

Consumer Note 9

# Bank Robberies / Safety Deposit Box Theft





Please note that the information provided does not constitute expert legal, financial or technical advice. You should consult a relevant professional legal, financial or technical adviser for expert advice.

The purpose of the document is to provide you with practical information based on our experience. Each case we investigate is however assessed on its merits.

## **Background**

Bank robberies and related violent crimes are unfortunately a relatively common occurrence in South Africa. Many bank customers are of the view that banks are responsible for any money stolen from them during a bank robbery. Bank customers often hold banks responsible for robberies which occur directly after they have left the bank.

## **The Code of Banking Practice**

The Code of Banking Practice (hereafter “the Code”) contains the following clause relating to general banking safety:

### *4 Our Key Commitments*

*We, the members of The Banking Association South Africa, undertake that we will act fairly and reasonably in a consistent and ethical manner toward you.*

*We undertake to:*

*4.5 ...provide reliable banking and payment systems services and take reasonable care to make these services safe and secure...; similarly, you are required to take due and proper care.*

This clause relates mainly to general retail banking systems and processes. The Code does not contain any specific reference to bank robberies or related violent crimes.

The clause can however be interpreted to read that the banks would be expected to put reasonable security systems in place to protect bank customers from bank robberies. Determining what constitutes reasonable security measures is however a very difficult question that can only be determined by experts in bank security. In the absence of evidence which clearly and obviously illustrates gross negligence on the bank’s part, a court of law would generally be the most appropriate forum for disputes of this nature.



## **Bank robberies**

Banks throughout the world are subject to armed bank robberies. Customers can be robbed by armed criminals inside the bank, before they have deposited any money at the teller. Generally, the bank can only be expected to take responsibility for money once it has been accepted by a bank teller and the deposit slip stamped and signed to confirm the amount of the deposit. Until this has been done the customer remains responsible for any money which is stolen. It is impossible for the bank to take responsibility for any money which it has not physically accepted and where it has been unable to confirm the amount of the deposit.

Customers can also be robbed when they are receiving money from a bank teller. Determining who is liable for the loss in these circumstances will depend on the facts of the specific incident. As soon as the withdrawal slip has been signed and stamped by the teller and the money handed to the account holder, it can be said that the bank is no longer responsible for the money. Each case will however be judged on its facts.

Customers often allege that the bank was negligent in allowing the robbery to take place. Allegations will be that there were insufficient security guards, insufficient security cameras, insufficient door barriers etc. Despite what many people may think – most security measures have positive and negative aspects. More security guards in a bank might deter criminals but might also simply encourage larger and better-armed gangs to rob the bank. More security measures might hinder day-to-day banking to such a degree that it becomes impractical. Armed security guards may encourage armed robbers to rather shoot first, which could endanger customers. We would only be able to make a recommendation where the evidence clearly and obviously illustrates negligence on the part of the bank.

Claims based on poor security measures are generally more suited to a court of law where experts in banking security can be called to testify and can be cross examined.

## **Insurance**

Customers are often under the impression that banks have some form of general insurance which covers them for any type of loss to customers irrespective of whether the bank was involved or negligent.

The banks do not have any form of insurance that allows them to claim for any losses that their clients may have sustained during a bank robbery. As far as we are aware this type of insurance product does not exist and one cannot insure against unknown losses which unknown clients might experience during a bank robbery.



## **Robberies occurring after the client has left the bank**

It unfortunately happens that customers withdraw large sums of cash from the bank and are then followed and robbed by criminals. Customers often allege that bank staff members must have provided confidential information regarding the withdrawal amount, home address etc. of the client to the criminals.

Unfortunately, there are many ways in which a criminal can obtain information on a potential victim without any involvement by the bank. By pure observance of a customer's habits - always withdrawing on a certain day for example. Criminals can do legitimate banking transactions inside a branch and carefully observe any large withdrawals being made. Criminals can obtain information from past and current employees of a company.

Allegations of staff involvement are generally purely speculative in nature with no actual evidence to support it. In the absence of clear evidence that bank employees were directly involved we would be unable to make a recommendation.

Claims such as these are again more suited to police investigation, and for a court of law to adjudicate on.

## **Safety deposit boxes**

When renting a safety deposit box from the bank it is in the nature of the agreement signed that the bank does not know what will be placed inside the box and does not assume any responsibility for any loss of its contents. A person who rents such a box relies solely on the bank's reputation of protecting and securing property inside the bank.

The agreement signed generally states that the bank will not assume any responsibility irrespective of whether it was negligent or not. Even if the bank were broken into and the deposit boxes stolen, the bank would not have any contractual responsibility for the loss.

For banks to assume responsibility, they would insist on an accurate record being kept on the contents and confirming the contents at all times. The banks would further restrict the value of the items kept in the box and would require valuation certificates. These requirements would obviously entirely negate the purpose of a safety deposit box. We are not aware of any court case where a bank was successfully sued for the contents of a safety deposit box being stolen or lost.



Claims for losses of this nature are more appropriate for a court of law. The above information does not constitute professional or expert legal advice.

### **ATM robberies/mugging**

Customers can be robbed or mugged while using an ATM. Generally, it is impossible for banks to protect their customers from being robbed while using an ATM. The banks comply with minimum security standards for ATMs set down by the banking industry such as minimum lighting requirements, position of the ATM etc. As mentioned above the banks can introduce various additional safety measures but many of them have numerous potentially negative implications. It would not be feasible to place a rotating team of armed security guards at every one of the thousands of ATMs in the country, 24 hours per day. However, where there is clear evidence of bank negligence in this regard we will make the appropriate recommendation.

### **Conclusion**

The information provided serves to inform a potential complainant on how we would approach disputes and claims of this nature. Each case is however assessed on its merits. If a case should arise where the evidence clearly shows that the bank could have prevented or mitigated the loss, we would have no hesitation in making an appropriate recommendation. In our experience, however these types of claims are more suited to a court of law.

To obtain more information on how to avoid these types of crime please see:  
[www.sabrc.co.za](http://www.sabrc.co.za) (South African Banking Risk Information Centre)

**The Ombudsman for Banking Services**

Reviewed January 2018