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# CORPORATE LIABILITY OF BANKS FOR FAILURES IN IMPLEMENTING GREEN BANKING PRINCIPLES

**Rahayu Mulia Romadoni [1], Nursanti Mardiyati [2], Aisyah Nikita Permata Putri [3]**

[1] Universitas Pembangunan Nasional Veteran Jakarta, Indonesia, Email: rmromadoni@upnvj.ac.id

[2] Universitas Pembangunan Nasional Veteran Jakarta, Indonesia, Email: nursantimardiyati@upnvj.ac.id

[3] Universitas Pembangunan Nasional Veteran Jakarta, Indonesia, Email: aisyahnikita@upnvj.ac.id

✉ corresponding email: rmromadoni@upnvj.ac.id

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**Abstract**

The global transition toward a low-carbon economy is driving the adoption of Green Central Banking to integrate environmental risks into financial stability. In Indonesia, the Sustainable Finance mandate requires banks to implement ESG (Environmental, Social, and Governance) principles; however, lending practices to "brown sectors" remain prevalent. This normative legal research analyzes the standing of these principles and maps the legal liability of banks through statutory and conceptual approaches. The results indicate that these principles have transformed from soft law into hard law through OJK (Financial Services Authority) regulations. Non-compliance gives rise to multidimensional liability: administrative via OJK sanctions; civil through the Lender Liability doctrine (Article 1365 of the Indonesian Civil Code) for

negligence in due diligence; and criminal regarding involvement in environmental degradation and money laundering risks. The study concludes that current liability mechanisms remain fragmented. Harmonization of regulations and the tightening of environmental legal audit standards in credit distribution are essential to mitigate legal risks and ensure banking compliance with national sustainability targets. The novelty of this research lies in its construction of a unified, multidimensional liability framework—integrating administrative, civil, and criminal law dimensions—specifically within the Indonesian legal context, an analytical synthesis that existing sustainable finance literature in Indonesia has not yet comprehensively addressed. Unlike prior studies that examine OJK regulations or the Lender Liability doctrine in isolation, this research maps the normative intersections between the Banking Law, UU PPLH, and POJK 51/2017 to expose systemic gaps and propose concrete directions for legal harmonization.


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## Introduction

Banking institutions serve as the primary backbone of the economy, acting as financial entities with significant influence in determining the direction of national development to enhance equity, economic growth, and national stability toward the improvement of public welfare. Historically, the banking sector has functioned to mobilize funds and mitigate national credit risks.[1] Their lending decisions shape industrial trajectories and determine which sectors

[1] Otoritas Jasa Keuangan, "Lembaga Perbankan," accessed April 27, 2026, https://ojk.go.id/id/kanal/perbankan/ikhtisar-perbankan/Pages/Lembaga-Perbankan.aspx.

receive investment. However, over the past two decades, this role has undergone a shift in fundamental principles due to the dual threats posed by climate change and environmental degradation. Physical risks, such as natural disasters damaging assets, and transition risks, such as changes in energy policy and carbon pricing, are now recognized as systemic risks that directly threaten financial stability and banking assets. Banks, acting as financial intermediaries, exert a significant impact on society while performing their core functions, such as determining the price and value of financial assets, monitoring borrowers, and managing financial risks.[2] What was once an externality (environmental harm caused by bank-financed projects) is now recognized as a direct source of financial risk embedded within banking portfolios.

In response to these threats, global and domestic monetary authorities—including Bank Indonesia (BI) and the Financial Services Authority (OJK)—have begun adopting what is known as Green Central Banking Policy. Central banks and financial regulators worldwide have accepted that physical risks arising from climate events and transition risks stemming from decarbonization policy shifts, asset stranding, and carbon pricing threaten systemic financial stability. This policy requires financial institutions to integrate Environmental, Social, and Governance (ESG) factors into their risk management frameworks. The distinction between financial institutions and the environment should not hinder the growing integration between the two, as both share common commitments and values in achieving sustainable development. In Indonesia, this policy was formalised through the issuance of Financial Services Authority Regulation (POJK) Number 51/POJK.03/2017 concerning the Implementation of Sustainable Finance for Financial Service Institutions, which is also aligned with the Sustainable Finance Roadmap as a commitment to

[2] Bert Scholtens, "Corporate Social Responsibility in the International Banking Industry," *Journal of Business Ethics* 86, no. 2 (2009): 165, https://doi.org/10.1007/s10551-008-9841-x.

sustainable development in the banking sector. This regulation explicitly transforms sustainability principles from mere recommendations into legal obligations that must be internalised by banking institutions, particularly in their two core functions: credit distribution and investment decision-making. At the same time, it provides comprehensive support for the financial services industry in promoting sustainable growth aligned with economic, social, and environmental interests.[3]

The implementation of Green Central Banking principles demands that banks, as financial institutions, assess not only financial viability but also the environmental impact of the projects they fund (e.g., through Environmental Due Diligence obligations). Failure to comply with these new standards—such as financing projects proven to cause environmental damage without adequate mitigation—can expose banks to various non-traditional risks, including litigation risk, reputational risk, and sanction risk. Consequently, this research is urgent in examining the extent to which Indonesian positive law has established a framework to determine and enforce the juridical liability of banking institutions for failures in implementing Green Central Banking principles.

The global climate crisis is no longer merely an environmental issue; it has transformed into a systemic risk threatening the stability of the global financial system. Climate change poses two primary risks to the banking sector: physical risk resulting from natural disasters that damage debtor assets, and transition risk arising from policy shifts toward a low-carbon economy.[4] In response, monetary authorities worldwide have begun adopting the Green Central Banking paradigm.

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[3] Rahmayati Rahmayati, Siti Mujiatun, and Maya Sari, "Islamic Green Banking At Bank Pembangunan Daerah In Indonesia," *Indonesian Interdisciplinary Journal Of Sharia Economics (Iijse)* 5, no. 1 (2022): 74–93, https://doi.org/10.31538/iijse.v5i1.1850.

[4] Network for Greening the Financial System (NGFS), *First Comprehensive Report: A Call for Action* (Paris: NGFS Publications, 2019), 4.

This paradigm requires Central Banks to focus not only on exchange rate stability and inflation but also to play an active role in mitigating environmental risks through monetary and macroprudential policy instruments.[5]

An economic sustainability business is one that considers the impact of its operational activities on the environment; thus, this business model does not only focus on economic aspects but also incorporates environmental and social dimensions.[6] In Indonesia, the commitment to sustainable finance has been reaffirmed through the Sustainable Finance Roadmap formulated by the OJK. A concrete step of this roadmap is the issuance of POJK Number 51/POJK.03/2017 concerning the Implementation of Sustainable Finance. Through this regulation, the Green Central Banking principles derived by the regulator must be internalized by banking institutions in their operational activities, particularly in credit distribution. Credit is the most crucial yet riskiest instrument; a bank's failure to screen debtors based on green criteria can lead to an accumulation of stranded assets and significant legal exposure.[7] Research by Weber, Scholz, and Michalik further demonstrates that incorporating sustainability criteria into credit risk management frameworks substantially reduces both financial and reputational risks for banking institutions, reinforcing the urgency of integrating environmental parameters as standard components of credit assessment processes.[8]

However, reality shows that this transition process faces complex juridical challenges, exposing a structural gap between the regulatory

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[5] Mirza Yuniar Isnaeni Mara et al., *Ekonomi dan Keuangan Hijau: Konsep dan Implementasi di Indonesia* (Jakarta: Bank Indonesia Institute, 2025), 54.

[6] *Ibid*, 4.

[7] Maria S. R. Sumardjono, *Hukum Lingkungan dan Kebijakan Keuangan Berkelanjutan di Indonesia* (Yogyakarta: Gadjah Mada University Press, 2022), 88.

[8] O. Weber, R.W. Scholz, and G. Michalik, "Incorporating Sustainability Criteria into Credit Risk Management," *Business Strategy and the Environment* 19, no. 1 (2010): 39, https://doi.org/10.1002/bse.636.

ideal and prevailing banking practice that this research seeks to systematically address. First, the gap in banking practice. Despite the mandatory force of POJK 51/2017, Indonesian banks continue to channel substantial credit to "brown sectors"—most prominently coal mining, coal-fired power generation, fossil-fuel extraction, and high-emission manufacturing—without subjecting those financing decisions to any structured environmental screening. This is confirmed by recent data indicating that credit growth to the mining sector remains significant, reflecting the financial sector's continued reliance on extractive industries.[9] This is not merely a matter of incomplete implementation; it reflects a deeper structural problem. The *Sustainable Finance Roadmap* issued by OJK acknowledges that the proportion of environmentally labeled credit in the national banking portfolio remains marginal relative to total credit outstanding. Brown-sector lending continues under conventional credit assessment frameworks that treat environmental risk as an externality rather than a material credit variable. In response to this situation, OJK is currently developing a taxonomy guidance for transition to provide clearer standardization for banks in classifying sustainable economic activities and evaluating debtors in high-emission sectors. In practice, prior to the existence of more technical transition guidelines, a bank extending credit to a mining company was often not strictly required to assess whether that company held a valid AMDAL (Environmental Impact Assessment) or complied with emission standards as a condition for credit disbursement—even though these factors bear directly on the debtor's legal operating risk. This absence of mandatory, standardized environmental screening at the credit origination stage is the central empirical gap this research addresses.

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[9] Noverius Laoli, "Kredit Tambang Masih Tinggi, OJK Bersiap Kembangkan Panduan Transisi," *Kontan.co.id*, November 15, 2023, accessed May 12, 2026, https://keuangan.kontan.co.id/news/kredit-tambang-masih-tinggi-ojk-bersiap-kembangkan-panduan-transisi.

Second, the fragmentation of the legal framework. The term "fragmented" is used here in a precise normative sense: while multiple laws touch upon banks' obligations regarding environmental risk, they do so in isolation, lacking a unified mechanism for assigning liability. This fragmentation is particularly problematic when considering the nature of the bank as a corporate entity. In Indonesian legal theory, Moeljatno defines a criminal offense as an act prohibited by a legal rule, accompanied by sanctions in the form of specific penalties for anyone who violates the prohibition.[10] When applied to the banking sector, the complexity arises because a corporation cannot perform legal actions except through specific individuals. However, when these individuals act, they do not do so for themselves, but for and on behalf of the corporation's liability. The development of Indonesian criminal law has recognized three distinct systems of corporate liability to address this complexity. Under these systems, liability may be assigned where the corporate management acts as the perpetrator and is held personally liable, or where the corporation itself is identified as the perpetrator while the management bears the legal responsibility. More progressively, the law also recognizes a system where the corporation is both the perpetrator and the entity held directly liable for the offense.[11] Currently, the distribution of these liability systems across Indonesian law remains inconsistent. The Banking Law (Law No. 7 of 1992 as amended by Law No. 10 of 1998) focuses on prudential conduct but lacks provisions linking credit governance to environmental due diligence.

Currently, the distribution of these liability systems across Indonesian law remains inconsistent. The Banking Law (Law No. 7 of 1992 as amended by Law No. 10 of 1998) focuses on prudential conduct but lacks provisions linking credit governance to

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[10] Mahrus Ali, *Asas-asas Hukum Pidana Korporasi*, Jakarta: PT Raja Grafindo Persada, 2013, p. 51.

[11] Setiyono, *Kejahatan Korporasi: Analisis Viktimologis dan Pertanggungjawaban Korporasi dalam Hukum Pidana Indonesia*, Malang: Averroes Press, 2002, p. 2

environmental due diligence. Conversely, the Law on Environmental Protection and Management (UU PPLH, Law No. 32 of 2009) imposes obligations on "every person"—including corporations—and establishes criminal liability. However, it does not prescribe how liability is distributed between a bank and its debtor when environmental damage results from a bank-financed project. Furthermore, OJK sectoral regulations (POJK 51/2017 and POJK 17/2023) authorize administrative sanctions but fail to define the evidentiary threshold for establishing a bank's civil or criminal co-responsibility. The absence of a single normative instrument that integrates these dimensions leaves a bank's potential liability for financing "brown sectors" in a legal gray area, despite the growing international influence of the Lender Liability doctrine.

The result is three bodies of law that each occupy a portion of the regulatory space—prudential banking governance, environmental protection, and financial services oversight—but that are not harmonized into a coherent liability chain. A bank that finances an environmentally destructive project may face OJK administrative sanctions under POJK 17/2023, civil claims under Article 1365 of the Civil Code via the Lender Liability doctrine, and potential corporate criminal exposure under Articles 116–119 of the UU PPLH, but there is no single normative instrument that integrates these three dimensions or provides a bank with a clear, actionable compliance pathway to avoid liability across all three. Consequently, the boundaries regarding the extent to which a bank can be held legally liable for providing credit to environmentally damaging sectors remain a gray area. Traditionally, banks have often sought protection behind the principles of independence and private contractual relationships with debtors. Nevertheless, with the strengthening of the Lender Liability doctrine on the international stage, banks are now viewed as

having a moral and legal responsibility to conduct rigorous environmental due diligence before disbursing credit.[12]

A bank's failure to implement green principles in its credit policies carries multidimensional legal consequences. Beyond administrative sanctions from the OJK, banks are now exposed to the risk of civil lawsuits under Unlawful Acts (Perbuatan Melawan Hukum/PMH) by affected communities, and even potential corporate criminal liability if such financing is proven to facilitate environmental crimes.[13] Consequently, this research aims to dissect the construction of banking juridical liability to provide legal certainty and encourage the strengthening of the sustainable finance ecosystem in Indonesia.

Based on the background described above, this research comprehensively formulates the problem regarding the standing of Green Central Banking principles as a legal compliance standard in Indonesian banking credit distribution, as well as the construction of banking juridical liability for failures in implementing these principles when viewed from administrative, civil, and criminal law perspectives. In line with the problem formulation, this research aims to analyze the transformation of sustainability principles from voluntary norms (soft law) into binding legal mandates (hard law) for the national banking industry. Furthermore, this study is directed toward mapping legal risks and the forms of liability that can be imposed on banks to foster an environmentally conscious credit ecosystem consistently and sustainably.

In line with the problem formulation, this research aims to analyze the transformation of sustainability principles from voluntary norms (soft law) into binding legal mandates (hard law) for the national banking industry. Furthermore, this study is directed toward

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12 Benjamin J. Richardson, *Environmental Regulation through Strategic Environmental Management of Financial Institutions* (Oxford: Oxford University Press, 2018), 201.

13 Sutan Remy Sjahdeini, *Perbankan Hijau: Perspektif Hukum dan Tanggung Jawab Sosial* (Jakarta: Kencana, 2020), 145.

mapping legal risks and the forms of liability that can be imposed on banks to foster an environmentally conscious credit ecosystem consistently and sustainably.

## Method

This study employs a doctrinal or normative juridical legal research method, focusing on the examination of positive legal norms, principles, and legal doctrines related to the banking and environmental sectors to identify coherence between Green Central Banking regulations and the legal liability system in Indonesia. The selection of a normative legal research method is driven by the need to address challenges, such as legal disharmony and regulatory gaps. Its primary focus is evaluating banking liability regulations that are not yet optimal in responding to environmental risks arising from the financing sector. The approaches used include the statute approach,[14] by analyzing regulations such as the Banking Law, the Environmental Protection and Management Law (UU PPLH), and the POJK on Sustainable Finance, as well as the conceptual approach,[15] which refers to legal doctrines such as lender liability and strict liability.

The legal materials in this study are classified into three categories: primary legal materials, which are binding, such as the 1945 Constitution and related sectoral regulations; secondary legal materials, consisting of legal literature and reports from international institutions like the NGFS to clarify primary materials; and tertiary legal materials, such as legal dictionaries for additional clarification. All legal materials were collected through library research using a systematic inventory technique, which were then analyzed

[14] Peter Mahmud Marzuki, *Penelitian Hukum: Edisi Revisi* (Jakarta: Prenada Media Group, 2017), 133.

[15] Ibid., 135.

descriptively-prescriptively using the legal deduction method[16]. In-depth analysis was conducted through systematic, teleological, and grammatical interpretation, combined with regulatory harmonisation to map existing normative problems. The output of this process is the formulation of legal arguments and strategic recommendations regarding the model of bank liability to support green finance principles.

## Result and Discussion

### A. Theory Of Green Central Banking And Economic Resilience

In-depth studies of Corporate Social Responsibility (CSR) have been conducted since the early 20th century. Over this period, the CSR concept has evolved substantially, expanding from isolated cases to systemic implementation across most fields of activity. The financial sector is no exception, as CSR now exerts a significant impact on the strategies of financial institutions. The global financial crisis shifted the strategic emphasis of financial sector entities toward strengthening the responsibility of regulators and consumers; meanwhile, the adoption of the SDGs has led to increased accountability toward all stakeholders. Consequently, a range of international and national normative documents and standards have been developed to regulate the CSR mechanisms within financial sector institutions.[17]

Green banking is a banking concept that integrates social and environmental aspects into its policies and operations,

[16] Johnny Ibrahim, *Teori dan Metodologi Penelitian Hukum Normatif* (Malang: Bayumedia Publishing, 2016), 295.

[17] Inna Makarenko et al., "Corporate Social Responsibility of Financial Sector Institutions in the Light of Sustainable Development Goals Financing: The Role of Banks and Stock Exchanges," *Public and Municipal Finance* 7, no. 3 (2018): 3, https://doi.org/10.21511/pmf.07(3).2018.01.

including credit governance. Specifically, Scholtens (2009) identifies a positive and significant relationship between CSR and financial performance, as well as bank size, by analyzing social responsibility activities (codes of ethics, CSR reports, environmental management, financial product responsibility, and social behavior) of 32 international banks across three major regions—Europe, North America, and Asia-Pacific.[18] By applying this principle, banks are expected to not only be profit-oriented but also to consider the environmental impact of every financing activity they undertake. Under the doctrine of strict liability, in cases of environmental damage, the fault of an actor need not be established. The only element that must be proven is the causal relationship between the damage and an act or omission; specifically, the fact that such an act or omission directly caused the damage.[19] This concept aligns with the principles of sustainable finance, which encourage banking institutions to be more selective in financing projects and companies that demonstrate a commitment to environmental preservation.

Several countries have successfully implemented green banking concepts within their financial systems. The European Union, for instance, has published the EU Sustainable Finance Taxonomy, which provides guidance for financial institutions in assessing whether an investment can be categorized as sustainable.[20] In other regions, such as the United States[21], various

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[18] Bert Scholtens, *Loc. Cit.*

[19] Marcel Jeucken, *Sustainable Finance and Banking: The Financial Sector and the Future of the Planet* (London: Earthscan Publications Ltd, 2001), 265.

[20] Green Finance Platform, "Regulation (EU) 2020/852 on the Establishment of a Framework to Facilitate Sustainable Investment," accessed April 27, 2026, https://www.greenfinanceplatform.org/policies-and-regulations/regulation-eu-2020852-establishment-framework-facilitate-sustainable.

[21] United Nations Environment Programme (UNEP), *State of Finance for Nature 2021: Tripling Investments in Nature-based Solutions by 2030* (Nairobi: UNEP, 2021), 15.

banks have begun adopting green lending policies, where financing is provided by considering the environmental impact of the funded projects. In Indonesia, the green banking concept has started to receive serious attention, particularly following the issuance of various policies by the Financial Services Authority (OJK). POJK No. 51/POJK.03/2017 on Sustainable Finance requires banks and other financial institutions to develop sustainability strategies in their operations, including credit distribution. Furthermore, POJK No. 60/POJK.04/2017 regarding the Issuance and Requirements of Environmentally Friendly Debt Securities or Green Bonds aims to support the funding of eco-friendly projects through green investment instruments.

The evolution of the central bank's role in the global economy has reached a fundamental turning point, where the traditional separation between monetary policy and environmental sustainability is no longer considered adequate to maintain long-term stability. Climate change is not merely an external factor; it is an existential threat to financial system stability and price stability—the core mandates of central banks worldwide.[22] The theory of Green Central Banking (GCB) emerged as a response to market failures in accurately pricing climate risks, which create systemic imbalances and hinder the transition toward a low-carbon economy. In this perspective, central banks no longer act solely as guardians of currency value, but also as architects of economic resilience who must proactively manage biophysical risks that could trigger systemic financial crises.

Economic resilience is understood as a national system's capacity to absorb shocks arising from climate phenomena, adapt to the structural changes of energy transition, and maintain vital

[22] Sayuri Shirai, *Green Central Banking and Regulation to Foster Sustainable Finance* (Tokyo: Asian Development Bank Institute, 2023), 15, https://www.adb.org/publications/green-central-banking-and-regulation-foster-sustainable-finance.

macroeconomic functions without compromising future growth.[23] The integration of environmental considerations into central bank frameworks includes adjusting monetary operations, macroprudential supervision, and engineering liquidity instruments to mitigate both physical and transition risks. Indonesia faces high risks regarding natural disasters and ecological crises; thus, active participation in climate change mitigation and adaptation has become crucial. Given that conventional, exploitative economic growth patterns have triggered serious environmental damage—such as deforestation and pollution—the transformation toward a green economy is now a top priority. This book outlines the role of the green economy in restoring ecosystems and creating new job opportunities, while simultaneously strengthening national economic resilience against climate impacts.[24] This in-depth analysis explores how GCB theory is implemented globally and domestically in Indonesia, as well as its implications for national economic endurance amidst increasing non-linear uncertainties.

To understand the urgency of GCB, it is essential to identify the transmission channels through which environmental factors influence key economic variables. Climate risks are broadly categorized into physical risks and transition risks, both of which possess non-linear characteristics, complex time variables, and the potential to reach irreversible tipping points.

The green banking concept is an approach within the banking industry that integrates environmental aspects into its policies and operational practices. The primary objective of green banking is to foster a more sustainable financial system by ensuring that financing activities are not only economically profitable but also yield a positive impact on the environment. Environmentally sound project financing

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[23] Mohammad Nur Rianto Al Arif, "Membangun Resiliensi Ekonomi Indonesia di Tengah Badai Global," UIN Syarif Hidayatullah Jakarta, October 30, 2025, https://www.uinjkt.ac.id/id/membangun-resiliensi-ekonomi-indonesia-di-tengah-badai-global.

[24] Mirza Yuniar Isnaeni Mara et al., *Loc. Cit.*

has been proven to enhance competitiveness and provide a distinct advantage for banks that implement it as a business strategy. Consequently, banking institutions are expected to increase their role and focus on financing projects that prioritize the improvement of environmental quality.[25] In Indonesia, the implementation of green banking continues to expand alongside the increasing awareness of sustainable finance and global demands to mitigate the impacts of climate change. The government and regulators have taken strategic steps to encourage banks to apply sustainability principles within their credit governance. The Financial Services Authority (OJK) issued POJK No. 51/POJK.03/2017 on Sustainable Finance, which mandates banks to develop sustainability strategies and reports within their operations. Furthermore, POJK No. 60/POJK.04/2017 regarding Green Bonds provides guidelines for banks in issuing green bonds as a funding source for sustainable projects. A systematic review of sustainable banking literature further confirms that banks integrating ESG dimensions into their core strategies consistently demonstrate stronger long-term financial resilience and enhanced stakeholder trust, compared to institutions operating under conventional profit-maximization models alone.[26]

With these regulations in place, Indonesian banking institutions are encouraged to be more selective in credit distribution by considering the environmental impact of the funded projects. Despite the issuance of these regulations, the implementation of green banking within Indonesian credit governance still faces various challenges. One of the primary obstacles is the lack of understanding and capacity among banks to assess environmental risks. Many financial institutions have yet to establish clear mechanisms for evaluating the ecological impact of the projects they finance. Furthermore, the lack

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[25] Burhanudin Abdullah, "Peran Serta dalam Pengelolaan Lingkungan Hidup Meningkat," Joint Press Release by Bank Indonesia and the Ministry of State for the Environment (Jakarta: Bank Indonesia, September 8, 2004).

[26] E. Aracil, J.J. Nájera-Sánchez, and F.J. Forcadell, "Sustainable Banking: A Literature Review and Integrative Framework," *Finance Research Letters* 42 (2021): 101932, https://doi.org/10.1016/j.frl.2021.101932.

of incentives for banks to distribute green credit remains a significant hindering factor. In contrast to developed nations that provide tax relief or subsidies for banks implementing green credit policies, such initiatives remain limited in Indonesia.[27] Empirical evidence from China's green credit policy further reveals that properly screened green loans tend to exhibit lower default rates than conventional loans, suggesting that Indonesian banks can simultaneously mitigate credit risk and advance sustainability objectives through rigorous environmental due diligence.[28]

Currently, several major banks in Indonesia have begun adopting green banking policies within their credit governance. Bank Mandiri, for instance, has launched green financing schemes for renewable energy and energy efficiency projects. However, the proportion of green financing within the total banking credit portfolio in Indonesia remains relatively small; therefore, further efforts are required to accelerate the transition toward a more environmentally friendly financial system.

Green Banking represents the banking sector's commitment to implementing sustainability principles through credit distribution and operational activities. Although the banking sector is not a direct contributor to environmental pollution and uses resources less than sectors such as mining and manufacturing, banks remain significantly linked to environmental degradation through the financing of customers' business activities that may generate environmental impacts. The banking sector occupies a strategically pivotal position in environmental law enforcement, functioning not merely as a passive financier but as an active gatekeeper capable of compelling debtor

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[27] Leonard Tiopan Panjaitan, *Bank Ramah Lingkungan*, ed. Tiras Kamal, 1st ed. (Jakarta: Penebar Plus, 2015), 50.

[28] Y. Cui, S. Geobey, O. Weber, and H. Lin, "The Impact of Green Lending on Credit Risk in China," *Sustainability* 10, no. 6 (2018): 2008, https://doi.org/10.3390/su10062008.

clients to internalise higher environmental standards.[29] This responsibility, however, carries a corresponding legal exposure: under the *Lender Liability* doctrine, a bank's negligence in conducting rigorous environmental due diligence is no longer treated as a peripheral oversight but as a breach of its fiduciary and prudential obligations. In practical terms, such negligence materialises across three distinct financial loss channels — the depreciation of collateral value when financed land or assets become contaminated or legally encumbered, the forced cessation of a debtor's operations following government-imposed environmental sanctions, and the direct litigation risk of civil claims filed against the bank itself by affected third parties. Despite the legal and financial stakes being well-established in both domestic regulation (POJK No. 51/POJK.03/2017) and international doctrine, Indonesian banking practice has yet to fully operationalise environmental considerations as a standard component of its credit governance framework — a gap that represents both a systemic regulatory failure and a latent source of portfolio risk that grows commensurate with the accelerating pace of climate-related enforcement.

There are several provisions within the UUPPLH (Law on Environmental Protection and Management) that can serve as a legal basis for the role and responsibility of banks in implementing green banking within Indonesian credit law, including Article 22, Article 36, Article 65, Article 66, Article 67, and Article 68. Furthermore, government banking policies encourage the preservation of environmental capacity to support sustainable development, as seen in the General Explanation Number 5 of Article 8, paragraph (1) of the Banking Law. This responsive stance by the Indonesian banking sector is aimed at environmentally sound development as regulated under

[29] Qurratu'Ain Bintang Riyadi, Diva Rizky Ramadhan, and Nandang Kusnadi, "Peran Hukum Ekonomi Dalam Implementasi Green Banking Sebagai Upaya Mendukung Ekonomi Hijau Di Indonesia," *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory* 4, no. 1 (2026): 391–409, https://doi.org/10.62976/ijijel.v4i1.1624.

the UUPPLH, thereby clarifying the role and responsibility of banks in environmental law enforcement.

Specifically, the six provisions of the UUPPLH relevant to green banking are as follows. First, Article 22 requires that any business activity likely to cause significant environmental impact must undergo an Environmental Impact Assessment (AMDAL). For banks, this provision implicitly mandates that credit for AMDAL-obligated projects must only be granted after AMDAL approval, making financing without a valid AMDAL a form of non-compliance. Second, Article 36 stipulates that a business licence may only be issued after the environmental permit (izin lingkungan) has been obtained, affirming that banks must verify the existence of an environmental permit before extending credit. Third, Article 65 establishes the right of every person to a good and healthy environment, functioning as the constitutional basis upon which third parties—including affected communities—may bring a civil action against banks that finance environmentally destructive projects. Fourth, Article 66 protects persons who report environmental violations from legal counterattacks (anti-SLAPP protection), reinforcing the principle that environmental oversight is a public interest. Fifth, Article 67 imposes on every person the duty to preserve environmental functions and prevent and tackle pollution and destruction, creating a general environmental duty of care that extends to banks as financing actors. Sixth, Article 68 requires every person to provide accurate and correct information relating to environmental protection and management, which underpins the obligation of banks to ensure that environmental representations made by debtors in loan applications are verified and accurate.

The implementation of Social and Environmental Responsibility (SER) or Corporate Social Responsibility (CSR) mechanisms within Indonesia's financial sector institutions is governed by a comprehensive regulatory framework, beginning with sector-specific regulations issued by the Financial Services Authority (OJK). The primary instrument in this category is POJK Number 51/POJK.03/2017, which encourages Financial Services Institutions,

issuers, and public companies to integrate sustainability principles into their business activities. They are required to prepare a Sustainable Finance Action Plan (RAKB), which includes a sustainability vision and mission aligned with business strategies, measurable targets, and implementation measures to achieve those objectives.[30] This regulatory framework is further strengthened by POJK Number 18 of 2023 on sustainability-linked debt instruments, as well as the Indonesia Taxonomy for Sustainable Finance (TKBI), which serves as a guideline for classifying green economic activities.

The development of modern corporate law positions limited liability companies not only as profit-seeking entities, but also as institutions with social and environmental responsibilities. This is affirmed in Article 74 of Law No. 40 of 2007 concerning Limited Liability Companies, as amended by Law No. 6 of 2023, which requires companies operating in and/or related to natural resources to implement Social and Environmental Responsibility (SER). A similar obligation is also stipulated in Article 15 letter (b) of Law No. 25 of 2007 concerning Investment. Its implementation is further regulated under Government Regulation No. 47 of 2012, which emphasizes that SER must be budgeted as a corporate expense and accounted for through the General Meeting of Shareholders (GMS).[31] In addition to complying with national law, Financial Services Institutions (FSIs) in Indonesia also voluntarily adopt international normative standards to enhance global accountability. These standards include the GRI Standards as guidelines for report preparation, ISO 26000 as guidance on social responsibility, and the TCFD framework for climate change risk disclosure.

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[30] Derry Wanta, Ismi Mardianti, and Rinto Noviantoro, "Sustainable Linked Loans And The Blue Economy," *Journal of Management, Economic, and Accounting* 4, no. 2 (2025): 389–96, https://doi.org/10.37676/jmea.v4i2.842.

[31] Elsa Romana Widyarni, Edra Satmaidi, and Widiya N Rosari, "Komitmen Perseroan Terbatas Terhadap Pencantuman Klausula Tanggung Jawab Sosial Dan Lingkungan Dalam Akta Pendirian Perseroan Terbatas Di Kota Bengkulu," *Jurnal Multidisiplin Dehasen (MUDE)* 5, no. 2 (2026): 917–24, https://doi.org/10.37676/mude.v5i2.10478.

Some major banks even adopt the Equator Principles to manage environmental and social risks in large-scale infrastructure project financing. Specifically for state-owned banks (BUMN) belonging to Himbara, there is an additional obligation through Minister of SOE Regulation No. PER-1/MBU/03/2023, which instructs that CSR programs be strategically and measurably integrated in accordance with the achievement of the Sustainable Development Goals (SDGs). Through the synergy of these various regulations and standards, the CSR mechanism in Indonesia's financial sector has transformed from mere philanthropic action into an integral part of risk management and long-term sustainability strategy.

## B. Administrative And Civil Liability For Negligence In Green Credit Implementation

The failure of banking institutions to integrate Green Central Banking principles into their credit policies carries multilayered legal consequences. Juridically, this liability can be categorized into two main dimensions: administrative liability (the relationship between the bank and the regulator) and civil liability (the relationship between the bank and third parties or the public).

### 1. Administrative Liability: Oversight Mechanisms and OJK Sanctions

As global awareness of sustainable banking grows, various international financial institutions and commercial banks have begun adopting Green Banking practices, supported by initiatives to enhance sustainability transparency and accountability. For this concept to operate effectively, a comprehensive legal framework is required, encompassing criminal, administrative, and civil law. Criminal law enforces compliance through sanctions against environmental violations, while administrative law serves as an instrument for oversight, licensing, and preventive compliance enforcement by relevant authorities. Conversely, civil law provides a liability

mechanism through compensation claims for environmental damages incurred. The synergy of these three legal aspects can overcome implementation barriers in Green Banking, encourage more environmentally friendly banking practices, and support the long-term reputation and financial performance of banks.[32]

In terms of administrative law based on POJK Number 51 of 2017, banks are required to gradually integrate eight sustainable finance principles into their vision, mission, strategy, and work programs as part of implementing green banking—a banking concept that emphasizes environmental, social, and economic sustainability responsibility. These principles include responsible investment, sustainable business strategies and practices, social and environmental risk management, governance, transparent communication, inclusiveness, priority sector development, as well as coordination and collaboration, which are operationally reinforced through OJK technical guidelines. From an administrative law perspective, these obligations are binding and under the supervision of the Financial Services Authority (OJK); thus, non-compliance regarding the preparation and reporting of Sustainable Finance Action Plans or green operational standards may result in administrative sanctions. Implementing these principles not only promotes eco-friendly financing and investment but also contributes to increased efficiency and bank financial performance in creating long-term value.[33]

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[32] Emelia Kontesa, Zico Junius Fernando, and Sawitri Yuli Hartati, "Mewujudkan Perbankan Berkelanjutan dengan Green Banking: Aspek Hukum Pidana dalam Perlindungan Lingkungan," *Bina Hukum Lingkungan* 8, no. 1 (2023): 5, https://doi.org/10.24970/bhl.v8i1.240.

[33] Nabila Khuriah Dwi Oka and Ancella Anitawati Hermawan, "Evaluasi Penerapan Keuangan Berkelanjutan Berdasarkan POJK Nomor 51/POJK.03/2017 (Studi Kasus pada Bank Sumsel Babel)," *Owner: Riset dan Jurnal Akuntansi* 9, no. 1 (2025): 625, https://doi.org/10.33395/owner.v9i1.2392.

According to Rony Andre Christian Naldo et al.,[34] the forms of administrative liability that can be imposed on banks failing to meet sustainable finance obligations include: reprimands, fines or compulsory payments (*dwangsom*), temporary suspension of administrative services, and the freezing or revocation of licenses. Written reprimands are stipulated in POJK Number 17 of 2023 concerning the Implementation of Governance for Commercial Banks, Article 5, Paragraph 1.[35]

Furthermore, Article 5, Paragraph 2 of POJK Number 17 of 2023 states that if a bank persists in violating the implementation of sustainable finance—including social and environmental responsibility—the bank may face administrative sanctions in the form of a ban on issuing new products, freezing of business activities, prohibition of business expansion, prohibition of new business activities, and/or a reduction in the governance factor rating within the bank's soundness level assessment. Moreover, under Article 5, Paragraph 4, the bank and/or controlling shareholders can be subject to administrative fines ranging from a minimum of IDR 2,000,000,000.00 (two billion rupiah) to a maximum of IDR 50,000,000,000.00 (fifty billion rupiah) for each violation committed.[36]

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[34] Rony Andre Christian Naldo, Mesdiana Purba, and Ifransko Pasaribu, *Perlunya Penerapan Pertanggungjawaban Mutlak Terhadap Korporasi Sebab Perbuatan Melawan Hukum Menimbulkan Ancaman Serius* (Jakarta: Penerbit EnamMedia, 2022), 45.

[35] Otoritas Jasa Keuangan, "Peraturan Otoritas Jasa Keuangan Nomor 17 Tahun 2023 tentang Penerapan Tata Kelola bagi Bank Umum," September 14, 2023, https://www.ojk.go.id/id/regulasi/Pages/Penerapan-Tata-Kelola-Bagi-Bank-Umum.aspx.

[36] Otoritas Jasa Keuangan, "Peraturan Otoritas Jasa Keuangan Nomor 17 Tahun 2023 tentang Penerapan Tata Kelola bagi Bank Umum," September 14, 2023, https://www.ojk.go.id/id/regulasi/Pages/Penerapan-Tata-Kelola-Bagi-Bank-Umum.aspx.

These administrative sanctions are not merely punitive; they serve a strategic function within the green banking ecosystem. They aim to provide a deterrent effect so that banks do not disregard reporting obligations and sustainability principles for short-term gains. These sanctions also act as a restorative measure, encouraging banks to promptly rectify non-compliance to realign with OJK regulations. Additionally, administrative sanctions provide protection for the economic ecosystem and enforcement of regulatory compliance.

### 2. Civil Liability: The Lender Liability Doctrine and Unlawful Act Lawsuits

In the era of transformation toward a green economy, the banking sector is no longer merely a commercial entity pursuing profitability alone; rather, it has become a key actor in environmental preservation efforts through its financial intermediation function. This paradigm requires banks to integrate sustainability aspects into every decision-making process, particularly in credit governance. When a banking institution fails to implement green banking principles and continues to channel financing to projects that damage ecosystems or violate environmental regulations, the bank faces not only administrative risks from regulators but is also exposed to serious civil liability loopholes. One of the primary foundations in civil lawsuits against the banking sector is the doctrine of Lender Liability, a legal concept asserting that banks can be held legally accountable for environmental losses caused by their debtor clients.[37] This doctrine shifts the position of the bank—traditionally considered an 'outsider' to the debtor's business operations—into a party deemed to have participated in or contributed to the negative impacts generated by the projects it finances.[38] This regulation explicitly mandates banks to implement sustainable finance principles and prepare Sustainability Reports periodically. The implementation of Lender Liability in

[37] Leonard Tiopan Panjaitan, *Loc. Cit.*, 92.

[38] Marcel Jeucken, *Loc. Cit.*

Indonesia has gained increased urgency following the enactment of POJK No. 51/POJK.03/2017 concerning Sustainable Finance.

In this case, a bank may violate Article 1365 of the Indonesian Civil Code regarding Unlawful Acts (*Perbuatan Melawan Hukum*), which serves as the most fundamental and strategic civil law instrument to litigate banking liability for the environmental impacts of its financing activities. This provision asserts that any act that contravenes the law and causes harm to another party creates an obligation for the perpetrator to provide compensation for said damages.[39] In the legal construction of a Tort (PMH), the plaintiff (whether affected communities or environmental organizations) must be able to prove four main elements: the existence of an unlawful act, the presence of fault or negligence, the occurrence of actual damages, and a causal link between the bank's actions and those damages.

Green banking strategies position sustainability as an integral part of banking operations through Environmental Impact Assessment (AMDAL)-based evaluation and risk management. This is not understood merely as an administrative obligation, but as a tangible commitment to mitigate environmental and social impacts while ensuring that debtors follow through on recommendations.[40] In the context of sustainable finance, a bank's failure to implement these principles—for instance, by continuing to extend credit to debtors who violate AMDAL or ignore sustainability principles—can be qualified as a form of negligence or omission that contributes to environmental and social losses. Therefore, the implementation of a comprehensive AMDAL simultaneously serves to protect the bank from financial and

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[39] Indonesia, *Indonesian Civil Code*, art. 1365, accessed April 27, 2026, https://jdih.mahkamahagung.go.id/legal-product/kitab-undang-undang-hukum-perdata/detail

[40] Risma Wati and Muhammad Iqbal Fasa, "Strategi Pengembangan Green Banking dalam Pembiayaan Berkelanjutan: Tantangan dan Peluang bagi Perbankan Syariah di Indonesia," *MAMEN: Jurnal Manajemen* 4, no. 2 (2025): 110, https://doi.org/10.55123/mamen.v4i2.4913.

reputational risks while ensuring compliance with regulations and responsible governance principles.[41] Thompson and Cowton's foundational research on bank lending and environmental reporting further establishes that banks which systematically incorporate environmental dimensions into their lending decisions are substantially better positioned to mitigate civil liability exposure and maintain long-term portfolio quality.[42]

Legal liability for environmental pollution and damage rests upon the fulfillment of the element of fault (*schuld*) and the existence of a causal relationship between the act and the resulting impact, as recognized in the principle of liability based on fault (*schuld aansprakelijkheid*).[43] Accordingly, the construction of an Unlawful Act requires the presence of fault, demonstrably real losses, and a causal link between negligence—including a bank's negligence in applying green banking principles—and the occurrence of environmental pollution or damage. Consequently, if such negligence is proven to have contributed to adverse environmental impacts, a basis for civil liability can be juridically established.

On the other hand, the failure to implement a green economy also impacts the operational risks and asset values of the bank itself. From a civil law perspective, a bank that is negligent in considering environmental aspects will face the risk of a decline in collateral value. If the land used as collateral is found to be contaminated by hazardous and toxic waste (B3), the market value of that land will drop drastically,

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[41] *Ibid.*

[42] P. Thompson and C.J. Cowton, "Bringing the Environment into Bank Lending: Implications for Environmental Reporting," *The British Accounting Review* 36, no. 2 (2004): 200, https://doi.org/10.1016/j.bar.2003.11.005.

[43] Aldizar Fikri Ardiansyah et al., "Prinsip Pertanggungjawaban Mutlak Akibat Perbuatan Melawan Hukum dalam Sengketa Pencemaran Lingkungan," *Media Hukum Indonesia (MHI)* 2, no. 3 (2024): 255, https://doi.org/10.5281/zenodo.11634422.

causing the bank to suffer losses when it must execute the collateral.[44] Furthermore, the forced closure of a debtor's operations by the government due to environmental law violations will lead to credit default, which directly threatens the bank's financial health. Therefore, the implementation of green banking and compliance with the Lender Liability doctrine are essentially forms of long-term risk mitigation. Through synergy between national regulations such as POJK and international standards like the Equator Principles or GRI Standards, Indonesian banking is expected to transform into globally accountable institutions.[45] A Tort (PMH) lawsuit in the context of a green economy is not merely a tool to demand compensation, but rather an instrument to compel the financial sector to genuinely perform its oversight function regarding ecological sustainability for a greener future.[46]

## C. Corporate Criminal Liability

Banking involvement in environmental crimes is generally regarded as indirect participation; however, it still carries significant legal consequences. Within Indonesia's modern criminal law system, banks, as corporations, are recognized as legal subjects that may be held criminally liable independently. The provisions of the Banking Law also provide a legal basis for corporate punishment, in line with contemporary criminal law, which recognises corporations as perpetrators of criminal offenses.[47]

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[44] Leonard Tiopan Panjaitan, *Loc. Cit.* 88.

[45] Inter-agency Task Force on Financing for Development, *Financing for Sustainable Development Report 2021* (New York: United Nations, 2021), 45.

[46] Andri G. Wibisana, *Penegakan Hukum Lingkungan melalui Pertanggungjawaban Perdata* (Jakarta: Badan Penerbit FH UI, 2017), 52.

[47] Revameila Susanti, Muhammad Haidar Pasha, and Teguh Abdurrohman Shodiq, "Tindak Pidana Perbankan Di Indonesia: Analisis Yuridis Terhadap Jenis Kejahatan Dan Pertanggungjawaban Pidana," *Journal of Legal, Political, and Humanistic Inquiry* 1, no. 2 (2025): 169–76, https://doi.org/10.65310/rrtwa083.

Banking criminal liability in the context of violating green banking principles is fundamentally based on the doctrine of corporate liability, which establishes the bank as a legal subject accountable for the impacts of the financing it provides. Consistent with the provision that a corporation is a legal subject liable for the environmental impacts of its business activities, this principle applies mutatis mutandis to the banking sector. Consequently, if a bank, in performing its intermediation function, disburses financing without regard for environmental protection and management aspects—such as AMDAL or Environmental, Social, and Governance (ESG) assessments—and such financing contributes to environmental pollution or damage, the bank may potentially face criminal charges based on prevailing corporate liability principles.[48] Comparative analysis of green credit policy in developing economies further demonstrates that regulatory frameworks combining top-down mandates with bottom-up market incentives yield more effective compliance outcomes than purely punitive approaches, offering a valuable model for Indonesia's ongoing sustainable finance reform agenda.[49]

In Indonesia, corporate responsibility regarding the environment is regulated under Law Number 32 of 2009 concerning Environmental Protection and Management (UU PPLH). This regulation contains comprehensive provisions regarding obligations, prohibitions, and the oversight and enforcement mechanisms that every corporation must follow. The law reaffirms the principles of environmental protection and management as the foundation for corporate responsibility,

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[48] Anisa Khusnul Rahma et al., "Tanggung Jawab Hukum Korporasi atas Pencemaran Lingkungan: Analisis Yuridis terhadap Konsep Pertanggung Jawaban dalam Undang-Undang No. 32 Tahun 2009 dan Peraturan Pelaksanaanya," *Jurnal Tana Mana* 6, no. 2 (2025): 300, https://doi.org/10.33648/jtm.v6i2.1331.

[49] B. Zhang, Y. Yang, and J. Bi, "Tracking the Implementation of Green Credit Policy in China: Top-Down Perspective and Bottom-Up Reform," *Journal of Environmental Management* 92, no. 4 (2011): 1321, https://doi.org/10.1016/j.jenvman.2010.12.019.

making compliance with these norms mandatory for every business entity. Several core provisions in this law serve as the essential framework for determining the scope of corporate liability in the environmental field.[50]

In the banking sector, Bank Indonesia, the banking authority at the time, began encouraging environmentally oriented banking in response to the enactment of the Environmental Protection and Management Law, which requires all economic activities to support environmental sustainability. Non-compliance with these provisions may result in criminal sanctions, including the revocation of environmental permits. Consequently, banks that disregard environmental factors may face increased credit, legal, and reputational risks. Therefore, banking support through financing for the energy sector, food security, transportation, industry, housing, and other strategic sectors that prioritise green principles is essential to achieving sustainable development.[51]

The forms of criminal liability for banks are stipulated in Articles 116, 117, 118, and 119 of Law Number 32 of 2009. Article 116, Paragraph (1) states that if an environmental crime is committed by, for the interest of, or on behalf of a business entity, criminal prosecution and sanctions may be imposed on both the business entity as a corporate entity and the parties who gave the orders or acted as leaders in the commission of the crime. Thus, criminal liability is not only borne by the corporation but can also be extended to the individuals in leadership positions.[52] Furthermore, Article 117

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[50] Muhammad Ilham, "Tinjauan Yuridis terhadap Pertanggungjawaban Pidana Korporasi atas Tindak Pidana Lingkungan," *Indonesia Journal of Business Law* 4, no. 1 (2025): 25, https://doi.org/10.47709/ijbl.v4i1.5371.

[51] Netty Songtiar Rismauly Naiborhu, "Implikasi Yuridis Konsep Green Banking Terhadap Perbankan Di Indonesia," *Bina Hukum Lingkungan* 7, no. 3 (2023): 334–52, https://doi.org/10.24970/bhl.v7i3.341.

[52] Indonesia, *Law Number 32 of 2009 concerning Environmental Protection and Management*, art. 88, accessed April 27, 2026, https://peraturan.bpk.go.id/Details/38771/uu-no-32-tahun-2009.

explains that if criminal prosecution is directed at the party giving orders or the leader of the crime as referred to in Article 116, the sanctions in the form of imprisonment and fines are increased by one-third of the primary criminal threat.[53]

Moreover, Article 118 clarifies that criminal sanctions against a business entity are imposed on the corporation, which is represented in the legal process by management authorized to represent it both in and out of court, acting as functional perpetrators of the crime.[54] Additional criminal sanctions for business entities are detailed in Article 119, which include: forfeiture of profits derived from the crime, closure of all or part of the business premises and/or activities, the obligation to rectify the resulting consequences, the obligation to carry out previously neglected actions, and placing the company under receivership for a maximum of three years.[55]

Criminal law plays an important role in enforcing rules and regulations related to green banking practices, protecting the environment from harmful activities, and imposing sanctions on violators. In this context, criminal law serves as an essential tool to ensure that banks comply with environmental laws and conduct their business in a sustainable manner. One form of criminal liability for banks that violate green banking principles in their operational aspects may be imposed under Article 49 of Law Number 7 of 1992 concerning Banking. This provision stipulates that members of the board of commissioners, directors, or bank employees who intentionally engage in administrative manipulation, such as making false entries, failing to make mandatory records, or altering, concealing, or deleting data in the bank's books or reports, may be subject to imprisonment for a maximum of fifteen years and a fine of up to ten billion rupiah. Furthermore, bank officials or employees who willfully accept or approve rewards for personal or family gain in the context of providing banking facilities, or who fail to take necessary

[53] *Ibid.*
[54] *Ibid.*
[55] *Ibid.*

steps to ensure the bank's compliance with regulations, may be imprisoned for up to six years and fined up to six billion rupiah.[56]

Additionally, if funds from environmental crimes (such as illegal logging) flow through a bank and the bank is negligent in its Know Your Customer (KYC) principles and fails to report Suspicious Financial Transactions (TKM), the bank can be prosecuted under Article 7 of Law No. 8 of 2010 concerning the Prevention and Eradication of Money Laundering (TPPU). Article 7 determines that a corporation can be subject to a primary fine of up to one hundred billion rupiah. In addition to the fine, the corporation may also face additional penalties, including the public announcement of the judge's decision, freezing of partial or total business activities, revocation of business licenses, dissolution or banning of the corporation, asset forfeiture to the state, and state takeover of the corporation.[57]

## Conclusion

Based on the research findings and the discussions presented in the previous chapters, this study concludes three fundamental points:

The evolution of the banking role in Indonesia has reached a fundamental turning point. Historically, banking was viewed merely as an agent of development focused on fund mobilization and conventional monetary stability. However, the emergence of systemic risks due to climate change and environmental degradation has forced monetary authorities to integrate ecological variables into the positive legal system. The primary conclusion of this research is that the Green Central Banking principle is no longer a mere ethical recommendation or voluntary Corporate Social Responsibility (CSR) initiative (*soft law*). Through Financial Services Authority Regulation

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[56] *Ibid.*

[57] Indonesia, *Law Number 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering*, art. 3, accessed April 27, 2026, https://peraturan.bpk.go.id/Details/38547/uu-no-8-tahun-2010.

(POJK) Number 51/POJK.03/2017 concerning the Implementation of Sustainable Finance, sustainability principles have transformed into binding legal mandates (*hard law*). This signifies a paradigm shift from "pure capitalist economics" toward a "sustainable economy," where banks are legally obligated to internalize Environmental, Social, and Governance (ESG) factors into their business strategies, visions, missions, and annual work plans.

In the context of credit distribution—the most vital yet risky instrument for banks—Green Central Banking principles now stand as a legal compliance standard. Banks are no longer only required to perform an analysis of the financial viability of prospective debtors but are also mandated to conduct Environmental Due Diligence. To give this obligation practical legal force and to provide banks with a defensible "safe harbor" from liability, this research proposes that a bank's internal green credit audit should, at a minimum, incorporate the following specific legal standards: First, mandatory AMDAL verification, confirming that the prospective debtor holds a valid Environmental Impact Assessment approval under Article 22 of the UU PPLH and a current environmental permit (izin lingkungan) under Article 36, before any credit disbursement is authorized; Second, ESG risk scoring based on the Indonesia Taxonomy for Sustainable Finance (TKBI) classification, requiring the credit committee to formally categorize the proposed activity as green, transitional, or excluded, with documented justification for any credit extended to non-green activities; Third, contractual green covenants embedded in the credit agreement, imposing binding obligations on the debtor to maintain AMDAL compliance, submit periodic environmental monitoring reports, and notify the bank of any government environmental sanctions, with cross-default triggers linked to material environmental violations; and Fourth, independent environmental audit at disbursement renewal, requiring a third-party environmental review at intervals not exceeding three years for high-risk sector loans. A bank that documents and implements all four standards in its credit governance can demonstrate, in any subsequent

administrative, civil, or criminal proceeding, that it discharged its duty of prudential environmental care—substantially reducing its exposure to liability under Article 1365 of the Civil Code and OJK sanctions under POJK 17/2023. This research concludes that a bank's failure to screen debtors based on these green criteria can be qualified as a neglect of the prudential banking principle. Consequently, compliance with environmental standards (such as AMDAL documents or environmental permits) becomes an absolute requirement in the credit granting process to avoid the accumulation of stranded assets that could jeopardize bank solvency and national financial system stability.

Administratively, banks bear direct responsibility to the Financial Services Authority (OJK). The research findings show that administrative sanctions are not merely punitive instruments but tools for controlling market behavior. Based on POJK 51/2017 and POJK 17/2023, banks that fail to report their Sustainable Finance Action Plan (RAKB) or fail to implement sustainability principles face a wide spectrum of sanctions : non-fiscal sanctions: Ranging from written reprimands to a decrease in the bank's soundness rating (downgrading the governance factor), restrictive sanctions: Prohibitions on issuing new products, freezing specific business activities, or even the revocation of business licenses, and fiscal sanctions: Significant administrative fines, starting from a minimum of IDR 2 billion to a maximum of IDR 50 billion. This proves that the state possesses strong power to compel banking compliance through preventive and repressive administrative law instruments.

A crucial finding of this research is the strengthening opportunity for the application of the Lender Liability doctrine within Indonesian civil law. Traditionally, banks often hid behind the principle of contractual independence, where environmental damage was considered solely the responsibility of the debtor. However, based on Article 1365 of the Indonesian Civil Code regarding Unlawful Acts (PMH), a bank can be drawn in as a party jointly responsible if there is evidence of negligence in supervision or in granting credit to an

entity that damages the environment. This civil liability construction is met if there is a causal relationship between the bank's failure to evaluate environmental risks and the resulting harm suffered by the community or ecosystem. A bank that continues to funnel funds to an entity violating AMDAL standards can be deemed to have committed "unlawful omission." Consequently, the bank can be sued for both material and immaterial damages by affected third parties.

This research concludes that a bank, as a corporation, is an independent subject of criminal law. Under Law No. 32 of 2009 concerning Environmental Protection and Management (UU PPLH), criminal liability can be imposed on banks through two channels:

1. Direct Environmental Crime: If bank financing is consciously provided for activities that violate environmental laws, the bank can be viewed as a party facilitating the crime (*functional perpetrator*). Sanctions include criminal fines, forfeiture of profits, and the closure of business premises.

2. Money Laundering (TPPU): If a bank receives or manages funds originating from environmental crimes (such as illegal logging or illegal mining) without reporting them as Suspicious Financial Transactions, the bank can be prosecuted under Law No. 8 of 2010. Threats of fines up to IDR 100 billion and the revocation of business licenses are real risks for banks that ignore Know Your Customer (KYC) principles in an environmental context.

Although the legal framework has been established, this research notes the existence of "gray areas" regarding the boundaries of bank responsibility. Challenges remain in proving the extent to which a bank's intervention in a debtor's operational decisions triggers legal liability. Therefore, this conclusion emphasizes the need for further synchronization between the Banking Law, the UU PPLH, and OJK sectoral regulations. Consistent law enforcement is necessary to ensure that environmental risks are not just a public burden but are

internalized by the financial institutions that fund them. This aligns with the Polluter Pays Principle, where parties profiting from environmentally risky activities (including banks via credit interest) must share the risk if ecological damage occurs.

In closing, the implementation of Green Central Banking in Indonesia has shifted from a global trend to an urgent juridical necessity. The construction of banking legal liability is multidimensional—covering administrative, civil, and criminal aspects. The strengthening of a sustainable financial ecosystem in Indonesia can only be achieved if banks view ESG compliance not as a cost burden, but as an essential long-term legal risk mitigation strategy to maintain national economic resilience amidst global climate uncertainty. Studies of European banking institutions during financial turmoil further confirm that banks with robust ESG strategies exhibit markedly greater stability and resilience, reinforcing the argument that ESG integration—now legally mandated in Indonesia—serves not merely as an ethical imperative but as a critical prudential risk management tool.[58] International experience likewise demonstrates that green finance initiatives, when properly structured and incentivized, contribute to sustainable economic growth rather than constraining it, providing an empirical foundation for Indonesia's ambition to develop a green financial ecosystem that is simultaneously legally compliant and economically competitive.[59]

## References

### Books

[58] L. Chiaramonte, A. Dreassi, C. Girardone, and S. Piserà, "Do ESG Strategies Enhance Bank Stability During Financial Turmoil? Evidence from Europe," *The European Journal of Finance* 28, no. 12 (2022): 1180, https://doi.org/10.1080/1351847X.2021.1964556.

[59] P. Soundarrajan and N. Vivek, "Green Finance for Sustainable Green Economic Growth in India," *Agricultural Economics* 62, no. 1 (2016): 38, https://doi.org/10.17221/174/2014-AGRICECON.

Abdullah, Burhanudin. *Peran Serta dalam Pengelolaan Lingkungan Hidup Meningkat*. Jakarta: Siaran Pers Bersama Bank Indonesia dan Kementerian Negara Lingkungan Hidup, 8 September 2004.

Al Arif, Mohammad Nur Rianto. *Membangun Resiliensi Ekonomi Indonesia di Tengah Badai Global*. Jakarta: UIN Syarif Hidayatullah, 30 Oktober 2025. https://www.uinjkt.ac.id/id/membangun-resiliensi-ekonomi-indonesia-di-tengah-badai-global.

Ibrahim, Johnny. *Teori dan Metodologi Penelitian Hukum Normatif*. Malang: Bayumedia Publishing, 2016.

Inter-agency Task Force on Financing for Development. *Financing for Sustainable Development Report 2021*. New York: United Nations, 2021.

Jeucken, Marcel. *Sustainable Finance and Banking: The Financial Sector and the Future of the Planet*. London: Earthscan Publications Ltd, 2001.

Mara, Mirza Yuniar Isnaeni, Tonny Noor Tjahjono, Riris Shanti Fransiska Pardede, dkk. *Ekonomi dan Keuangan Hijau: Konsep dan Implementasi di Indonesia*. Jakarta: Bank Indonesia Institute, Maret 2025.

Marzuki, Peter Mahmud. *Penelitian Hukum: Edisi Revisi*. Jakarta: Prenada Media Group, 2017.

Naldo, Rony Andre Christian, Mesdiana Purba, dan Ifransko Pasaribu. *Perlunya Penerapan Pertanggungjawaban Mutlak Terhadap Korporasi Sebab Perbuatan Melawan Hukum Menimbulkan Ancaman Serius*. Penerbit EnamMedia, 2022.

Network for Greening the Financial System (NGFS). *First Comprehensive Report: A Call for Action*. Paris: NGFS Publications, 2019.

Panjaitan, Leonard Tiopan. *Bank Ramah Lingkungan*. Diedit oleh Tiras Kamal. Cetakan 1. Jakarta: Penebar Plus, 2015.

Richardson, Benjamin J. *Environmental Regulation through Strategic Environmental Management of Financial Institutions*. Oxford: Oxford University Press, 2018.

Shirai, Sayuri. *Green Central Banking and Regulation to Foster Sustainable Finance*. Japan: Asian Development Bank Institute, Februari 2023. https://www.adb.org/publications/green-central-banking-and-regulation-foster-sustainable-finance.

Sjahdeini, Sutan Remy. *Perbankan Hijau: Perspektif Hukum dan Tanggung Jawab Sosial*. Jakarta: Kencana, 2020.

Sumardjono, Maria S.R. *Hukum Lingkungan dan Kebijakan Keuangan Berkelanjutan di Indonesia*. Yogyakarta: Gadjah Mada University Press, 2022.

United Nations Environment Programme (UNEP). *State of Finance for Nature 2021: Tripling Investments in Nature-based Solutions by 2030*. Nairobi: UNEP, 2021.

Wibisana, Andri G. *Penegakan Hukum Lingkungan melalui Pertanggungjawaban Perdata*. Jakarta: Badan Penerbit FH UI, 2017.

**Journals**

Ardiansyah, Aldizar Fikri, dkk. "Prinsip Pertanggungjawaban Mutlak Akibat Perbuatan Melawan Hukum Dalam Sengketa Pencemaran Lingkungan." *Media Hukum Indonesia (MHI)* 2, no. 3 (2024). https://doi.org/10.5281/zenodo.11634422.

Chiaramonte, L., A. Dreassi, C. Girardone, and S. Pisera. "Do ESG Strategies Enhance Bank Stability During Financial Turmoil? Evidence from Europe." *The European Journal of Finance 28*, no. 12 (2022): 1180. https://doi.org/10.1080/1351847X.2021.1964556.

Cui, Y., S. Geobey, O. Weber, and H. Lin. "The Impact of Green Lending on Credit Risk in China." *Sustainability 10*, no. 6 (2018): 2008. https://doi.org/10.3390/su10062008.

Ilham, Muhammad. "Tinjauan Yuridis Terhadap Pertanggungjawaban Pidana Korporasi Atas Tindak Pidana Lingkungan." *Indonesia Journal of Business Law* 4, no. 1 (2025): 21–39. https://doi.org/10.47709/ijbl.v4i1.5371.

Kontesa, Emelia, Zico Junius Fernando, dan Sawitri Yuli Hartati. "Mewujudkan Perbankan Berkelanjutan Dengan Green Banking: Aspek Hukum Pidana Dalam Perlindungan Lingkungan." *Bina Hukum Lingkungan* 8, no. 1 (2023): 1–22. https://doi.org/10.24970/bhl.v8i1.240.

Makarenko, Inna, Yulia Yelnikova, Anna Lasukova, dan Abdul Rahman Barhaq. "Corporate social responsibility of financial sector institutions in the light of sustainable development goals financing: the role of banks and stock exchanges." *Public and Municipal Finance* 7, no. 3 (2018): 1-14. https://doi:10.21511/pmf.07(3).2018.01.

Naiborhu, Netty Songtiar Rismauly. "Implikasi Yuridis Konsep Green Banking Terhadap Perbankan Di Indonesia." *Bina Hukum*

*Lingkungan* 7, no. 3 (2023): 334-52. https://doi.org/10.24970/bhl.v7i3.341

Oka, Nabila Khuriah Dwi dan Ancella Anitawati Hermawan. "Evaluasi Penerapan Keuangan Berkelanjutan Berdasarkan POJK Nomor 51/POJK.03/2017 (Studi Kasus Pada Bank Sumsel Babel)." *Owner: Riset Dan Jurnal Akuntansi* 9, no. 1 (2025): 623–39. https://doi.org/10.33395/owner.v9i1.2392.

Rahma, Anisa Khusnul, dkk. "Tanggung Jawab Hukum Korporasi Atas Pencemaran Lingkungan: Analisis Yuridis Terhadap Konsep Pertanggung Jawaban Dalam Undang-Undang No. 32 Tahun 2009 Dan Peraturan Pelaksanaanya." *Jurnal Tana Mana* 6, no. 2 (2025): 294–304. https://doi.org/10.33648/jtm.v6i2.1331.

Rahmayati, Rahmayati, Siti Mujiatun, and Maya Sari. "Islamic Green Banking At Bank Pembangunan Daerah In Indonesia." *Indonesian Interdisciplinary Journal Of Sharia Economics (IIJSE) 5*, no. 1 (2022): 74-93. https://doi.org/10.31538/iijse.v5i1.1850

Riyadi, Qurratu'Ain Bintang, Diva Rizky Ramadhan, and Nandang Kusnadi. "Peran Hukum Ekonomi Dalam Implementasi Green Banking Sebagai Upaya Mendukung Ekonomi Hijau Di Indonesia." *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory* 4, no. 1 (2026): 391-409. https://doi.org/10.62976/ijijel.v4i1.1624.

Romana Widyarni, Elsa, Edra Satmaidi, and Widiya N Rosari. "Komitmen Perseroan Terbatas Terhadap Pencantuman Klausula Tanggung Jawab Sosial Dan Lingkungan Dalam Akta Pendirian Perseroan Terbatas Di Kota Bengkulu." *Jurnal Multidisiplin Dehasen (MUDE) 5*, no. 2 (2026): 917-24. https://doi.org/10.37676/mude.v5i2.10478.

Scholtens, B. "Corporate Social Responsibility in the International Banking Industry." *Journal of Business Ethics* 86, no. 2 (2009): 159-175. https://doi.org/10.1007/s10551-008-9841-x.

Soundarrajan, P., and N. Vivek. "Green Finance for Sustainable Green Economic Growth in India." *Agricultural Economics* 62, no. 1 (2016): 35-44. https://doi.org/10.17221/174/2014-AGRICECON.

Susanti, Revameila, Muhammad Haidar Pasha, and Teguh Abdurrohman Shodiq. "Tindak Pidana Perbankan Di Indonesia: Analisis Yuridis Terhadap Jenis Kejahatan Dan Pertanggungjawaban Pidana." *Journal of Legal, Political, and Humanistic Inquiry 1*, no. 2 (2025): 169-76.

https://doi.org/10.65310/rrtwa083.

Thompson, P., and C.J. Cowton. "Bringing the Environment into Bank Lending: Implications for Environmental Reporting." *The British Accounting Review* 36, no. 2 (2004): 197-218. https://doi.org/10.1016/j.bar.2003.11.005.

Wanta, Derry, Ismi Mardianti, and Rinto Noviantoro. "Sustainable Linked Loans And The Blue Economy." *Journal of Management, Economic, and Accounting* 4, no. 2 (2025): 389-96. https://doi.org/10.37676/jmea.v4i2.842.

Wati, Risma dan Muhammad Iqbal Fasa. "Strategi Pengembangan Green Banking Dalam Pembiayaan Berkelanjutan: Tantangan Dan Peluang Bagi Perbankan Syariah Di Indonesia." *MAMEN: Jurnal Manajemen* 4, no. 2 (2025): 105–18. https://doi.org/10.55123/mamen.v4i2.4913.

Weber, O., R.W. Scholz, and G. Michalik. "Incorporating Sustainability Criteria into Credit Risk Management." *Business Strategy and the Environment* 19, no. 1 (2010): 39-50. https://doi.org/10.1002/bse.636.

Zhang, B., Y. Yang, and J. Bi. "Tracking the Implementation of Green Credit Policy in China: Top-Down Perspective and Bottom-Up Reform." Journal of Environmental Management 92, no. 4 (2011): 1321-28. https://doi.org/10.1016/j.jenvman.2010.12.019

**Regulation Legislation and Other Sources of Law**

Green Finance Platform. "Regulation (EU) 2020/852 on the establishment of a framework to facilitate sustainable investment." https://www.greenfinanceplatform.org/policies-and-regulations/regulation-eu-2020852-establishment-framework-facilitate-sustainable.

Indonesia. Indonesian Civil Code. Art. 1365. Accessed April 27, 2026. https://jdih.mahkamahagung.go.id/legal-product/kitab-undang-undang-hukum-perdata/detail.

Indonesia. Law Number 7 of 1992 concerning Banking. As amended by Law No. 10 of 1998. Art. 1. Accessed April 27, 2026. https://peraturan.bpk.go.id/Details/46599/uu-no-7-tahun-1992.

Indonesia. Law Number 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering. Art. 3. Accessed April 27, 2026. https://peraturan.bpk.go.id/Details/38547/uu-

no-8-tahun-2010.

Indonesia. Law Number 32 of 2009 concerning Environmental Protection and Management. Art. 88. Accessed April 27, 2026. https://peraturan.bpk.go.id/Details/38771/uu-no-32-tahun-2009.

Otoritas Jasa Keuangan. "Lembaga Perbankan." Accessed April 27, 2026. https://ojk.go.id/id/kanal/perbankan/ikhtisar-perbankan/Pages/Lembaga-Perbankan.aspx.

Otoritas Jasa Keuangan. "Peraturan Otoritas Jasa Keuangan Nomor 17 Tahun 2023 tentang Penerapan Tata Kelola bagi Bank Umum." September 14, 2023. https://www.ojk.go.id/id/regulasi/Pages/Penerapan-Tata-Kelola-Bagi-Bank-Umum.aspx.