

The implementation of credit relaxation through credits restructuring for debtors in terms of credit payments delaying obligations in the era of pandemic 19 in Indonesia

A implementação de relaxamento de crédito por meio de reestruturação de créditos para devedores em termos de pagamentos de crédito atrasando obrigações na era da pandemia de 19 na Indonésia

La implementación de la relajación crediticia a través de la reestructuración de los créditos para los deudores en términos de pagos de crédito retrasando las obligaciones en la era de la pandemia 19 en Indonesia

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Lenny Mutiara Ambarita

ORCID: <https://orcid.org/0000-0002-2045-8321>

Universitas Simalungun, Indonésia

E- mail: ambaritamlenny@gmail.com

Imelda Mardayanti

ORCID: <https://orcid.org/0000-0003-4235-482X>

STIE Bina Karya Tebing Tinggi, Indonésia

E- mail: 72nasution@gmail.com

Abstract

Applying business capital for a loan from a bank is a common thing to do for every aspiring businessman. In making the loan, the businessman uses a period and pays the monthly installments in accordance to what has been agreed. At the end of 2019, the outbreak of the Corona Pandemic 19 virus in the world has begun and without exception in Indonesia, resulting in decreased income from business sector. In order to address this problem as well as to ease bank installments for business people, Credit Restructuring can be carried out. This research is a normative juridical research, namely legal research by employing secondary data as a basic material by conducting an examination of the regulations and literature related to Credit Restructuring. As a result, it can be argued that the implementation of restructuring for each debtor is unquestionably different depending on the credit risk by the debtor and depends on the policy and analysis of the bank itself. Not all parties can accept this credit relaxation where banks or multi-finance companies are still required to be watchful for it is full of risk

management calculations, thus relaxation is only given to debtors who have a good track record and are certainly affected by economic pressure due to the corona virus Pandemic 19. Credit Relation is running in accordance with the provisions of Government Regulation in Lieu of Law (*Perppu*) Number 1 of 2020 which is followed up by the Financial Services Authority (OJK) through policies, one of which regulates the Credit Relaxation Policy through Credit Restructuring for Debtors affected by Covid 19 especially for Small Micro Medium Enterprises.

Keywords: Credit restructuring; Installments; Pandemic 19; Bank.

Resumo

Aplicar capital de negócios por meio de um empréstimo de um banco é algo comum para todo aspirante a empresário. Para fazer o empréstimo, o empresário usa um prazo e paga as parcelas mensais de acordo com o combinado. No final de 2019, o surto do vírus da Pandemia do Coronavírus no mundo começou e sem exceção na Indonésia, resultando na diminuição da receita do setor empresarial. Para contornar esse problema e também para amenizar o parcelamento do empresário, pode-se fazer uma Reestruturação de Crédito. Esta investigação é uma investigação jurídica normativa, nomeadamente uma investigação jurídica, utilizando dados secundários como material de base através da realização de um exame da regulamentação e da literatura relacionada com a Reestruturação de Crédito. Como resultado, pode-se argumentar que a implementação da reestruturação para cada devedor é indiscutivelmente diferente dependendo do risco de crédito do devedor e depende da política e análise do próprio banco. Nem todas as partes podem aceitar esse relaxamento de crédito onde os bancos ou empresas multi-financeiras ainda precisam estar atentos, pois ele está cheio de cálculos de gestão de risco, portanto, o relaxamento é dado apenas a devedores que têm um bom histórico e são certamente afetados pela pressão econômica devido ao vírus corona Pandemic 19. A relação de crédito está em execução de acordo com as disposições do Regulamento do Governo em Lieu of Law (*Perppu*) Número 1 de 2020, que é seguido pela Autoridade de Serviços Financeiros (OJK) por meio de políticas, uma das quais regulamenta a Política de Relaxamento de Crédito por meio de Reestruturação de Crédito para Devedores afetados pela Covid 19, especialmente para Pequenas Micro Médias Empresas.

Palavras-chave: Reestruturação de crédito; Prestações; Pandemia 19; Banco.

Resumen

Solicitar capital comercial para un préstamo de un banco es algo común para todos los aspirantes a empresarios. Al realizar el préstamo, el empresario utiliza un plazo y paga las cuotas mensuales de acuerdo con lo pactado. A fines de 2019, comenzó el brote del virus Corona Pandemic 19 en el mundo y sin excepción en Indonesia, lo que resultó en una disminución de los ingresos del sector empresarial. Para abordar este problema, así como para facilitar las cuotas bancarias para los empresarios, se puede llevar a cabo una reestructuración crediticia. Esta investigación es una investigación jurídica normativa, es decir, una investigación jurídica mediante el empleo de datos secundarios como material básico mediante la realización de un examen de las regulaciones y la literatura relacionada con la Reestructuración Crediticia. En consecuencia, se puede argumentar que la implementación de la reestructuración para cada deudor es incuestionablemente diferente dependiendo del riesgo crediticio del deudor y depende de la política y análisis del propio banco. No todas las partes pueden aceptar esta relajación crediticia donde los bancos o las compañías multifinancieras aún deben estar atentos, ya que está llena de cálculos de gestión de riesgos, por lo que la relajación solo se brinda a los deudores que tienen un buen historial y ciertamente se ven afectados por la presión económica. debido al coronavirus Pandemia 19. La relación crediticia se ejecuta de acuerdo con las disposiciones de la Regulación gubernamental en lugar de la ley (Perppu) Número 1 de 2020, que es seguida por la Autoridad de Servicios Financieros (OJK) a través de políticas, una de las cuales regula la Política de Relajación Crediticia mediante Reestructuración Crediticia para Deudores afectados por Covid 19 especialmente para Pequeñas Micro Medianas Empresas.

Palabras clave: Reestructuración crediticia; Cuotas; Pandemia 19; Banco.

1. Introduction

Along with the development of trade which is snowballing on a broad and global scale, the problem of debts carried out by individual, communities and companies is getting progressively more multifaceted. With that being said, it requires effective legal rules as well as the development of the global economy in order to solve debt problems. This is valuable for meeting the legal needs of business people in solving debt-receivable problems (Kheriah, 2013) In addition to that, Indonesia's economic development has also been in reliance to credit as the backbone for development of the economy (Ali, 1985) Thus credit has a substantial significance in various development aspects such as: trade, industry, housing,

transportation and so on. In addition, credit also provides protection to economically weak groups in developing their business (Mangunkusumo, 1985). For those who run a business, taking debt (credit or loan) is already a factor that cannot be separated from business life (Sjahdeini, 2000). In this circumstance it is very difficult to unchain of the business world without loans.

The rapid extent of the Covid -19 pandemic hit the world exponentially, including Indonesia at the end of 2019 and is potentially causing disruption to banking performance and financial system stability. In fact, it is currently causing problems in various fields, including for Indonesian citizens to fulfill their daily needs in the secondary necessities, namely: in term of making purchases of goods with credit such as: houses, cars, motorbikes etc. During the emergence of the pandemic virus, it instigated a disorganized economy, where several companies laid off their workforce. So that it creates exertion to make credit payments for the goods purchased. Based on Law Number 37 of 2004 concerning Bankruptcy and Postponement of Credit Debt Payments during the Pandemic 19, if they cannot pay at least the debt due to maturity, the two parties conduct deliberations in order to renegotiate debt assisted by the management (Nurwulan, 2017).

The corona virus pandemic has an impact on an increase in the ratio of non-performing loans in banks particularly in January - March 2020. The ratio of non-performing loans to banks is monitored at 2.77 percent [6] Based on this figure, it has increased as in 2019 it was only 2.30 percent (Wiratmini, 2020). The state of the Covid 19 pandemic is still ongoing, even though the new normal social order has been undertaken by the world community in general and the Indonesian people in particular as a respond to this situation. The government has issued OJK Regulation Number 11 / POJK.03 / 2020 concerning National Economic Stimulus as Policy Countercyclical Impact of the Spread of Covid 19 in which debtors with a ceiling of less than IDR 10 billion can get relaxation from credit installment delays and this provision is valid until March 31, 2021 (Risna, 2020). Credit Restructuring is one of the efforts made by the Bank in an effort to repairing activities rather than crediting customers who have experienced difficulties in fulfilling their obligations (Putri, 2020).

In practice, the relaxation of delaying credit installments has certainly experienced glitches, which undeniably need to find a way out to respond to it. For this reason, Sri Mulyani said that relief for postponement of credit installment payments refers to Government Regulation in Lieu of Law (*Perppu*) Number 1 of 2020 concerning State Finances and Financial System Stability for Handling the Covid 19 Pandemic (Candra, 2020).

Based on the matters stated above a juridical analysis will be carried out in this regard. The formulations of the problem in this study are,

1. What is the implementation of this credit restructuring during the Covid 19 pandemic in Indonesia?
2. Is this credit restructuring in progress during the Covid 19 pandemic in Indonesia?

2. Methodology

This research is a normative juridical study specifically legal research using secondary data as the basic material by conducting a search of the regulations and literature related to Delayed Debt Payment (Soekamto, 2004) and the statute approach is law research that provides an analysis point of view of problem solving in legal research that is seen and becomes a conceptual approach.

The statutory approach is used by researchers to analyze the applicable legal rules in a situation where one is unable to pay credit for goods and discusses how the legal provisions were purchased. The data used in this study consisted of primary and secondary data. Primary data is obtained from laws and regulations which consist of:

1. Law Number 34 Year 2004 concerning Bankruptcy and PKPU
2. Civil Code
3. OJK Regulation Number 11 / POJK.03 / 2020 Regarding National Economic Stimulus as a Countercyclical Policy on the Impact of the Spread of Covid 19 in which debtors who have a ceiling of less than IDR 10 billion can get relaxation for postponement of credit installments and this provision is valid until March 31, 2021.
4. Government Regulation in Lieu of Law (*Perppu*) Number 1 of 2020 which is followed up by the Financial Services Authority (OJK) through policies where one of them regulates the following: Credit Relaxation Policy through Credit Restructuring for Debtors affected by Covid 19 especially Micro Small and Medium Enterprises. Secondary data is obtained from legal books that regulate Postponement of Credit Debt Payments when due, legal journals, jurisprudence (judges' decisions), legal dictionaries, legal encyclopedias, and articles.

The data collection technique is done by studying documents. Documents are written materials or objects related to certain events / activities (Bungin, 2001). The document study (Suprayogo & Tobroni, 2001) was carried out by searching for data relevant to the legal issue at hand. The data that has been obtained is then recorded, edited, studied, then the essence is taken in the form of theories, ideas, concepts and related legal provisions, all data is recorded

using a card system, which is a research card containing notes about research result.

Furthermore, the data is collected and compiled and grouped according to the problems studied. Data processing is preceded by selecting the data that has been collected as primary, secondary and tertiary data. The data is then selected and sorted according to the needs to be used to analyze and explain legal issues or problems raised in this study.

3. Results and Discussion

3.1. The Implementation of Credit Restructuring During Covid 19 Pandemic in Indonesia

Credit Relaxation Policy through Credit Restructuring for Debtors affected by Covid 19 is given especially Micro, Small and Medium Enterprises. For the implementation of this Restructuring, it raises pros and cons, meaning that there are those who provide support; there are also those who criticize, both from debtors and from creditors (Fauzie, 2020).

The Restructuring Policy has been stipulated by the OJK (Financial Services Authority) in the form of, among others: Lower interest rates, reduction in arrears interest, reduction in principal arrears, additional credit facilities, and/ or credit conversion into participation instead of temporary capital in accordance with analysis from the Bank.

Based on the views of Ikhasan Ingaratubun, the Chairperson of the UMKM Association, Credit Restructuring application, which applies to debtors who already have loans at private financial services institutions, is considered more difficult than state-owned banks. Then he also stated that this application for restructuring in private financial institutions, both bank and non-bank, would lead to a very complicated administration and at the time the application would potentially be rejected. Apart from the criticism from the Chairperson of the UMKM Association, the Managing Director of Bank DKI, Zainuddin Mappa stated that when the outbreak of the Coronavirus 19 Pandemic began to spread in Indonesia, banks should have started to assess the risks and policies they would set.

The risks that may be faced by the Bank include: operational risk, credit risk, liquidity risk and market risk. Among these risks, credit risk has a very broad impact. In the OJK implementing this restructuring in the community creates confusing information. This is because the public thinks that the policy of this restructuring is the same for every debtor and bank. For this reason, OJK explains that the implementation of restructuring for each debtor is certainly different depending on the credit risk by the debtor and depends on the policies and

analysis of the bank itself.

Therefore, not all parties can accept this Credit Relaxation where banks or multi-finance companies are still required to be on the lookout of complete risk management calculations. Thus relaxation is only given to debtors who have a good track record and are without doubt affected by economic pressures due to of Corona virus Pandemic (Rismayani, Puspawati and Sutama, 2013). Debtors who do not feel the impact of the Corona virus 19 Pandemic are expected to be conscious because they are able to make regular credit payments so as not to apply for Delay of Payment of Credit Installment Payment for their business financing for the relief was given to debtors affected by the Covid 19 pandemic.

For this, the Bank must also review each proposed relaxation carefully, to assess which customers are accurately eligible for restructuring or postponement of installments, where for the long term they must have the prospect of recovering and which are profitable from the Bank. There are debtors who complain because their relaxation is rejected because this policy is carried out extra strictly and carefully. The policy of relaxation is not all of the installments that can be postponed for the payment of principal and interest. For this reason, it still refers to the Bank Analysis, in this way only deferred payment of principal is given but the interest continues as stated at the time the agreement was made and when the credit was taken. .

In the Credit settlement period to settle the debt of this Debtor through Credit Restructuring, the conditions that must be met by this Debtor are required. It is in which the main conditions are the Willingness and Good Ethics of the debtor and being disposed to keep an eye on the conditions determined by the Bank in settlement this credit (Jingga, 2020). For this matter, negotiations and solutions offered by the Bank are required to determine the terms and conditions for this Credit restructuring which the Debtor will follow (Guselsa, 2020). This current situation has also been experienced by many individuals in Indonesia. One of them is Mrs. Ani, who sells at the MAN Subang Canteen, she is describes as unable to pay her credit on the *Akulaku* Finance Digital Credit Platform. However, she has been eligible to be one of the treats as her installments of goods have been restructured. In order to obtain this restructuring, Mrs. Ani must meet the requirements as stated in the application of the company. Installments per month can be paid in stages as well as the payment which can also be paid in installments. It is also tailored or the payment is adjusted to the ability of the person paying (Deny, 2020).

4. Conclusions

1. That the Implementation of Credit Restructuring in the Covid 19 Pandemic for Debtors is not for those who do not feel the waves of the Corona virus. Thus, they are expected to apprehend the fact that they are not eligible to apply because are still deemed to be able to make regular credit payments. This relief is given merely to Debtors who were affected by the Pandemic 19. This has resulted in a situation where there are debtors who complain because their relaxation is rejected. It is because this policy is carried out extra strictly and carefully.
2. This Credit Relation runs in accordance with the provisions of Government Regulation in Lieu of Law (*Perppu*) Number 1 of 2020 which is followed up by the Financial Services Authority (OJK) through policies, one of which regulates the following: Credit Relaxation Policy Through Credit Restructuring for Debtors who affected by Covid 19 especially Micro, Small and Medium enterprises.
3. It is also suggested for those who are interested in researching further to this topic to expand the issue by possibly employing more legal documents and data collection in order to see the matter from different angles as well as providing different takes on the topic.

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Percentage contribution of each author in the manuscript

Lenny Mutiara Ambarita – 50 %

Imelda Mardayanti – 50 %