

LEGAL PROTECTION FOR HOLDERS OF DEPOSITS AS A FORM OF INVESTMENT AVAILABLE IN BANK

Ahmad Supriyadi
IBLAM College of Law, Jakarta, Indonesia
ahmadsupriyadi@gmail.com

Abstract

Legal protection is something that is very important considering that banks are financial institutions which in all their activities cannot be separated from the role of their customers, because the legal relationship between customers and banks is a legal relationship created based on trust (fiduciary relationship). A Certificate of Deposit or Certificate of Deposits is a product issued by a bank as a securities tool or instrument used to make payments in a transaction. Therefore, to foster public trust in banking institutions, steps need to be taken to protect the interests of depositors so that time deposit funds stored in a bank are guaranteed to be safe from all risks that may arise in the future. Providing legal protection to depositors is also related to the bank's operational potential. The formulation of the problem is what is the position of issuing deposit certificates in banking? and what form of legal protection is required by deposit holders in carrying out legal relations with banks? The form of research used in the research is normative juridical research. The results of this research are that the position of issuing deposit certificates is regulated in more detail in terms of the position of deposit certificates as securities that can be owned by all binding persons and their issuance can be reviewed from Financial Services Authority Regulation Number 10 /PJOK.03/2015 concerning the issuance of Deposit Certificates by Banks where deposit certificates can be issued in the form of scripless or scripless. And The legal relationship between the bank and the depositor is that they are essentially bound by an agreement where each party has the rights and obligations to fulfill the contents of the agreement. With the existence of an agreement, a relationship exists between the bank and the customer, where this relationship must be maintained by each party, especially the bank, by paying attention to the principles, namely the principle of trust, the principle of confidentiality, and the principle of prudence. Based on the provisions of Article 1 number 5 of Law Number 10 of 1998, between banks and customers is regulated by agreement law. So that the basis of the legal relationship between the bank and the customer is a contractual relationship. This means that once a customer enters into a contractual agreement with the bank, the engagement that arises is an engagement based on a contract (agreement).

Keywords: Legal Protection, Deposits, Bank

INTRODUCTION

The realization of a just and prosperous society is the goal of National Development contained in the 1945 Constitution of the Republic of Indonesia (Utama, et al, 2018). In order to achieve the expected goals, economic development must be considered so that the national economy is harmonious and stable. The institution that has a role in helping the national economy is banking (Utama, et al, 2018).

Law Number 10 of 1998 Amendment to Law Number 7 of 1992 concerning Banking (abbreviated to the Banking Law) Article 1 Number 2 reads, "Banks are business entities that collect funds from the public in the form of savings and distribute them to the public in the form of credit and or other forms in order to improve the standard of living of many people." The business carried out or activities of Indonesian Banking are based on the principles of economic democracy, the principle of which is to be very careful in carrying out its function as an institution that can collect and also channel funds to the community with the aim of supporting the implementation of developments in increasing the average in each region, economic growth, national economic stability to realize the welfare of the people throughout Indonesia (Sudirman, et al, 2013).

Presidential Decree Number 26 of 1998 concerning Guarantees for Payment Obligations of Commercial Banks and Presidential Decree Number 1993 of 1998 concerning the Rural Bank Guarantee Program, which essentially provides direct legal protection to customers who deposit funds against failure by Commercial Banks and BPRs to fulfill their obligations before being issued. Presidential Decree Number 26 of 1998, protection for customers is very minimal in Indonesian banking legal entities.

Legal protection is something that is very important considering that banks are financial institutions which in all their activities cannot be separated from the role of their customers, because the legal relationship between customers and banks is a legal relationship created based on trust (fiduciary relationship). Therefore, to foster public trust in banking institutions, steps need to be taken to protect the interests of depositors so that time deposit funds stored in a bank are guaranteed to be safe from all risks that may arise in the future. Providing legal protection to depositors is also related to the bank's operational potential. The potential of banks in carrying out their functions not only depends on the company's organization, structure and personnel, but also on service or service to customers which is interpreted broadly, namely attracting customers, attracting subscriptions, increasing turnover, and providing legal protection.

A Certificate of Deposit or Certificate of Deposits is a product issued by a bank as a securities tool or instrument used to make payments in a transaction. The method of payment using a Deposit certificate is based on the existence of an agreement between the parties making the agreement and the payment method is agreed upon using a securities instrument, namely a Deposit certificate.

Evidence or documents of deposit certificates held by the holder are proof that the bank has an obligation to pay a sum of money to the holder of the deposit certificate. The payment is not made using currency but using a deposit certificate, namely a letter containing an order to a third party or a statement of ability to pay a certain amount of money to the holder of the deposit certificate. The third party in question is the bank as the issuer of the deposit certificate.

Deposit certificates issued by banks are confidential. a deposit certificate issued by a bank is a document issued in paper form which is placed in an envelope where the deposit certificate states the name of the bank and the party that is obliged to make payment when the deposit certificate is due. It lists the bank as the party issuing the deposit certificate, as well as the address of the bank. The certificate of deposit also states the nominal amount of money that

the holder will receive when it matures along with the interest, and also includes the maturity date. the certificate of deposit is signed by a bank official authorized to do so.

The nominal deposit certificate is issued with a minimum nominal value of IDR 10,000,000 (ten million Rupiah) or equivalent in foreign currency, with a minimum term of 1 (one) month to a maximum of 36 (thirty six) months. Interest on deposit certificates for Commercial Banks is fixed and paid at a discount. Meanwhile, the issuance of deposit certificates is based on the sharia system, the yield and payment mechanism for deposit certificate returns are based on sharia principles.

Basically, Deposit Certificates are a factor that has quite a big influence on banking activities and is one source of financing funds, the operations of which are channeled through credit to help capitalize entrepreneurs who invest. A deposit certificate is a form of handing over of funds by a customer to be deposited with a bank, which means that the bank that receives the deposit has the right to use the funds as they wish for any purpose and the customer holding the funds temporarily does not have any rights regarding the purpose of the use of the funds by the bank.

RESEARCH METHODS

This research is included in normative juridical research. Normative juridical research methods (library law research) are methods or methods used in legal research which are carried out by examining existing library materials. This research refers to legal norms contained in laws and regulations, court decisions (Hartono, 1994).

In accordance with the method used, the type of research used is analytical descriptive research, namely the data obtained will be described in this research by providing an overview of legal problems, the legal system and reviewing or analyzing them according to the needs of the research, then analyzed based on existing theories (integrated criminal justice system) to solve problems in this writing. In this research, we discuss legal protection for deposit holders as a form of investment available at the bank.

DISCUSSION

Position of Issuance of Deposit Certificates in Banking

Deposit certificates are deposits issued with a term of 2, 3, 6, 12 months. Deposit certificates are issued on display in the form of certificates. This means that the deposit certificate does not contain the name of a particular person or legal entity. In addition, deposit certificates can be traded to other parties. Disbursement of deposit interest can be done in advance, each month or due date, either cash or non-cash. In practice the majority of depositors take interest up front. The value of deposit certificates is printed in various denominations and usually in round amounts, so that customers can buy multiple sheets for the same nominal amount.

Certificates of deposit have a money storage system with the same term as time deposits. However, you will be given a certificate which you can later buy and sell or transfer to someone else. Another difference is that interest disbursement can be done in advance, namely every month or every maturity date.

Certificates of deposit are considered a relatively safe investment because they are issued by registered banks and supervised by monetary authorities. However, investors should pay attention to factors such as the bank's reputation and market interest rates when deciding to purchase a certificate of deposit.

Certificates of deposit can be purchased for varying terms, ranging from a month to several years. The longer the term of the certificate of deposit, the higher the interest rate offered. However, if an investor wants to withdraw money before maturity, he or she will be charged a penalty fee.

Certificates of deposit can also be used as a means of raising funds in the short term. This is because certificates of deposit can be purchased for relatively small amounts and can mature within a short period of time.

Overall, certificates of deposit are a safe investment option and can provide quite good returns for investors who don't want to take too big a risk. However, investors should pay attention to factors such as term, interest rate and bank reputation before deciding to purchase a certificate of deposit.

Deposit certificates issued by banks are confidential. a deposit certificate issued by a bank is a document issued in paper form which is placed in an envelope where the deposit certificate states the name of the bank and the party that is obliged to make payment when the deposit certificate is due. It lists the bank as the party issuing the deposit certificate, as well as the address of the bank. The certificate of deposit also states the nominal amount of money that the holder will receive when it matures along with the interest, and also includes the maturity date. the certificate of deposit is signed by a bank official authorized to do so.

In its development, considering that there have been many complex changes, the provisions for deposit certificates have been regulated by the financial services authority with the issuance of POJK No. 10/POJK.03/2015, where deposit certificates are savings in the form of deposits, including those based on sharia principles, whose deposit certificates can be transferred. . Deposit certificates can be issued in scripless or scripless form. Especially for scriptless deposit certificates, the ownership must be identified by the bank and registered with the LPP (Depository and Settlement Institution). LPP is an institution registered with Bank Indonesia as an institution that administers and completes deposit certificate transactions transacted on the Money Market.

As explained in the Financial Services Authority Regulation Number 10/PJOK.03/2015 concerning the issuance of Deposit Certificates by Banks, deposit certificates can be issued in the form of scripless or scripless. However, in the case of a document form, it is in the form of a replacement, where the meaning of a replacement (aan order) is the ability of the holder of a Certificate of Deposit in the form of a document to transfer the Certificate as proof of storage to another party by signing it on the Certificate of Deposit sheet (endorsement) so that the last appointed party has the right to receive it. payment from the issuing Bank when the Certificate of Deposit is in the form of a maturity note. So that the holders of this deposit certificate after receiving it as a replacement for the deposit certificate they have. Meanwhile, the scriptless form is where ownership is identified by the bank in the records at the Banking Supervisory Agency. The deposit certificate issued can be in rupiah or foreign currency which is issued by a bank that has obtained approval to conduct business activities in foreign currency. Regarding the nominal amount and time period related to deposit certificates, it is in article 5 paragraph (1) "The nominal amount of the Deposit Certificate is at least Rp. 10,000,000.00 (ten million rupiah) or its equivalent in foreign currency." As well as paragraph (2) "The term of the Certificate of Deposit is a minimum of 1 (one) month and a maximum of 36 (thirty six) months."

Deposit can be seen from the origin of the word, which comes from English "deposit" from the word "time deposit" which means a deposit of money whose withdrawal can only be made after a certain period of time in accordance with the agreement between the depositor and the depository. Depositors are people who save funds, both individuals and legal entities or other entities who deposit their money in banks. Meanwhile, depositories consist of banks that have obtained permission from Bank Indonesia to accept term deposits.

A deposit certificate for sale and transfer must meet the requirements, namely it must contain:

1. The words "certificate of deposit" and "tradable"
2. Serial number and serial number

3. Name and domicile of the publisher
4. Nominal value in rupiah
5. Date and place of publication
6. Interest rate (discount)
7. Signature of directors (publisher)
8. Signature of an official from the branch office where the deposit certificate is issued.

Thus, the position of the issuance of deposit certificates by banks is so that deposit certificate holders can buy and sell them to other people and the holders have the right to withdraw savings funds when they mature. In accordance with existing issuance rules in Financial Services Authority Regulation Number 10/PJOK.03/2015 concerning the issuance of Deposit Certificates by Banks. Deposits from which withdrawals can only be made at certain times based on the depositor's agreement with the bank. Ownership of this deposit is proven by a letter known as a deposit slip.

Forms of Legal Protection Required by Deposit Holders in Carrying out Legal Relations with Banks

Based on Article 1 Number 7 of the Banking Law, it reads, "Deposits are savings whose withdrawals can only be made at a certain time based on the depositor's agreement with the bank." Deposits as collateral are very profitable for banks, because deposit guarantees are very easy to disburse.

According to Subekti, quoted from his book Neni Sri Imaniyati, deposits are one of the ideal collateral categories in a credit agreement, namely:

- 1) Can easily help obtain credit from parties who need it.
- 2) Not bringing down or degrading or weakening the position (strength) of credit customers to continue their business.
- 3) Providing clarity to creditors or you could say that, for example, it is necessary, it is easy for the collateral to be cashed in to pay off debts to debtors (Imaniyati, et al, 2010).

In the Civil Code, Article 511, deposits include movable objects that cannot be realized and can be used as collateral that can be mortgaged (Subekti, 1986). Article 1150 of the Civil Code states, "A pledge is a right obtained by a creditor over a movable item, which is given to him by the debtor or another person on his behalf to guarantee a debt and authorizes the creditor to obtain repayment of the item first from the creditor. other creditors, except for the costs of auctioning the item and the costs incurred to maintain the item, the same costs must take priority."

The relationship between banks as providers of banking services to the public and customers as consumers or customers often creates problems for both parties. For banks, bad credit is the problem that most often arises or occurs. Customers or debtors do not pay their credit to the bank according to the agreed amount and schedule. Meanwhile, for customers, the problem that often arises is when banks are negligent or do not serve customers according to what is promised in their service products.

Basically, the legal relationship between customers and banks is a contractual relationship. Once a customer enters into a contractual agreement with the bank, the engagement that arises is an engagement based on a contract or agreement. In the area of contract law, the definition of a legal relationship is a relationship between parties whose positions are equal or equal. The customer's relationship with the bank is a legal relationship because there is an agreement between both parties.

According to Mariam Darus Badrulzaman, a legal relationship is a relationship in which the law attaches rights to one party and attaches obligations to the other party. If one party does not respect or violates the relationship, the law can force the legal relationship to be fulfilled or restored (Badrulaman, 2001). In this case, the law can be coercive to one of the parties if

there is denial or breach of contract regarding the legal relationship that occurs.

The customer's legal relationship with the bank relating to the agreement between the two parties is a civil matter which has the potential to cause disputes if one of the parties breaks their promise or defaults. Civil disputes between bank customers arise from financial transactions carried out by both parties. In general, civil disputes are disputes that occur in the area of material and personal law which are caused by one of the parties violating the principle of public interest. This dispute usually arises due to non-fulfillment of the legal principles of engagement. So far, if a civil dispute arises, the resolution is carried out through a material civil legal process through a lawsuit by one of the parties who feels disadvantaged to the authorized institution, namely the court.

In relation to banking law in Indonesia, the form of agreement between a depositing customer and the bank is not specified as whether it is depositing money or lending and borrowing. In general practice, the relationship between banks and customers who deposit funds is that banks provide separate forms. The form states the requirements that have been determined by the bank, known as a standard agreement.

However, if you pay attention to Law Number 10 of 1998 concerning amendments to Law Number 7 of 1992 concerning Banking, Article 1 Number 5, although not expressly, conclusions can be drawn regarding the regulation of legal relations between banks and customers. Article 1 Number 5 reads, savings are funds entrusted by the public to banks based on fund storage agreements in the form of demand deposits, deposits, certificates of deposit, savings, and/or other forms.

The legal consequences of the relationship that arises between the bank and the deposit customer are based on the deposit agreement. Banks act as deposit recipients and deposit customers as deposit givers. The definition of saving by a bank according to the Banking Law is to be used by the bank in carrying out banking activities. This means that the funds of the saving community will be used on the trust of the fund owner, the position of the bank is as the party in debt or debtor to the owner of the funds, while the creditor is the customer holding the funds who has the right at a certain time to collect the funds back with interest.

This means that the fund depository community hands over ownership of their funds to the bank. Customers who deposit funds hand over their funds to be kept by the bank with the aim of being able to be used or utilized further by the people who use the funds to improve the standard of living of many people. The principle of customer savings is not due to coercion, but based on the agreement of both parties. Customers who deposit funds who have handed over funds to the bank will receive interest in return for a certain period of time and the bank is obliged to carry out trust in storing customer funds. Both parties have entered into a deposit agreement or fund retention agreement and this agreement is not regulated in the Civil Code.

Because the agreement contains elements of saving, entrusting, giving power of attorney or trust (fiduciary relationship) and elements of borrowing, which means the agreement has its own characteristics. The legal relationship that exists between a bank and a customer who deposits funds is based on a deposit agreement. Banks function as recipients of deposits and customers who deposit funds as providers of trust in banking institutions. Therefore, the trust placed in banking institutions should not be abused.

In carrying out its business so that it can survive for a long time and continue to have the trust of the public, it must pay attention to the special principles of the bank and customer relationship which consist of a relationship of trust, a relationship of confidentiality and the principle of prudence.

CONCLUSION

The position of issuing deposit certificates is regulated in more detail in the position of deposit certificates as securities that can be owned by all binding persons and their issuance

can be reviewed from the Financial Services Authority Regulation Number 10/PJOK.03/2015 concerning the issuance of Deposit Certificates by Banks where deposit certificates in The form can be issued in the form of script or without script (scipless).

The legal relationship between the bank and the depositor is that they are essentially bound by an agreement where each party has the rights and obligations to fulfill the contents of the agreement. With the existence of an agreement, a relationship exists between the bank and the customer, where this relationship must be maintained by each party, especially the bank, by paying attention to the principles, namely the principle of trust, the principle of confidentiality, and the principle of prudence. Based on the provisions of Article 1 point 5 of Law Number 10 of 1998, between banks and customers is regulated by agreement law. So that the basis of the legal relationship between the bank and the customer is a contractual relationship. This means that once a customer enters into a contractual agreement with the bank, the engagement that arises is an engagement based on a contract (agreement).

REFERENCES

- Bambang Waluyo, *Penelitian Hukum Dalam Praktek*, (Jakarta: Sinar Grafika, 2002)
- C.F.G. Sunaryati Hartono, *Penelitian Hukum Di Indonesia Pada Akhir Abad Ke-20*, Alumni, Bandung, 1994
- Mariam Darus Badruzaman, *Kompilasi Hukum Perikatan*, (Bandung: Citra Aditya Bhakti, 2001)
- R.Subekti. *Jaminan-Jaminan Untuk Pemberian Kredit Menurut HukumIndonesia*, (Bandung: Almunni Bandung, 1986)
- Sallu, S., Harsono, Y., & Fajarianto, O. (2023). Implementation of Waterfall Method in Model Development to Improve Learning Quality of Computer Network Courses. *JTP-Jurnal Teknologi Pendidikan*, 25(3), 496-513.
- Sri Imaniyati, Neni. *Pengantar Hukum Perbankan Indonesia*, (Bandung: PT RefikaAdiatama, 2010)
- Sudirman, I Wayan. *Manajemen Perbankan* (Jakarta: Kencana Prenada Media Group, 2013)
- Usman, H., Yarmi, G., Sarifah, I., Hasanah, U., Wardhani, P. A., Sari, W. K., & Fajarianto, O. (2024). Explore the Needs of Competency Development Model for Prospective Elementary School Teachers Based on Knowledge Management System In Indonesia. *Revista de Gestão Social e Ambiental*, 18(1), e06206-e06206.
- Utama, Andrew Shandy. "Independensi Pengawasan Terhadap Bank Badan Usaha Milik Negara (BUMN) Dalam Sistem Hukum Nasional di Indonesia." *Soumatara Law Review* 1, no. 1 (2018)
- Utama, Andrew Shandy. "Sejarah dan Perkembangan Regulasi Mengenai Perbankan Syariah Dalam Sistem Hukum Nasional di Indonesia." *Jurnal Wawasan Yuridika* 2, no. 2 (2018)