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Legal Protection for Debtors and Bank in Credit Restructuring from the Perspective of Justice and Legal Certainty

Akhmad Gazali [1*], Pradhitya Krisniadi [2], Ahmad Syaufi [3], Fatham Mubina Iksir Gholi [4]
[1-2] Master of Laws Study Program, Faculty of Law, Lambung Mangkurat University, Banjarmasin, Indonesia
[3] Faculty of Law, Lambung Mangkurat University, Banjarmasin, Indonesia
[4] Faculty of Law, Diponegoro University, Semarang, Indonesia

* Corresponding Author: **Akhmad Gazali**

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Abstract
The aim of this research is to examine the legal protection provided to debtors and banks as creditors in implementing credit restructuring, so that the principles of justice and legal certainty are achieved. Using a normative legal research method through statute and conceptual approaches, it analyzes the legal foundation, validity, and constitutional implications of the digitalization of land administration. The research results show that legal protection for debtors and banks in implementing credit restructuring in Indonesia is designed to ensure the principles of justice and legal certainty. The principle of justice demands a balanced distribution of risk between creditors and debtors, while legal certainty ensures that every agreement and restructuring scheme is valid and legally binding. The balance between protection and risk strengthens the legal relationship between the parties involved so that the restructuring does not harm either party and maintains the debtor's business continuity and the bank's operational stability.

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1. Introduction

As a developing country, Indonesia is demonstrating rapid growth in the financial and banking sectors. National economic growth is driving increased public demand for a wider variety of financial services.

During the Covid-19 pandemic, Indonesian banks implemented credit restructuring stimulus measures in an effort to rescue the financial sector and prevent a surge in non-performing loans. The Financial Services Authority (OJK) reported that total credit restructuring reached approximately Rp 830.2 trillion, disbursed to 6.68 million debtors at its peak in 2020, mostly MSMEs [1]. This policy is based on OJK Regulation Number 11/POJK.03/2020 concerning National Economic Stimulus as a Countercyclical Policy for the Impact of the Spread of Covid-19, which in Article 2 paragraph (1) gives banks the authority to apply credit quality assessments based solely on the accuracy of principal and/or interest payments.

Non-Performing Loans (NPLs) arise when debtors are unable to meet their payment obligations as agreed, thus posing a risk to the bank. High NPLs can reduce profitability and undermine public trust in banking institutions. Bank Indonesia, through Bank Indonesia Regulation No. 14/15/PBI/2012, stipulates that the safe limit for the NPL ratio is a maximum of 5% of total disbursed credit. This fact demonstrates that credit risk management is a crucial factor in maintaining the health of the Indonesian banking system [2].

[1] https://ojk.go.id/id/berita-dan-kegiatan/siaran-pers/Pages/Pengumuman-Berakhirnya-Stimulus-Restrukturisasi-Kredit-Perbankan-Dalam-Rangka-Penanganan-Pandemi-Covid-19.aspx
[2] Bank Indonesia. (2012), Peraturan Bank Indonesia Nomor 14/15/PBI/2012 tentang Penilaian Kualitas Aset Bank Umum. Jakarta: BI Press. p. 4.

To maintain banking system stability, resolving non-performing loans is a strategic step that receives attention in national financial regulations. Unresolved non-performing loans will result in a decline in bank asset quality and public trust.

Law Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 concerning Banking, Article 8 paragraph (1) states: "In providing credit or financing based on sharia principles, commercial banks are required to have confidence in the debtor's ability and capability to repay their debts as agreed."

This norm shows that the principle of prudence is the main basis for providing credit as well as a basis for resolving problematic credit.

A more technical legal instrument regarding the resolution of problem loans is contained in Government Regulation Number 33 of 2006 concerning Procedures for the Settlement of State/Regional Receivables. Article 4 paragraph (1) states: "Settlement of state/regional receivables shall be carried out through peaceful collection or through the state receivables committee."

This provision provides alternative receivables settlement options, including those stemming from non-performing loans at state-owned banks. Non-performing loans arise not only during economic crises or pandemics but are also a common occurrence in everyday banking operations. Debtors may experience difficulty making installment payments due to declining income, business failure, or other external factors affecting their financial capacity. In this case, previously smooth loans become non-performing, requiring banks to take rescue measures to prevent a broader impact on their financial health.

A high non-performing loan ratio can reduce bank profitability, lower the value of productive assets, and weaken public confidence in financial institutions.

Financial Services Authority Regulation Number 40/POJK.03/2019 concerning Asset Quality Assessment of Commercial Banks provides space for banks to restructure debtors experiencing financial difficulties.

This provision confirms that restructuring is a legal option that provides protection for banks as well as an opportunity for debtors to improve their financial condition.

Although credit restructuring is regulated by various banking regulations, its implementation in practice often creates legal ambiguity. This ambiguity is evident in regulations that grant banks broad authority to assess the feasibility of restructuring, but lack clear parameters regarding the criteria for determining "financial difficulty" for debtors. Consequently, there is potential for differing interpretations between banks, debtors, and supervisory authorities, leading to legal uncertainty.

Legal ambiguity impacts legal protection. Some debtors feel disadvantaged because they are denied restructuring facilities despite facing real difficulties, while banks adhere to subjective prudential principles. This situation raises fundamental questions about how legal protection can be provided equitably, both to debtors in need of relief and to banks obligated to maintain asset quality. The lack of regulatory parameters reveals a gap that does not fully guarantee certainty, fairness, and benefit in credit restructuring practices.

2. Research Methodology

This is a qualitative research employing normative legal-research variety. Normative legal-research is a prosedure of scientific research in order to find the truth based on the logic of legal science, especially its normative side [3]. Normative legal research is legal research that aims to analyze written legal norms and the legal system as a whole, including legal principles, legal concepts, and legal doctrines [4]. In order to achieve the purpose of the research, this research employs statute approach and conceptual approach.

The legal materials used in this research include primary legal-material in forms Indonesian laws and regulations related to this research. In addition to that, there are secondary legal-materials and tertiary legal-materials. The three collected materials are processed and analyzed by way of juridically qualitative method in order to answer the problems of the research.

3. Discussion

3.1. Legal Protection for Debtors and Banks in Credit Restructuring

Legal protection in credit restructuring is crucial for maintaining a balance of interests between the debtor and the bank as creditor. Legal protection not only provides certainty regarding the rights and obligations of the parties but also creates a stable foundation for the effective implementation of credit restructuring.

The absence of adequate legal protection can increase the risk of disputes and undermine public confidence in the banking system. Clear legal mechanisms ensure that every restructuring step complies with applicable laws and regulations. Consistent application of legal principles at each stage of the restructuring process facilitates order and transparency in the legal relationship between debtors and banks. This legal instrument is a crucial component in establishing safe and accountable restructuring practices [5].

Legal protection arrangements for debtors and banks encompass various legal instruments that govern the rights, obligations, and responsibilities of the parties in the restructuring process. These legal instruments serve to minimize potential conflicts and ensure compliance with applicable regulations, thereby strengthening the position of both parties in complex legal relationships.

A balance of legal protection provides space for banks to objectively assess credit risks and for debtors to obtain certainty regarding the restructuring agreements they take.

A sound integration of legal regulations provides the foundation for achieving fair, measurable, and accountable restructuring practices. This legal mechanism provides the basis for more effective evaluation and oversight of credit restructuring implementation.

The implementation of preventive legal protection plays a role in establishing a strong foundation for the relationship between debtors and banks before disputes arise. Preventive measures include clear contractual arrangements, establishing the rights and obligations of each party, and complying with regulations established by the Financial Services Authority. This mechanism serves to anticipate legal

[3] Johnny Ibrahim. (2010), Teori dan Metodologi Penelitian Hukum Normatif, Cetakan ketiga, Malang: Bayumedia Publishing. p. 57.
[4] Peter Mahmud Marzuki. (2005), *Penelitian Hukum*, Jakarta: Kencana Prenada Media Group. p. 60.
[5] Johan Sitanggang. (2022). Hukum Perbankan Indonesia: Prinsip dan Praktik. Jakarta: Rajawali Pers. p. 145.

and operational risks that could disrupt the smooth running of credit restructuring.

Contractual arrangements in credit restructuring are a key tool for preventing disputes between debtors and banks. Clear clauses regarding the parties' rights and obligations, payment mechanisms, and consequences for default provide legal certainty that can reduce the risk of disputes.

Compliance with the provisions set by the Financial Services Authority strengthens the bank's legal position while protecting the debtor's rights in implementing the agreement. The certainty of regulations implemented at the initial stage encourages banks to conduct objective risk assessments. Debtors receive certainty regarding their rights and obligations throughout the restructuring process. Standard operating procedures developed based on OJK regulations cover identification of at-risk debtors, feasibility assessments, and regular monitoring of restructuring implementation. Compliance with these procedures improves efficiency in bank decision-making and provides legal certainty for debtors [6].

A prudently drafted credit contract includes restructuring procedures, extension requirements, and a mechanism for credit conversion, if necessary. Detailed provisions in the contract help balance the interests of both parties.

Legally sound documentation facilitates internal and external oversight of the restructuring process. Consistent application of contractual provisions establishes a stable legal relationship between the debtor and the bank [7].

Compliance with Financial Services Authority procedures ensures order and transparency at every stage of the restructuring process. Implementing structured procedures is the foundation for a fair restructuring process.

The interaction between contractual provisions and Financial Services Authority regulations creates an integrated preventive legal protection system. This system ensures that every step of the restructuring process is carried out in accordance with applicable regulations. Debtors receive certainty about their rights and obligations, while banks have clear guidelines for assessing and executing restructurings.

Compliance with this system strengthens transparency, accountability, and the stability of legal relations. The risk of disputes can be minimized through the application of comprehensive and consistent legal mechanisms.

Repressive legal protection mechanisms focus on resolving disputes that arise during or after credit restructuring. These procedures involve judicial institutions, banking mediation forums, and arbitration as formal means of resolving disputes. These mechanisms provide legal certainty for both parties by establishing clear and measurable procedures. Dispute resolution through the courts adheres to applicable legal regulations, while mediation and arbitration offer faster and more efficient alternatives.

Every repressive mechanism has documentation procedures that support the validity of legal decisions. Integrating formal and alternative legal processes strengthens legal protection for debtors and banks while maintaining the stability of legal relationships in credit transactions.

Banking mediation allows for faster dispute resolution by employing a neutral mediator. The mediator navigates communication and understands both parties' legal positions, resulting in a mutually acceptable agreement. The mediation procedure offers flexibility in scheduling and the scope of discussions. Decisions reached through mediation can be recorded in minutes with limited legal force. This approach promotes efficiency and reduces the risk of prolonged conflict that is detrimental to both parties. Mediation is a practical alternative to resorting to court [8].

The integration of formal and alternative legal channels creates comprehensive legal protection. This system enables fast, efficient dispute resolution while remaining in accordance with national banking regulations. Adequate legal protection promotes stable creditor-debtor relationships.

Credit restructuring practices in various large banks demonstrate the implementation of structured legal protection from the contractual stage to dispute resolution.

The implementation of legal protection in credit restructuring at major banks in Indonesia emphasizes compliance with OJK regulations and clear internal procedures. The process begins with verification of debtor documents, risk management approval, and the creation of credit agreement addenda. All steps are documented in detail to ensure the legality of the transaction and the protection of the rights of both parties.

Implementing legal protection for debtors and banks in credit restructuring emphasizes a balance between legal certainty and fairness. Dispute prevention through contractual arrangements and Financial Services Authority regulations plays a role in minimizing the risk of legal conflicts.

Dispute resolution mechanisms, whether through the courts, banking mediation, or arbitration, ensure that the rights and obligations of both parties can be enforced fairly.

Internal oversight and coordination with the Financial Services Authority and the Deposit Insurance Corporation (LPS) ensure that credit restructuring proceeds safely. These efforts simultaneously strengthen the legal standing of both the debtor and the bank, creating a sustainable balance of interests.

3.2. Strengthening the Legal Protection System to Achieve Justice and Legal Certainty for Debtors and Banks in Credit Restructuring

Strengthening the legal protection system in credit restructuring is crucial for ensuring legal certainty and fairness for both parties, the debtor and the bank. This system includes mechanisms that ensure the orderly implementation of rights and obligations, minimize the potential for disputes, and maintain the integrity of the credit process.

The integration between national regulations, Financial Services Authority policies, and internal bank procedures creates a solid foundation for implementing restructuring.

Legal protection serves to regulate interactions between creditors and debtors in a transparent and accountable manner. Every step of the restructuring process, from the creditworthiness assessment to the implementation of the credit agreement, is monitored through established internal and external procedures. Clear regulations strengthen the position of both parties in facing potential legal risks. An internal oversight system, combined with external oversight from the Financial Services Authority and the Deposit

6 Hendrik Setiawan. (2021). Regulasi dan Kepastian Hukum Perbankan. Yogyakarta: UII Press. p. 178.
7 Dwi Pratama,(2020). Hukum Kredit dan Risiko Perbankan. Bandung: Alfabeta. p. 102.
8 Bambang Hartono. (2022). Mediasi dan Arbitrase dalam Perbankan Indonesia. Bandung: Alfabeta. p. 155.

Insurance Corporation, ensures compliance and stability in the banking sector. Regular monitoring of the effectiveness of these mechanisms ensures that procedures remain relevant and able to withstand economic dynamics.

Consistent implementation of the principles of justice and legal certainty builds public trust in the credit restructuring process [9]. The credit restructuring process requires regulations that are responsive to changing economic conditions and banking sector dynamics. Existing regulations, while comprehensive, sometimes face challenges in adapting procedures to crisis situations or rapid market fluctuations. Reviewing and updating the Financial Services Authority (OJK) and Bank Indonesia (BI) regulations allows banks to implement restructuring with more flexible procedures without compromising legal certainty.

Credit restructuring policies in Indonesia must adapt to rapidly changing economic dynamics and the complex challenges of the banking sector. Regulations, through the Financial Services Authority (OJK) and Bank Indonesia (BI) regulations, provide guidance for banks in assessing debtors' conditions and taking appropriate restructuring measures.

This policy adjustment reflects efforts to maintain a balance between the interests of banks and debtors and the stability of the national financial system.

Harmonization between the Financial Services Authority (OJK) and Bank Indonesia regulations is crucial to creating consistent standards for credit restructuring across the region. Adaptive policy implementation allows banks to respond quickly to risks without compromising legal certainty.

Regular regulatory evaluation ensures their relevance to evolving economic conditions. Responsive policies to economic changes require a thorough understanding of banking mechanisms and macrofinancial impacts. Regulations through the OJK Regulation (POJK) and Bank Indonesia Regulation (PBI) play a role in establishing risk limits and procedures for banks in handling debtors facing financial difficulties.

Regulatory flexibility is a crucial factor in ensuring that restructuring can be implemented without disrupting banking stability. Banks' compliance with these regulations helps reduce the potential for legal disputes and enhances public confidence. Restructuring provisions are reviewed to adapt to fluctuating economic conditions.

Regulatory reforms are also closely linked to prudential principles and good banking governance. The implementation of OJK regulations and BI regulations in credit restructuring emphasizes the importance of effective internal and external oversight [10].

This regulatory standard provides technical guidance for banks in assessing debtors' creditworthiness and restructuring credit obligations. Clear provisions help banks anticipate default risks while maintaining credit portfolio stability. Structured procedures facilitate consistent decision-making across all bank units. This effort aligns with the national strategy to maintain a healthy banking system.

Adaptive regulations allow banks to adapt their restructuring strategies to specific economic conditions. The Financial Services Authority Regulation (POJK) and Bank Indonesia Regulation (PBI) establish standard operating procedures for dealing with emergencies or economic crises [11].

This regulation helps banks minimize the risk of non-performing loans while ensuring legal certainty for borrowers. Integration of macro- and microprudential regulations is key to maintaining market confidence. Continuous evaluation of regulations ensures the effectiveness and relevance of each implemented policy.

An effective credit restructuring policy requires strong coordination between the Financial Services Authority (OJK), Bank Indonesia, and banking institutions. Harmonized regulations provide clarity on procedures and responsibilities for each party. Consistent operational standards help minimize legal uncertainty and the risk of non-performing loans. Regularly updated policies ensure banks can respond to fluctuating economic conditions.

Adjustments to the OJK and Bank Indonesia Regulations (PBI) allow banks to maintain their restructuring capabilities in changing economic conditions. Policy consistency is crucial for creating legal certainty and protecting debtors' rights.

Integrated regulatory mechanisms increase the efficiency of decision-making in credit restructuring. Adaptive regulations also enhance banking resilience to systemic risk. Sustainable regulatory implementation is a key indicator of the health of the national banking sector.

Improving compliance, ethics, and banking governance are key elements in ensuring every credit restructuring process is conducted with integrity and accountability. Implementing good corporate governance principles requires transparency in decision-making, honest financial reporting, and the separation of supervisory and operational functions.

Adherence to the banking code of ethics and regulations supports a conducive environment for credit risk management. Banks that implement good governance practices are able to minimize the potential for conflicts of interest and disputes with debtors. Furthermore, robust internal mechanisms enable consistent monitoring of compliance across all units related to restructuring. The continuity of this process contributes to public trust and the stability of the national financial system.

The application of good corporate governance principles in credit restructuring emphasizes transparency throughout the bank's decision-making process. Every action related to the restructuring is accurately and auditably recorded, including risk evaluation, credit approval, and monitoring of agreement implementation.

A clear organizational structure differentiates supervisory, risk management, and operational functions, preventing conflicts of interest. Standardized internal procedures ensure that each bank unit operates in accordance with applicable laws and regulations.

Compliance with internal and external regulations strengthens trust between creditors and borrowers. Transparency in governance contributes to the stability of financial institutions [12].

A code of ethics in credit restructuring serves as a foundation for employees to maintain professional integrity. All decisions regarding credit facility adjustments must be

[9] A. Mulia. (2022). Perlindungan Hukum dalam Perbankan Indonesia. Jakarta: Rajawali Pers. p. 178.
[10] T. Wijaya. (2021). Good Governance dan Regulasi Perbankan di Indonesia. Bandung: Citra Aditya Bakti. p. 210.
[11] M. Fauzi. (2020). Restrukturisasi Kredit dan Regulasi Perbankan. Jakarta: Prenadamedia Group. p. 98.
[12] Supriyadi. (2022). Manajemen Risiko dan Tata Kelola Perbankan. Jakarta: Rajawali Pers. p. 145.

documented with transparency and accountability. Internal control mechanisms enable early detection of practices that could harm the bank or the borrower. An effective reporting system facilitates inter-unit communication and independent audits. Compliance with professional ethics and regulations supports the bank's public reputation. The integrity of this process fosters healthy legal relationships between the parties involved [13].

Strengthening the legal protection system for credit restructuring creates a framework that combines legal certainty with the principle of fairness for both debtors and banks. Regulatory reformulation that is responsive to economic dynamics supports the adaptation of restructuring practices to changing market conditions.

Consistent application of regulations, dispute resolution mechanisms, and good governance are crucial factors in building public trust in banking. Regular evaluation of the effectiveness of restructuring policies and procedures supports ongoing adaptation to economic and credit risks. The implementation of transparent and accountable practices reduces the potential for disputes and enhances legal certainty. A balance between legal protection and operational risk enables banks to safely carry out their financial intermediation function. An integrated internal and external supervisory system strengthens the credibility of financial institutions.

4. Conclusion

Legal protection for debtors and banks in implementing credit restructuring in Indonesia is designed to ensure the principles of justice and legal certainty. The principle of justice demands a balanced distribution of risk between creditors and debtors, while legal certainty ensures that every agreement and restructuring scheme is carried out legally and is legally binding. The balance between protection and risk strengthens the legal relationship between the parties involved so that the restructuring does not harm either party and maintains the debtor's business continuity and the bank's operational stability. Legal protection is divided into preventive and repressive measures. Preventive measures emphasize dispute prevention through clear contractual arrangements and compliance with Financial Services Authority regulations, while repressive protection includes dispute resolution through the courts, mediation, or arbitration. Implementation practices at various major banks demonstrate that appropriate contractual arrangements, documentation, and dispute resolution procedures can reduce the potential for conflict and increase trust between banks and debtors.

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