

THE PROVISION OF UNSECURED PEOPLE'S BUSINESS CREDIT (KUR) BASED ON LAW NO. 10 OF 1998 (STUDY AT PT. BANK BRI PULO BRAYAN BRANCH UNIT I)

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Abstract

One of the attractive services for the MSME group is the existence of one of the banking services offered by PT. Bank BRI Pulo Brayan Branch Unit I Medan, namely the People's Business Credit (KUR) based on the Minister of Finance Regulation Number 135/PMK.05/2008 concerning the People's Business Credit Guarantee Facility (KUR). However, it is important to note that the implementation of Unsecured KUR has a high degree of risk, so that countermeasures are needed to avoid the occurrence of non-performing loans (NPL). The research method used is normative-empirical legal research. Normative research is carried out and based on written provisions or other legal materials, while empirical research is carried out with a sociological approach obtained from primary data whose samples are directly from the community as the first source through field research. The activity of providing Unsecured KUR by PT. Bank BRI Pulo Brayan Branch Unit 1 Medan is based on a legal agreement that has legal consequences by adhering to the Pacta Sunt Servanda principle by applying the 5C+7P+3R principle which aims to prevent non-performing loans (Non Performing Loans) in the future.

Keywords: Bank, Unsecured KUR, Settlement

INTRODUCTION

The progress of economic growth in Indonesia is due to the important role of the intervention of Micro, Small and Medium Enterprises (MSMEs) actors. This is viewed from the position, role and potential that are interrelated with each other along with the absorption of labor

Basically, MSMEs cause several problem factors that can be grouped, namely external problems and internal problems. The location of external problems includes: a) the smooth running of a business b) limited business facilities and infrastructure, c) the implications of regional autonomy, d) the nature of the product with a short life time, e) limited market access, f) the implications of free trade. Meanwhile, internal problems include a) capital b) limited human resources and c) weak business network and market penetration capabilities.¹

In practice, lending disbursed by financial service institutions is based on trust or "credere" which is in accordance with Article 1 number 11 of Law 10/1998 which states that credit is the provision of money or claims that can be equated with it, based on approval or agreement. Lending and borrowing between banks and other parties that require the borrower to repay the debt after a certain period of time with interest. As stated by Suharno, trust from the bank's point of view means that there is a belief that the funds to be given to the debtor will be returned on time in accordance with the agreement of both parties which will be stated in a written agreement² and through an assessment of criteria and aspects by conducting an analysis in accordance with the principles of 5C (character, capacity, capital, condition, & collateral), 7P principle (personality, party, purpose, prospect, payment, profitability, & protection) and 3R principle (return, repayment, & risk).

The function of providing unsecured credit facilities (KTA) is to provide convenience for prospective debtor customers and be an effective solution for business actors to obtain funds according to the time period offered and mutually agreed upon by Bank Rakyat Indonesia (BRI) Pulo Brayan Unit I Branch, especially with the provision of credit facilities to groups of Micro, Small and Medium Enterprises (MSMEs) based on the Minister of Finance Regulation Number 135/PMK.05/2008 concerning People's Business Credit Guarantee Facility (KUR). However, it should be noted that the distribution of KTA carries a high degree of risk where each bank will try to take technical credit security measures. That is, carried out with intensive techniques and ways.³

The implementation of the KUR program by Bank BRI Pulo Brayan Unit I Branch for the MSME group can apply for a loan platform of up to Rp. 50,000,000,- (fifty million rupiahs) per debtor with an interest rate of 0.2% per month or 6% per year without being subject to administrative fees and provision fees in accordance with the applicable provisions.

It should be noted that in the implementation of the KUR program carried out by the BRI Bank Pulo Brayan Unit 1 Branch as a creditor, they took countermeasures in order to avoid the occurrence of non-performing loans or non-performing loans (NPL) in the future. It is characterized by taking steps through litigation or non-litigation.

Thus, based on the explanation of this background, the authors are interested in conducting research with the title "Providing Unsecured People's Business Credit (KUR) based on Law no. 10 of 1998 (Study at PT. Bank BRI Pulo Brayan Branch Unit I).

RESEARCH METHODS

The type of research is normative empirical which is descriptive in nature where this research is carried out and is based on written provisions or other legal materials. The sources of legal materials used in this research are:

- a. Primary legal materials are materials obtained based on the applicable laws and regulations, namely Law no. 10 of 1998 concerning Banking, Bank Indonesia Regulations (PBI), and the Civil Code (KUHPerdata);
- b. Secondary legal materials are materials obtained through primary legal sources and existing sources to support the research process, namely articles, newspapers, books, and scientific works;
- c. Tertiary legal materials are materials obtained through explanations of primary legal materials and secondary legal materials, namely encyclopedias, opinions of the law, Wikipedia, and others.
- d. The data collection techniques used are sourced from literature studies through primary, secondary and tertiary legal sources through applicable banking laws and regulations and scientific works as well as using field studies by taking data and information directly by conducting interview sessions with PT. BRI Pulo Brayan Branch If Unit by Mrs. Dwi Melfiana. Data analysis uses a

¹Y. Sri Susilo, The Role of Banking in Financing MSMEs in Yogyakarta Province, Journal of Finance and Banking, Vo.14 No. 3, September 2010, pp.468-478

²Thomas Suyatono, Fundamentals of Credit, Jakarta: STIE Perbanas-Gramedia, 1988, p.2

³Muchdarsyah Sinungan, Bank Fund Management, Jakarta: Bumi Aksara, 1992, p. 263

qualitative approach, namely by describing data in an orderly, sequential, logical, non-overlapping, and effective manner, originating from legal materials based on concepts, theories, laws and regulations, doctrines, legal principles, expert opinions or with the researchers themselves.

RESULTS AND DISCUSSION

Arrangements for the Provision of Unsecured KUR for MSMEs at PT. Bank Rakyat Indonesia (BRI) Pulo Brayan Branch I Medan

In Article 1 paragraph 18 of Law no. October 1998 concerning banks where customers who owe debts are customers who receive credit or financing based on Sharia principles or its equivalent based on a banking agreement with the customer concerned. This principle is applied by PT. The People's Bank of Indonesia Pulo Brayan Unit 1 Medan Branch in the business of unsecured credit for MSMEs realizes the Know Your Customer principle as regulated in Bank Indonesia Regulation No. 5/21/PBI/2003 and the options contained in Article 29 paragraphs (2) and (3) and Law Number 10 of 1998 concerning Banking, basically to ensure the viability and good management of banks. Banks are intended to maintain trust society and is one of the engines of economic progress.

Unsecured KUR distribution for MSMEs at PT. Bank Rakyat Indonesia (BRI) Pulo Brayan Unit 1 Medan Branch is characterized by the characteristics of the BRI KUR which is applied to each prospective debtor with a period of time and background (12 months = 0.273 %; 18 months = 0.268 %; 2 months = 0.265% n 36 months = 0.26%) different in certain months

Provisions imposed by Bank BRI Cab. Pulo Brayan Unit 1 Medan must be completed by every prospective customer and debtor receiving KUR, namely:

In Article 1 paragraph 18 of Law no. 10 of 1998 concerning Banking that a debtor customer is a customer who obtains a credit facility or sharia principle financing or its equivalent based on a bank agreement with the customer concerned. This principle is applied by PT. Bank Rakyat Indonesia Pulo Brayan Unit 1 Medan Branch in the activities of Unsecured People's Business Loans for MSMEs demonstrates the Know Your Customer Principles as regulated in Bank Indonesia Regulation Number 5/21/PBI/2003 as well as the embodiments contained in Article 29 paragraph (2) and (3) and Law No.10/1998 concerning Banking, which basically consists in ensuring the viability and sound management of banks so as to maintain public trust and as one of the factors driving progress for the economy.

Unsecured KUR Distribution for MSMEs at PT. Bank Rakyat Indonesia (BRI) Pulo Brayan Unit 1 Medan Branch is marked by the BRI KUR feature which is applied to each prospective debtor with a term and platform (12 months = 0.273%; 18 months = 0.268% ; 24 months = 0.265% and 36 months = 0.264%) which differ in certain months

The conditions imposed by the Bank BRI Cab. Pulo Brayan Unit 1 Medan which must be fulfilled by every prospective debtor customer who receives KUR, namely:

KUR Micro	Supermicro KUR	KUR TKI
<ul style="list-style-type: none"> - Having a business classified as productive for 6 months and feasible; The business conditions are classified as productive for 6 months, namely: <ol style="list-style-type: none"> a) Participate in mentoring programs (formally and informally); b) Entrepreneurship training or other training; c) Registered in several business groups; - Not currently on credit except for consumer credit (KPR, KKB and Credit Cards) - Fulfill administrative requirements in the form of identity (KTP, Family Card and Trading Business Permit/SIUP) 	<ul style="list-style-type: none"> - Have a business that is classified as micro-SME - Not currently on credit except for consumer loans (KPR, KKB and Credit card) - The business is classified as still productive for 6 months. - Employees who have been laid off are not required to have training for 3 months in accordance with the Regulation of the Coordinating Minister for Economic Affairs (Permenko) No.18 of 2019 concerning KUR Guidelines - Possessing a Micro and Small Business Permit (IUMK) or other equivalent business license - Unregistered as a KUR recipient anywhere 	<ul style="list-style-type: none"> - Is a prospective Indonesian Migrant Worker (TKI) who will soon work in another country - Meets administrative requirements: Identity (KTP, Family Card, Passport and Visa), work agreement with service users, placement agreement and other requirements

The terms and conditions above are based on the Regulation of the coordinating minister for the Economy (Permenko) No. 2 of 2021 concerning the Second Amendment to the Regulation of the Coordinator for the Economic Sector No. 8 of 2019 concerning Guidelines for the Implementation of People's Business Credit (KUR).

Provision of People's Business Credit (KUR) carried out without collateral for MSMEs at PT. Bank f Rakyat Indonesia (BRI) Pulo Brayan Branch Unit 1 Medan

Referring to Article 1131 of the Civil Code, people's business credit (KUR) is included in the category of credit without collateral/collateral in which there is no binding guarantee by the creditor to the assets owned by the debtor. This is indicated by the principles applied by Bank BRI, namely 5C (Character, Capacity, Capital, Collateral & Condition of Economy).

+7P (Personality, Party, Purpose, Prospect, Profitability & Protection) +3R (Return, Risk, Repayment) which aims to prevent non-performing loans / NPLs in the future.

For the activities of providing People's Business Credit (KUR) which is distributed to MSMEs, of course, Bank BRI Pulo Brayan Unit 1 Medan has terms and conditions as a form of binding agreement between the creditor as the party that distributes the credit with the debtor (individual/legal entity) legally where the binding the agreement which gives rise to legal actions containing the principle of Pacta Sunt Servanda and is carried out in good faith in fulfilling the debtor's obligations in paying off credit debts as regulated in Article 1338 paragraphs (1) and (2) of the Civil Code. Based on article 1338 paragraphs (1) and (2), if in the future the debtor is unable to carry out its obligations (default), the creditor has the right to claim compensation or take legal action to fulfill the debtor's obligations in terms of the time period and nominal that has been paid. agreed.

According to the results of an interview with Ms. Nova Natalina Hutabarat as Customer Services at Bank BRI, that in the provision of Unsecured KUR, there is a process so that prospective debtors are deemed worthy of receiving the credit, namely:

1. Credit application process

Bank BRI will ask prospective debtor customers to fill out a written KUR application form or through the website kur.bri.co.id accompanied by personal documents in the form of identity cards (KTP & Family Cards) and Business Licenses (can be in the form of certificates). issued by e-commerce or ridehailing) as an administrative requirement;

2. Credit Analysis Process

If the documents submitted by the debtor have met the proper requirements, then Bank BRI carries out a credit analysis through checking through the Financial Information Service System (SLIK) or BI-Checking by the Financial Services Authority (OJK) which has been in effect since 2018 to find out the history/ history of credit repayment of previous prospective debtor customers.

In addition, a business check is carried out to match the data that has been registered by the prospective debtor to Bank BRI whether the business owned by the prospective debtor is true and worthy of receiving KUR by reviewing directly to the location of the place of business carried out by the BRI Mantri as well as to assess the ability whether the debtor is appropriate or not in accordance with the platform and the previously agreed time period;

3. Decision on KUR application

After the analysis is carried out, the head of the BRI Bank unit will contact the prospective debtor regarding the final decision on the assessment of the application letter or Loan Application Certificate (SKPP) submitted by the debtor;

4. Disbursement of KUR funds

Disbursement of funds can be made after 14 days of receipt of a KUR application decision with the permission of the unit head that the Loan Application Certificate (SKPP) has been valid and can be legally given to prospective debtor customers.

Furthermore, it is marked by several processes of providing unsecured KUR which cannot be separated from the forms of problems experienced by the creditor in which the occurrence of non-performing loans (NPL) caused by the debtor being unable to fulfill his obligations in accordance with the initial agreement.

To prevent this, of course, Bank BRI Branch Pulo Brayan gets legal protection efforts in order to prioritize the common welfare without causing harm between the two through the Application of Know Your Customer Principles as regulated in Bank Indonesia Regulation (PBI) Number 3/10/PBI/ 2001 as amended by Bank Indonesia Regulation (PBI) Number 5/21/PBI/2003 and the Banking Law by imposing administrative sanctions. The results of an interview with Mrs. Nova Natalina Hutabarat as Customer Services at Bank BRI Pulo Brayan Branch, there are 2 types of legal protection provided, namely:

- a. Preventive legal protection, namely Bank BRI will go through court/litigation in accordance with applicable laws in order to obtain legal certainty;
- b. Repressive legal protection, namely Bank BRI will make insurance claims such as credit guarantees, namely Jamkrindo or Askrindo insurance as a transfer of obligations of debtors who cannot fulfill their obligations.

This is indicated by the Bank BRI Cab. Pulo Brayan Unit 1 Medan sent a warning letter 4 times in advance and if there is still a delay in payment from the debtor according to the stipulated time period, Bank BRI Cab. Pulo Brayan Unit 1 Medan will make a claim from the credit guarantor, namely Jamkrindo and Askrindo insurance for 70% of the remaining debt obligations that must be fulfilled by the debtor as regulated in Article 1820 of the Civil Code Chapter III concerning Individual Guarantees (Personal Guaranty) which explains the existence of the guarantor as third parties born from legal consequences arising in the interest of the debtor in fulfilling the obligation to pay off debts. In other words, there are 2 main agreements that arise, namely a direct agreement between the Bank BRI Cab. Pulo Brayan Unit 1 Medan and the debtor directly and the agreement between the Bank BRI Cab. Pulo Brayan Unit 1 Medan with insurance.

For binding payments to be carried out by a third party, article 1831 of the Civil Code explains that the debtor has been proven to have been negligent and that all forms of property owned have been confiscated or sold and linked to the provisions of other articles. In addition to this form of legal protection, Bank BRI Pulo Brayan Unit 1 Medan Branch can perform continuous collections against the debtor in order to fulfill its obligations as previously agreed.

CONCLUSION

Based on the description and discussion of the results of research above, can be concluded that People's Business Credit is categorized as credit without collateral / guarantee where there is no binding of debtor assets by the creditor. However, there is legal protection provided to Bank BRI Branch Pulo Brayan Unit 1 Medan, both preventively, namely through the courts and repressive protection through insurance claims such as Jamkrindo or Askrindo as Credit Guarantees based on the provisions of Article 1820, Article 1831 and other articles of the Civil Code.

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