

Crimes in the Banking Sector in The Laws of Vietnam and Some Countries Around the World

Ha Le Thuy¹

Abstract

Digital transformation has caused the banking industry today to face the challenges of newly arising crimes. In addition to traditional crimes like before, forms of electronic banking fraud or using high technology to commit crimes tend to increase. Because technological changes and developments have caused the banking system to fail to keep up with this development and are also the cause of this crime. The laws of Vietnam and other countries have also built a legal corridor to protect and prevent violations of the banking sector. This article studies the provisions of Vietnam's criminal law in comparison and evaluation with the laws of some countries around the world. The article also concludes that Vietnam needs to find effective tools to prevent crimes in the banking sector, especially international cooperation to help banks overcome challenges and create profits, competitive position, proactive adaptation, and sustainable development.

Keywords: *Crime, Banking Sector, Fraud, Criminal Law, Vietnam*

INTRODUCTION

Banking is the center of the national economy because it can touch all aspects of human life. A bank is a place that accepts deposits, lends, finances, transfers money, conducts trust business, or provides other services. A bank is a legal entity recognized and licensed to operate by the state. The bank enjoys the trust of the people and therefore depends heavily on the public's trust and the bank's services. Today banks perform many different functions such as electronic banking, cross-border banking, commercial banking, credit cards, leasing, insurance, or other financial services. While the banking industry is developing, crimes in the banking sector are also constantly increasing with many sophisticated and cunning forms and methods of crime. Criminal law has historically had regulations related to crimes in the banking sector. However, the opinion of criminologists is that crimes occurring in the banking sector are economic crimes that harm the economic management order of the state. In addition, previous forms of crime were mainly acts such as fraud through mortgage activities, mortgages in bank credit, embezzlement, intentional wrongdoing, accepting bribes, and misappropriation. bank money. Therefore, it can be said that, at present, there is no clear definition of crime in the banking sector.

There are many different studies dealing with crimes in the banking sector. Based on the definition of crime or the approach to studying criminal acts, it can be seen that the concepts of banking crime or crime in the banking sector are understood from many different angles. According to Ida Nurhayati and Indianik Aminah (2020), banking crimes are classified as white-collar crimes and are often crimes such as Credit fraud, Embezzlement of public funds, Abuse of public funds, and Violations of regulations on currency. The spatial scale of banking crime is not limited to a specific location but can cross national borders. In terms of time, a crime can happen immediately, or it can take a certain amount of time. According to Alorngeer, S. F. (2019), crimes in the banking sector include: hacking, fraud or identity theft, spyware, credit card fraud, and this is considered a type of cybercrime in the banking sector. Another view is that the act of using high technology to commit crimes that violate bank operations is also considered an economic crime. In particular, online fraud and counterfeiting are two forms of using information technology. Through the banking system, subjects have taken advantage of the internet and high-tech devices to scam or fake customer identities to appropriate personal accounts. So, what types of banking crimes are there? How do the laws of countries around the world regulate crimes in the banking sector? What measures are needed to prevent crime in the banking sector?

RESEARCH METHODS

¹ University of Law, Hue University; E-mail: sitizuraidah@uptym.edu.my

This study uses a descriptive qualitative method through the approach of legal standards and legal aspects of crime regulations in the banking sector. In addition, the study also relies on warnings from major banks in Vietnam that have been broadcast nationwide about forms of crime in the banking sector to generalize and point out common crimes in the banking sector in Vietnam today. Using the law comparison method, the article also approaches the legal regulations of some countries around the world that have regulations on criminal acts in the banking sector to compare and draw differences between the laws of Vietnam.

RESULT AND DISCUSSION

CONCEPT OF CRIME IN THE BANKING SECTOR

According to Nainta,² a banking crime is an intentional act or omission committed by any person in the course of a banking transaction or in the accounting books, which results in illegal profits and may cause losses to the public banking system. This concept allows us to understand that violations occur in the banking sector, through the banking system and cause damage or, although not yet causing damage, affect the bank's operations. considered a banking crime. In particular, bank fraud is a typical form of this crime.

Banking crime is understood as any conduct in which one person intends to gain a dishonest advantage over another person. Banking crime is considered a white-collar crime but is a safe crime because it does not pose a danger to the life or body of the offender.³ According to Ghosh, the following crimes are considered to occur in the banking sector: fraud, cheating, forgery, breach of trust, account falsification.⁴

In a broad sense, crimes in the banking sector are not only called banking crimes but also include other crimes related to the banking sector. Due to the development of modern science and technology, new criminal acts have arisen, causing banking-related crime methods to be established. These are high-tech crimes in the banking sector, electronic banking fraud crimes, cyber crimes in the banking sector, or even money laundering, embezzlement, and bribery in the banking sector. The big case in Vietnam that was brought to trial in 2024 by SCB bank showed that crimes in the banking sector do not only include violations of bank regulations by employees themselves in banking but also includes acts of embezzlement of assets and fraudulent appropriation of assets. This case is considered a manipulation and withdrawal of SCB bank on a scale 'never seen before' in the ruling history of the Communist Party of Vietnam and has left enormous socio-economic consequences.⁵

In short, crimes in the banking sector are crimes that occur in connection with the banking system, harming bank operations, causing loss or damage to bank assets, or posing threats to customers using banking services. Banks are the most important tool to help the Government run the economy, are the largest capital mobilization channel for projects, are the payment center, and implement monetary policy, where large amounts of money are concentrated in foreign currency, valuable papers and precious assets like gold and silver... Therefore, criminals always identify this as the target to carry out criminal activities on appropriate property.

With this understanding, crimes in the banking sector are very broad, including traditional crimes such as fraudulent appropriation of property, theft of property, or acts of embezzlement and bribery occurring in banks. In addition, crimes in the banking sector also include non-traditional crimes such as using high technology to appropriate assets of individuals with accounts opened at banks, and electronic banking fraud. to fraudulently appropriate assets or even steal customer personal data to appropriate assets, penetrate the bank's security system to destroy the banking system, causing damage to the banking industry.

FORMS OF CRIME IN THE BANKING SECTOR

BANK FRAUD CRIMES

² R P Nainta (2005), *Banking System, Frauds And Legal Control*, 86, 1st ed., Deep & Deep Publications Pvt. Ltd., New Delhi.

³ Neupane, A. (2019), *Banking Crime and Its Impact on the Banking Industry*, NJA LJ, 13, 181.P.182

⁴ Ghosh, S. (1991), *Indian Banking: Crime and Security in Indian Banks*, APH Publishing.

⁵ Overview of Van Thinh Phat Great Trial, <https://www.voatiengviet.com/a/vu-truong-my-lan-lon-chua-tung-thay-hau-qua-rat-nghiem-trong-7376509.html>, accessed April 27, 2024

In foreign documents, fraud is expressed in different forms such as general fraud, corporate fraud, executive fraud, internal fraud, external fraud, leadership support fraud, legal aid fraud...⁶ Or other types of fraud such as theft and embezzlement, falsification, forgery, substitution fraud, illegal lending, informal borrowing, impersonation, over-invoicing level, manipulation of documents, fictitious contracts, fictitious accounts, over/undervaluation of assets, false declaration of cash shortage, fraudulent use of bank documents, falsification of reports status reporting, account suspension abuse, mail forwarding, check clearing blocking, money laundering, false collection.⁷ These are traditional forms of fraud. Through the banking system, subjects carry out acts of providing fraudulent information to appropriate assets or violate the operations of the banking system. This action is performed manually.

In addition, another form of fraud that is supported by computers or other types of electronic devices is a specific form of electronic banking fraud. This is a process that involves all acts, involving the use of computers or other types of electronic devices through a fraudulent or dishonest manner or approach to deprive an individual of his or her rights. or their property without their consent. Here, the internet is the main target of fraud. Computers are considered a tool used by criminals to commit fraud through data entry, program manipulation, or operational manipulation such as: tampering with computer files; manipulating input data; creating fictitious accounts; using another employee's password; using fake applications; Using the master password. According to Owolabi, e-banking also attracts many types of fraud such as stolen cards (physical card fraud), fraudulent applications, fraudulent manipulation of card data, spam or denial of service, fraudulent express access fraud, money transfer fraud, interbank clearing fraud, money laundering fraud, and mail fraud.⁸

CYBERCRIME IN THE BANKING SECTOR

Internet Banking/Online Banking/Electronic Banking is the provision of banking systems and services through electronic devices such as computers, mobile phones, etc. Electronic banking has been around for a long time in the form of automatic teller machines (ATMs) and transaction phones. Recently, it has been transformed by the Internet, which has greatly facilitated banking transactions for both customers and banks. For customers, the internet provides faster, more convenient access because of the benefits it brings to customers. Cybercrime includes its own unique set of attractive features, which are gradually starting to eclipse traditional crimes. The level of anonymity, global reach to victims, and quick results are among the few things cybercriminals find most appealing.⁹

The increasing use of computers has led to computer-related crimes arising. During the existence of the internet, many changes have occurred, causing legal entities and individuals to have new ways of transacting online, especially through social media. However, besides the obvious benefits of using the internet, this also leads to the creation of a variety of criminal activities, exposing users to many risks and dangers. These types of crimes are committed to defrauding individuals and organizations, infiltrating and disrupting the banking and financial system for profit. Criminals have succeeded in converting traditional crimes into modern crimes that are easily carried out through electronic devices such as laptops or smartphones. The internet is also a fertile ground for criminals to use and take advantage of to commit crimes or to hide their actions and their identities. This has significantly increased crimes in the banking sector.

MONEY LAUNDERING CRIMINALS

Previously, transactions in the banking system were carried out in cash. Therefore, once the money has left the bank, it is difficult to control the currency, which facilitates backyard transactions that help hide the difference in funds through loans, thereby leading to embezzlement, intentional wrongdoing, fraud, and bribery occurring

⁶ Ojo, A. (2006), *Curbing Fraud within the Banking System: A banker's Perspectives*, Lagos: A.M. Continental Ltd.

⁷ Owho, O. (2005), *Bank Frauds, Causes and Prevention: An Empirical Analysis*, Ibadan: ATT Books Ltd.

⁸ Owolabi, S. A (2010), *Fraud and fraudulent practices in Nigeria banking industry*, African Research Review 4.3.

⁹ Seema Goel (2016), *Cyber-crime: A growing threat to Indian banking sector*, International Journal of Science Technology and Management, Vol. No.5, Issue No.12, p.557

in banks. Today, in the trend of integration and development, banking transactions have crossed national borders, payments through personal accounts between countries have become convenient and fast. Therefore, taking advantage of the open-door policy in the banking sector, many foreign individuals have used fake passports to open personal accounts to receive illegal money transferred from foreign banks. This is also the origin of the crime of money laundering.

FRAUD CRIMINALS

Criminals will find and use more sophisticated and cunning methods and tricks to commit fraud and appropriation of assets in the banking sector, such as: using high technology to commit crimes sin; Using modern means to falsify papers, documents, property ownership certificates, sales contracts..., thereby committing acts of appropriation of their property. Taking advantage of people's ignorance and banks' weakness in management and supervision of online banking transactions, electronic banking, personal information security..., subjects will commit fraudulent acts to appropriate people's and banks' assets. After appropriating, they quickly changed, hid their crimes, destroyed evidence, used many tricks to deal with management agencies and litigation agencies, and took advantage of connections. "Complex" relationships to influence and commit crimes, causing difficulties for proceedings. In particular, when there are signs of being discovered, they will transfer property ownership to others to avoid property being confiscated.

Criminals who fraudulently appropriate assets in the banking sector can be divided into two groups: criminals who are bank officials and criminals who work outside banks, in which the target group is officials. Banks play a key role in committing crimes. People who commit fraudulent appropriation of assets in the banking sector are people with in-depth knowledge of the banking sector, especially about newly developed services such as e-wallets, internet banking, mobile banking, and other forms of banking. Other non-cash payment methods. Criminals who fraudulently appropriate assets in the banking sector often target commercial banks; and customers with valuable assets deposited in banks are gullible and gullible, so property damage will be huge.

Researching the causes of crime in the banking sector in Vietnam, it can be seen that the loopholes and shortcomings of the banks themselves cause criminals to take advantage of fraud and deceit. In particular, banks still have loopholes and shortcomings in the registration, authentication, and management of bank accounts, leading to a situation where subjects buy or rent accounts to serve illegal activities. violating the law (including property appropriation, slander, organizing gambling, fraudulent appropriation of property...).

Second, there are loopholes and shortcomings in the management of the activities of payment intermediary companies and e-wallets that allow individuals to hook up and take advantage of them to commit illegal acts and assist criminals in general (organizing gambling, money laundering, fraud...) and crimes related to rape and high-interest lending in particular (disbursement, collection, payment, debt payment...).

Third, loopholes and shortcomings in the management of operations of commercial bank branches and financial companies (debt collection departments) allow subjects to connect and sign debt purchase and sale contracts and authorize debt collection contracts. debt collection rights, legal advice, financial advice... but it is debt collection for hire.

Fourth, there is no timely review, detection, and recommendations for handling businesses that are not credit institutions but provide lending services (investment joint stock companies, financial services businesses, etc.).

Fifth, loopholes and shortcomings in the security of personal information of borrowers in financial companies and banks (including personal information in tax, insurance, education, and historical data, phone contact...) lead to a situation where buyers and sellers use personal and borrower information to call to solicit loans, collect debts, and confiscate assets.

REGULATIONS OF VIETNAMESE CRIMINAL LAW ON CRIMES IN THE BANKING SECTOR

Criminal law has historically had regulations related to crimes in the banking sector. However, the opinion of criminologists is that crimes occurring in the banking sector are economic crimes that harm the economic

management order of the state. In addition, previous forms of crime were mainly acts such as fraud through mortgage activities, mortgages in bank credit, embezzlement, intentional wrongdoing, accepting bribes, and misappropriation. bank money.¹⁰ Therefore, it can be said that at that time there was no clear definition of crime in the banking sector. Researching Vietnam's first Penal Code, the 1985 Penal Code, it can be seen that lawmakers did not create any criminal elements for crimes in the banking sector, but only had a crime of intentionally committing crimes. contrary to the principles, policies, and economic management regimes, causing serious consequences in Article 174. Subsequently, the State Bank Law and the Law on Official Credit Institutions promulgated in 1997 specifically stipulated behavior in the field of finance and banking. This is also the legal basis for lawmakers to regulate violations in the banking sector in the Penal Code of 1999. It is the crime of violating regulations on lending in the activities of credit institutions in Vietnam. Article 179 of the 1999 Penal Code includes the following acts: lending without security against the provisions of law; lending beyond the prescribed limit and other acts violating the provisions of law on lending in credit activities. These acts only constitute crimes if they "cause serious consequences". The elements constituting crimes specified in the 1999 Penal Code are no longer consistent with economic development and new mechanisms. As one author has noted, unclear regulations on behavior can lead to abuse in handling.¹¹ Therefore, when the 2015 Penal Code was introduced, along with new regulations on banking crimes in particular, lawmakers amended and supplemented the crime of violating regulations on banking activities and other related activities. to banking activities in Article 206. This is to ensure the effectiveness of fighting and preventing specific crimes in each banking sector.

In terms of the elements constituting the crime, this crime harms the economic management order, specifically the state management regime in the operations of credit institutions and branches. Foreign bank branches in Vietnam. According to the provisions of Article 4 of the Law on Credit Institutions 2010: "A credit institution is an enterprise that carries out one, several or all banking activities. Credit institutions include banks, non-bank credit institutions, microfinance institutions, and people's credit funds". Currently in Vietnam, types of banks include commercial banks, policy banks, and cooperative banks. In particular, commercial banks are the type of banks that carry out all banking activities and other business activities to make profits, so they easily become targets for criminals to violate and cause the most damage.

In addition to this crime, several crimes related to the banking sector that use high technology and information technology equipment to commit crimes are also new or supplemented in some components crimes in the Penal Code. Those are the acts of distributing information technology programs that harm the operation of computer networks, telecommunications networks, and electronic means of the banking and financial system (stipulated in Point b Clause 2, Article 286 of the Penal Code); acts of obstructing or disrupting the operation of computer networks, telecommunications networks, and electronic means for the banking and financial system (stipulated in Point b Clause 2, article 287 of the Penal Code); Illegal intrusion into the computer network, telecommunications network or electronic means of the banking and financial system (stipulated in Point b Clause 3, Article 289 of the Penal Code); The act of using computer networks, telecommunications networks, and electronic means to commit crimes, specifically using information about accounts and bank cards of agencies, organizations, and individuals to appropriate property of the owner account, cardholder, or payment for goods and services (Point a Clause 2, Article 290 of the Penal Code); Acts of illegally collecting, storing, exchanging, trading, or publicizing information about bank accounts (Article 291 of the Penal Code).

The targets of these crimes are software tools and devices that can attack computer networks, telecommunications networks, or electronic media. Therefore, classifying these crimes as crimes in the field of information technology and crimes that violate public order and public safety is aimed at improving prevention policies for this type of technology crime. Although not classified as a banking crime, it can be seen that signs of crimes in the banking sector are considered signs of aggravation of crimes in the information technology sector, thereby showing that lawmakers' way of constructing crimes is flexible and diverse, ensuring both

¹⁰ Nguyen Xuan Yem (2004), *Economic crimes in the opening period*, People's Public Security Publishing House, Hanoi.

¹¹ Nguyen Thi Phuong Hoa, Phan Anh Tuan (2017), *Commentary on new points of the 2015 Penal Code amended and supplemented in 2017*, Hong Duc Publishing House, Ho Chi Minh, p.195

banking crimes in particular and other crimes related to the field are handled banking sector or taking advantage of the banking system to commit crimes in general.

SOME COUNTRIES' CRIMINAL LAWS REGULATE CRIMES IN THE BANKING SECTOR

Through studying the criminal laws of several countries around the world, we found that countries also have corresponding regulations on crimes in the banking sector.

China views banking crime as a serious white-collar crime because it causes huge losses and damages to the country every year. The first document regulating bank fraud is the Decision of the National Assembly Standing Committee on severely punishing acts that seriously disrupt the financial order. By the time the Penal Code was introduced in 1979, this document had introduced seven forms of bank fraud including counterfeit paper money, check fraud, bank draft fraud, letter of credit fraud, credit card fraud, illegal letters of credit... and are also recognized in the Penal Code in 1997. However, in the most recent amendment in 2006, China's revised Criminal Law has regulated and supplemented the act of borrowing from banks goods by fraudulent means is also a crime. The above regulations have created a legal framework for handling fraud in the banking sector.¹² Thus, crimes in the banking sector are acts of knowingly or intentionally committing a scheme or trick to defraud a financial institution or to obtain assets owned by or under the control of a financial institution control of a financial institution by false or fraudulent pretenses, representations or promises.¹³

The Chinese Penal Code also has a law regulating criminal acts in the banking sector in Article 177 as follows: "Anyone who forges or changes the face value of a check in one of the following circumstances shall be sentenced to imprisonment" up to 3 years or re-education through labor and additional fines or only a fine of 20,000 to 200,000 yuan; If the circumstances are serious, the penalty shall be from 5 to 10 years in prison and a fine from 50,000 to 500,000 yuan; If the circumstances are particularly serious, the penalty shall be imprisonment for 10 years or more or life imprisonment and a fine from 50,000 to 500,000 yuan or confiscation of property:

Forging or modifying checks, bills of exchange, or checks;

Forging or modifying payment authorization documents and other bank payment documents such as deposit certificates, bank invoices;

Forging or modifying credit documents or accompanying documents and invoices;

Counterfeit credit cards.¹⁴

In addition, the Chinese Penal Code also regulates other acts related to the banking sector such as acts of establishing commercial banks or other monetary institutions without the bank's permission, acts of forging repair or transferring business licenses of commercial banks or other monetary institutions in Article 174; The act of illegally receiving credit from monetary institutions and then lending it to others at high-interest rates to make a relatively large amount of profit in Article 175; Illegal mobilization or manipulation of public deposits causing monetary disorder in Article 176.

These acts are similar to the acts specified in Article 206 of the Vietnamese Penal Code and are understood as acts of conducting other banking activities specified in Point k Clause 1 of this Article. However, in Vietnam's Penal Code, there is no provision that establishing a commercial bank or other monetary institution without the bank's permission is a crime. Another difference compared to the Vietnamese Penal Code is that the Chinese Penal Code stipulates criminal liability for legal entities committing crimes in the banking sector while Vietnam does not. However, the Chinese Penal Code uses the concept of "criminal unit" instead of using the

¹² Cheng, H., & Ma, L. (2009), *White collar crime and the criminal justice system: Government response to bank fraud and corruption in China*, Journal of Financial Crime, 16(2), 166-179.

¹³ Garner, B.A. (Ed.) (2004), *Black's Law Dictionary*, 8th ed., Thomson West Group, St Paul, MN, p. 685

¹⁴ Dinh Bich Ha (2007), *Penal Code of the People's Republic of China*, Justice Publishing House, Hanoi.

term legal entity as used in other countries around the world. The criminal unit is understood as all public service units, enterprises, and organizations that commit criminal acts because the concept of the criminal unit is consistent with cultural traditions in China, easy to understand and to accept, ensuring compliance with criminal law and achieving the purpose of criminal law. In addition, criminal liability applied to criminal units is only a fine.

Meanwhile, the Japanese Penal Code devotes a chapter "Chapter 18-2. Crimes related to credit card electronic data used to make payments" to regulate crimes in the banking sector. Crimes include: The crime of improperly making credit card electronic data used to make payments; The crime of carrying fake electronic data credit card; The crime of preparing to improperly prepare the electronic data credit card used for payment constitutes the crime of an unsatisfactory crime. Article 163-2 stipulates: "Whoever, to falsify another person's financial processing, provides electronic data for that processing to make a fake credit card shall be sentenced to imprisonment for less than 10 years or a fine of less than 10 thousand yen. People who incorrectly create electronic data to create a credit card to use for withdrawing savings will also be subject to the same penalty as above. Article 163-3 stipulates: "Any person who, for the purpose specified in Clause 1, Article 163-3, carries a credit card according to the provisions of Clause 3, Article 163-2 shall be sentenced to less than 5 years of imprisonment or a fine of less than 50 thousand yen".¹⁵

From here it can be seen that these criminal acts are similar to the act of falsifying payment documents and means of payment and the act of using fake payment documents and means of payment as specified in Point h Clause 1, Article 206 of Vietnam's Penal Code 2015. However, when comparing the composition of crimes and the criminal liability imposed for these acts, there are differences between the two countries. While the Vietnamese Penal Code stipulates that the sign of a crime is that there must be consequences of property damage, the Japanese Penal Code only stipulates behavioral signs without requiring signs of consequences. In addition, the highest penalty for this crime in the Vietnamese Penal Code can be up to 20 years (under Clause 4, Article 206), which is the highest penalty prescribed in the Japanese Penal Code that the offender must bear just under 10 years in prison. This shows that the policy on handling crimes related to the banking sector in our country is very strict towards this group of criminals.

The Criminal Code of the Russian Federation also regulates crimes in the banking sector in "Chapter 22. Crimes in the economic sector", Article 172 stipulates the crime of illegal banking activities as follows: "Any person who conducts banking activities or banking operations without registration or a separate license in cases where registration or if a license causes great damage, a fine of 500 to 800 times the minimum income or salary or other income of the convicted person shall be imposed for a period of 5 to 8 months or imprisonment for up to four years or be fined up to 50 times the minimum income or salary or other income of the convicted person for a period of up to one month or without such penalty". The same act, if committed by an organized group of people or by a person previously convicted of illegal banking activities or illegal business crimes, shall be punished with imprisonment from three to seven years, confiscation of property or without such penalty.

The Russian Penal Code also regulates other criminal acts such as acts of businessmen or leaders of organizations receiving credit, receiving preferential credit conditions by presenting documents to banks or other creditors untrue about his/her business or financial situation causing serious damage. Crime of obtaining credit by deceitful means (Article 176), any act of the leader of any organization or citizen to fail to pay credits in large amounts according to an effective court decision Crime of intentional failure to pay credits (Article 177), act of collecting information on commercial and banking secrets customers by appropriating documents to bribe or threaten others as well as by other illegal tricks to illegally disclose or use that information. Crime of illegally collecting and disclosing information about commercial and banking secrets (Article 182). In addition, the Russian Penal Code also stipulates the crime of illegal foreign exchange transactions (Article 189) and the crime of violating regulations on handing over precious metals and gemstones to the state (Article 190).

In the nearly thirty years since the 1996, Penal Code of the Russian Federation came into effect, the provisions of the law changed both criminal signs and penalty frames. The rapid development of social relations along

¹⁵ Tran Thi Hien (2011), *Japanese Penal Code*, Encyclopedia Publishing House, Hanoi

with the emergence of new forms of fraud prompted Russian lawmakers to make strong changes to the 1996 Penal Code in 2012. Chapter XXI of the Code has been supplemented with six new articles (Articles 159.1 - 159.6) ¹⁶[19] regulating criminal liability for each type of fraud. Legislators of the Russian Federation believe that the reason for those changes is the requirements from the practice of handling, investigating and prosecuting criminal cases related to fraud, it is necessary to distinguish between countermeasures. The impact of criminal law on individuals who commit fraud depends on the scope of the act, the object and the method of committing the crime.¹⁷ Therefore, lawmakers of the Russian Federation have added special crimes that stipulate criminal liability for each type of fraud. Specifically, for fraud in the banking sector, Article 159.1 of the Criminal Code of the Russian Federation stipulates criminal liability for fraud in the scope of lending. Accordingly, fraud in the context of lending is understood as "the borrower appropriating property (or money) by intentionally providing the bank or other lender with false and (or) incorrect information trustworthy". The penalty for this offense may be fine in the amount of up to one hundred twenty thousand rubles, or in wages or salary or any other income of the convicted person for less than one year; or responsible labor for a period of up to three hundred sixty hours; or re-education through labor with a term of less than one year; or restriction of liberty for a period of fewer than two years; or labor probation for less than two years; or be imprisoned for up to four months. Thus, compared to the penalty for general fraud crimes specified in Article 159 of the Penal Code of the Russian Federation, the penalty for fraud in the scope of lending specified in Article 159.1 does not have the form of "imprisonment in less than 2 years". It can be seen that Russian lawmakers have tended to specify fraud within the scope of lending and reduce penalties for fraud in this scope.

If the Russian Penal Code stipulates the crime of conducting banking activities and banking tasks without registration or a separate license, the Vietnamese Penal Code also stipulates equivalent acts at Point k Clause 1, Article 206. However, the Russian Penal Code regulates illegal transactions in foreign exchange or violates regulations on handing over precious metals and gemstones to the state as an independent crime, while the Vietnamese Penal Code considers it an independent crime. This is one of the acts that constitute a crime at Point i Clause 1, Article 206. The provision of an independent crime makes handling crimes easier because the management policy on foreign exchange and gold has specific characteristics, depending on the subject's acting. The acts constituting crimes specified in Article 206 also show that the majority of criminals are officials working in banking agencies, while the criminals specified in the Russian Penal Code are just officers working in a bank who are also customers, such as the act of receiving credit by deception in Article 176 or the act of intentionally not paying new credits in Article 177.

According to Vietnamese criminal law, these acts are handled according to traditional crimes and are not considered crimes in the banking sector. Another difference is the way penalties for these crimes are prescribed. The Russian Penal Code stipulates that the fine is not equal to a specific number but is equal to several times the minimum income or salary or other income of the offender. This regulation is flexible in that the fine can be adjusted according to changes in salary or income without affecting the content of the law or having to amend the law. Because, depending on the different circumstances of society at different times, the income and salary of the offender will change and the value of money will also change, so if a specific value of the fine is set as follows: The current Penal Code of Vietnam can easily lead to amendments later when it is necessary to increase the fine value.

In summary, when comparing crimes in the banking sector, it can be seen that the specific criminal acts described in the Vietnamese Penal Code are clearer and more detailed than in the Russian, Chinese or Japanese Penal Codes. In addition, there are several acts that according to the criminal laws of the above-mentioned countries are considered crimes but Vietnam's criminal law has not yet defined them as specific crimes. The way of regulating the subject subject to criminal responsibility is also different, the level of punishment and the form of penalty regulation are also different. Therefore, researching and evaluating the laws of some countries

¹⁶ On amendments to the Criminal Code of the Russian Federation and certain legislative acts of the Russian Federation: Federal Law of November 29, 2012 No. 207-FZ (as amended on July 3, 2016) // Collection of legislation of the Russian Federation. No. 49. 2012. December 3. Art. 6752.

¹⁷ According to the draft explanation of changes and supplements to the Penal Code of the Russian Federation in 2012.

with similar cultures and politics to Vietnam is also aimed at absorbing and inheriting legislative experiences that are considered progressive in the process of improvement. Criminal law in general and law on criminal groups in the banking sector in particular.

CONCLUSION AND RECOMMENDATIONS

Crime in the banking sector always attracts the attention of public opinion because it has unique characteristics that no other economic sector can have, creating a difference from other economic crimes. In addition, banking products and services are not only effective within the country but also widely internationally through import-export payment operations between banks, organizations, and individuals in domestic and foreign business. This has caused crimes in the banking sector to become multinational, with the nature of the crimes becoming more sophisticated, complex, and diverse than any other crimes. When participating in international transactions, in addition to complying with the laws of the seller's and buyer's countries, both parties must jointly comply with international standards and practices.

To prevent crime in the banking sector, using strict penalties to punish criminals is not always effective. Especially when law enforcement is inconsistent or the legal regulations are unclear, it will give criminals more opportunities to commit acts. As one view puts it, for a sound criminal justice system to be effective, laws, enforcement, punishment need to be certain, predictable, and consistently applied commensurate with the damage caused by the act, to prevent crime. This means using a comprehensive range of measures, which may include deterrence, prevention, education to achieve the most effective results.

To face international crimes occurring in the banking sector, international cooperation is also an issue that needs attention. Vietnam and other countries must face the reality that controlling peer-to-peer fraud will not be possible without international commitments. Therefore, in parallel with developing crime prevention plans and strategies, consolidating and perfecting the bank security system, international cooperation in fighting crime will help countries be protected. Benefit from jointly finding cost-effective strategies to combat bank fraud in particular and banking-related crimes in general.

To detect and reduce crimes in the banking sector, especially fraud, banks use available tools that combine artificial intelligence technologies to proactively prevent fraud. block them. Specifically, the Vietnam National Cyber Security Association also needs to research and develop anti-fraud software to minimize the risk of fraud in cyberspace. This is the method that banks in Vietnam are applying and is considered "using technology to fight technology". Besides, credit card transactions are perhaps the most important area that can benefit from fraud detection. Therefore, the Vietnamese Government needs to establish and use tools using artificial intelligence to detect fraudulent acts in the banking sector. Through AI, fraud cases in banking activities will be gathered into large data sets. When an action is suspected to be fraudulent, AI can factor into the detection model factors such as the location the user is logging in, the speed at which the user clicks on links, or the types and behaviors of users compared to previous behavior. This is also the solution that countries around the world prioritize and apply in the entire banking system today.

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