

THE IMPLEMENTATION OF LENDING BY BANK TO SMALL AND MEDIUM ENTERPRISES IS ASSOCIATED WITH PRUDENTIAL PRINCIPLE DURING THE COVID-19 PANDEMIC (CASE STUDY: PADANG)

¹Rama Antonio S., ²Prof. Dr. Hj. Yulia Mirwati, ³Dr. Yussy Adelina Manas

¹Master Of Law Student, ²Master Of Law Lecture, ³Master Of Law Lecture

Faculty Of Law, Andalas University, Padang, West Sumatera, Indonesia

Email – ramaantonios895@gmail.com

Abstract: Banks are financial institutions that are very influential in the economic growth of a country because they can provide financing or credit to the public. The provision of credit facilities must be based on trust/credence; namely, the facilities provided are used for the proper purpose and under the request of the prospective debtor. Banks as creditors offer credit with the belief that the debtor can return the credit on time without causing problems, the existing deed, and legal protection. SMEs can potentially develop the country's economy, especially during a pandemic. Still, SME business leaders have difficulty overcoming the obligations that must be done to the Bank while the Bank has carried out the procedures as it should. To overcome this, the government issued a policy of remission of financing for SME business leaders, which was published through the Executive Summary of Financial Services Authority Regulation No. 11/POJK.03/2020 concerning National Economic Stimulus as a Countercyclical Policy for the Impact of the Spread of Corona Virus Disease 2019 (PJOK Stimulus Impact of COVID-19). So the prudential principle, the basic concept of banking principles, will be difficult to achieve during this COVID-19 pandemic.

Key Words: Banks, SME, Credit remission, Prudential.

1. INTRODUCTION:

Based on data from the Financial Services Authority (OJK) at the end of December 2019 the percentage rate of bad loans was 2.53%, but since COVID-19 began to disrupt people's economic activities, many of the people objected to paying their obligations which resulted in the number of bad loans increasing. tall.

Pandemic COVID-19 has significantly accelerated banking and digitalization has become a necessity and must be taken up by all parties.

In building a business, the main problem that is most often faced is the need for funds. The funds will be used as capital to build a business as well as to meet operational costs.

2. THEORITICAL FRAMEWORK:

a. Legal Certainty Theory

According to Sudikno Mertokusumo, legal certainty is a guarantee that the law is carried out, that those entitled by law can obtain their rights and that decisions can be implemented.[1]

b. Theory of Legal

Effectiveness Effectiveness implies the effectiveness of the effect of the effect of success or efficacy or efficacy.

3. LITERATURE REVIEW:

The basis for providing credit by banks to customers is the existence of trust in these customers.[2]

The precautionary principle is a principle which states that banks in carrying out their functions and business activities must apply the precautionary principle in order to protect public funds entrusted to them.[3]

Micro, Small and Medium Enterprises (MSMEs) are a business carried out by someone to fulfill and provide daily human needs, either in the form of services or goods.

4. METHOD:

The method used in this study is an empirical juridical approach, namely an approach to existing problems by understanding the positive law of an object of research and how the reality or practice is in the field.[4]

5. DISCUSSION:

Banks can implement policies that support economic growth stimulus for debtors affected by the spread of *COVID-19*, including MSME debtors, while still paying attention to the principle of prudence. Debtors affected by the spread of *COVID-19* including MSME debtors are debtors who have difficulty fulfilling obligations to the Bank because the debtor or debtor's business is affected by the spread of *COVID-19* either directly or indirectly in the economic sector, including tourism, transportation, hospitality, trade, processing, agriculture, and mining.

Based on the facts and the existing legal umbrella, MSMEs have the potential to develop the country's economy, especially during a pandemic, but MSME business actors have difficulty in overcoming their obligations to the Bank, while the Bank has carried out the procedures as it should.

6. ANALYSIS:

A. Description of MSMEs in Padang

City Padang City is one of the places in West Sumatra Province where the emergence of modern retail is rife. Compared to other regions, Padang City is the center of retail business in West Sumatra Province, both nationally and regionally. The mechanism for marketing retail products in Padang City provides opportunities for MSMEs to contribute to it. This is a program from the Padang City Government to prosper MSMEs and help Padang City MSMEs in particular to join in market modernization and so that MSMEs do not lose to compete with other entrepreneurs who have large capital.

B. Application of Credit Provision by Banks to Micro, Small and Medium Enterprises Associated with Prudential Principles During the *COVID-19* in Padang City)

The banking sector can apply this relief because there is indeed financial assistance from the government, although the nominal is not as much as before the pandemic, but the existing funds can provide protection to customers and prospective debtors.

Basically, the application of the precautionary principle by banks has been carried out since the beginning even before the pandemic because this is an obligation that must be carried out by banks.

C. Effectiveness of Implementation of Financial Services Authority Regulation Number 11/POJK.03/2020 Concerning National Economic Stimulus as Countercyclical Policy Impact of the Spread of Corona Virus Disease 2019

OJK has also made a series of efforts to accelerate the recovery of the national economy affected by the pandemic, including by providing more support to the business world, including the micro, small and medium enterprise (MSME) sector. Its concrete forms are various, ranging from accelerating the improvement of financial literacy and inclusion, digitizing MSME actors, to building MSME clusters in the context of fostering and expanding access to financing or capital. So that this government policy is not misused, the bank must properly apply the precautionary principle.

7. CONCLUSION

From the discussion as explained earlier, several conclusions can be drawn, including:

- 1) In granting credit by banks to MSMEs, several state-owned banks such as BRI, BNI and Mandiri in Padang City have their own rules during the pandemic as a form of application of the precautionary principle. always in good health.
- 2) The effectiveness of the relaxation policy applied by banks to MSMEs for the occurrence of bad loans by providing concessions to people who work non-formally because of the unstable income they receive in the form of credit payments for 1 year and a decrease in interest.

REFERENCES:

1. Sudikno Mertokusumo, 2007, *Mengenal Hukum Suatu Pengantar*, Liberty, Yogyakarta, page 160.
2. Arus Akbar Silondae dan Wirawan B.Ilyas, 2012, *Pokok-Pokok Hukum Bisnis*, Jakarta, Salemba Empat, page 73.
3. Rachmadi Usman, 2001, *Aspek-Aspek Hukum Perbankan di Indonesia*, Jakarta, Gramedia Pustaka Utama, page 19.
4. Soerjono Soekanto, 1986, *Pengantar Penelitian Kualitatif*, UI-Press, page 7.