

Legal Perspective on the Credit Restructuring Program as an Effort to Accelerate the Recovery of the Business Sector Post the COVID-19 Pandemic

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The COVID-19 virus outbreak Indonesia has created problems very significant impact sustainability of MSMEs in Indonesia, and that is turned out to have impact on decline in MSME sector. To overcome the problems caused by COVID-19, government has issued various policies, one of which is restructuring of the COVID-19 stimulus credit stipulated in Financial Services Authority Regulation. This study aims to determine implementation and impact of credit restructuring policies on MSME debtors. Research is normative-empirical juridical type and descriptive in nature. Data in this study consisted of primary and secondary data. Data collection instruments in this study were divided into two, namely primary and secondary data. Primary data was collected by interview method, while secondary data collection used documentation study. This study uses qualitative analysis techniques. Goal of this research is to analyze the effectiveness of credit restructuring program in supporting economic recovery after COVID-19 pandemic.

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1. INTRODUCTION

The COVID-19 pandemic that is endemic in Indonesia is causing problems for various sectors. The economic and business sector is the one that experienced the most massive impact. So far, Micro, Small and Medium Enterprises (MSMEs) have played a very vital role in the Indonesian economy. This statement is certainly not just a figment of the imagination, if we observe it as a benchmark of the ability of MSMEs to absorb labor well, it is certainly not surprising that MSMEs are considered to have become the foundation for saving the economy when facing the economic crisis in 1997-1998.[1]

Historically, MSMEs have become the backbone of the Indonesian economy based on data released by the Central Statistics Agency when the economic crisis hit Indonesia. The MSME sector has not experienced the slightest decline, in fact it was recorded that MSMEs were able to absorb 85-107 million workers in the period 2012. It doesn't stop there because the ability of the MSME sector to absorb labor is very good where MSMEs have contributed greatly to the Indonesian economy in various areas. sectors including, firstly, in 2018 the number of business units in Indonesia amounted to 64.1 million (99.9%) calculated based on the total number of business units actively carrying out activities production comes from MSMEs. Second, in the same year, the number of workers in Indonesia was recorded at 116.9 million (97%), which is the total number of workers in Indonesia absorbed by the MSME sector. Third, in the investment or capital investment sector, the MSME sector contributed 2.5 billion (60.42%) calculated from the total amount of investment in Indonesia in 2018.[2]

Since the COVID-19 pandemic hit Indonesia, based on data obtained in 2020, the MSME sector has experienced setbacks and quite a few have even had to close their

businesses. The problems experienced by MSMEs are the impact of government policies that limit social activities minimize spread of COVID-19.[1] According to data obtained from the Katadata Insight Center (KIC) survey in July 2020 of 200 respondents who were MSME players, based on this survey the facts were obtained, namely that 56.8% of MSMEs were in bad condition, 83% were affected by the pandemic, around 64 % of MSMEs experienced a decline in turnover of more than 30% and more than 50% of MSMEs were forced to lay off employees. This problem has certainly provided an illustration that the impact caused by the COVID-19 outbreak will be very dangerous for the wheels economy when not immediately addressed.[1]

Based on the provisions of Article 33 of the 1945 Constitution, it is explained that the pillars of the Indonesian economy are cooperatives, business entities or state organizations, regional business entities or organizations, and private business entities or organizations that will realize economic democracy which has the characteristics of being based on market mechanisms, intervention from the government. central government, as well as individual property rights are recognized. The explanation of the sentence in Article 33 of the 1945 Constitution paragraphs (2) and (3), namely "controlled by the state" does not mean ownership by the state, but the role of the state is to control, regulate, supervise and make policies so that business activities continue to run by adhering to the principles social justice for the sake of prosperity and welfare of society.[3]

Based on the phenomena that have been described, the author is interested in conducting research with a focus on studying problems arising from the impact of the COVID-19 pandemic on the economic sector in Indonesia, especially regarding credit problems experienced by MSME debtors affected by the COVID-19 pandemic, this is the author's background do research.

Furthermore, the aim of this research is to get answers as well as find a solution to the problems raised in this research, namely to find out and analyze an effective credit restructuring program to support economic recovery after the COVID-19 pandemic.

The results obtained through this research are expected to bring many positive benefits, including: first, theoretical benefits, namely the results of this research are expected to contribute to the development of science by providing ideas, especially in supporting the National Research Master Plan (RIRN) period 2015-2045 relating to the fields of Social Humanities - Arts and Culture - Education, one of the research focuses of which is the study of economics and human resources, including studies on MSMEs including inside it; secondly, Practical Benefits, which consist of: a) It is hoped that this research can be used as reference material by the Indonesian Government in order to evaluate work programs related to handling the impact of COVID-19 on MSMEs, b) As instructions or guidelines for MSME debtors who do not yet understand about regulations and government policy programs related to the restructuring of COVID-19 stimulus credit, c) It is the author's hope that this research can be utilized by other scholars so that it can be developed into further research material that is more in-depth or critical of legal issues that are relevant or in line with the scope of the research This.

2. RESEARCH METHOD

This research is of a normative-empirical juridical type, which aims to analyze a legal phenomenon which is not only in a normative context, but also includes analysis of technical aspects in order to implement legal provisions in society. This is because the effectiveness of a law cannot be explained without first examining the law in its normative aspect (law in books) and law in its reality aspect (law in action), if a comparison of these two variables is not carried out, it will certainly be impossible to measure the level of effectiveness. a law.[1]

This research is descriptive in nature, namely a problem-solving procedure that analyzes by describing a phenomenon including the subject or object of law in research based on facts found or what they are without engineering.[4]

Sources of legal materials were obtained through primary data and secondary data. Primary data is data that is directly relevant to the problems in the research, which is obtained through the words or actions of informants who can provide information to researchers who are collecting data, or can be referred to as data obtained directly from sources or first hand. field.[5] Primary data was obtained through distributing questionnaires and interviews with credible sources. Meanwhile, secondary data is additional data that supports the problem in the research, and is a data collection activity by researchers by citing data through available documents.[5]

The data collection instruments in this research were carried out using two methods. collecting primary data through distributing questionnaires followed by interviews, then collecting secondary data through documentation studies. This interview was conducted using this method depth interview, namely a method of collecting data through interviews conducted in depth to explore more specifically a phenomenon being researched on the data source.[6]

Documentation studies are carried out by collecting the necessary documents and data and then analyzing them intensively so that they can support, increase confidence and prove a phenomenon in order to obtain secondary data. Researchers collect data in the form of scientific books related to the problem being researched, documents, appropriate laws and regulations and so on by reading and reviewing them.[6]

3. RESEARCH RESULTS AND DISCUSSION

Impact Yang Incurred COVID-19 Pandemic on the Economy

According to the data obtained, Indonesia is experiencing a very bad economic crisis compared to previous years. Indonesia's economic growth in the first quarter of 2020 was 2.97%. Furthermore, the Indonesian economy began to fluctuate since the COVID-19 pandemic attacked Indonesia and the implementation of Large-Scale Social Restrictions in various regions in Indonesia. It can be seen from the Bank Indonesia (BI) report that there was a contraction (decline) in the pace of the Indonesian economy in the second quarter of 2020, namely -5.23%. The decline in the pace of the Indonesian economy was also caused by the weakening of the global economy.[7]

As stated by the Bank Indonesia Communications Department, the decline in the domestic economy occurred in all GDP components on the expenditure side. Consumption households experienced a contraction of 5.51%, which is much lower than the performance in the first quarter of 2020 of 2.83%. The investment sector recorded a contraction of 8.61% or a decrease compared to the performance in the first quarter of 2020, namely 1.70%. Government consumption also experienced a decline, namely by 6.90%. This decline was very sharp compared to the first quarter, namely 3.75%. Apart from that, the decline in the domestic economy can also be seen from the performance of exports which decreased by 11.6% due to the weakening global economy and falling world commodity prices. The same thing also happens in the import sector experience a decrease of 16.96%.[7]

In fact, the COVID-19 pandemic has had a wider impact, the problems arising from the COVID-19 pandemic in Indonesia have also hit the Indonesian financial market. After President Jokowi issued a statement regarding the first positive case of COVID-19 in Indonesia, the Rupiah exchange rate against the US Dollar was still not as weak as it was on April 9 2020. On March 2 2020, the exchange rate of 1 USD against the Rupiah was

IDR. 14,265.00 and as of April 9 2020 the exchange rate of 1 USD against the Rupiah is IDR. 15,880.00. If the analysis is carried out, it is discovered that the Rupiah has weakened by 1,615 points or around 11.32% in 39 days, while March 23 2020 was recorded as the time when the Rupiah weakened against the US Dollar at an exchange rate of 1 USD against the Rupiah of Rp. 16,575.00 is equivalent to a weakening of 16.19%.[8]

The economic crisis that hit Indonesia in the past, namely around 1998, also caused the rupiah exchange rate to weaken which resulted in market and public confidence collapsing. However, in a chaotic situation like this, MSMEs are able to survive and become the backbone of the national economy during times of crisis. Based on data from the Coordinating Ministry for Economic Affairs of the Republic of Indonesia, around 99% of businesses in Indonesia are Micro, Small and Medium Enterprises.[9]

The problems that occurred in 2020 due to the impact of the COVID-19 pandemic were different from previous crises, this time MSMEs were the leading sector experiencing economic shocks. The problems experienced by MSMEs are one of the impacts of the policies implemented by the Central Government and Regional Governments such as PSBB and lockdowns to minimize the spread of COVID-19 which indirectly stops MSMEs' economic activities.[9] As for June 20 2020, based on reports from the provincial, district and city Cooperatives and SMEs Department, the Ministry of Cooperatives and SMEs recorded that 67,051 MSMEs were affected by the pandemic, and of course the number continues to increase as the spread of the COVID-19 pandemic spreads.[7] Furthermore, the Ministry of Cooperatives and SMEs also received reports regarding the problems experienced by MSMEs during the COVID-19 pandemic, namely; experiencing difficulties in obtaining raw materials for production purposes, difficulties in distributing goods, a decline in sales levels, and experiencing problems in the credit/capital aspect.[2]

Credit Restructuring as an Economic Stimulus During the COVID-19 Pandemic

To overcome the problems caused by the COVID-19 pandemic in the economic sector, the government has issued an economic stimulus policy, one of which is the Credit restructuring program which is regulated in the Republic of Indonesia Financial Services Authority Regulation Number 11/POJK.03/2020 concerning National Economic Stimulus as a Policy Countercyclical Impact Spread Coronavirus Disease 2019, then changes were made with the enactment of Financial Services Authority Regulation Number 48/POJK.03/2020 concerning Amendments to Financial Services Authority Regulation Number 11/POJK.03/2020 concerning National Economic Stimulus as a Countercyclical Policy on the Impact of Spread Coronavirus Disease 2019, then changes were made again to the Financial Services Authority Regulation Number 17/POJK.03/2021 concerning the Second Amendment to the Financial Services Authority Regulation Number 11/POJK.03/2020 concerning National Economic Stimulus as a Countercyclical Policy on the Impact of Spread Coronavirus Disease 2019. Credit restructuring is an activity to postpone credit contributions and provide interest subsidies to MSMEs who receive people's business credit (KUR), credit ultra micro (UMi), civil national capital to foster prosperous families (PNM Mekaar), revolving fund management institution (LPDB), as well as recipients of capital assistance from several ministries.[10]

This government program is implemented by involving banking and the finance company industry, including an assessment of the quality of a credit with a maximum amount of IDR. 10,000,000,000 (ten billion rupiah) based only on the accuracy of principal or interest payments, improvements to smooth credit quality with the existence of credit restructuring. According to data obtained from the official OJK website, in the period 31 March 2020 alone, it was reported that 55 Commercial Banks, 13 Sharia Commercial Banks, 7 Regional Development Banks, 67 Rural Banks, and 35 Financing Companies

stated that they had carried out restructuring and relief for debtors including MSMEs affected by COVID-19.[11]

Legal Regulations Regarding Credit Restructuring for MSME Debtors Affected by the COVID-19 Pandemic

Based on the provisions of Article 2 of the Financial Services Authority Regulation Number 11/POJK.03/2020, it states that banks can implement policies aimed at supporting economic growth stimulus for debtors affected by the spread of COVID-19, including micro, small and medium enterprise (MSME) debtors.). The policies that support the economic growth stimulus as intended include policies for determining asset quality and credit or financing restructuring policies. In terms of implementing policies that support economic growth stimulus, banks must continue to pay attention to the implementation of risk management as regulated in Financial Services Authority Regulation Number 18/POJK.03/2016 concerning the implementation of Bank risk management. Although the implementation of this policy is left to banks according to their respective conditions, banks must have guidelines for its implementation, at least containing the criteria for debtors affected by the COVID-19 pandemic and also what sectors are affected by COVID-19. In implementing this policy, banks can also use other regulations as long as they do not conflict with the provisions in Financial Services Authority Regulation (POJK) Number 17/POJK.03/2021 concerning the Second Amendment to Financial Services Authority Regulation Number 11/POJK.03/2020 Concerning National Economic Stimulus as a Countercyclical Policy for the Impact of the Spread of Coronavirus Disease 2019. The main points of the POJK regulations for Stimulus Impact of COVID-19 include:

This POJK applies to BUK, UUS, BPR and BPRS;

Banks can implement policies that support economic growth stimulus for debtors affected by the spread of COVID-19, including MSME debtors, while still observing the precautionary principle;

Debtors affected by the spread of COVID-19, including MSME debtors, are debtors who have difficulty fulfilling their 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;

1. This POJK applies to BUK, UUS, BPR and BPRS;
2. Banks can implement policies that support economic growth stimulus for debtors affected by the spread of COVID-19, including MSME debtors, while still observing the precautionary principle;
3. Debtors affected by the spread of COVID-19, including MSME debtors, are debtors who have difficulty fulfilling their 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;
4. The stimulus policy consists of; assessment of the quality of credit/financing/other fund provision is only based on the accuracy of principal and/or interest payments for credit/financing/other fund provision with a ceiling of up to IDR 10 billion and improvements in the quality of credit/financing to become smooth after being restructured during the POJK validity period. Banks can apply these restructuring provisions without considering credit/financing ceiling limits or type of debtor.[12]
5. The method for credit/financing restructuring is carried out as regulated in OJK regulations regarding asset quality assessment, including by; reduction in interest rates, extension of the term, reduction of principal arrears, reduction of interest arrears,

- addition of credit/financing facilities and/or conversion of credit/financing into temporary capital participation;
6. Banks can provide new credit/financing/provision of other funds to debtors who have received special treatment in accordance with this POJK with the determination of the quality of the credit/financing/provision of other funds carried out separately from the quality of the previous credit/financing/provision of other funds;
 7. The Bank submits periodic reports on the implementation of this POJK for Supervisory monitoring since the data position at the end of April 2020;
 8. Banks are required to reassess debtors who have been restructured whether their business prospects are still sustainable or not in accordance with POJK provisions;[12]
 9. The implementation of policies that support economic growth stimulus in this POJK is valid until March 31, 2024.[13]

Effectiveness of the Credit Restructuring Program in Efforts to Support Economic Recovery

1. Mechanism for Distribution of the Credit Restructuring Program to MSME Debtors Affected by the COVID-19 Pandemic

Basically, the guidelines for distributing credit restructuring by banks refer to POJK provisions and asset quality assessments. However, the distribution scheme does not have definite provisions and tends to vary according to the provisions made by each bank's policy depending on the assessment of the debtor's profile and repayment capacity. It needs to be included in the records and it is important for the public to understand that the OJK emphasizes to all banks that this restructuring policy be carried out responsibly.[14]

With the enactment of Financial Services Authority Regulation Number 48/POJK.03/2020 concerning Amendments to Financial Services Authority Regulation Number 11/POJK.03/2020 concerning National Economic Stimulus as a Countercyclical Policy on the Impact of the Spread of Coronavirus Disease 2019 based on the provisions of Article 3 paragraph (1) letter c states that Conventional Commercial Banks (BUK) have an obligation to provide funds aimed at debtors affected by the spread of COVID-19, including micro business debtors, small, and medium with a maximum ceiling of IDR 10,000,000,000.00 (ten billion rupiah).

In this case, credit quality is determined by analyzing the debtor's ability to pay before and during the onset of COVID-19. Meanwhile, Credit Quality is for the ceiling on IDR 10,000,000,000.00 (ten billion rupiah) is determined based on several assessment factors, such as:

- a. Business prospects; assessment of business prospects consisting of business growth potential, market conditions and the debtor's position in competition, quality, management and labor problems, support from business groups or affiliates, efforts made by the debtor to maintain the environment.
- b. Debtor performance; Debtor performance can be measured by assessing profitability, capital structure, cash flow, sensitivity to risk market.
- c. Debtor's ability to pay; accuracy of principal and interest payments, availability and accuracy of debtor financial information, completeness of credit documentation, compliance with credit agreements, appropriateness of use of funds, reasonableness of sources of payment of obligations are the benchmarks used to determine the debtor's ability to pay.[15]

Banks are required to reassess debtors who have been restructured whether their business prospects are still sustainable or not in accordance with the provisions of POJK Number 48/POJK/2020, which is an extension of POJK Number

11/POJK/2020. If from the results of the reassessment it is found that there is a business that is not sustainable, the bank is obliged to form reserves and determine asset quality and no longer provide restructuring and then carry out an earnings resilience test to avoid the risk of bank losses.

2. Juridical Study Regarding the Effectiveness of the Credit Restructuring Program on Credit Problems of MSME Debtors Affected by the COVID-19 Pandemic

The credit restructuring program is a policy issued by the government through Financial Services Authority Regulation Number 17/POJK.03/2021 concerning the Second Amendment to Financial Services Authority Regulation Number 11/POJK.03/2020 concerning National Economic Stimulus as a Countercyclical Policy on the Impact of Distribution Coronavirus Disease 2019. To be able to determine the effectiveness of a regulation, it is of course very important to first determine the benchmarks for the purpose of its formation.[6] Legal theory can be described as a point of view to explain a problem.[16] In this case, the author considers that the theory of utility/utilitarianism can be used as an analytical knife in dissecting problems.

If the credit restructuring program is analyzed, it can be said to be a government policy that has a big influence on the financial health of MSME debtors affected by the COVID-19 pandemic and can also avoid bank losses due to debtors who are unable to repay credit. During the period before the outbreak of the COVID-19 pandemic, MSME debtors obtained good results due to relatively stable financial income. But in difficult times after implementation of the policy Lockdown or PSBB, MSME debtors have difficulty paying off credit loans due to limited business activities which causes a decrease in financial income. If the debtor is unable to repay the credit loan, this will be detrimental to the bank because it can disrupt bank liquidity which will have a negative impact on the country's economy.[17]

Based on data obtained from the Financial Services Authority report, the value of bank credit restructuring has decreased, namely IDR 301.16 trillion as of October 2023, down IDR 15.83 trillion compared to September, namely IDR 316.98.[18] Then, based on data recaps since February 2022, the total number of restructuring participants has reached 3.7 million debtors, of which 76.75% of the participants are MSMEs. The decrease in the amount of restructuring credit will certainly have a positive impact on reducing the Bank's loan at risk ratio. Restructuring is actually a policy that aims to be a solution to solving credit problems during the COVID-19 pandemic. [19] If we observe the data on the implementation of this program, it is then linked to the theory of utility/utilitarianism, which emphasizes that the law will be effective if its distribution is able to bring benefits. , If these components have been fulfilled, then it can be said that the enforcement of the law has been effective.[20]

4. CONCLUSION

The legal basis for implementing the credit restructuring program for MSME debtors affected by the COVID-19 pandemic is regulated in Financial Services Authority regulation Number. 17/POJK.03/2021 concerning the Second Amendment to the Financial Services Authority Regulation Number 11/POJK.03/2020 concerning National Economic Stimulus as a Countercyclical Policy on the Impact of the Spread of the 2019 Coronavirus Disease. Guidelines for distributing credit restructuring by banks refer to POJK provisions and asset quality assessments. However, the distribution scheme does not have definite provisions and tends to vary according to the provisions made by each bank's policy depending on the assessment of the debtor's profile and repayment capacity. Overall, the credit restructuring

program can be considered an effective policy because it can provide relief to debtors, which provides opportunities for MSMEs to survive during the COVID-19 pandemic, and can also avoid bank losses due to debtors who are unable to pay off credit so that bank liquidity will remain stable. awake.

In connection with the implementation of the COVID-19 stimulus credit restructuring program which aims to overcome problems resulting from the impact of the COVID-19 pandemic, the author certainly hopes that its implementation will be carried out responsibly by all parties involved. Then the author hopes that the Government can carry out continuous evaluation continuously towards all kinds of policies that support economic recovery so that it runs well so that Indonesia can quickly recover from the downturn caused by the COVID-19 pandemic.

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