Role of Financial Services Authority and Deposit Insurance Corporation in Settlement of Non-performing Loans on Book and Bill Write-off

Sindy Kartika Siregar, Elvira Fitriyani, Tommy Leonard, Azharuddin, and Heriyanti
Magister of Notary, Universitas Prima Indonesia, Jl. Sekip simpang Sikambing, Medan, Indonesia

Keywords: Credit Settlement, Book Write-off, and Bill Write-off.

Abstract: The problem faced by bank customers is in the credit sector. One of the problems that arise in credit is bad credit. This paper uses an empirical juridical research method to examine by comparing existing events to the applicable legal rules. The legal consequence for those who pay off bad loans by book and bill write-offs is a decrease in the Capital Adequacy Ratio (CAR). Supervision and special attention are carried out by the Financial Services Authority on banks due to the decline in the soundness of the bank. If the soundness level of the bank drops drastically, the bank will be categorized as a bank under special supervision and if it continues, the bank will be closed or liquidated while the debtor has a black record registered in the Financial Services Authority Debtor Information System. The role of the Financial Services Authority and the Deposit Insurance Corporation in resolving bad debts on book and bill write-offs from banks in the form of the Financial Services Authority restructuring problematic rural banks through the Bail in mechanism.

1 INTRODUCTION

Banks are not something strange to people in developed countries. Various types of banking businesses are offered. The banking program that most in demand by both individuals and business entities is credit services. Credit that is given by the bank in the form of cash which after receiving the debtor will be used for personal gain, for example to make ends meet, increase business capital, and so on. On the other hand, banks feel the benefits of lending which are very attractive to the public because it will affect the soundness level of the bank from the circulation of existing funds.

In Indonesia, banking is regulated in Act Number 7 of 1992 concerning Banking as and amended by Act Number 10 of 1998. The definition of a bank in article 1 number 1 of Act Number 7 of 1992 concerning Banking is: "Business entities collect funds from the community in the form of savings and distribute them to the community in order to improve the standard of living of the wider community.

Banking law is a set of legal principles in the form of jurisprudential laws and regulations, doctrine and other sources of law regulating banking as an institution and aspects of activities that banks must fulfill. The definition of credit according to article 1 number 11 of Law Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 concerning Banking, credit is "the provision of money or equivalent claims based on a loan agreement or agreement between a bank and another bank. The party requires the borrower to pay off the debt after a certain period with interest".

From the previous explanation it can be concluded that the legal relationship that occurs in the provision of credit is the civil relationship between the bank and its customers. Bank agreements with customers to provide funds to meet customer needs are generally set out in the form of a loan agreement. Customers need direct evidence, whether that comes from their own or others' satisfaction with the goods or services provided, and customers pay attention to external company support, especially in Asia, where customers place a strong emphasis on the company's reputation. The measure of trust is influenced by cooperation, behavior or opportunistic quality, sometimes influencing customer experience so that it can increase the influence of the company on its products (Nienaber, 2014). For respondents 18 to 30 years old, the importance of technology innovation

Siregar, S., Fitriyani, E., Leonard, T., Azharuddin, . and Heriyanti, .
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DOI: 10.5220/0010312600003051
In *Proceedings of the International Conference on Culture Heritage, Education, Sustainable Tourism, and Innovation Technologies (CESIT 2020)*, pages 392-399
ISBN: 978-989-758-501-2

affects the level of attracting new customers and retaining existing customers, such as types of high-tech services such as Internet banking, SMS banking, email banking and phone banking (Hedayatnia, 2011).

The credit facilities provided by banks to meet the needs of the public are grouped into three categories based on their designation, namely investment, working capital loans, and consumer loans. Investment and working capital loans are productive loans because they will be used for business or business needs, either in the form of working capital or investment in the purchase of company assets so that they can produce in the future. Meanwhile, commercial credit is used to meet the secondary needs of the community (Hermansyah, 2008).

In article 8 of Law Number 10 of 1998 concerning Banking, it is stated that:

"In providing credit or financing based on sharia principles, Commercial Banks are required to have confidence based on an in-depth analysis of the debtor's customers' intentions and ability to pay off their debts and return the agreed financing".

Therefore, before giving credit to debtors, creditors must carry out economic credit analysis to prevent the possibility of arrears or becoming bad credit which causes a decline in bank health. The economic analysis used by banks for potential debtors is to use well-known banking principles such as the 5C Principles and the 4P Principles. The 5C principles consist of Character, Capital, Capicity, Collateral and Condition. The meaning of 5C is Character, which is the debtor's willingness to return his credit according to the agreement. Capacity and Capital in the form of a debtor's ability to repay his credit. Collateral is collateral in the form of objects or persons that a prospective debtor can provide. These conditions are general economic conditions, both national and international economies as well as the economic conditions of prospective debtors (Hasibuan, 2005). Meanwhile, the 4P Principles consist of Personality, Purpose, Payment, and Prospect. What is meant by 4P is Personality which relates to the personality of a prospective customer, such as curriculum vitae, family situation and social status. Payment is the ability of a prospective customer to repay credit, and Prospects are the prospect's future expectations (Hasibuan, 2005).

That the important factors determining customer selection are service quality and new banking methods, bank innovation and responsiveness, staff friendliness and trust in managers, prices and costs, staff attitude and convenience of location and bank services. The findings of this study reveal that bank customers place more emphasis on factors such as service quality, innovation in banking services, employee behavior and attitudes and prices. Therefore, the manager of a commercial retail bank should seriously consider the above factors in designing his marketing strategy. Banks classify loans into two groups, namely non-performing loans and non-performing loans. Non-performing loans or also known as non-performing loans are divided into two categories, namely loans classified as current and loans with special attention quality, while non-performing loans are loans categorized as non-performing loans. because there are already arrears. Non-performing loans or also known as non-performing loans are grouped into three groups, namely substandard credit, doubtful credit, and bad credit. (Ismail, 2010). As for the impact of bad credit that occurs as a result of the risks posed by debtors, namely: "Bank profit / loss decreases", "Bad Credit Ratio becomes bigger", "The cost of providing credit-off reserves increases" and "ROA and decreases ROE" (Ismail, 2010).

Associated with trust as articulated in the organizational stakeholder trust model, scholars in marketing need to develop a more macro-view of the company that examines trust outside of customers to reflect broader stakeholder focus and issues of corporate social responsibility, trust reputation and license to operate. This is needed to restore and maintain stakeholder trust in large banks. Building a trustworthy bank is essential for social and economic progress (Hurley, 2014).

Various ways to resolve non-performing loans can be done, namely through the existence of "Rescheduling", "Reconditioning", "Restructuring", "Combination", and "Execution" for debtors who are unable to return the principal or interest. However, in the current era, economic development was so uncertain that efforts to repay credit were unsuccessful, so that credit continued to become bad, causing the bank's non-performing loan (NPL) position to soar by 5 percent. So that what a bank can do is to delete books or claims to protect the health of the bank again.

Legal certainty is made by the government as an effort to protect banks and debtors, while efforts that can be made to resolve problem banks can be done by reconditioning, restructuring and rescheduling. In addition to the 3R as a problem solving loan model, there are also problem-solving loan models such as underhand collateral selling or takeovers. Keywords: Alternative Settlement Models, Credit, Problematic, Banking (Hakim, 2018). When the evidence is legally insufficient to support either no answer or a post-answer default decision, the appropriate disposition is withheld for a new trial. In determining eligibility for sanctions, the court may not consider any matter that is not in the "notes, briefs or other documents filed in an appellate court" or the supreme court. Without evidence to suggest that the appeal was made in bad faith, or, for some courts, in lack of good faith, the penalty is not appropriate (Hall, 2019). The "irreparable loss" branch of the preliminary injunction standard, the requirement that the discovery be proportional to the needs of the case, and the due process rights of class members in action for injunctions on indemnity. It concludes that in each of these areas, courts and commentators can do more to account for economic inequality (Carroll, 2020). Based on Article 67 paragraph 1 PBI Number 14/15 / PBI / 2012 concerning Assessment of Commercial Bank Asset Quality, it is stated: "Write-off and / or collection can only be done for provision of funds that have been supported by the calculation of Allowance for Impairment Losses () of 100% and its quality.has been determined to crash". Accounts receivable write-off is an administrative action taken by the Bank on bank receivables that have not been collected / collected. An administrative act is an intracomtable deletion of books for later recordings in an extractable manner. detention will be carried out by parties who are considered strong until they fulfill it accordingly (Zlotnick, 2020). This receivable write-off does not eliminate the Bank's right to collect debtors. Strictly speaking, at any time, the Bank may collect written-off receivables, if the receivables are eligible to be collected and have not expired according to the Law, namely article 1967 of the Civil Code. Credit Analysis is responsible for submitting write-off proposals to the authorized official, for Bank credit / receivables that have met the write-off criteria.

Banks are very burdensome if there are book and bill write-offs. The bank can write off the collectability of 5 or bad credit. Write-off occurs because in efforts to save restructuring it is difficult to do so that the write-off is a banking strategy to avoid a decline in the soundness level of a bank which can be seen from the financial performance of a bank. Bad credit which results in poor financial performance so that the elimination of bad credit will be charged to the Provision for Earning Asset Losses (PEAL).

Of course, bad debts do not disappear or become write-offs, but they can still be billed to debtors for repayment even though the results are not one hundred percent, but in the future it can provide benefits for bank finances. Write-off cannot be done for part of the provision of funds, while write-off can be done for part or all of the provision of funds.

Bad credit problems that resulted in efforts to write-off books and write-off claims have occurred at the research site and resulted in losses in the banking sector, so that from the background description above, a step can be taken to conduct research related to the Role of the Financial Services Authority and the Deposit Insurance Corporation in Settling Bad Credit on Write-off. books and accounts receivable from PT BPR EKA PRASETYA ".

In this research, the formulation of the problem is formulated regarding the application of write-offs and write-offs of accounts receivable in the regulations of the Financial Services Authority (FSA) and the Deposit Insurance Corporation (DIC), legal consequences for banks that resolve bad credit in writing, write off and write-off, and the role of FSA and DIC in resolving bad debts in book and bill write-offs from banks.

2 RESEARCH MENTHODS

In this study, the empirical juridical method, which is to compare the rule of law of the country to the facts in the field was used. Comparison between the banks of PT BPR Eka Prasetya (BPR or Bank Perkreditan Rakyat), which is about book and bill write-offs for non-performing loans that can cause losses on existing financial books.

The analysis carried out by the financial services authority and guarantee guarantee institutions in bad debt was to compare the ways the two institutions act to deal with bad credit in accordance with civil law and applicable banking regulations so as to find conclusions on the existing problem settings.

3 RESEARCH RESULTS AND ANALYSIS

3.1 Application of the Provisions for Book and Bill Write-offs

The Financial Services Authority is based on the principles of good governance which include independence, accountability, responsibility, transparency and fairness. Institutionally, the Financial Services Authority is outside the government, meaning that the Financial Services Authority is not part of the government's power. However, it does not rule out the existence of an element of government representation because in essence the Financial Services Authority is an authority in the financial services sector that has strong relationships and linkages with other authorities, in this case the fiscal and monetary authorities.

Write-off is an official mechanism that has a legal basis, which can be carried out by banks in general in handling non-performing loan portfolios where the funds used for write-offs have actually been prepared by establishing an Allowance for Impairment Losses in accordance with the Bank's provisions and Indonesian Regulations. However, for banks, the issue of write-off is still a consideration to be applied.

The elimination of bad debts consists of two stages, namely: conditional write-off and absolute write-off. The elimination of bad credit is a common practice for national banks as a way to reduce the level of non-performing loans (NPL ratio) in order to improve bank health. The write-off is done by removing the bad credit portfolio from the bank's books, but the bank continues to collect creditors. Meanwhile, in the write-off program, banks no longer collect creditors (Hariyani, 2010). This claim write-off includes write-offs that are deemed loss and cannot be collected again. In this case the bank actually bears the loss and the amount of credit to be written-off will actually be written off from the balance sheet (both on the balance sheet and off the balance sheet). In other words, deletion is absolute deletion.

Write-off and / or collection can only be done for provision of funds of problem quality. The write-off cannot be done for part of the provision of funds. Claim write-off can be done for part or all of the provision of funds. (2) The elimination of claims for part of the provision of funds as referred to in paragraph (3) can only be done for Credit Restructuring or Credit repayment.

Claim write-off and / or write-off can only be done after the RB has made efforts to return the Earning Assets given. BPR is obliged to document the efforts to recover the Earning Assets given and the basis for consideration of write-offs and / or collect-offs. RBs are required to administer data and information regarding Earning Assets that have been written off and / or collected.

3.2 Legal Consequences for Banks Settling Bad Credit on book and Bill Write-offs

State-owned bank bankers are still afraid of legal depreciation and these banks can be charged with criminal acts of corruption because there is no understanding between the bankers and law enforcement officials as well as the BPK, DPR, Attorney General and the Corruption Eradication Commission (KPK) to resolve this problem and there is a mismatch with prevailing laws and regulations.

Another levy imposed by BPRs is the collection of bad debts in the affected areas. In implementing these levies before PP. 33 of 2006, BPR has implemented in accordance with the procedures and requirements stipulated in PMK Number 112 of 2005, namely the distribution of credit before the date of the disaster in the area concerned. The procedure is also carried out in accordance with those stipulated in PMK Number 112 of 2005. However after PP. 33 of 2006 is in effect, so that the collection in the disaster area is carried out by Bank X based on the internal policy of the BPR.

The positive impact is that the write-off rate of the bank's NPL decreases, so that the health of the bank also improves. The quality of bank balance sheets will also improve. Non-yielding credit figures, credit arrears, and uncollectible interest have been written off from the balance sheet. This causes the quality of the bank's earning assets to be better, thereby improving the health of the bank in the eyes of Bank Indonesia and of course the public. The impact on banks as creditors in providing credit is that the elimination of collection rights held by banks to collect receivables from debtors is not written off. For banks, the complete elimination of credit facilities results in the bank losing the right to collect the credits it has collected. Partial collection is carried out, the bank is still entitled to collect part of the uncollectible credit facility. There are no specific provisions regulating in detail about write-offs and collection for commercial banks, how the procedures are, and the criteria for doing so, however these arrangements are scattered in various relevant regulations in the banking sector.

Non-current, doubtful or non-performing loans are categorized as non-performing loans which require quick settlement so that bank liquidity is not disrupted. Settlement was carried out through a strategy to save problem loans and will be followed up with write-offs or collectability if the rescue effort is unsuccessful. However, the provisions regarding the settlement of bad credit through book and claim write-offs at BPRs were constrained by the authorized agency to resolve them due to disagreements regarding the definition of “state assets and the legality aspect of the provisions that change the housing institution”.

With the regulations listed in Article 29 paragraph 3 of Law Number 10 of 1998, credit granting must receive internal supervision from PT BPR Eka Prasetya so that people who are trusted in making savings do not experience loss of trust due to bad or problematic credit which results in book and bill/ claim write-offs.

In addition, the legal consequences that occurred at PT BPR Eka Prasetya following the results of interviews with the Credit Analysis section and Branch Managers of the Tandem Downstream Branch Office which will also be attached are receiving attention and supervision from the Financial Services Authority because write-offs and claim write-offs affect the health of the bank. If the soundness level of a bank decreases drastically, then the bank is categorized as a bank under special supervision and if it is ignored, the bank will be closed or liquidated by the Financial Services Authority.

As for debtors, the legal consequence received is the existence of a black note in the Financial Services Authority's Debtor Information System so that debtors who were registered with black notes will receive consideration when applying for credit at other banks. In addition to write-off, if the debtor does not make a payment, the bank will make two summons and then an auction will be conducted.

3.3 The Role of the Financial Services Authority and the Deposit Insurance Corporation in Settlement of Bad Loans on Book and Bill Write-offs

The financial sector in Indonesia, both banks and non-bank financial institutions, has experienced rapid development. These developments have triggered increased interconnections and transactions between one financial institution and another. In this situation, the loose or detached supervision of financial institutions tends to lead to abuse that has fatal consequences for the health of the financial institution. Indeed, there are many options for determining the financial industry supervision model. However, each model basically has its own advantages and disadvantages and leaves a gap for deviation. Therefore, no model of financial industry supervision in any country is perfect. There are at least 4 (four) models of supervision that are applied in various countries, namely the institutional, integrated, twin-peak, and functional approach. Each country that adopts a certain approach also adapts to the characteristics of the financial industry in that country.

The integrated regulatory and supervisory model introduced by the Financial Services Authority has advantages, especially in responding to the increasingly integrated trend of the financial industry. Currently, for example, the phenomenon of universal banking or a bank that can serve all types of financial services has become a common panorama. With the Financial Services Authority as a supervisory agency, it is hoped that licensing, regulatory, supervisory and policy issues will become easier, because they are under one roof. In addition, the Financial Services Authority as a supervisory agency also allows the use of economies of scale and economies of scope so that its supervision becomes deeper. However, the Financial Services Authority as a "supervisory agency" is also experiencing weaknesses. With such a wide scope of work for regulation and supervision as well as a wide range of industries, the effectiveness of the Financial Services Authority is a mainstay that cannot be ignored if it is not supported by a reliable system and human resources.

A bank is said to have a problem if the bank is unable to fulfill its obligations as a third party, because it experiences losses and as a result, public trust in the bank decreases. Basically, a bank is considered problematic if it faces problems in its operational activities on an ongoing basis and requires special efforts to resolve them. Once a bank fails to fulfill its obligations to customers, the reputation of the bank will waver and it may even experience a rush (massive withdrawal of funds) by the customer and in the end even though the bank is large and healthy it can also close.

The Deposit Insurance Corporation handles write-offs and collect-offs that have a systemic impact after the FKSSK hands over the handling to the Deposit Insurance Corporation. Furthermore, in carrying out the settlement and handling of the Failing Bank, the Deposit Insurance Corporation has the authority to control and manage the assets and liabilities of the Failing Bank. Then the Deposit Insurance Corporation guarantees bank customer deposits in the form of demand deposits, time deposits, certificates of deposit, savings and / or other equivalent forms. The value of deposits guaranteed for each customer at one bank is a maximum of IDR 2,000,000,000.00 (two billion rupiah). The guaranteed value is expected to protect all deposits held by small customers who are the majority of bank customers in Indonesia.

In carrying out its function as a deposit insurance company for depositing customers, the Deposit Insurance Corporation has a different role. During the bank restructuring stage, the Deposit Insurance Corporation took over the management of the bank at the behest of Bank Indonesia. Management was transferred because the bank went bankrupt. In maintaining the stability of the banking system, the Deposit Insurance Corporation plays a role in overcoming failed banks. If the bank fails to be declared to have a systemic impact, the role of the IDIC is to handle the failed bank, whereas if the failed bank is declared to have no systemic impact, the Deposit Insurance Corporation plays a role in completing write-offs. and deletion.

With the passing of Law Number 9 of 2016, the role of the Deposit Insurance Corporation has increased. This law states that the Deposit Insurance Corporation plays a role in the prevention and resolution of financial system crises, namely by becoming part of the Financial System Stability Committee (KSSK). Apart from playing a role as a member of the KSSK, the PPKSK Law also adds to the role of the Deposit Insurance Corporation, namely in dealing with the solvency problems of systemic banks and non-systemic banks. Another role given by the PPKSK Law to the Deposit Insurance Corporation is in Banking Restructuring in a Financial System Crisis. The increasing role of the Deposit Insurance Corporation as mandated by the PPKSK Law then results in the increasing and broader powers of the Deposit Insurance Corporation (Hasanah, 2017).

4 CONCLUSIONS

The implementation of book and bill/claim write-offs in the Regulation of the Financial Services Authority & the Deposit Insurance Corporation are regulated in Law Number 9 of 2016 concerning Financial System Crisis Prevention and Management, Government Regulation Number 21 of 2018 concerning Procedures for Write-Off and Allowance. Asset Claims from the banking restructuring program and Financial Services Authority Regulation Number 33 / POJK.03 / 2018 concerning Earning Asset Quality and Determination of Allowance for Earning Asset Losses for Rural Banks.

The legal consequence of BPR Eka Prasetya's settlement of bad debts by book and bill write-offs is a decrease in the Capital Adequacy Ratio (CAR). If the amount of reserves for write-offs for non-performing loans is insufficient to cover the amount of written-off credits, it can reduce profits and receive supervision from the Financial Services Authority (FSA). The FSA gives special attention to banks due to the decline in the soundness of the bank. If the soundness level of the bank decreases drastically, the bank will be categorized as a bank under special supervision and if it continues, the bank will be closed or liquidated while the debtor has a draft.

The role of the FSA and the DIC in settling bad debts on book and bill write-offs from banks in the form of restructuring of problematic rural banks through the Bail-in mechanism based on the mandate of Law Number 9 of 2016 concerning Financial System Crisis Prevention and Management. The Deposit Insurance Corporation makes payments for customer deposit claims starting with reconciliation and verification of data on customer deposits that are eligible to be paid and which are not eligible for payment. The Deposit Insurance Corporation will form a Liquidation Team tasked with dissolving bank legal entities and settling obligations to bank employees in liquidation, settlement of assets and liabilities, termination of liquidation, and accountability.

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