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# The Responsibility of the President Director in the Event of Bad Credit in a State-Owned Bank in a Corruption Crime Case

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## ABSTRACT

*The objective of this research is to present a dissertation argumentation that examines the accountability of the managing director in a state-owned enterprise bank in Indonesia in the context of a corruption case involving bad credit. The present study is characterised as a normative legal research. The findings indicate that the role of the President Director is crucial in preserving the integrity and public confidence in state-owned banks when confronted with instances of bad debts resulting from corrupt activities. The role of the President Director is crucial in the prevention and mitigation of corrupt lending practises. This is achieved through the implementation of stringent policies and procedures, the establishment of effective internal oversight and control mechanisms, and the promotion of heightened awareness regarding the significance of integrity and adherence to legal requirements. Furthermore, it is imperative for the President Director to be adequately prepared to assume legal accountability in cases where corrupt activities committed by bank personnel lead to financial losses. By implementing suitable strategies, the President Director can effectively mitigate and diminish the likelihood of corrupt lending practises in state-owned banks, thereby upholding public trust in the integrity of the national banking system.*

**Keywords:** Responsibility, Board of Directors, Corruption.

## I. INTRODUCTION

The banking finance industry in Indonesia has been identified as a susceptible sector in the ongoing efforts to combat corruption. The sector in question exhibits a significant susceptibility to corruption, as evidenced by the prevalence of reported cases and the magnitude of financial losses incurred by the state.<sup>3</sup> Instances of corruption within the banking industry commonly involve the provision of banking credit facilities, particularly those disbursed by state banks to

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<sup>3</sup> Salsabila Salsabila and Slamet Tri Wahyudi, 'Peran Kejaksaan Dalam Penyelesaian Perkara Tindak Pidana Korupsi Menggunakan Pendekatan Restorative Justice', *Masalah-Masalah Hukum*, 51.1 (2022), 61–70 <<https://doi.org/10.14710/mmh.51.1.2022.61-70>>.

debtors for business purposes. Additionally, the banking sector frequently serves as a primary avenue for criminals to engage in money laundering activities.<sup>4</sup>

In recent years, the occurrence of banking scandals in government-owned banks, involving substantial sums ranging from hundreds of billions to trillions of rupiah, has elicited significant public astonishment. In the context of a national economy that is currently undergoing a recovery phase subsequent to a crisis, the revelation of banking scandals resulting in substantial financial losses for the state has undeniably unsettled the public's perception of fairness and equity.<sup>5</sup> During times of adversity, a significant number of individuals seek avenues for relief by engaging in collusion with bank employees or administrators in order to exploit their positions. The misappropriation of significant sums of money from individuals is a prevalent occurrence. This crime encompasses various modus operandi, including the falsification of bank documents, the issuance of fictitious workers' compensation claims, the disbursement of credit to non-existent companies, the establishment of an illicit financial institution, the intentional creation of difficulties in credit repayments leading to bankruptcy declarations, the submission of credit applications with fraudulent collateral, offences committed through internet banking, counterfeiting of securities such as bonds and mutual funds, as well as fraudulent activities involving foreign exchange.<sup>6</sup>

The rise in banking crimes perpetrated by bank administrators, such as those who exploit the banks they oversee for personal enrichment or to serve their own interests, has underscored the necessity for effective supervision and guidance of banks. This responsibility lies with Bank Indonesia, the governing authority, as well as with the banks themselves, who must prioritise the principle of prudence in their business operations.<sup>7</sup>

It is crucial to bear in mind that a significant aspect of banking operations involves the collection of public deposits and subsequent allocation of credit. In numerous developed and developing economies, it has been observed that approximately 60-70% of commercial bank assets are

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<sup>4</sup> Ahmad Yunus and Moh. Ali Hofi, 'Formulasi Kewenangan Penindakan Komisi Pemberantasan Korupsi Dalam Upaya Pemberantasan Tindak Pidana Korupsi Di Indonesia', *HUKMY: Jurnal Hukum*, 1.1 (2021), 35–54 <<https://doi.org/10.35316/hukmy.2021.v1i1.35-54>>.

<sup>5</sup> Algio Fernando, 'Kedudukan Kekayaan Negara Yang Dipisahkan Pada Badan Usaha Milik Negara Dalam Perkara Tindak Pidana Korupsi (STUDI KASUS PERKARA NO. 1144 k/Pid/2006 DAN PERKARA NO.414/K/Pidsus/2014)', *Journal of Judicial Review*, XIX.1 (2017), 62–73.

<sup>6</sup> Lilik Mulyadi, 'Asas Pembalikan Beban Pembuktian Terhadap Tindak Pidana Korupsi Dalam Sistem Hukum Pidana Indonesia Dihubungkan Dengan Konvensi Perserikatan Bangsa-Bangsa Anti Korupsi 2003', *Jurnal Hukum Dan Peradilan*, 4.1 (2015), 101–32.

<sup>7</sup> Muhammad Musa, 'Penalaran Hakim Menerapkan Ajaran Penyertaan Dalam Putusan Tindak Pidana Korupsi Pada Bank Riau-Kepri', *Masalah-Masalah Hukum*, 46.4 (2018), 349 <<https://doi.org/10.14710/mmh.46.4.2017.349-357>>.

typically allocated to loans.<sup>8</sup> The significant volume of lending activities in the banking sector is widely recognised for its profitability, alongside the inherent risks that can impact the overall financial well-being of banks. Lending represents a fundamental aspect of a bank's operations, analogous to the two sides of a coin. Bank officials face a dual challenge in their pursuit of maximising bank income. On one hand, they are incentivized to expand lending activities, while on the other hand, they must contend with the inherent risks associated with every lending transaction. Hence, it is imperative for banks to adhere to prudential banking principles during the disbursement of loans. This entails not only assessing the anticipated interest and other revenue generated from the borrower, but also evaluating the potential credit risk associated with the transaction.<sup>9</sup>

Credit problems that negatively affect the loan quality leading to defaults are prevalent in various types of banks, including conventional banks such as those with BUMN / BUMD status, private banks, and Islamic banks.<sup>10</sup> One of the contributing factors to this trend is the inadequate implementation of prudential banking principles, which are fundamental principles in the lending practises of the banking industry. The application of these principles is an effective approach to establishing sound banking conditions. Non-performing loans constitute an integral component of a bank's loan portfolio.<sup>11</sup> However, a bank's proficiency in effectively managing non-performing loans, thereby minimising adverse financial implications, is indicative of its success as a lender. There is a pressing need for banks to adopt a pragmatic strategy in order to effectively handle non-performing loans. This approach is grounded on the fundamental principle that timely detection of potential loan issues presents numerous avenues for mitigating losses arising from non-performing loans.<sup>12</sup>

The presence of a significant quantity of non-performing loans can have adverse implications for the financial stability of a bank, erode depositors' confidence, and potentially trigger a bank run. Ultimately, these repercussions can extend to the broader economy of a country. The juridical aspects pertaining to the processing of credit requests from potential customers,

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<sup>8</sup> Syahril Syahril, Mohd Din, and Mujibussalim Mujibussalim, 'Penerapan Undang-Undang Pemberantasan Tindak Pidana Korupsi Terhadap Kejahatan Di Bidang Perbankan', *Syiah Kuala Law Journal*, 1.3 (2017), 16–28 <<https://doi.org/10.24815/sklj.v1i3.9635>>.

<sup>9</sup> Disiplin F. Manao, 'Penyelesaian Penyalahgunaan Wewenang Oleh Aparatur Pemerintah Dari Segi Hukum Administrasi Dihubungkan Dengan Tindak Pidana Korupsi', *Jurnal Wawasan Yuridika*, 2.1 (2018), 1 <<https://doi.org/10.25072/jwy.v2i1.158>>.

<sup>10</sup> Muhammad Sahlan, 'Unsur Menyalahgunakan Kewenangan Dalam Tindak Pidana Korupsi Sebagai Kompetensi Absolut Peradilan Administrasi', *Jurnal Hukum IUS QUIA IUSTUM*, 23.2 (2016), 271–93 <<https://doi.org/10.20885/iustum.vol23.iss2.art6>>.

<sup>11</sup> Agus Suntoro, 'Penyadapan Dan Eksistensi Dewan Pengawas Komisi Tindak Pidana Korupsi', *Jurnal Legislasi Indonesia*, 17.1 (2020), 25 <<https://doi.org/10.54629/jli.v17i1.627>>.

<sup>12</sup> Mas Putra Zenno Januarsyah, 'Penerapan Asas Ultimum Remidium Terhadap Tindak Pidana Korupsi Yang Terjadi Di Lingkungan BUMN Persero', *Wawasan Yuridika*, 1.1 (2017), 24–34.

particularly in relation to the establishment of collateral as credit security, exhibit deficiencies that render them legally unsound. These deficiencies arise when bank officers fail to exercise due diligence in conducting credit analysis. Furthermore, weaknesses in early supervision are evident, specifically in cases where credit decisions are made by authorised bank officials, particularly when the credit is in the possession of customers. Consequently, regular monitoring should be implemented to address these shortcomings. One area of concern pertains to the inadequate customer guidance provided by banks within the industry, with the aim of limiting the potential for unscrupulous borrowers to engage in fraudulent activities.<sup>13</sup>

The issue of non-performing loans in state-owned banks, namely Bank Nasional Indonesia (BNI) 1946, Bank Rakyat Indonesia (BRI), and Bank Mandiri, as well as banks with regional government-owned enterprise (BUMD) status such as Bank DKI, Bank Jabar Banten, and Bank Sulselbar, has emerged as a significant concern. Several instances of corruption, commonly referred to as bank break-ins, have been observed, including those perpetrated by individuals such as Eddy Tansil, Jhon Hamenda, Adrian Waworuntu, and Sherly Kojongian. These cases have had a detrimental impact on the banking sector and have resulted in a decline in public trust, particularly among bank customers. Moreover, the adverse ramifications stemming from poor credit have a significant detrimental effect on the national economy, particularly within the realm of state financial management. This can lead to potential financial losses for the state, particularly in the case of banks that are predominantly state-owned. In practical terms, the extension of credit that subsequently results in non-performing loans and bad debts can potentially constitute criminal offences within the banking sector. These offences may occur during the execution of activities or operations and, under specific circumstances, may even meet the criteria for criminal acts of corruption.<sup>14</sup>

According to Article 1, Point 2 of Law Number 7 of 1992 on Banking, which has been modified by Law Number 10 of 1998 (hereinafter referred to as the Banking Law), it is elucidated that a bank is an enterprise that gathers funds from the general public in the form of deposits and subsequently disburses them to the public in the form of credit or other modalities with the aim of enhancing the welfare of individuals.<sup>15</sup> The credit description typically arises from a credit

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<sup>13</sup> Ardi Ferdian, 'Sistem Pembebanan Pembuktian Terbalik Pada Tindak Pidana Korupsi', *Arena Hukum*, 5.3 (2012), 163–70 <<https://doi.org/10.21776/ub.arenahukum.2012.00503.2>>.

<sup>14</sup> Dian Adriawan, 'Penerapan Ketentuan Pemberantasan Tindak Pidana Korupsi Dalam Kasus Kredit Macet Perbankan', *Jurnal Hukum Prioris*, 2.4 (2010), 220–28 <<https://www.trijurnal.lemlit.trisakti.ac.id/prioris/article/view/338/309>>.

<sup>15</sup> Fitria Kusumawardani, 'Pertanggungjawaban Koorporasi Pt Bank Bni, Tbk, Dalam Kredit Macet Berdasarkan Undang-Undang Nomor 20 Tahun 2001 Tentang Koorporasi', *Jurnal Mercatoria*, 11.1 (2018), 1 <<https://doi.org/10.31289/mercatoria.v11i1.1489>>.

agreement established between the debtor, who requires funds, and the creditor, a financial institution responsible for disbursing funds. Additionally, the debtor provides collateral, such as land certificates or building certificates, to the creditor. This collateral serves as a safeguard for the creditor, who may utilise it if the debtor fails to repay the credit in accordance with the terms outlined in the credit agreement. Based on the aforementioned information, it can be asserted that the credit process is essentially a legally sanctioned occurrence within the realm of civil affairs. This process entails the submission of administrative documents and undergoes multiple stages and procedures in order to actualize the credit. Consequently, it can be contended that the process is closely associated with the administrative domain.<sup>16</sup>

In the event that a debtor's credit is deemed to be unfavourable and subsequent investigation reveals the presence of fraudulent misrepresentation of credit requirements by the debtor to the creditor prior to the execution of the credit agreement, it can be concluded that a criminal act has taken place.<sup>17</sup> It is imperative to acknowledge that there has been a discernible trend in recent times regarding the handling of corruption cases. Specifically, it has become apparent that the Public Prosecutor frequently incorporates the Anti-Corruption Law in their indictments for various criminal offences, such as banking crimes. In these instances, the prosecutor tends to employ alternative charges rather than cumulative charges. One instance illustrating the initial application of the Anti-Corruption Law to banking activities occurred in the case of Natalegawa, who served as the President Director of Bank Bumi Daya (BBD).<sup>18</sup> This particular case was resolved by the Supreme Court on December 15, 1983. In this particular instance, Natalegawa, assuming the role of President Director of BBD, allocated significant emphasis on extending credit within the real estate industry, despite being aware of the existence of a circular letter issued by Bank Indonesia that explicitly prohibits the provision of such credit. According to the Bank Indonesia Circular in effect at that time, Natalegawa's actions were solely subject to administrative penalties. However, the Supreme Court explicitly declared in its ruling that the defendant had contravened the principle of propriety within society, resulting in his conviction for the offence of corruption.<sup>19</sup>

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<sup>16</sup> Agnes Pembriarni Nuryuaningdiah, 'Urgensi Pembentukan National Asset Management Credit Dalam Penyelesaian Kredit Macet Bank Bumi', *Masalah-Masalah Hukum*, 49.4 (2020), 443–53 <<https://doi.org/10.14710/mmh.49.4.2020.443-453>>.

<sup>17</sup> Habib Adjie, 'Tergerusnya Droit De Preference (Asas Prioritas) Kreditor, Ketika Debitor Tersangkut Tindak Pidana Korupsi', *Repertorium*, 8.2 (2019), 142–57 <<https://doi.org/10.28946/rpt.v>>.

<sup>18</sup> Yudha Ramelan, 'Penerapan Saksi Pidana Korporasi Pada Bank Dan Implikasinya', *Jurnal Hukum & Pembangunan*, 48.4 (2018), 861 <<https://doi.org/10.21143/jhp.vol48.no4.1806>>.

<sup>19</sup> Rian Saputra, Josef Purwadi Setiodjati, and Jaco Barkhuizen, 'Under-Legislation in Electronic Trials and Renewing Criminal Law Enforcement in Indonesia (Comparison with United States)', *JOURNAL of INDONESIAN LEGAL STUDIES*, 8.1 (2023), 243–88 <<https://doi.org/10.15294/jils.v8i1.67632>>.

Moreover, in the aforementioned case involving Bank Mandiri Director E.C.W. Neloe et al, it is evident that the defendants displayed a lack of caution in the processing of loan applications, thereby contravening the prudential principles outlined in Articles 49 and 50 of the Banking Law. The observed lack of caution was not a result of inadvertence or negligence, but rather a deliberate approach that did not demonstrate the presence of objective factors or pressing circumstances that warranted departing from the principle of prudence.<sup>20</sup> This approach involved expeditiously processing loan applications within a relatively brief timeframe, solely relying on various applicant documents without thoroughly analysing the actual circumstances of the applicants. Granting a loan of Rp. 160 billion to a debtor whose business has been operational for a mere six months, with a paid-up capital of only Rp. 600 million, appears imprudent due to the significant disparity between the loan amount and the debtor's financial resources.<sup>21</sup> Furthermore, the defendant granted a loan that was commonly referred to as a "bailout fund" or "hridgirzg lonrz", a term that was unfamiliar and lacked any legal foundation. In this particular instance, the defendant's approval of the loan was deemed to be in violation of the law due to their failure to adhere to the established standard operating procedures (SOP) that had been implemented within the institution. This paper will delve into the legal implications surrounding the designation of responsibility for the managing director in the context of a corruption case involving bad credit within a state-owned badam bank.

### **(A) Research Methods**

The present study is characterised as a normative legal research, employing various methodological approaches such as the statutory approach, case approach, and conceptual approach.<sup>22</sup> The purpose of the statutory approach is to comprehensively analyse all relevant laws and regulations pertaining to the legal matters raised in this dissertation.<sup>23</sup> The findings of this review will serve as a basis for constructing arguments aimed at resolving the aforementioned issues.

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<sup>20</sup> Kusumawhardani.

<sup>21</sup> Syahril, Din, and Mujibussalim.

<sup>22</sup> Rian Saputra and Silaas Oghenemaro Emovwodo, 'Indonesia as Legal Welfare State : The Policy of Indonesian National Economic Law', *Journal of Human Rights, Culture and Legal System*, 2.1 (2022), 1–13 <<https://doi.org/10.53955/jhcls.v2i1.21>>.

<sup>23</sup> Rian Saputra and others, 'Reform Regulation of Novum in Criminal Judges in an Effort to Provide Legal Certainty', *JILS (JOURNAL OF INDONESIAN LEGAL STUDIES)*, 6.2 (2021), 437–82 <<https://doi.org/10.15294/jils.v6i2.51371>>.

## II. THE ACCOUNTABILITY OF THE PRESIDENT DIRECTOR IN A STATE-OWNED BANK REGARDING NON-PERFORMING LOANS IN THE CONTEXT OF CORRUPTION OFFENCES

The governing body entrusted with the management of a limited liability company is commonly referred to as the Board of Directors. The determination of the role of the Board of Directors in the management of the Company, as outlined in Article 1, paragraph 5 of the Company Law, is of significance.<sup>24</sup> This provision establishes the Board of Directors as an authorised and accountable organ responsible for the administration of the Company, with the primary objective of promoting the Company's interests in alignment with its purposes and objectives. Moreover, the Board of Directors is designated as the representative of the Company, both within and outside the court, in accordance with the provisions specified in the articles of association.<sup>25</sup>

A legal entity carries out legal actions by means of its managerial structure. In the specific case of a limited liability company, legal actions are executed through its board of directors, which serves as the entity's management. The presence of management is essential for the proper functioning of a legal entity.<sup>26</sup> The interdependence between a legal entity and its management gives rise to a fiduciary relationship, characterised by fiduciary duties, wherein the management is consistently entrusted to act and exercise its authority solely in the best interests of the company. Fiduciary duties within a limited liability company primarily pertain to the role, jurisdiction, and obligations of the board of directors.<sup>27</sup>

The term "fiduciary" is commonly understood to denote the act of holding assets or responsibilities in a position of trust, with the primary objective of benefiting others. On the other hand, the term "duty" refers to an obligation or responsibility that one is bound to fulfil. In the context of Indonesia, an individual entrusted with such responsibility is commonly referred to as a "amanah" holder.<sup>28</sup> The concept of "fiduciary duty" can be understood as the obligation and accountability of the Board of Directors to effectively administer the operational affairs of the organisation in a manner that promotes the best interests of the company, aligning

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<sup>24</sup> Nuryuaningdiah.

<sup>25</sup> Caroline Gratia Sinuraya and Tutik Rachmawati, 'Does Icts Matters for Corruption?', *Asia Pacific Fraud Journal*, 1.1 (2017), 49 <<https://doi.org/10.21532/apfj.001.16.01.01.04>>.

<sup>26</sup> Ridwan Arifin, Rodiyah Rodiyah, and Fitria Puspita, 'A Comparative Analysis of Indonesia's KPK and Hong Kong ICAC in Eradicating Corruption', *Jambe Law Journal*, 2.2 (2020), 163–79 <<https://doi.org/10.22437/jlj.2.2.163-179>>.

<sup>27</sup> Musa Darwin Pane and Diah Pudjiastuti, 'The Legal Aspect of New Normal and the Corruption Eradication in Indonesia', *Padjadjaran Jurnal Ilmu Hukum*, 7.2 (2020), 181–206.

<sup>28</sup> N A Arifki and I F Azmi, 'Penghindaran Pajak Dalam Diskursus Tindak Pidana Pencucian Uang', *Pandecta: Jurnal Penelitian Ilmu Hukum*, 15.2 (2020), 167–77 <<https://doi.org/10.15294/pandecta.v15i2.18667>>.



with its goals and objectives, while exercising due diligence and acting in good faith.<sup>29</sup>

The concept of fiduciary duty encompasses several crucial elements, including: 1. the principle pertaining to the competence and prudence exhibited by the Board of Directors in their decision-making (duty of skill and care); 2. the principle emphasising the Board of Directors' obligation to act in the best interests and objectives of the company with utmost honesty and loyalty (duty of loyalty and good faith); 3. the prohibition on directors from engaging in ultra vires actions, which are actions that exceed their authorised powers; and 4. the requirement for directors to steer clear of conflicts of interest that may arise in relation to the company.<sup>30</sup>

The fiduciary duty mentioned above is primarily governed by the existing PT Law, specifically in Article 92(1), Article 92(2), Article 97(1), Article 97(2), and Article 99 of the PT Law. The regulations outlined in Article 92, paragraph (1) and (2), as well as Article 97, paragraph (1) and (2) of the PT Law, establish that the board of directors assumes complete accountability for the administration of the company.<sup>31</sup> The individuals must exercise the rights and obligations bestowed upon them in a manner that demonstrates integrity and accountability, exclusively for the benefit, intentions, and goals of the organisation, while adhering to the legal boundaries and provisions outlined in the company's articles of association. Based on the content of the article, it is evident that the PT Law incorporates three key fiduciary duties. Firstly, there is the duty of skill and care, which pertains to the directors' competence and prudence in their decision-making. Secondly, the duty of loyalty and good faith requires directors to act exclusively in the best interests and objectives of the company, demonstrating their utmost dedication. Lastly, the PT Law includes a fiduciary duty that prohibits directors from engaging in ultra vires actions, ensuring they do not exceed their authorised powers.<sup>32</sup>

Additionally, Article 99 of the Company Law governs the fiduciary duty of directors to refrain from engaging in conflicts of interest with the company. This provision essentially prohibits directors from acting on behalf of the company when there exists a conflict of interest between said directors and the company.<sup>33</sup> Directors consistently encounter business risks while

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<sup>29</sup> Rizky Novian Hartono, Sriwati, and Wafia Silvi Dhesinta Rini1, 'Kerugian Keuangan Negara Pada Badan Usaha Milik Negara (BUMN) Dalam Perspektif Doktrin Business Judgement Rule', *KELUWIH: Jurnal Sosial Dan Humaniora*, 2.1 (2021), 23–33 <<https://doi.org/10.24123/soshum.v2i1.4392>>.

<sup>30</sup> Warih Anjari, 'Kedudukan Asas Legalitas Pasca Putusan Mahkamah Konstitusi Nomor 003/PUU-IV/2006 Dan 025/PUU-XIV/2016', *Jurnal Konstitusi*, 16.1 (2019), 1 <<https://doi.org/10.31078/jk1611>>.

<sup>31</sup> Dian Ekawati, 'Perlindungan Hukum Terhadap Nasabah Bank Yang Dirugikan Akibat Kejahatan Skimming Ditinjau Dari Perspektif Teknologi Informasi Dan Perbankan', *UNES Law Review*, 1.2 (2018), 157–71 <<https://doi.org/10.31933/law.v1i2.24>>.

<sup>32</sup> Khalimi and Kodrat Alam, 'Penegakan Hukum Terhadap Pelanggaran Prinsip Kehati-Hatian Dalam Pemberian Kredit Perbankan', *Jurnal Yustitia*, 105.3 (1945), 129–33.

<sup>33</sup> Bayu Mogana Putra, 'Kebijakan Politik Hukum Negara Terhadap Perbankan Syariah', *Jurnal Lex Renaissance*, 6.2 (2021), 407–19 <<https://doi.org/10.20885/jlr.vol6.iss2.art14>>.

fulfilling their duties and responsibilities. Consequently, the concept of fiduciary duty is inseparable from the doctrine of business judgement rule. This doctrine serves to safeguard directors from being held liable for the company's losses resulting from their decisions, provided that these decisions are made in accordance with the principle of fiduciary duty.<sup>34</sup>

The decision to grant credit, in accordance with the aforementioned banking principles, signifies that the board of directors of the bank has implemented the principle of fiduciary duty in fulfilling its obligations and responsibilities as a governing body responsible for making credit decisions.<sup>35</sup> As the fiduciary duty principle is inherent in the board's duties, it can be inferred that the business judgement rule doctrine, as stipulated in Article 97 paragraph (5) of the PT Law, serves as a means of safeguarding bank directors from liability for losses resulting from poor credit decisions. This protection is contingent upon the directors adhering to the prudential principle, the know your customer principles, and the five Cs (credit analysis) principles when making credit decisions.<sup>36</sup>

Within the realm of criminal activity pertaining to corruption, specifically in the domain of lending, corrupt lending denotes the act of extending credit that deviates from sound banking principles, instead being executed with the intention of engaging in corrupt practises or acquiring personal benefits.<sup>37</sup> Frequently, this entails a collaborative effort between bank personnel and external entities seeking credit. The President Director, in their capacity as the highest-ranking official within the bank, bears a significant burden in the prevention and resolution of corrupt lending practises. Several aspects of the President Director's responsibilities include the following: The President Director bears the responsibility of ensuring the implementation of rigorous policies and procedures for the evaluation and authorization of credit applications within the bank. The implementation of these procedures should adhere to established banking principles and actively discourage any form of collusion between bank officials and third-party credit applicants. Additionally, the President Director must ensure the bank has a robust internal monitoring and control system in place to effectively identify and prevent corrupt lending practises. The system should possess the capability to

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<sup>34</sup> Hikmahanto Juwana, 'Analisa Ekonomi Atas Hukum Perbankan', *Jurnal Hukum & Pembangunan*, 28.1–3 (2017), 83 <<https://doi.org/10.21143/jhp.vol28.no1-3.537>>.

<sup>35</sup> Ema Rahmawati and Rai Mantili, 'Penyelesaian Sengketa Melalui Lembaga Alternatif Penyelesaian Sengketa Di Sektor Jasa Keuangan', *PADJADJARAN Jurnal Ilmu Hukum (Journal of Law)*, 3.2 (2016), 240–60 <<https://doi.org/10.22304/pjih.v3n2.a2>>.

<sup>36</sup> Noor Hafidah, 'Sekilas Tentang Risiko Dan Penyelesaian Hukum Terhadap Kredit Macet', *Jurnal Hukum IUS QUIA IUSTUM*, 9.19 (2002), 81–90 <<https://doi.org/10.20885/iustum.vol9.iss19.art6>>.

<sup>37</sup> Ronald Saija and Kadek Agus Sudiarawan, 'Perlindungan Hukum Bagi Perusahaan Debitur Pailit Dalam Menghadapi Pandemi Covid 19', *Batulis Civil Law Review*, 2.1 (2021), 66 <<https://doi.org/10.47268/ballrev.v2i1.474>>.

detect potential conflicts of interest or signs of abuse of authority. Additionally, the President Director should ensure that all bank employees, particularly those engaged in the lending process, receive sufficient training on banking ethics and anti-corruption protocols. Enhanced recognition of the significance of integrity and adherence to legal regulations will serve as a deterrent against corrupt lending practises. Additionally, the President Director should establish robust reporting and transparency measures to promptly detect and report any potential instances of corruption in lending to the appropriate authorities.<sup>38</sup>

In cases where corruption crimes result in bad debts involving bank officials, it is important to note that the President Director may also be held legally accountable for their actions.<sup>39</sup> Legal liability can encompass various forms of consequences, such as criminal charges, civil charges, or administrative sanctions. In certain instances, the Managing Director may incur personal liability for the financial losses incurred by the bank due to the corrupt lending activity.

### **III. CONCLUSION**

The President Director plays a pivotal role in upholding the integrity and public confidence of state-owned banks when faced with the issue of bad debts resulting from corrupt practises. The President Director assumes a crucial responsibility in the prevention and mitigation of corrupt lending practises by implementing stringent policies and procedures, establishing efficient internal monitoring and control mechanisms, and fostering heightened awareness regarding the significance of upholding integrity and adhering to legal requirements. Furthermore, it is imperative for the President Director to be adequately prepared to assume legal accountability in cases where corrupt activities committed by bank personnel lead to the occurrence of delinquent debts. Through the implementation of suitable strategies, the President Director can effectively mitigate and diminish the potential for corrupt lending within state-owned banks, thereby upholding public trust in the integrity of the national banking system.

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<sup>38</sup> Andrew Shandy Utama, 'Sejarah Dan Perkembangan Regulasi Mengenai Perbankan Syariah Dalam Sistem Hukum Nasional Di Indonesia', *Jurnal Wawasan Yuridika*, 2.2 (2018), 187 <<https://doi.org/10.25072/jwy.v2i2.180>>.

<sup>39</sup> Syahril, Din, and Mujibussalim.

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