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Banking Crime Resolution through Violation Resolution: Analytical and Prescriptive Evaluation of Regulatory Reform

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Abstract

Regulatory reform in the banking sector has become important in response to the growing complexity and dynamics of the financial industry. The rise of banking-related offences both those regulated under the Banking Law and those arising beyond its specific scope poses significant risks to national economic stability and may undermine public confidence in the banking system. This article provides an analytical and evaluative examination of recent regulatory reforms, focusing on the introduction of the violation resolution mechanism under Article 37D of Law No. 4 of 2023 concerning the development and strengthening of the Financial Sector (PPSK Law), as subsequently amended by Law No 4 of 2026. Rather than constituting a mere exercise of regulatory discretion, violation resolution is conceptualized as an adaptation of restorative justice principles to the distinctive characteristics of the banking sector. The study demonstrates that this mechanism emphasizes negotiated settlement, proportional accountability, and compensation, thereby balancing effective enforcement with the need to preserve financial-systemic stability. By situating violation resolution within criminological and regulatory scholarship, the article clarifies its normative foundations and implications for banking governance. Furthermore, the analysis substantively engages with Sustainable Development Goal 16 (peace, justice, and strong institutions), demonstrating how incorporation of restorative justice principle into financial regulation may strengthens institutional integrity, proportional enforcement, public trust, and contributes to resilient economic growth. This evaluative approach underscores that effective violation resolution is not rhetorical but substantive regulatory innovation that aligns legal certainty with sustainable development objectives.

Keywords: Banking Crimes; Financial Governance; Regulatory Reform; SDG's, Violation Resolution.

1. INTRODUCTION

One of the strategic efforts to develop and strengthen the regulatory framework of the financial sector, particularly the banking industry, is the expansion and enhancement of OJK's investigative authority and the Settlement of Violations mechanism) pursuant to Article 48B, Chapter I, Part Four of the *PPSK Law*. Specifically, Article 37D paragraph (3)of Chapter IV concerning Banking provides for the Settlement of Violations as an alternative mechanism for resolving certain violations n the banking sector.. This development represents a legal reform in the handling of banking-related offences. The *Settlement of Violations* mechanism shifts the conventional emphasis on criminal sanctions toward a more negotiated and restorative form of resolutions, which previously may be more consistent with the distinctive characteristics of the financial

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sector,[1] particularly banking. This settlement mechanism can be initiated upon a request submitted by the alleged offender to the OJK, after which the OJK will assess whether the request can be approved or not.

Although comprehensive official statistics on banking crimes are unavailable, OJK reported that, as of June 2023, the OJK had resolved 101 criminal cases in the financial services sector, consisting of 79 cases in banking, 17 cases in non-bank financial institutions, and 5 cases in the capital market. These figures, as reflected in OJK's Annual Report 2023[2] and the Sectorial Risk Assessment (SRA) 2023[3], indicate that banking cases constituted the majority of financial-sector criminal cases resolved by OJK during the reported period.[4] The developments in information technology have also contributed to the emergence of various of banking-related cybercrime, including card skimming, involving unlawful copying of ATM or credit-card; phishing, namely attempts to deceive computer users into disclosing confidential information through fake messages, emails, websites, or other forms of electronic communication; and carding, namely online shopping activities using debit or credit card data obtained illegally.[5]

In addition to technological developments, banking crimes may also arise from non-compliance with, or inadequate application of, prudential banking principles, particularly in credit disbursement practices[6] as well as weakness in corporate governance resulting from negligence or deliberate misconducts by bank insiders[7] including fictitious loans, fund embezzlement, fraud, document forgery, and violations of customer confidentiality. Moreover, crimes associated with banking activities, such as corruption[8] and money laundering, which have become global issues,[9] are closely related to violations of the bank's prudential principles. The complexity and diversity of banking crimes today require a mechanism for handling such offenses that is consistent with the regulations, roles, and characteristics of the banking industry.

[1]Savita Helena Affandy and Hudi Yusuf, "Bentuk-Bentuk Tindak Pidana Di Bidang Perbankan," *Journal Of Global and Multifisciplinary* 2, no. 11 (2024): 3478–3496, https://journal.institercom-edu.org/index.php/multiple/article/view/623/451.

[2]Otoritas Jasa Keuangan, "Laporan Kinerja OJK 2023-Penguatan Sektor Jasa Keuangan Dalam Menjaga Pertumbuhan Ekonomi," 2023, https://ojk.go.id/id/data-dan-statistik/laporan-tahunan/Documents/Laporan Tahunan OJK 2023_.pdf.

[3]Otoritas Jasa Keuangan, "Penilaian Risiko Sektoral (Sectoral Risk Assessment) 2023, Tindak Pidana Pencucian Uang, Tindak Pidana Pendanaan Terorisme, Dan Pendanaan Proliferasi Senjata Pemusnah Massal Di Sektor Jasa Keuangan," 2023, https://www.ojk.go.id/apu-ppt/id/informasi/nrasra/Documents/SRA TPPU TPPT PPSPM SJK Tahun 2023.pdf.

[4]Otoritas Jasa Keuangan, SP 65/GKPB/OJK/VI/2023, "Siaran Pers :OJK Selesaikan 101 Perkara Tindak Pidana Sektor Jasa Keuangan – Gelar Sosialisasi Pencegahan Tindak Pidana Sektor Jasa Keuangan Di Medan," 2023, https://ojk.go.id/id/berita-dan-kegiatan/siaran-pers/Documents/Pages/OJK-Selesaikan-101-Perkara-Tindak-Pidana-Sektor-Jasa-Keuangan/SP OJK Selesaikan 101 Perkara Tindak Pidana Sektor Jasa Keuangan DPJK.pdf.

[5]Kamsidah, "Tiga Kejahatan Digital Yang Paling Sering Terjadi Dan Kamu Harus Waspadai," Direktorat Jenderal Kekayaan Negara, Kementerian Keuangan, 17 October 2023, https://www.djkn.kemenkeu.go.id/kpknl-semarang/baca-artikel/16522/Tiga-kejahatan-digital-yang-paling-sering-terjadi-dan-harus-kamu-waspadai.html#: ~ :text = Nah % 2C sebab masyarakat dewasa ini,Sobat sampai terjadi hal ini.

[6]Sulistyandari et al., "Implementation of Prudential Banking Principles: State Responsibility in Combating Banking Crimes in Indonesia," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 7, no. 2 (2024): 341–59, https://doi.org/10.24090/volksgeist.v7i2.12132.

[7]Iza Sadzili and Lastuti Abubakar, "Doktrin Kelalaian Kontribusi (Contributory Negligence) Terhadap Tanggung Jawab Bank Atas Kerugian Nasabah Akibat Kesalahan Atau Kelalaian Pegawai Bank," *Prospektif Pengaturan Euthanasia Di Indonesia Ditinjau Dari* 12, no. 1 (2025): 1–11, https://doi.org/10.31289/jiph.v12i1.14338 Jurnal.

[8]Rihantoro Bayuaji and Dwi Elok Indriastuty, "Legal Analysis Of Violations Of The Prudential Banking Principle In Credit: A Perspective On Corruption And Money Laundering Crimes," *Corruptio* 5, no. 2 (2025): 69–82, https://doi.org/10.25041/corruptio.v5i2.3937.

[9]Md Ileas Pramanik et al., "Emerging Technological Trends in Financial Crime and Money Laundering: A Bibliometric Analysis of Cryptocurrency's Role and Global Research Collaboration," *Journal of Posthumanism* 5, no. 6 (2025): 3611–33, https://doi.org/10.63332/joph.v5i6.2493.

Several considerations are relevant in assessing the *Settlement of Violations* as an alternative mechanism for resolving banking crimes, called: 1. Law enforcement should preserve public trust in the banking industry system;[10] 2. The resolution mechanism should take into account[11] reputational risk, legal, credit, and operational risk; and 3. the enforcement should, legally appropriate, avoid unnecessary disruption to the bank's ability to perform its functions optimally. In other words, the resolution of banking crimes should take into account its potential implications for bank risk management and overall performance of banks.[12] Therefore, the strategic use of the restorative justice approach adopted in the *PPSK Law* deserves appreciation, provided that the principle of prudence remains a priority in its implementation. It is important to analyze whether the financial sector, particularly the banking industry, can optimize the *Settlement of Violations* as a model for resolving criminal acts capable of creating a resilient banking industry. At present, the restorative justice approach has been widely used in resolving economic and corporate crimes.[13]

This research examines the potential use of the Settlement of Violations as an alternative mechanism for resolving criminal acts through the restorative justice approach, particularly within the economic and corporate sectors. While restorative justice has been widely examined in conventional criminal law, jurisdictions such as the United States and the United Kingdom have also institutionalized negotiated dorms of corporate enforcement, including Deferred Prosecution Agreements (DPAs). However, scholarly attention remains limited regarding how comparable negotiated-settlements mechanisms may be adapted to financial regulation and corporate governance in Indonesia. Existing literature has not yet articulated a comparative framework that situates Indonesia's *violation resolution* within global practices of corporate accountability and negotiated settlements.

This study therefore addresses that gap by analyzing the normative foundations, regulatory implications, and comparative dimensions of *violation resolution*, demonstrating its originality as a substantive innovation in financial governance. By linking Indonesia's evolving regulatory practice with international precedents such as DPAs, the research contributes to the discourse on how restorative justice can be operationalized in the economic and corporate sectors. In particular, the study examines how *violation resolution* may balance deterrence and proportional accountability with reputational-risk considerations, while potentially supporting broader ESG-oriented corporate accountability. This integration underscores the relevance of restorative justice not only for resolving economic crimes but also for advancing sustainable compliance and aligning corporate culture with the Sustainable Development Goals (SDGs).

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[10]Blessing Unwana Umoh, Daniel Ofurum, and Owoola-Adebayo Soyingbe Folasade, "The Impact of Bank Fraud on Economic Stability and Public Trust in Nigeria's Financial System," *Glob Acad J Econ Buss* 6, no. 6 (2024): 187–95, https://doi.org/10.36348/gajeb.2024.v06i06.005.

[11]Yuvraj Sunecher and Nitisha Saiswari Dookhy, "Risk Management in the Banking Sector of Mauritius," *Journal of Central Banking Law and Institutions* 4, no. 2 (2025): 387–402, https://doi.org/10.21098/jcli.v4i2.311.

[12]Ashraf Hussain and Adeeba Anees, "Impact of Fraud Risk Management on Bank Performance With Moderating Role of Risk Culture," *Journal for Business Education and Management* 2, no. 2 (2022): 65–81, https://doi.org/10.56596/jbem.v2i2.78.

[13]Lastuti Abubakar et al., "Restorative Justice in Corporate Dispute Resolution as Business Actor in Indonesia," *Journal of Indonesian Legal Studies* 9, no. 1 (2024): 187–216, https://doi.org/https://doi.org/10.15294/jils.vol9i1.4573.

2. ANALYSIS AND DISCUSSION

2.1. Regulatory Reform in Law Enforcement: Efforts to Create a Strong Banking Industry

Indonesia's banking industry continues to demonstrate strong resilience amid ongoing global dynamics, supported by prudential banking principles and regulatory reforms such as the PPSK law. As of July 2025, bank lending remained solid, growing 7.03 % and supported by sound asset quality, with non-performing loans (NPLs) maintained at 2.28 % . Improved liquidity conditions indicate that banking performance remains strong, supported by good governance and adherence to the prudential principles in performing intermediation functions,[14] which are expected to promote national economic growth. To create a banking industry that effectively functions as a financial intermediary, the strength and effectiveness of its regulatory framework are of paramount importance.[15] The enactment of the *PPSK Law* is one of the key efforts to strengthen the legal foundation for a robust and equitable banking system for the industry, consumers, and society. These reforms aim to strengthen governance and consumer protection, , while supporting Indonesia's commitment to Sustainable Development Goal (SDG) which emphasizes access to justice and development of effective, accountable, and inclusive institutions.[16] In the financial services sector, consumer and public protection is one of the fundamental principles governing banking regulation in Indonesia. Such protection includes safeguarding against losses arising from actions classified as banking crimes. Although banking regulations stipulate banks' obligation to protect consumers, customers, and the public, implementing these obligations remains a major challenge.[17] Banks that can respond to criminal cases through transparent procedures and appropriate compensation mechanism may be better positioned to preserve public confidence in the banking system.[18] The issue of resolving banking crimes has become an important focus of regulatory reform because of the increasing complexity of offending methods[19] and their broader effects on customer losses, public confidence, and financial-system stability. Therefore, adaptive law enforcement is required, one that can effectively respond to such challenges. Moreover, the handling of criminal acts involving multiple institutions has often caused delays in the investigation and prosecution processes.

Regulatory reform in handling of banking crimes has strengthened OJK's authority and introduced the Settlement of Violations, which incorporates restorative and *ultimum remedium* considerations into financial –sector enforcement. However, while the Settlement of Violations mechanism is presented as a restorative innovation, it raises critical questions. The Financial Services Authority (OJK) exercises broad discretion in approving settlements, yet victim participation remains minimal. This raises doubts

[14]Otoritas Jasa Keuangan, "Siaran Pers: Resiliensi Perbankan Kuat Dukung Pertumbuhan Ekonomi Nasional," SP 128/GKPB/OJK/VIII/2025, 2024, https://ojk.go.id/id/berita-dan-kegiatan/siaran-pers/Pages/Resiliensi-Perbankan-Kuat-Dukung-Pertumbuhan-Ekonomi-Nasional.aspx.

[15]Lindryani Sjofjan et al., "Menjaga Stabilitas Sistem Keungan Nasional," *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory* 3, no. 3 (2025): 2152–58, https://share.google/sh9H0BQVZmLhG9xiq .

[16]Maurina Suryaning Pertiwi, "Sustainable Development Goals (Sdgs) Dan Perwujudan Perdamaian Di Dunia," *Focus : Jurnal Pekerjaan Sosial* 6, no. 1 (2023): 86, https://doi.org/10.24198/focus.v6i1.34104.

[17]Aqila Acyuta Endrosava and Suwarsit Afiliasi, "Peran Regulasi Modern Dalam Menjaga Integritas Sistem Hukum Digital," *Jurnal Multidisiplin Ilmu Akademik* 1, no. 6 (2024): 228–35, https://doi.org/10.61722/jmia.v1i6.2919.

[18]Eka Ari Endrawati, Diah Turis Kaemirawati, and Susetya Herawati, "Perlindungan Hukum Sebagai Upaya Meningkatkan Kepercayaan Masyarakat Terhadap Perbankan: Studi Kasus Kejahatan Perbankan Di Indonesia," *Binamulia Hukum* 13, no. 2 (2024): 589–602, https://doi.org/10.37893/jbh.v13i2.945.

[19]Aqil Syahru Akram and Itok Dwi Kurniawan, "Penegakan Hukum Tindak Pidana Perbankan Oleh Pihak Internal (Internal Bank Frauds): Tantangan Dan Solusi," *Jurnal Hukum Mimbar Justitia* 10, no. 2 (2024): 252, https://doi.org/10.35194/jhmj.v10i2.4168.

about whether the mechanism genuinely embodies restorative justice or is more accurately described as negotiated regulatory enforcement. The distinction matters: restorative justice emphasizes reconciliation and victim involvement, whereas negotiated enforcement prioritizes efficiency and systemic stability. Without adequate safeguards, the Settlement of Violations risks becoming a tool of administrative convenience rather than a genuine mechanism of justice. Thus, regulatory reform must be assessed not only for its efficiency but also its normative integrity and accountability. Furthermore, the mechanism for this regulatory reform in law enforcement through the *Settlement of Violations* is stipulated in Article 37D, Chapter IV (Banking Sector) of the *PPSK Law* as follows:

a. At the investigation stage, a party suspected of committing a banking crime may submit a request to the OJK for a *Settlement of Violations* of laws and regulations in the banking sector (Paragraph 3);
b. The OJK conducts an assessment of the request for *Settlement of Violations* by calculating the value of losses resulting from the offense (Paragraph 4);
c. In assessing the *Settlement of Violations* and determining the amount of loss, the OJK considers at least the following: a. Are there any losses arising from the criminal act that have been remedied? b. the value of the transaction and/or the value of the losses resulting from the violation; and c. the impact on the banking sector, the bank, and/or the interests of customers and/or the public (Paragraph 5)

By codifying these provisions, the PPSK Law provides an explicit statutory basis for the Settlement of Violations mechanism rather than leaving it solely to administrative discretion. This statutory anchoring demonstrates that the Settlement of Violations is not merely a discretionary practice but a legally codified mechanism, thereby inviting deeper scrutiny of its conceptual alignment with restorative justice.

The applicant must fulfill the agreement, including the payment of compensation. When the agreement has been fully implemented by the applicant, the OJK shall terminate the investigation if the OJK approves the request for a *Settlement of Violations*. The *PPSK Law* emphasizes that compensation constitutes the right of the aggrieved party and does not constitute revenue for the OJK. This clarification is essential to ensure that the *Settlement of Violations* provides optimal legal protection to the injured party.

The Settlement of Violations mechanism marks a shift from an exclusively punitive model toward agreement negotiated regulatory settlement that incorporates compensatory and restorative elements. This shift has several positive effects, including faster, more efficient resolution than lengthy criminal proceedings, reduced burden on criminal courts, and legal certainty for both banks and affected customers. In several jurisdictions, negotiated enforcement mechanism such as Deferred Prosecution Agreements (DPAs) provides an alternative to immediate prosecution in certain corporate and economic-crime cases, although they should not be treated as synonymous with restorative justice. The DPA concept, developed in the United States and the United Kingdom, is used to address corporate crimes through negotiated settlements rather than formal prosecution, thereby allowing remediation through administrative or civil procedures. In the United States, DPAs are governed by the Department of Justice guidelines, which emphasize prosecutorial discretion, corporate cooperation, and compliance reforms. In the United Kingdom, DPAs were introduced under the *Crime and Courts Act 2013*, requiring judicial approval and transparency to ensure accountability. While the DPA shares many similarities with the restorative justice concept adopted in Indonesia,

[20]the conceptual relationship among the Settlement of Violations, restorative justice, and DPAs warrants deeper examination. A critical question arises: is the Settlement of Violations genuinely a form of restorative justice, or is it more accurately characterized as a regulatory or enforcement settlement that merely incorporates restorative principles? Framing the issue in this way transforms the discussion from a descriptive account into an argumentative analysis, highlighting the need to distinguish between restorative justice as a normative paradigm and negotiated enforcement as a regulatory mechanism.

In the *Draft Criminal Procedure Code (RUU KUHAP)*, the legislature has agreed to include the DPA mechanism. This authority is an important instrument for the Indonesian Attorney General's Office to enforce the law against corporations in the future.[21]

The comparative analysis highlights how the Deferred Prosecution Agreement (DPA) mechanism has been institutionalized differently across jurisdictions. In the United States, DPAs are governed by the Principles of Federal Prosecution of Business Organizations (Justice Manual, JM9-28.000)[22], which set out prosecutorial discretion in corporate crime cases. The so-called Filip Factors require prosecutors to evaluate corporate cooperation, compliance programs, and remediation before entering into a DPA. In the United Kingdom, DPAs were introduced under the Crime and Courts Act 2013, Schedule 17, effective from 2014.[23] This framework restricts DPAs to organizations (not individuals) and mandates judicial approval, ensuring transparency and proportionality in cases of fraud, bribery, and economic crimes. In Indonesia, the Draft Criminal Code (RUU KUHAP), later enacted as Law No.20 of 2025 on the Criminal Procedure Code, explicitly incorporates the DPA mechanism in Article 328, empowering the Attorney General's Office to defer prosecution of corporate crimes subject to restitution, compliance reform, and court approval.

This comparison demonstrates that, while the US model emphasizes prosecutorial discretion and the UK model prioritizes judicial oversight, Indonesia adopts a hybrid approach combining prosecutorial authority with mandatory judicial approval. The Indonesian framework therefore aligns more closely with the UK model in terms of judicial involvement, while differing in stronger normative association with restorative justice in the resolution of corporate and financial offences.

The handling of banking crimes through restorative justice has already been implemented in practice, particularly by the police, who act as investigators assessing the effectiveness of law enforcement and the ability to facilitate mediation.[24] Moreover, this approach has long been used as a conflict resolution mechanism within communities,

[20]Ilham Nur Pratama, "Legal Comparison of Deferred Prosecution Agreement (DPA) Methods in the USA, UK and Indonesia for Recovering State Financial Losses Due to Corruption Crimes," *Corruptio* 4, no. 2 (2023): 73–80, https://doi.org/10.25041/corruptio.v4i2.2853.

[21]Prianter Jaya Hairi, "DEFERRED PROSECUTION AGREEMENT: KONSEP DAN BENTUK PENGATURANNYA DALAM RUU KUHAP," *Komisi III Penegakan Hukum: Info Singkat Analisis Strategis Terhadap Isu Aktual*, 2025, https://berkas.dpr.go.id/pusaka/files/info_singkat/Info Singkat-XVII-17-I-P3DI-September-2025-240.pdf.

[22]United States Department of Justice, "Justice Manual, M9-28.000: Principles of Federal Prosecution of Business Organization," 2023, https://www.justice.gov/jm/jm-9-28000-principles-federal-prosecution-business-organizations.

[23]United Kingdom, "UK Public General Acts, Crime and Courts Act" (2013), c.22, Schedule 17, Section 45, Deferred Prosecution Agreement, https://www.legislation.gov.uk/ukpga/2013/22/schedule/17.

[24]I Ketut Wita Darma, Zuhro Nurindahwati, And Komang Edy Dharma Saputra, "Restorative Justice In The Settlement Of Criminal Acts Of Violation Of The Principle Of Precaution In Banking Regulated In Law Number 10 Of 1998 Concerning Amendments To Law Number 7 Of 1992 Concerning Banking At The Bali Regional Police," *Journal Of Student Collaboration Research* 1, No. 2 (2025): 15–20, https://myjournal.or.id/index.php/JSCR.

especially in traditional societies, as a solution beneficial to all parties involved.[25] These developments suggest that the *Settlement of Violations* mechanism may provide a feasible alternative for resolving certain banking offences, although its effectiveness and fairness depend on the procedural safeguards incorporating into its implementation.

Recent studies suggest that restorative justice may reduce reliance on formal criminal proceedings while promoting more participatory forms of resolution and potentially strengthening trust between financial institutions and affected stakeholders. In the context of banking crimes, restorative justice has been shown to balance the goals of substantive justice in modern legal systems.[26] Furthermore, international scholarship highlights that restorative justice offers both a strong theoretical foundation and diverse global practices, making it a valuable framework for adapting conflict- resolution strategies within the financial and banking sectors. In her article "Restorative justice as a Response to Interpersonal Harm in Academia: Best Practices, Challenges and Opportunity for Culture Change" (2025), Nieke Elbers emphasizes that Restorative Justice offers both a theoretical foundation and practical applications that can be adapted across diverse institutional and cultural contexts." This scholarship reinforces the argument that restorative justice provides a theoretical and comparative foundation that may inform its adaptation to the banking sector, provided that the distinctive characteristic of financial regulation are taken into account.[27]

As a follow-up to the *PPSK Law*, the implementation of the *Settlement of Violations* is further regulated under Government Regulation No. 5 of 2023 on Criminal Investigations in the Financial Services Sector (PP No. 5/2023) and OJK Regulation No. 16 of 2023 on Criminal Investigations in the Financial Services Sector (POJK No. 16/2023). All of these regulations serve as the legal foundation for the application of the *Settlement of Violations* in the banking sector.

2.2. Restorative Justice as the Fundamental Concept of the Settlement of Violations in Banking Crimes

The PPSK Law and OJK regulations frame the Settlement of Violations as grounded in restorative justice. Compensation, agreements, and administrative sanctions are designed to restore losses and maintain public trust. Yet, restorative justice traditionally requires victim participation, offender accountability, and community involvement. In banking crimes, these elements are often absent; settlements are negotiated between OJK and banks, with victims relegated to passive beneficiaries. This leads into a conceptual tension: is the Settlement of Violations truly restorative justice, or is it closer to negotiated enforcement aimed at protecting financial stability? Critics highlight risks of moral hazard, weakened deterrence, unequal treatment, regulatory capture, and limited transparency. These concerns suggest that while the mechanism offers efficiency and reputational protection, it may dilute the punitive and deterrent functions of criminal law.

Examples illustrate the divergence. In Lampung, police applied restorative justice in a loan case, facilitating direct reconciliation between the victim and the defendant.

[25] Mashendra Mashendra et al., "Study of the Implementation Restoration Concept in the Criminal Justice System in Indonesia," *SASI* 30, no. 4 (2024): 339, https://doi.org/10.47268/sasi.v30i4.1888.

[26] Hijriani Hijriani et al., "Restorative Justice Approach to The Settlement of Banking Crime Cases," *Substantive Justice: International Journal of Law* 6, no. 1 (2023): 1–16, https://doi.org/10.56087/substantivejustice.v6i1.206.

[27] Nieke Elbers, "Restorative Justice as a Response to Interpersonal Harm in Academia: Best Practices, Challenges and Opportunities for Culture Change," *The International Journal of Restorative Justice*, no. October (2025): 1–30, https://doi.org/10.1163/25890905-bja010002.

By contrast, OJK's settlements emphasize institutional stability rather than victim empowerment. Internationally, the NatWest case in the UK shows that civil fines can restore losses but also raise questions about proportionality and accountability. These comparisons underscore the need for a sharper conceptual framework that distinguishes restorative justice from negotiated regulatory enforcement in the banking sector. Despite these conceptual tensions, the settlement of violations continues to be framed as a restorative justice oriented mechanism adapted to the characteristics of the financial sector, particularly banking. The presence of restorative justice as a settlement concept oriented toward resolution, restoration of situation, and the interest of all parties is considered highly necessary in addressing banking crimes. In line with the objectives of regulatory reform, the strengthening of the settlement of criminal acts in the financial sector is adjusted to the characteristics of each financial service sector. The rapid development of banking products and services, knowledge and information technology, and the globalization of financial transactions provide opportunities to advance the financial services sector. Currently, the banking industry is in the digital era, which offers many advantages, such as the ability to serve remote areas without branch offices, differentiation from competitors, and reduced operational costs.

The *Settlement of Violations* in the banking sector is framed within restorative justice, emphasizing resolution, restoration, and proportional accountability, and the protection of all affected parties' interests. In line with the objectives of regulatory reform, the strengthening of the settlement of criminal acts in the financial sector is adjusted to the characteristics of each financial service sector. The rapid development of banking products and services, knowledge and information technology, and the globalization of financial transactions provide opportunities to advance the financial services sector. Currently, the banking industry is in the digital era, which offers many advantages, such as the ability to serve remote areas without branch offices, differentiation from competitors, and reduced operational costs.[28]

Digital banking and technology-based financial services have become the major strategic priorities for the banking sector; however, their expansion may also create new vulnerability and facilitate increasingly complex forms of financial crime, requiring appropriate regulatory and enforcement responses. Existing analysis suggests that restorative justice may provide an effective alternative for alternative resolving certain banking crimes, particularly where restoration of losses and reconciliation are achievable.[29] This settlement system is also in line with the utilization of technology systems that focus on speed, efficiency, and benefit, not on formal procedures, but rather on the interests of all parties.

According to the *PPSK Law*, *Government Regulation No. 5 of 2023*, and *OJK Regulation No. 16 of 2023*, the essence of the *Settlement of Violations* lies in an agreement between the party submitting the settlement request and OJK, which contains obligations to pay compensation and other responsibilities. There are several elements that must be considered in the mechanism of the *Settlement of Violations* in the banking and other financial sectors.

[28] Fotis Kitsios, Ioannis Giatsidis, and Maria Kamariotou, "Digital Transformation and Strategy in the Banking Sector: Evaluating the Acceptance Rate of e-Services," *Journal of Open Innovation: Technology, Market, and Complexity* 7, no. 3 (2021): 204, https://doi.org/10.3390/joitmc7030204.

[29] Suleman Batubara et al., "Systematic Literature Review: The Urgency and Effectiveness of Implementing Restorative Justice in the Settlement of Banking Crimes," in *Proceedings of the 1st Brawijaya International Conference on Business and Law (BICoBL 2022)* (Atlantis Press International BV, 2023), 210–18, https://doi.org/10.2991/978-94-6463-214-9_23.

a. Agreement as the Basis of Legal Relationship

Referring to Article 14 paragraph (2) of OJK Regulation No. 16/2023, this agreement may be made in the following forms: a. An agreement between the OJK and the party submitting the request for the *Settlement of Violations*; b. A written statement from the party submitting the request for the *Settlement of Violations*; or c. Other forms of documents, which, as explained in Article 14 paragraph (3), state that “other forms of documents” may include a deed of *Settlement of Violations*.

b. Compensation Payment and Administrative Sanctions

Article 15 of OJK Regulation No. 16/2023 regulates compensation as a form of accountability by the applicant for the *Settlement of Violations* for actions that are against the law. There are several important provisions regarding compensation, namely:

i. Compensation is the right of the aggrieved party and does not constitute OJK’s income;
ii. Compensation may be paid in the form of cash and/or assets that can be valued in money, and if made in the form of assets, it must obtain the approval of the aggrieved party;
iii. The obligation to settle violations must be fulfilled no later than one year from the date the agreement is signed, depending on the complexity of the settlement;
iv. The settlement of losses incurred is accompanied by a statement from all parties involved declaring no objection and waiving their right to bring legal claims; and
v. All costs arising from the *Settlement of Violations* agreement concerning laws and regulations in the financial services sector shall be borne by the applicant of the *Settlement of Violations*.

In addition to compensation, the OJK is authorized to impose administrative actions in the form of administrative sanctions against parties suspected of committing crimes in the financial services sector. Based on Article 16 paragraph (2) of OJK Regulation No. 16/2023, these sanctions include: a. Written warnings; b. Restrictions on products and/or services and/or business activities, either partially or entirely; c. Suspension of products and/or services and/or business activities, either partially or entirely; d. Dismissal of management; e. Administrative fines; f. Revocation of product and/or service licenses; g. Revocation of business licenses; and/or h. Other administrative sanctions as determined by the OJK.

The nature of these administrative sanctions indicates that many are primarily directed toward financial institutions, although the settlement of Violations mechanism may also apply to individuals involved in banking offences. In practice, however, banking crimes often involve internal actors within the bank. One type of banking crime committed internally is the violation of the bank’s prudential principles, which can result in losses to the bank.[30] Nevertheless, the provisions on the *Settlement of Violations* as a mechanism for resolving criminal acts also apply to any individual involved in such banking crimes. Articles 18 and 19 of OJK Regulation No. 16/2023 indicate that the provisions regarding the *Settlement of Violations* apply to every person suspected of committing or being involved in a banking crime. Legal actions that may be taken by the OJK include the authority to block bank or financial institution accounts belonging to any person suspected of committing or being involved in a banking crime. Banks or other financial institutions are required to comply with requests from OJK

[30]Prawitra Thalib et al., “Legal Framework and Employee Liability in Banking Compliance and Crime Prevention: The Case Analysis of Indonesia,” *Yustisia Jurnal Hukum* 13, no. 3 (2024): 298–312, https://doi.org/10.20961/yustisia.v13i3.93370.

investigators to block the accounts of any person suspected of committing or being involved in a banking crime. If the bank or financial institution fails to comply with the request of OJK investigators, it may be subject to sanctions in accordance with the applicable laws and regulations.

c. Reporting of Settlement of Violations (Article 17 of OJK Regulation No. 16/2023)

After the *Settlement of Violations* agreement has been carried out, the party suspected of committing a banking crime shall report the implementation of the *Settlement of Violations* to the OJK investigator, accompanied by documentary evidence of the settlement. The OJK investigator shall verify the authenticity of the documentary evidence of the settlement. If the *Settlement of Violations* agreement has been fully fulfilled by the applicant, the OJK investigator shall terminate the investigation. However, if the applicant fails to fulfill part or all of the agreement, the OJK has the authority to proceed to the investigation stage.

The *Settlement of Violations* may be particularly relevant to the banking sectors because banks operate as institutions of public trust whose regulatory treatment must account for both accountability and financial-system stability. Moreover, the agreement, as the basis for settlement, emphasizes the restoration of losses without going through lengthy and complex court proceedings, which could have negative impacts on the bank's reputation. In addition, banks are required to manage risks that arise in the course of their activities, including legal risks, reputational risks, credit risks, operational risks, and other potential risks resulting from banking crimes.

There are several reasons why the restorative justice approach in the *Settlement of Violations* based on agreement is considered more suitable for resolving banking crimes, including: prompt recovery of losses; maintaining public trust; avoiding negative stigma for banks and their customers; avoiding high litigation costs; and greater flexibility compared to rigid court judgments.

The restorative justice approach has, in fact, been recognized and applied to resolve banking crime cases. One example is the Lampung Regional Police's decision to apply restorative justice and discontinue an investigation into a pre-retirement loan case for the following reasons: a. The suspect had committed a criminal act for the first time; b. There was reconciliation between the victim and the suspect; c. The suspect demonstrated good faith in seeking to repay the victim's losses; and d. The community, particularly the suspect's local neighborhood, responded positively, indicating that the suspect had been well-regarded and had no prior criminal involvement.[31] Therefore, the expanded authority granted to the OJK under the PPSK Law represents a significant step in strengthening the application of the Settlement of Violations.

Settlement through compensation or civil fines has even been applied in court decisions addressing banking crimes. For example, in 2021, the United Kingdom court imposed a civil fine in a money laundering case involving the Financial Conduct Authority and National Westminster Bank. This case became a significant reference point due to the imposition of a substantial financial penalty of £267,772,619.95 for money-laundering-related failures, illustrating the interaction between financial sanctions, corporate accountability, reputational consequences, and governance reform. The shift in perspective in criminal law enforcement in Indonesia has also been reinforced by the elaboration of the restorative justice approach in the PPSK Law. Initially, this concept

[31] I Made Widyana, "Penanganan Polri Terhadap Tindak Pidana Perbankan Berdasarkan Restorative Justice," *Jurnal Impresi Indonesia* 1, no. 12 (2024).

focused on restoring justice for victims, but it has since evolved toward achieving balanced restoration for all parties, including the public and the offender.[32]

As a fundamental concept, the use of restorative justice is given a legal framework and boundaries in its implementation. *First*, the OJK is granted the authority to conduct assessment and approval, which means that the use of the *Settlement of Violations* is carried out selectively, considering various aspects for the benefit of the banking industry, customers, and society. *Second*, the *Settlement of Violations* does not eliminate the criminal process but rather serves as an alternative that may be pursued at the initial stage, namely during the investigation phase. If the agreement is not fulfilled, the ordinary criminal enforcement process may continue in accordance with the applicable procedural framework. *Finally*, the use of the *Settlement of Violations* as a mechanism for resolving banking crimes strengthens the banking industry by meeting its need for a process that is effective, efficient, and fair for all parties involved.

Effectiveness is reflected in the time-bound nature of the process and its initiation by the alleged offender, which may facilitate shorten a more focused and timely resolution without prolonged court proceedings. Efficiency is reflected in the potential reduction of legal and procedural costs for both banking institutions and other affected parties. Prolonged criminal proceedings may also generate reputational, legal, and operational risk that can adversely affect banking institutions. Fisk, Hobson, and Twyman-Ghoshal (2025) emphasize that restorative justice achieves effectiveness when processes are time-bound and offender-initiated, while efficiency is realized through reduced legal costs and streamlined procedures.[33] Batubara et al. (2023) further argue that prolonged litigation in banking crimes escalates costs and exposes banks to reputational, legal, and operational risks that undermine institutional stability.[34] Adeabah, Andoh, and Gemegah (2020) confirm that reputational risk in banks is particularly damaging when legal disputes are protracted, as it erodes public confidence and weakens long-term competitiveness.[35] Together, these findings suggest that ethical governance, combined with effective and efficient resolution mechanisms, can contribute to institutional resilience, legitimacy, and sustainable development in the banking sector.

A central consideration in the *Settlement of Violations* is ensuring procedural fairness and appropriate protection for affected parties while preserving public confidence in the banking industry. Nevertheless, the implementation of the *Settlement of Violations* requires clear procedural rules, effective supervision, transparency, and accountability mechanisms to ensure its consistent and legitimate application. This conceptual tension necessitates a comparative framework to evaluate Indonesia's Settlement of Violations against international practices, which will be elaborated further in Section 2.3.

2.3. Settlement of Violations as a Strategy for the Development and Strengthening of the Banking Sector

The banking industry is expected to support OJK's policies aimed at maintaining the resilience of the financial services sector and strengthening its contribution to economic

[32] Muhammad Rif'an Baihaky and Muridah Isnawati, "Restorative Justice: Pemaknaan, Problematika, Dan Penerapan Yang Seyogianya," *Unes Journal of Swara Justisia* 8, no. 2 (2024): 276–89, https://doi.org/10.31933/4mqgaj17.

[33] Benjamin M. Fisk, Jonathan Hobson, and Anamika Twyman-Ghoshal, "Effectiveness, Efficiency and Impact in Restorative Justice: Navigating the Subjective and Objective to Evidence Success," *The International Journal of Restorative Justice* 3, no. 2 (2025): 1–31, https://brill.com/view/journals/tij/tij-overview.xml.

[34] Batubara et al., "Systematic Literature Review: The Urgency and Effectiveness of Implementing Restorative Justice in the Settlement of Banking Crimes."

[35] David Adeabah et al., "Reputational Risks in Banks: A Review of Research Themes, Frameworks, Methods , and Future Research Directions," *Journal of Economic Survey* 37 (2023): 321–50, https://doi.org/10.1111/joes.12506.

growth. The national banking sector is expected to face challenges arising from the rapid development of the digital economy and finance, changing economic behavior, and growing national development funding needs, all of which require coordinated responses among all stakeholders.[36] In the digital era, the banking sector faces challenges such as data security and cyber threats, digital inequality, digital literacy, and dependence on third parties. On the other hand, the opportunities presented by the digitalization of financial services include financial inclusion, product and service innovation, ecosystem collaboration, and the development of digital assets.[37]

In addition to its objective of developing and strengthening existing banking regulations, the PPSK Law also establishes a number of anticipatory policies to address future industrial developments. The digital transformation of the banking sector presents a dual reality: while it creates opportunities for financial inclusion, innovation, and ecosystem collaboration, it also introduces pressing challenges, including cybersecurity risks, digital inequality[38], and reliance on third-party platforms. Recognizing this duality is essential for shaping strategies that mitigate risks while harnessing the full potential of digitalization to build a resilient and inclusive financial system. [39]

Digital transformation in the banking sector therefore presents both significant risk, including cyber security threat, digital inequality, and third-party dependence, substantial opportunities for innovation, financial inclusion, and collaborative growth. Recognizing this duality is essential for shaping strategies that not only safeguard against risks but also harness the full potential of digitalization to build a more resilient and inclusive financial system.

In 2025, the Financial Services Authority (OJK) identified four priority policies, called: Optimizing the contribution of the financial services sector to government's priority programs; Developing the sector to support inclusive and sustainable growth; Strengthening the institutional capacity and supervision; and increasing integrity enforcement and consumer protection to enhance public and investor confidence.

The implementation of the fourth priority policy is carried out through: a. the consistent imposition of sanctions on parties violating regulations; b. the prevention of financial service institutions from being used as instruments for criminal activities, including online gambling, through active collaboration with law enforcement agencies and other relevant institutions; c. strengthening the role of the Task Force for the Eradication of Illegal Financial Activities; d. handling fraud in the financial sector through the Indonesia Anti-Scam Centre (IASC); e. establishing an integrated fraudster database known as the Financial Services Sector Perpetrator Information System (SIPELAKU); and f. regulating more transparent mechanisms and procedures for marketing financial products to strengthen consumer, investor, and public protection, uphold accountability, and minimize consumer losses.[40]

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[36] Otoritas Jasa Keuangan, *Roadmap Pengembangan Perbankan Indonesia 2020-2025: Perbankan Resilien, Berdaya Saing, Dan Kontributif*, 2020, https://ojk.go.id/id/berita-dan-kegiatan/publikasi/Pages/Roadmap-Pengembangan-Perbankan-Indonesia-2020---2025.aspx, p. 12.

[37] Riska Riska and Seri Mughni Sulubara, "Tantangan Dan Peluang Otoritas Jasa Keuangan Dalam Era Digitalisasi Layanan Keuangan," *Jurnal Riset Manajemen* 2, no. 4 (2024): 240–48, https://doi.org/10.54066/jurma.v2i4.2712.

[38] Smt Guvva Vani and Sathyanarayana, "Financial Inclusion in the Digital Age: Opportunities and Challenges for the Banking Sector - A Study," *IOSR Journal of Business and Management (IOSR-JBM)* 25, no. 3 (2014): 47–51, https://doi.org/10.9790/487X-conf4751.

[39] William Gaviyau and Jethro Godi, "Banking Sector Transformation: Disruptions, Challenges and Opportunities," *Fintech* 4, no. 3 (2025): 1–27, https://doi.org/https://doi.org/10.3390/fintech4030048.

[40] Otoritas Jasa Keuangan, *Booklet Perbankan Indonesia (BPI) 2025*, 12th ed., 2025, https://ojk.go.id/id/kanal/perbankan/data-dan-statistik/booklet-perbankan-indonesia/Pages/Booklet-Perbankan-Indonesia-2025.aspx, p. 52-54.

The *PPSK Law* provides a strong legal foundation for the *Settlement of Violations* to support the implementation of these policies. The expanded authority granted to OJK, including the authority to implement the *Settlement of Violations,* may provide a more adaptive enforcement framework capable of responding to developments in the banking industry. At this point, the role of law becomes crucial in guiding the direction of banking development to align with the established priorities. The expansion of OJK's authority is intended to strengthen regulatory capacity to anticipate emerging banking risks while supporting the sector's future development. Through the *Settlement of Violations*, which incorporates restorative and compensatory elements, OJK may strengthen integrity enforcement while supporting sound banking governance.

The *Settlement of Violations*, insofar as it relies on negotiated obligations and accountability measures, may also encourages improvement in corporate governance and ethical conduct within the banking sector. In the context of banking, ethical behavior means that in conducting its activities, a bank (as a corporation) must always uphold honesty, treat all parties with respect, fulfill commitments, and consistently build and maintain moral values and trust. Recent international scholarship underscores that strengthening governance in the banking sector requires embedding ethical culture as a central component of corporate governance frameworks. Studies highlight that ethical behavior in banking is not only a matter of compliance but also a strategic necessity for sustaining trust, mitigating risks, and enhancing long-term performance. Research in the *Future Business Journal* stresses that effective governance in private banks depends on integrating ethics into decision-making processes, thereby ensuring accountability and transparency across all organizational levels.[41] Similarly, findings published in the *Library Progress International Journal* reveal that governance structures—such as board diversity, risk management practices and leadership accountability—are most effective when grounded in ethical principles, which directly contribute to improved financial performance and resilience in the banking sector.[42] This view is supported by Thakor (2021), who argues that ethics and culture embedded in governance serve as safeguards against misconduct and strengthen stakeholder trust;[43] Hopt (2021), who demonstrates that governance models oriented toward stakeholder accountability proved more resilient in the aftermath of the financial crisis;[44] and Prayitno (2025), who highlights that business ethics and good corporate governance directly enhance financial performance and competitiveness.[45] Thus, these insights affirm that ethical governance is indispensable for banks seeking legitimacy, resilience, and sustainable growth in the modern financial system.

As a business entity, the bank is obliged to consider the interests of shareholders and other stakeholders based on fairness and equality, and must be managed independently

[41]Kawa Wali, Kees Van Paridon, and Bnar Kareem Darwish, "Strengthening Banking Sector Governance: Challenges and Solutions," *Future Business Journal* 9, no. 1 (2023): 1–11, https://doi.org/10.1186/s43093-023-00279-0.

[42]S Ganapathy, "Corporate Governance in Banking: The Relationship Between Governance Structures and Financial Performance," *Library Progress International* 44, no. 3 (2024): 28718–25, https://bpasjournals.com/library-science/index.php/journal/article/view/3683/3414.

[43]Anjan V Thakor, "Ethics, Culture, and Higher Purpose in Banking: Post-Crisis Governance," *International Journal of Central Banking* 17, no. 5 (2007): 47–77, https://www.ijcb.org/journal/v17n5/ethics-culture-and-higher-purpose-banking-post-crisis-governance-developments.

[44]Klaus J Hopt, "Corporate Governance of Banks and Financial Institutions: Economic Theory, Supervisory Practice, Evidence and Policy," *European Business Organization Law Review* 22 (2021): 13–37, https://doi.org/https://doi.org/10.1007/s40804-020-00201-z.

[45]Heri Kurniawan Prayitno, "Literature Review: Business Ethics and Good Corporate Governance as the Foundation of Financial Performance in the Banking Industry," *Journal of Banks and Financial Institutions* 1, no. 2 (2025): 72–84, https://doi.org/http://doi.org/10.70764/gdpu-jbfi.2025.1(2)-07.

so that each organ of the company does not dominate or interfere with one another.[46] The implementation of the *Settlement of Violations* by the OJK is not only consistent with the characteristics of the banking industry but also promotes a stronger sector through improved governance and the application of prudential principles. Ultimately, regulatory reform through the *Settlement of Violations* is expected to strengthen the role of banks as financial intermediaries and enable them to contribute more significantly to national economic development.

Based on the preceding analysis, regulatory reform integrating the settlements of violations as a fair and effective enforcement strategy may be structured to support the development of a more resilient and accountable banking industry as follows:

Table 1. Violation Resolution: A Comprehensive and Equitable Approach for Strengthening the Banking Industry

Elements	**Objectives**
Regulatory Reform	Enhance the authority of the Financial Services Authority (OJK) to effectively address violations, in accordance with the PPSK Law.
Approach	Restorative Justice : Introduce a framework based on agreements among the parties involved.
Mechanism	• Alleged violators may submit applications, which will be evaluated and approved by the OJK. • The OJK will impose compensation and other necessary sanctions.
Outcomes	Strive for the restoration of circumstances and justice for all parties, while fostering a resilient banking industry.
Regulatory Impact Analysis	• Bolster public trust in banking as an intermediary institution. • Address various risk management aspects (reputational, legal, and operational risk). • Strengthen the banking sector's role in advancing the national economy and ensuring the stability of the financial system.

Source : UU PPSK

Taken together, the elements in Table 1 demonstrate that while the Settlement of Violations seeks to restore circumstances and strengthen public trust, its normative integrity depends on transparent procedures, proportional sanctions, and safeguards against regulatory capture. This tension underscores the need for comparative evaluation with international practices, such as Deferred Prosecution Agreements (DPAs), to clarify

[46] Komite Nasional Kebijakan Governansi, *Pedoman Umum Governansi Korporat Indonesia (PUG-KI) 2021* (Kementerian Koordinator Bidang Perekonomian Republik Indonesia, 2021), https://knkg.or.id/wp-content/uploads/2024/03/PUGKI-LORES-UPDATE-2024.pdf.

whether the Indonesian model constitutes a genuine restorative justice framework or a negotiated enforcement mechanism adapted to financial regulation.

Nevertheless, the application of the Settlement of Violations must be carefully limited. It should not apply to serious offenses where deterrence is paramount, nor should it undermine the principle of accountability in criminal law enforcement. Clear eligibility criteria, transparency requirements, and oversight mechanisms are therefore indispensable to ensure that negotiated settlements strengthen rather than weaken the integrity of the banking sector.

3. CONCLUSION

The enactment of the PPSK Law has introduced a significant transformation in the regulatory framework for addressing criminal violations in the financial sector, particularly within the banking industry. This reform strengthens the authority of the Financial Services Authority (OJK) to implement "violation resolution" as an alternative enforcement mechanism intended to support a more resilient banking industry.

The adoption of restorative justice as the guiding principle for "violation resolution" marks a significant normative shift in banking law enforcement. Rather than merely aligning with the sector's core values of public trust and development, this approach raises critical questions about its authenticity and effectiveness. While violation resolution seeks to minimize reputational, legal, and operational risks, its reliance on negotiated settlements at OJK's discretion may blur the line between restorative justice and regulatory enforcement. The absence of direct victim participation further undermines its restorative character, suggesting that the mechanism functions more as a hybrid model—combining administrative efficiency with selective restorative elements. Normatively, violation resolution may contribute to public confidence, improved risk management, and systemic stability, while supporting the objectives of regulatory reform and **SDG 16** concerning effective and accountable institutions. However, its legitimacy depends on transparent procedures, proportional sanctions, and safeguards against regulatory capture. By situating Indonesia's model within comparative frameworks such as Deferred Prosecution Agreements in the US and the UK, this study contributes to comparative financial-governance scholarship by showing that violation resolution represents a substantive regulatory development whose legitimacy depends on procedural safeguards, proportionality, transparency, and accountability.

This strategy may be well-suited to addressing certain criminal violations in the banking sector, provided that its application is limited by clear eligibility criteria, adequate victim protection, transparent procedures, and effective oversight mechanisms. Strengthening the regulatory framework within this sector establishes a firm legal basis to support the industry's growth in Indonesia. It is hoped that through this approach, banks will continue to serve as intermediaries and development agents, thereby promoting national economic growth and maintaining stability within the financial system.

This study provides a scholarly contribution to comparative regulatory studies by demonstrating how Indonesia's adoption of violation resolution, grounded in restorative justice, represents a substantive innovation in financial governance.

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