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Legal Issues for Technology-Based Loans in Indonesia

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ABSTRACT Technological developments in the globalization era have crept into the financial world. The people's high demand for financial matters makes financial technology develop dramatically. Community problems in meeting financing needs are increasingly needed so funding sources are necessary. In practice, there are insufficient funding sources to help the community. Moreover, the process is complicated and requires a long time to make peer to peer lending to be considered by Indonesians who are looking for sources of funding. This research uses library research and the legal norms in positive law. The conclusion is that users must be more protected carrying out all activities which require financial technology, borrowing money, and in conducting peer to peer lending practices in order to guarantee legal certainty in accordance with the laws and regulations to be enforced in Indonesia.

KEYWORDS Financial Technology, Lending and Borrowing, Legal Protection, Legislation in Indonesia

INTRODUCTION

Lending or credit is a financial facility which allows a person or a business entity to borrow money to buy products and pay them back within a specified period. (Gertler & Kiyotaki, 2010) The Indonesian Law no. 10 of 1998 states that credit is the provision of money or an equivalent claim, based on a loan and loan agreement between a bank and another party which requires the borrower to pay off its debt after a certain period with interest. If someone uses credit services, an interest will be charged on the bill.(Kurniawan et al., 2020; Michiko, 2019)

In an agency such as banks, there is a financing facility provided by the management for customers. (Ameyaw-Amankwah, 2011) Customers provide financing in the form of bills to assist other customers in need within a certain period with an agreement or agreement between the bank and the customers.(Amelia & Marlius, 2018; Mulyati & Dwiputri, 2018)

According to Banking Law No. 10 of 1998, "The Sharia-Principle Financing is the provision of money or equivalent claims, based on an agreement or agreement between the Bank and another party which requires the financed party to return the money or claim after a certain time in exchange for or profit sharing."(Anshori, 2018; Hasyim, 2016)

Furthermore, what Antonio points out that, "Financing is the provision of funding facilities to meet the needs of other parties who are a unit deficit".(Antonio, 2001)

According to Kasmir, Financing is the provision of money or equivalent bills, based on an agreement or agreement between the bank and another party which requires the financed party to return the money or bill after a certain period of time in exchange for profit-sharing. (Kasmir, 2018) Therefore, financing can be defined as a facility related to costs through the provision of money or claims based on an agreement or the agreement between the Bank and other parties.(Turmudi, 2016)

With this background, on this occasion, the author raises the title THE LEGAL PROBLEMS OF TECHNOLOGY BASED LOAN IN INDONESIA.

METHOD AND TYPES OF RESEARCH

This study uses a normative juridical approach. The normative juridical approach is an approach which is carried out based on the main legal materials by examining theories, concepts, legal principles and laws and regulations related to this research. This approach is also known as the literature approach, namely by studying books, laws and regulations and other documents related to this research.

Data, Instruments, and Data Collection Techniques

Data Collection and Processing Procedures

1. Data Collection Procedure

a. Primary data

The author collects literary data in the form of relevant documents, literature, journals, and article.

b. Secondary Data

The author uses fieldwork-based data obtained from observations and interviews, related to the research theme.

2. Data Processing

After the data has been collected, whether obtained from literature studies, documentation studies or those obtained through field studies, they are then processed with the following method:

a. The author collects and processes the data through analysis to obtain objective conclusions or research results. The author also edits and sorts out the data to obtain valid data or facts before carrying out the analysis.
b. Systematization, the author tries to carry out systematic steps to obtain a conclusion or to formulate the research results, so that the research results will be valid.

Data analysis

The analysis of this study is the qualitative analysis, meaning that it describes the processed data into sentences in detail (*descriptive*). Qualitative analysis is carried out based on empirical analysis, which in depth is complemented by normative analysis. Based on the results of the analysis, deducative conclusions are drawn, which is a way of thinking based on general facts and then a specific conclusion is generated.

RESULTS AND DISCUSSION

The financing sector contains various purposes, or in other words, elements in the financing sector have close ties to one and another. The elements contained in financing according to Kasmirare as follows:

a. Trust

Trust is a belief that the financing provided is truly received back in the future according to the given time period. The trust given by the Bank as the main basis for why a financing is dared to be disbursed. Therefore, before the financing is disbursed, an in-depth investigation and research must first be carried out on the condition of the Customer, both internally and externally.

An agreement between the applicant and the Bank. This agreement is set forth in an agreement where each party signs their respective rights and obligations. This agreement was then stated in a financing agreement signed by both parties.

b. Period of time

Each financing provided has a certain period of time, this period includes the agreed repayment period. The period of time is the deadline for repayment of installments that has been approved by both parties. For certain conditions, the applicant may extend this period.

c. Risk

Due to the grace period, the return on financing will allow a risk of non-collection or failure in providing a financing. The longer the financing period, the greater the risk, and vice versa. This risk is borne by the Bank, both intentional and unintentional risks, for example due to natural disasters or the bankruptcy of a customer's business without any other intentional element, so that the customers are unable to pay off the financing facilities obtained.

d. Remuneration

In conventional banks, remuneration is known as interest. Apart from that, the Bank also charges the customer an administration fee which is also a benefit of the Bank. For banks based with Sharia principles, remuneration is known as profit-sharing.

Financing is one of the main tasks of the Bank, namely providing facilities for provision of funds to meet the needs of parties who are deficit units. There are two types of financing according to the nature of use which are explained as follows: (Antonio, 2001)

1. Productive Financing

It is a form of financing aimed at meeting production needs in a broad sense, namely to increase business, both production, trade and investment. According to their needs, productive financing can be divided into the following two things:

1) Working capital financing, namely financing to meet the needs of:

a) Increasing production, both *quantitatively*, namely the amount of production output, and *qualitatively*, namely increasing the quality or quality of production results.

b) For trading or enhancement purposes on the utility of place of an item.

2) Investment financing, namely to meet the needs of capital goods (*capital goods*)

2. Consumptive Financing

It is the financing used to meet consumption needs, which will be used up to meet needs.

Financing or profit-taking mechanism, operational financing is divided into two types of financing, namely conventional financing and Sharia financing as stated by Kasmir as follows:(Kasmir, 2018)

1) Conventional Financing

Conventional Financing is an activity of channeling funds to the public carried out by conventional banks, in conventional banking, financing is better known as credit or loan. Kasmir states "Credit is the provision of money or equivalent claims, based on an agreement or agreement between the Bank and another party which requires the financed party to return the money or claim after a certain period of time in exchange for profit sharing. In an effort to generate maximum profit, the Bank strives to be able to channel credit to people who need funds (deficit spending unit). In the distribution of credit, the Bank will charge interest to the public who use credit from the Bank. This is disclosed by "Credit interest is an amount of compensation or remuneration for the use of money by the customer."

Credit interest is a remuneration that is expected by the Bank from all the financing products it offers. Interest plays an important role in the Bank's efforts to generate profits. According to Rachmat Firdaus and Ariayanti "If the provision of credit goes well (smoothly), loan interest can reach 70% to 90% of the total bank income". (Firdaus & Ariyanti, 2009) Based on this opinion, it can be concluded that credit interest is the backbone of conventional bank activities, the smoother the receipt of credit interest or financing obtained by the bank will be able to guarantee the next movement of that business.

2) Sharia Financing

Sharia Financing is an activity of channeling funds carried out by Sharia Banks based on the concept of Islamic Banking or Islamic Banking which is based on the prohibition of the Islamic religion to lend and with the expectation of profits in the form of interest as put forward by Antonio, 'Usury is an addition to principal assets due to the element of time'. In the banking world, this is known as credit interest according to the length of the loan. Which this is usually done by Conventional Banking.(Antonio, 2001)

Kasmir states that "Financing is the provision of money or equivalent claims, based on an agreement or agreement between the Bank and another party which requires the financed party to return the money or claim after a certain period of time in exchange for profit sharing. In addition, in Islamic banking, the term credit or loan cannot be used to describe the activities of channeling funds carried out by Islamic banks. There are two reasons that can explain the above statement.(Kasmir, 2018)

First, loans are only one method of financial relations in Islam. There are many other methods taught by Sharia such as buying and selling, profit-sharing, renting, and others. Second, a loan in an Islamic context is a social contract, not a commercial contract. This means that if the Bank provides a loan, the customer should not be required to provide additional to the principal of the loan.

Islamic banks as commercial institutions that expect profits, of course, cannot do this. Sharia banks can buy and sell where the Sharia Bank can take advantage of the difference between the selling price and the buying price according to the contract. Apart from that, Islamic banks can also share results, leases, or other types of financial services. Islamic banks do not use the term loan or credit, but rather financing.

Financing is a transaction in Islamic Banking which is a form of channeling funds to the real sector. The main difference with credit lies in the concept of interest. Islamic economic principles categorize interest as usury and the law is haram (prohibited). Financing uses the concept of profit and loss sharing or profit sharing. The amount of the share depends on the agreement that has been agreed by both parties.

The objective of financing based on sharia principles is to increase employment opportunities and economic prosperity in accordance with Islamic values. This financing must be enjoyed by as many entrepreneurs as possible in the fields of industry, agriculture and trade to support job opportunities and support the production and distribution of goods and services in order to meet domestic and export needs.

There needs to be a correct regulation for loans or credits. In undergoing analysis, creditors of loans may take or use technologies. For example, by using the big data to analyze the loan prospects accurately. The technologies also allow the creditors to create various schemes of investment loans, such as start-ups, ownership sharing, to cover the loans in the stock percentage or other more profitable mechanisms.

CONCLUSIONS AND SUGGESTIONS

Conclusion

The type of credit can be seen from the purpose of its use, its duration, credit acceptance, the economic sector, its nature, form, source of funds, the guarantee contract, the person (who receives and gives credit) and the place of residence. Financing is one of the main duties of the bank, namely providing facilities for provision of funds to meet the needs of parties who are deficit units. According to the nature of its use, financing is divided into productive financing and conductive financing. One more advantage is, some types of loans do not require collateral or collateral at all but are still safe and have minimal risk.

From the explanation above about Islamic bank credit management, it must not be separated from writing errors and a series of sentences and their preparation. The author realizes that this paper is still far from perfect as expected by readers and especially the supervisor of the Basics of Banking course. Therefore, the authors hope that the readers (students) and the supervisor of this course can provide constructive criticism and suggestions.

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