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Legal Analysis of the Application of the Prudential Principle in the Safe Deposit Box Agreement between the Bank and the Customer

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Abstract

The banking industry plays a strategic role in Indonesia's economy, and banks are legally obligated to apply the prudential principle in all their business activities, including Safe Deposit Box (SDB) services. However, a legal gap exists between this obligation and the practice of using unilateral exemption clauses in standard SDB agreements, which potentially harms customers and creates legal uncertainty . The research problem focuses on the research of legal provisions governing SDB as well as the implementation of the principle of prudence in the relevant agreements. The purpose of this research is to analyze the regulations and the strengthening of the application of the principle of prudence in order to ensure legal certainty for customers. The method employed was normative juridical, based on the theory of Soerjono Soekanto and Sri Mamudji, primarily using secondary data supported by limited empirical data obtained through interviews. The research findings indicate that the use of standard SDB agreement clauses by banks clearly violates Article 18 Paragraph (1) letter a of the Consumer Protection Law, Rendering such clauses null and void by operation of law. In practice, weaknesses persist in the application of this principle, particulary concerning the use of clauses that exempt banks from liability to customers. Although banks implement layered security Standard Operating Procedures (SOP) base on the principle of prudence, they may still be held legally accountable if proven negligent in maintaining the SDB security system.

INTRODUCTION

The banking industry plays a strategic role in Indonesia's economy as a financial intermediary that connects parties with excess funds (*surplus units*) and those in need of funds (*deficit units*) (Djumhana, 1993). Banks carry out three main activities: collecting community funds (funding), distributing funds in the form of credit (lending), and providing various other banking services that support the smooth functioning of the financial and payment systems. As institutions that collect and distribute funds to the public, banks bear significant responsibility to support income equity, encourage economic growth, and improve public welfare (Bhegawati & Utama, 2020; Thakor, 2019). Therefore, banks are legally obligated to apply the prudential principle in all their activities, requiring them to operate with caution, professionalism, responsibility, and transparency to protect customer interests and maintain the stability of the banking system (Wali et al., 2023). The application of the prudential principle serves not merely as an administrative obligation but as a fundamental strategy to maintain public trust in the banking industry, as public trust is an invaluable asset that ensures a stable and conducive investment climate (Yanto, 2025).

The development of the banking industry in Indonesia is increasingly dynamic and interesting to observe (Jameaba, 2024; Kasri et al., 2022). This is reflected in the increasing number of banks established, ranging from state-owned banks, Persero banks, national private banks, cooperative-owned banks, to foreign banks which along with the rapid growth of the banking industry, banks are also increasingly active in marketing their various services (Flögel et al., 2024; Stoop, 2018). One of the additional services provided by the bank is the Safe Deposit Box (SDB).

Safe Deposit Box (SDB) is a storage box facility specially designed from high-quality steel materials, placed in a strong, safe and fireproof vault. The goal is to ensure the safety of the goods or securities stored in it while providing a sense of calm for the tenants. SDB is also equipped with a dual key security system, one key is the master key held by the bank while another type consisting of 2 (two) keys is held by the customer and SDB can only be opened with these two types of keys.

The legal relationship between customers and banks in the use of Safe Deposit Box (SDB) services is based on a lease-lease agreement. The Safe Deposit Box (SDB) agreement is a standard agreement, which is an agreement whose entire clauses have been prepared and unilaterally determined by the bank beforehand, then stated in documents or forms that must be accepted and complied with by the customer (Bączyk, 2023; Usman & Rahmawati, 2022). The definition of this standard clause is in accordance with Article 1 number 10 of Law No. 8 of 1999 concerning Consumer Protection, namely every rule, provision, and condition made by business actors, then binding and must be complied with by consumers. Thus, the Safe Deposit Box (SDB) lease agreement is included in the category of standard agreements or standard agreements (Devina Janice & Njatrijani, 2018).

Previous research has examined various aspects of consumer protection in banking and SDB services. Jaenudin Umar et al. (2023) analyzed the settlement of consumer protection disputes through the Consumer Dispute Settlement Agency, concluding that consumer protection mechanisms must be continuously socialized to create balanced relationships between consumers and business actors. Syarifa et al. (2022) studied consumer protection against exemption clauses in the financial services and retail sectors, finding that such clauses cannot provide absolute protection in the absence of evidence of negligence or unlawful acts by banks. Abubakar and Handayani (2017) reviewed the implementation of the prudential principle in Indonesian banking activities, emphasizing that banking regulations must adapt progressively to follow the dynamics of the international financial market. Hidayat (2022) examined the formalization of mediation as a dispute resolution mechanism in civil cases, including consumer disputes. However, studies specifically focusing on the implementation of the prudential principle in SDB agreements and the legal consequences of exemption clauses in the context of banking consumer protection remain limited. Most existing research examines consumer protection in general banking services or SDB without comprehensively analyzing the integration of the prudential principle with the legal prohibition of unilateral exemption clauses. This creates a research gap that this study aims to fill.

This research is grounded in several key theoretical frameworks. The Theory of Legal Certainty as articulated by Jan M. Otto (2003) asserts that true legal certainty requires clear, consistent, easily accessible, and implemented regulations by a trusted authority. In the context of SDB agreements, legal certainty must be realized through clarity of rights and obligations between banks and customers so that neither party exploits the other due to an imbalance in bargaining position. The Theory of Consumer Protection, as reflected in Law No. 8 of 1999 concerning Consumer Protection (UUPK), provides a legal basis for protecting consumers from unfair business practices, including the inclusion of standard clauses that unilaterally transfer responsibility. The Principle of Freedom of Contract, as stipulated in Article 1338 of the Civil Code, provides parties the freedom to enter into agreements, but this freedom is limited by imperative norms (binding law) that have a higher position, particularly consumer protection regulations (Kristiyanti, 2014). The integration of these theoretical frameworks provides a comprehensive analytical lens for examining the legal validity of exemption clauses in SDB agreements and the implementation of the prudential principle (Ramos-Munoz, 2025; Sheehan et al., 2024).

The purpose of this research is to strengthen regulations in banking activities because banking plays a very fundamental role in ensuring economic stability. The main instrument underlying this regulation is the prudential principle, which is a norm that requires banks to always operate in the corridor of security, compliance, and transparency. Through this principle, banking institutions are directed to avoid speculative practices or excessive risk-taking that have the potential to harm customers, shareholders, and the financial ecosystem efficiently in order to maintain the integrity of the financial system and bank service products that remain strong (Kristiyanti, 2014). Furthermore, the application of the prudential principle is not just an administrative obligation, but a strategy to maintain public trust in the banking industry. Public trust is an invaluable asset, When people feel safe in the banking system, the investment climate will become more stable and conducive. In the end, a disciplined bank arrangement through this prudential principle not only ensures the survival of the bank itself, but also acts as the main foundation that supports the resilience and sustainable growth of the national economy (Yanto, 2025).

Based on the above background description, it can be seen that there is a discrepancy between the regulation of the bank's prudential principle and the practice of using the liability exemption clause in the Safe Deposit Box (SDB) agreement, which tends to be unilateral and has the potential to harm customers as consumers. Although banks are required to apply the principle of prudence as set out in the Banking Act, the disclaimer clauses often found in standard SDB agreements create legal uncertainty and reduce legal protections for customers. Therefore, this study is needed to analyze the application of the prudential principle in the Safe Deposit Box contract between banks and customers. This article will outline the formulation of problems related to, how to study the legal provisions of the Safe Deposit Box arrangement between banks and customers, and how to implement the prudential principle in the Safe Deposit Box agreement. Theoretically, this research contributes to the body of knowledge in banking law and consumer protection by integrating the prudential principle with contract law and consumer protection theory in the context of SDB services. Practically, the findings are expected to provide actionable recommendations for banks to revise standard agreement clauses and strengthen security systems aligned with consumer protection regulations, as well as to provide guidance for customers in understanding their rights and the legal implications of SDB agreements.

METHOD

This research was a normative juridical law research. According to Soerjono Soekanto and Sri Mamudji. Normative legal research is research that is carried out by examining mere literature materials or secondary data. This research focuses on the analysis of positive legal norms related to the application of prudential principles in Safe Deposit Box (SDB) agreements between banks and customers. The approaches used include the Statute approach to review banking regulations and consumer protection, as well as a conceptual approach to dissect the concept of exoneration clauses and contract balance. In order to provide a contextual perspective, this normative research is also supported by limited empirical data obtained through in-depth interviews with banking practitioners.

In accordance with the classification of source data according to Soerjono Soekanto and Sri Mamudji, this research material consists of binding primary legal materials such as the Banking Law, the Consumer Protection Law, the Civil Code, and related Financial Services Authority Regulations (POJK). In addition, this research also uses secondary legal materials that provide explanations of primary legal materials, such as books, scientific journals, articles, and relevant previous research. All legal materials that have been collected are then analyzed qualitatively by the deductive thinking method, namely drawing conclusions from specific rules in the SDB agreement clauses in order to formulate findings and legal recommendations.

RESULTS AND DISCUSSION

Study of Legal Provisions for Safe Deposit Box Arrangements Between Banks and Customers.

The regulatory dynamics of the Indonesian banking sector always adapt progressively following the fluctuations of the international financial market (the fluctuation of asset prices (stocks, foreign exchange, commodities) in an irregular manner due to the dynamics of demand, supply, and economic sentiment). This shift in the legal framework is triggered by the need to overshadow the diversification of services and cutting-edge banking products that are increasingly diverse. The development of banking products and services continues to progress in line with the increasing need in practice, especially to support global economic dynamics. Banks, which basically function as intermediary institutions (collecting funds from the public and redistributing them to third parties), are now increasingly providing commission-based income-based services (an effort by banks to find other income outside of credit interest income, one of which is from the income from providing various services to its customers). This condition demands responsive and adaptive regulatory reform. To anticipate these rapid changes, banking authorities have issued various provisions, both in the form of Financial Services Regulations (OJK) and Bank Indonesia (PBI) regulations (Abubakar & Handayani, 2017).

SDB services are specifically included in banking business activities regulated in Article 6 of Law Number 7 of 1992 concerning Banking which has been amended by Law Number 10 of 1998 (Banking Law), including the provision of goods and securities storage services. The application of the principle of prudence is the main basis in accordance with Article 2 and Article 29 paragraph (2) of the Banking Law which requires banks to carry out activities carefully, professionally, and responsibly to protect the interests of customers and maintain the stability of the banking system.

Based on the results of the research, a Safe Deposit Box rental agreement was obtained between Bank X and the Customer which contains the clause: "The Customer is fully responsible for the use of the SDB that has been rented, and any damage/loss of Goods stored in SDB beyond the bank's responsibility". The "The Customer agrees and hereby guarantees and releases the Bank from all obligations, demands, lawsuits, and claims of any kind and from any party, including from the Customer itself and is responsible for any and all losses and risks that may arise in the future in connection with the exercise of power of attorney as referred to in this lease".

The two clauses above are the real form of the exoneration clause (liability exemption clause). Bank X utilizes a higher bargaining position to transfer all risks of emergency, negligence, damage, and absolute loss of goods to customers as consumers. In this regard, both parties in an effort to obtain legal certainty and dispute resolution will adhere to legal arguments based on the provisions of Article 18 paragraph (1) letter a of Law Number 8 of 1999 concerning Consumer Protection (UUPK). This legal provision serves as the main tool for customers to protect their rights in evaluating the validity of standard clauses drafted by business actors (banks), while on the other hand, banks try to maintain the clause by referring to the principle of freedom of contract.

When associated with a positive legal text in Indonesia, the exemption clause from liability in Bank X's SDB agreement actually creates legal uncertainty and is legally flawed because it is contrary to the imperative norms (binding law) that have a higher position.

A rule of law, even if it is regulated systematically and well in the Law and other regulations or provisions, will become a dead norm if its application cannot meet the demands of a sense of justice or provide benefits to society. The UUPK has basically provided an equal position between consumers and business actors. However, the concept of consumer protection as a necessity must always be socialized to create a relationship between consumers (customers) and business actors (banks) with the principle of fair equality and to balance the activities of business actors who carry out economic principles to get maximum benefits (Jaenudin Umar et al., 2023).

Article 18 paragraph (1) letter a of Law No. 8 of 1999 concerning Consumer Protection (UUPK), This Regulation expressly prohibits business actors from including standard clauses that aim to unilaterally transfer responsibility. Based on the principle of Lex Superior Derogat Legi Inferiori (higher law overrides lower law), contractual clauses made by Bank X are considered legally invalid (null and void). Legally invalid contracts are considered to have never existed in the first place, so legally banks cannot use such clauses as protection. As a result, in the event of a dispute regarding the loss of goods, Bank X has no legal right or basis to rely on the disclaimer clause.

Theoretically, the Theory of Legal Certainty put forward by Jan M. Otto states that true legal certainty requires clear, consistent, easily accessible, and implemented regulations by a trusted authority. In the legal realm of banking agreements, legal guarantees need to be realized through clarity of rights and obligations between banks and customers so that neither party exploits the other party due to an imbalance in the bargaining position (improper influence).

Legal uncertainty also arises from the ego of the banking sector which continues to classify SDB solely as a space lease contract (Locatio Conductio Rei) in accordance with Article 1548 of the Civil Code. The bank's reason is that they don't know what's in the box. However, from the perspective of fair legal certainty, the main reason customers go to the bank is not just to rent an empty iron box, but to get a security system, reputation, and professional protection from the bank. Therefore, this legal relationship needs to be integrated with the characteristics of the storage agreement (Depositum) listed in Article 1694 of the Civil Code, where the recipient of the storage is obliged to take care of the stored object with the maximum level of care (high standard of care).

Legal certainty should not only protect one party (the bank) and harm the other party (the customer). In order to achieve fair legal certainty, the bank's liability limits need to be readjusted to the national legal framework. Even if the bank states that it does not know the contents of the SDB box, if the customer can show that the loss or damage to the goods occurred due to the failure of the bank's internal security system (e.g. duplicate keys misused by internal parties, disabled CCTV, or negligence in verifying identity cards by officers), then Bank X's exoneration clause will be automatically cancelled. The Bank remains obliged to provide compensation both materially and immaterially in accordance with Article 1365 of the Civil Code concerning Unlawful Acts.

Legal certainty to protect consumers in the banking sector is currently strengthened by POJK Number 6/POJK.07/2023 concerning Consumer and Community Protection in the Financial Services Sector. This regulation requires Financial Services Business Actors (PUJK) to be fully responsible for consumer losses caused by mistakes, negligence, and/or actions of bank administrators and employees. Thus, the limitation of absolute liability stated in the agreement document of Bank X legally no longer has the force of force in the face of positive law.

Implementation of the Prudential Principle in the Safe Deposit Box Agreement.

In the banking industry, the principle of prudence is not just jargon, but also a constitutional obligation mandated by the Banking Law. In SDB services, minimum security standards should include three main pillars:

1. Dual Key System: This mechanism is a form of internal control where the safe can only be opened using a combination of the bank's main key and the customer's key. The risk of misuse arises if the employee illegally duplicates the key. Failure to maintain the exclusivity of these keys is gross negligence.
2. Access Control: Layered verification before entering the vault is mandatory. This procedure involves signature matching, physical identity verification, and the use of biometric technology. This aims to ensure the principle of identity to access, which means that only authorized users are granted access.
3. 24-hour monitoring: The safe must be equipped with both passive and active security infrastructure, including CCTV with motion sensors and alarms integrated with the security command center (Bank X Branch Operations, Personal Interview, April 22, 2026).

One concrete example of the application of the prudential principle in bank X is the existence of a Standard Operating Procedure (SOP) that details the operation of SDB services. According to the results of an interview with Bank X, the bank has a special SOP that serves as a guideline for all parties involved in this service. This SOP generally regulates several important things, as follows:

a. SDB Opening and Closing Procedure

This SOP outlines the complete steps, from registering new customers and verifying identity documents, signing a lease agreement, paying rental fees and deposits, to handing over keys to customers. This procedure is designed to ensure that only qualified customers can rent an SDB facility.

b. Access Management and Customer Identification

Whenever a customer accesses a secure storage box, officers are required to conduct strict identity verification through the Know Your Customer (KYC) principle. Verification includes signature matching, original ID card checks, and recording visits in notebooks. Only registered customers or authorized representatives are allowed to enter the Khazanah space.

c. Physical and Digital Security Standards

This SOP sets out minimum security standards that must be met, including: The use of a double lock system (one key is held by the customer, and one master key is held by the bank), Installation of CCTV with recordings stored for a certain period of time, Alarm system and constant surveillance in the treasure room, Access restriction (only one customer is allowed to enter the Khazanah room at a time, with a maximum visit duration of 15 minutes).

d. Internal Audit and Oversight Procedures

The bank conducts internal audits and regular supervision of the implementation of SDB service SOPs. The goal is to detect potential omissions early, ensure procedural compliance, and evaluate the effectiveness of existing security systems.

e. Procedures for Handling Customer Incidents and Complaints

This SOP also regulates a handling mechanism in the event of an incident, such as facility damage, loss of keys, or customer complaints. This procedure includes internal investigation measures, coordination with relevant parties, and prompt and transparent resolution of complaints (Bank X Branch Operations, Personal Interview, April 22, 2026).

In banking practice, almost all Safe Deposit Box (SDB) transactions include a standard clause that states that "the bank is not responsible for the loss of goods in the SDB because the bank does not know the contents of the box. Losses due to Force Majeure are not the responsibility of the bank, the Customer is responsible for the goods stored" This clause is basically a form of exemption, which is an attempt to relieve the bank from liability for any risk that may arise because the bank does not know the contents of the box completely, but the bank can still be held liable under the law.

As a legal consequence, the clause containing the transfer of responsibility is declared null and void, so it has no binding force and cannot be enforced against the customer as a consumer (Hassanah et al., 2023; Wiak, 2025). The scope of protection for banks is also limited (Sibagariang et al., 2025). Even if a bank claims to be unaware of the contents of the box, if the physical security system proves to have been breached due to negligence (e.g., double key failure or monitoring), the bank can still be held liable under the principle of the duty of care and Article 18 of the Consumer Protection Act, which requires Compensation for consumer losses The Court has shown that the liability exemption clause cannot be absolute protection in the absence of evidence negligence or unlawful actions by banks (Syarifa et al., 2022).

Law Number 8 of 1999 concerning Consumer Protection also regulates the mechanism for resolving disputes arising from the use of the exemption clause in the Safe Deposit Box (SDB) lease agreement, as stipulated in Article 45. Based on these provisions, it can be concluded that disputes related to the inclusion of liability exemption clauses in SDB agreements can be resolved through two channels, through a lawsuit in the General Court or through a settlement outside the Court, one of which is through the Consumer Dispute Resolution Institution (BPSK).

Furthermore, Article 47 of the Consumer Protection Law emphasizes that the settlement of disputes outside the Court is accompanied by a mediator to mediate with the aim of reaching an agreement between the parties, in particular regarding the form and amount of compensation, as well as certain actions aimed at preventing the recurrence of similar losses in the future. The basic philosophy of mediation lies in empowering the disputing parties to resolve their problems independently, without the presence of a forced decision from the mediator. In this case, the mediator acts as a facilitator, assisting the parties in the negotiation process in a cooperative manner. The mediator must be neutral and impartial, both to one party and to the final outcome. Thus, the agreement reached in mediation is considered fair, valuable, and acceptable to both parties. The role of the mediator is limited to providing suggestions for settlements, facilitating the dialogue process, and helping the parties reach agreements and encourage their implementation effectively (Hidayat, 2022).

CONCLUSION

Legal research shows that SDB services are banking business activities that are officially regulated in Article 6 of the Banking Law. The legal relationship between the customer and the bank is based on a standard agreement contract whose terms are determined unilaterally by the bank. However, in practice, a disclaimer clause is often used, which unilaterally transfers all risk of loss or damage to the customer. Legally, this clause creates uncertainty and violates Article 18 paragraph (1) letter a of the Consumer Protection Law (UUPK). According to the principle of Lex Superior Derogat Legi Inferiori, the provisions of the exemption from liability are considered invalid and void legally, so they do not have binding force and cannot provide absolute protection for banks. The application of the precautionary principle in the Safe Deposit Box agreement has essentially been implemented through a security system, including the use of double locks, identity verification, access restrictions, CCTV surveillance, and standard operating procedures governing the Safe Deposit Box service. However, the implementation of this principle must be improved so that it is not only a formality, but actually provides legal protection and security for customers. If there is a loss due to the bank's negligence, the bank can still be held liable in accordance with the principle of prudence and applicable legal provisions, so that a balance between the interests of the bank and legal protection for customers is required.

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