thus, it can be concluded that money cheating and money game practices in banking transactions are serious criminal acts and can be subject to strict legal sanctions. Legal certainty and legal usefulness must always be maintained to minimize these practices, prevent greater losses to society, and preserve the integrity of the banking system.

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