

BENEFICIARY OF RESOLUTION BANK BY INDONESIA DEPOSIT INSURANCE CORPORATION (LPS)

by Diana R. W. Napitupulu

Submission date: 29-Sep-2022 09:20AM (UTC+0700)

Submission ID: 1911737106

File name: olution_Bank_by_Indonesia_Deposit_Insurance_Corporation_LPS.pdf (427.79K)

Word count: 5515

Character count: 29497

BENEFICIARY OF RESOLUTION BANK BY INDONESIA DEPOSIT INSURANCE CORPORATION (LPS)

Diana R. W. Napitupulu

Fakultas Hukum Universitas Kristen Indonesia

diana.napitupulu@uki.ac.id

Received 17-09-2021; Revised 21-10-2021; Accepted 21-10-2021

<https://doi.org/10.25216/jhp.11.1.2022.134-150>

Abstract

As an intermediary institution that functions to mobilize public funds, the bank has the potential to experience failure or fraud, which can cause a decline in the soundness of the bank (through CAMEL; Capital, Assets, Management, Earnings, and Liquidity). The Deposit Insurance Corporation was formed to guarantee limited deposit funds (limited guarantee) as a substitute for a blanket guarantee. LPS also has an active role in maintaining the stability of the banking system by its authority where after the OJK declares a failed bank, the banks are handed over to LPS, for non-systemic failed banks, a settlement is carried out by a rescue (at the expense of the shareholders) and not perform a rescue (liquidate the failed bank). If the bank failed to have a systemic impact, the IDIC (LPS) would take care of the Systemic Failed Bank, placing a temporary capital placement (PMS) to make it sound and resale it within 3 years. The issue: How does failing bank restructuring meets the principle of benefit by the Indonesia Deposit Insurance Corporation? The type of this research is juridical-normative research and legal materials traceability technique using qualitative analytical. This research approach uses statute approach, conceptual approach, and historical approach. The conclusion of this paper is Resolution Bank or restructuring of the failed bank by LPS that meets the beneficiary principle must carry out the following the four (4) categories of Commercial Banks base on Business Activities (BUKU),

where for category 3 and 4, a long period of restructuring is required because the bank has many derivative products.

Keywords: *Beneficiary Resolution Bank, Indonesia Deposit Insurance Corporation (LPS)*

Introduction

The growth of the economy and banking in this digital era is experiencing massive and rapid development. A bank is an intermediary institution that acts as a bridge between those who need funds and surplus.¹ The bank's position as an intermediary institution is the reason why the bank needs to be regulated by many regulations and supervised by the Indonesia Financial Services Authority (OJK), and the deposits of their depositors are guaranteed by the Indonesia Deposit Insurance Corporation/IDIC (LPS).² This is the main enticement for the deposit customer to continue entrusting the bank as a safe place to invest their money.³ Thus, two important institutions that play an important role in maintaining banking stability in Indonesia are the Indonesia Deposit Insurance Corporation (LPS), which was formed based on Law Number 24 of 2004 on the Deposit Insurance Corporation.⁴ Furthermore, the Indonesia Financial Services Authority (OJK) was formed based on Law Number 21 of 2011 on the Financial

¹ Sumanto, *Analisis Pengembangan Ekonomi Atas Hukum di Indonesia*. Ragam Jurnal Pengembangan Humaniora Vol. 8 No. 2, Agustus 2008

² Rebekka Dosma Sinaga, *Sistem Koordinasi Antara Bank Indonesia dan Otoritas Jasa Keuangan Dalam Pengawasan Bank Setelah Labirnya Undang-Undang Nomor 21 Tahun 2011 tentang Otoritas Jasa Keuangan*. Jurnal Hukum Ekonomi Universitas Sumatera Utara, 2013, hal. 2

³ J. Soedrajad Djiwandono, *Indonesia Financial Crisis After Ten Years: Some Notes on Lessons Learned and Prospects (presented in International Conference at Woodrow Wilson Center Asia Program, Washington District of Columbia, September 22nd, 1999)*

⁴ Zulkarnain Sitompul, *Pentingnya Keberadaan Lembaga Penjamin Simpanan Dalam Sistem Perbankan (presented in Seminar on The Existence of Indonesia Financial Services Authority to Implement The Stabilization and Sustainable Economy (Keberadaan Otoritas Jasa Keuangan untuk Mewujudkan Perekonomian Nasional yang Berkelanjutan dan Stabil)*, 25 November 2014

Services Authority.⁵ In Indonesia, economic stability is mostly affected by banking stability.⁶ Besides providing guidance and supervision to banks, OJK also supervises the Non-Bank Financial Industry (IKNB) and the Capital Market.⁷ Supervision of banks in Indonesia is carried out through several statuses, namely normal surveillance, intensive surveillance, and special surveillance. If the bank could not be restored as a normal bank, then the status is upgraded to Bank under Special Supervision, and the OJK will notify the LPS of that status.⁸ This bank is also categorized as a Troubled Bank. OJK will suggest steps or ways to reduce its status to become a bank under intensive supervision until normal. However, if the effort does not become successful, then the bank will automatically change to a Failing Bank and for the next will be handled and submitted to the LPS.⁹ The Deposit Insurance Corporation was established to protect against two banking risks, namely non-systemic and systemic banks.¹⁰ A bank must have minimum liquid fund, at least 8 percent of their assets. So, the deposit customers can take their money, meanwhile, the largest part will be allocated as a credit or productive assets.¹¹ The Indonesia Deposit Insurance Corporation (LPS) is a legal entity because of the law and must be

⁵ Wiwin Sri Rahyani, *Independensi Otoritas Jasa Keuangan Dalam Perspektif Undang-Undang Nomor 21 Tahun 2011 tentang Otoritas Jasa Keuangan (The Independence of the Indonesia Financial Services Authority Perspectives in Law Number 21 Year 2011 concerning the Indonesia Financial Services Authority)*. Jurnal Legislasi Indonesia Vol. 9 No. 3, Oktober 2012

⁶ Diana R. W. Napitupulu, *Lembaga Penjamin Simpanan di Indonesia Edisi Revisi*, UKI Press, Jakarta, 2020, hal. 98

⁷ Sulistyandari, *Lembaga dan Fungsi Pengawasan Perbankan di Indonesia*, Mimbar Hukum Vol. 24 No. 2, Juni 2012, hal. 238 – 239

⁸ Reza Fazlur Rahman, *Analisis Pemisahan Wewenang Pengawasan Lembaga Keuangan Perbankan Antara Bank Indonesia Dengan Otoritas Jasa Keuangan*, Private Law Vol. V No. 1 Januari – Juni 2017

⁹ Galuh Kartiko, *Analisis Terhadap Koordinasi Otoritas Jasa Keuangan Dengan Lembaga Lainnya Dalam Pengawasan Perbankan Berdasarkan Undang-Undang Nomor 21 Tahun 2011 tentang Otoritas Jasa Keuangan*, Jurnal Panorama Hukum Vol. 2 No. 1, Juni 2017

¹⁰ M. Dahlan Sitalaksana, *The Importance of a Deposit Protection Scheme (presented in ASEAN Conference on Deposit Protection System on December 1993)*

¹¹ Hendri Jayadi dan Huala Adolf, *Fungsi Lembaga Penjamin Simpanan Dalam Hukum Perbankan Indonesia*, Jurnal Komunikasi Hukum (JKH) Vol. 4 No. 2, Agustus 2018

² independent, transparent, and accountable, carrying its duties and powers and also being directly responsible to the President.¹²

LPS has two ⁶ main functions, namely deposits insurance of depositing customers and actively participating in maintaining the banking system's stability following its authority.¹³ The bank resolution is the authority to actively participate in maintaining the banking system's stability, namely the handling of failed bank that has a systemic impact and the settlement of failed banks that do not have a systemic impact.¹⁴ The settlement of failed bank that does not have a systemic impact¹⁵ is as contained in Chapter V Article 22 paragraph (1) of Law Number 24 of 2004 on the Deposit Insurance Corporation, which explains:

“(1) The settlement or handling of a Failing Bank as referred to in Article 21 paragraph (2) and paragraph (3) shall be carried out by the IDIC (LPS) in the following manner:

- a. The settlement of a Failing Bank With No Systemic Impact is carried out by rescuing or not rescuing the Failing Bank;
- b. The handling of a Failing Bank with Systemic Impact is carried out which includes the old shareholders or without the participation of the old shareholders.”

¹² *Ibid.*, hal. 101 (See Article 2 paragraph 3 and 4, also Article 3 ⁶ paragraph 2 Law Number 24 of 2004 on the Deposit Insurance Corporation)

¹³ See Article 4 Law Number 24 of 2004 on the Deposit Insurance Corporation (Republic of Indonesia State Gazette of 2004 Number 96, Republic of Indonesia Additional State Gazette Number 4420)

¹⁴ L. Budi Kagramanto, *Eksistensi Lembaga Penjamin Simpanan Dalam Sistem Perbankan Nasional*, Jurnal Mimbar Hukum Vol. 19 No. 3, Oktober 2007

¹⁵ Handling of a Failed Bank With Systemic Impact was first manifested through LPS Regulation Number 5/PLPS/2006 on the Handling of Failed Bank With Systemic Impact as amended several times until its latest LPS Regulation Number 3/PLPS/2008 on the Amendment of LPS Regulation Number 55/PLPS/2006 on the Handling of Failed Bank With Systemic Impact. Similar to bank that does not have systemic impact, the LPS Regulation was revoked by the existence of Article 39 of LPS Regulation Number 1 of 2017 on the Handling Systemic Bank With Solvency Problems

13 Apart from being based on the provisions of Law Number 24 of 2004 on the Deposit Insurance Corporation (LPS), the authority of LPS is also included in Article 31 of Law Number 9 of 2016 on the Prevention and Management of Financial System Crisis.¹⁶ As regulated by Law Number 9 of 2016 on the Prevention and Management of Financial System Crisis (UUPPKSK), LPS is incorporated in a Special Committee called the Financial System Stability Committee (KSSK), which consists of 4 institutions, namely the Ministry of Finance, Central Bank (BI), the Indonesia Deposit Insurance Corporation (LPS), and the Indonesia Financial Services Authority (OJK).¹⁷ The function of the LPS in this law is further expanded to prevent crises and to handle the condition that arises after the crisis.¹⁸

5 With regard to Bank Resolutions, in the era of the Covid-19 pandemic, the LPS' authority was further expanded through Law Number 2 of 2020 on the Stipulation of Government Regulation In Lieu of Acts Number 1 of 2020 on the State Financial Policy and Financial System Stability for Handling the Covid-19 Pandemic, where the LPS can act before a Bank is categorized as a Failing Bank, which LPS will place funds in the form of a demand deposit within a month 2 duration as stated in Government Regulation (PP) Number 33 of 2020 on the Implementation of the Authority of the Indonesia Deposit Insurance Corporation in the Context of Implementing Measures for Handling Financial System Stability Problems. Funds are placed by the LPS at a sound and liquid bank in the form of operational demand deposits. This means that the LPS can carry out its function to actively

12
¹⁶ Article 31 Law Number 9 of 2016 on the Prevention and Management of Financial System Crisis explained that: (1) Handling the solvency problem of Systemic Bank as mentioned in Article 22 paragraph (1) letter a and b could be maintained by LPS 2 or Bank Other Than Systemic Bank that given by OJK to IDIC/LPS as mentioned in Law Number 24 of 2004 on the Deposit Insurance Corporation; (2) Enactment 12 explained about the settlement of solvency problems of Bank Other Than Systemic Bank as mentioned in paragraph (1) is regulated by the LPS Regulation.

¹⁷ Ahmad Solahudin, *Pemisahan Kewenangan Bank Indonesia Dengan Otoritas Jasa Keuangan Dalam Pengawasan Bank*, Jurnal IUS Vol. III No. 7, April 2015, hal. 109

¹⁸ Paramita Prananingtyas, *Analisa Yuridis Tugas Komite Stabilitas Sistem Keuangan Dalam Pencegahan Krisis Sistem Keuangan di Indonesia*, Diponegoro Private Law Review, Vol. 1 No. 1, Semarang, November 2017, hal. 1 – 2

6 participate in maintaining the banking system's stability in accordance with its authority not only after a bank is categorized as a Failed Bank but also before the bank is declared by OJK as a failing bank. Article 42 of Law Number 24 of 2004 on the Indonesia Deposit Insurance Corporation (LPS) explains that: LPS is required to sell all bank shares 2 the handling of a maximum three (3) years from the start of the handling of Failed Bank with Systemic Impact with the reimbursement of Temporary Equity Participation (PMS) and can be extended twice with each extension for 1 year, and after the 5th years, LPS required to sell this bank without considering the reimbursement of Temporary Equity Participation (PMS).

Bank resolution made by the LPS must prioritize the beneficiary principle, namely: (a) maintaining customer trust; (b) Indonesia's economy and banking remains stable; (c) does not cause a crisis; and (d) does not impose on the country's economy. The principle of benefit needs to be put forward so that the public can benefit from the resolution of the bank itself. So, as early as possible, it is important to know and study how the resolution of banks in Indonesia carried out by the LPS meets the beneficiary principle. So, the formulation of the problem raised is: How is the Bank Resolution in Indonesia carried out by the Indonesia Deposit Insurance Corporation (LPS) that meets the beneficiary principle?

Research Method

The research method used in this research is the juridical-normative method. Juridical-normative research focuses on library research, which means studying more secondary materials. Type of this research legal materials traceability technique using qualitative analytical. This research approach uses statute approach, conceptual approach, and historical approach.

Analysis

Banks are intermediary institutions that connect those who have excess funds (surplus funds) and those who lack funds (deficits). Bank as economic institutions need to be supervised (in this case) by an

authority (which means Indonesia Financial Services Authority/OJK), from normal to special supervision.¹⁹ This supervision is not completely able to make a bank normalizing its condition again. And if a bank under special supervision that has been given advice by OJK cannot be successful, then its status will be upgraded to become a Failing Bank, and deliver or delegate to LPS, whether it is a Failing Bank with No Systemic Impact or a Failing Bank with Systemic Impact. Failed bank needs the whole restructuring.²⁰ An institution that is fully responsible for handling Failing Bank with Systemic Impact and settlement Failing Bank with No-Systemic Impact is Indonesia Deposit Insurance Corporation (LPS).²¹ After the publication of Law Number 9 of 2016 on the Financial System Crisis Prevention and Management (PPKSK), the authority of the LPS is not only fixed on what is described in the LPS Law, but LPS will take practical method, not wasting too much time and money. The options for the bank resolution method employed by the LPS are: (a) purchase and assumption (P&A); (b) Bridge Bank (Intermediary Bank); (c) Temporary Equity Participation; and (d) Liquidation. The handling and settlement of a failed bank by the LPS can be seen in the following image:

¹⁹ Marco Arnone, Salim M. Darbar & Alessandro Gambini, *Banking Supervision: Quality and Governance*, IMF Working Paper 07/82, 2007, hal. 6

²⁰ Wiwin Wintarsih Windiantina, *Sistem Koordinasi Antara Otoritas Jasa Keuangan Dengan Lembaga Penjamin Simpanan Dalam Penanganan Bank Gagal*, Jurnal Cita Hukum Vol. 3 No. 2, Desember 2015, hal. 357 – 358

²¹ Juanda Mamuaja, *Fungsi Lembaga Penjamin Simpanan Dalam Rangka Perlindungan Hukum Bagi Nasabah Perbankan di Indonesia*, Lex Privatum Vol. III No. 1, Januari – Maret 2015, hal. 39

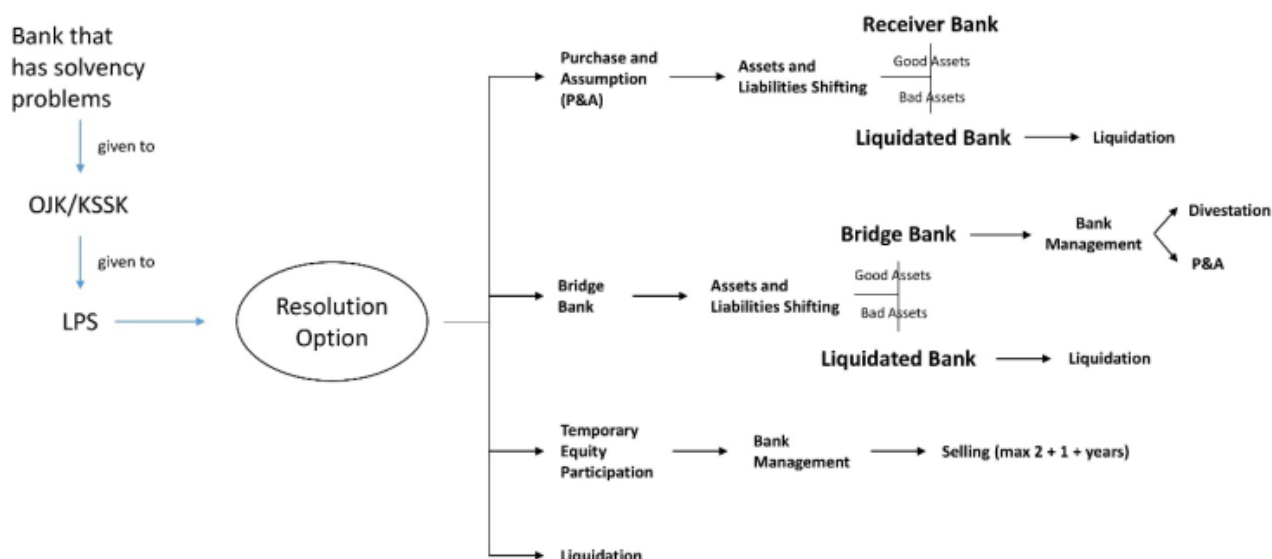


Figure 1: Handling and Settlement a Failed Bank After The Release of Law Number 9 of 2016 on the Financial System Crisis Prevention and Management

Reviewing the efficiency of Bank Resolutions in Indonesia conducted by the Deposit Insurance Corporation (LPS) needs to be reflected in the Categorization of Commercial Banks Based on Business Activities (BUKU). Regulations related to the categorization of Commercial Banks Based on Business Activities (BUKU) have previously been regulated in BI Regulation Number 14/26/PBI/2012 on the Business Activities and Office Networks Based on Bank Core Capital and Branches, but after the function of guidance and supervision of bank institutions was switched from BI to OJK, the regulation regarding the categorization of BUKU was carried out based on OJK Regulation Number 6/POJK.03/2016 on the Business Activities and Office Networks Based on Bank Core Capital and Branches. This changing regulation to arrange BUKU, as explained in Article 35 of OJK Regulation Number 6/POJK.03/2016.²²

²² Article 35 of OJK Regulation Number 6/POJK.03/2016 said: “When this OJK Regulation effectively applied, so BI Regulation Number 14/26/PBI/2012 dated December 27th, 2012 on the Business Activities and Office Networks Based on Bank Core Capital devoked and declared invalid.” So that, compliance of the bank’s core capital not oriented to the BI Regulation anymore, but to OJK Regulation. Yet in

1 This categorization is a derived of the norm of Law Number 9 of 2016 on the Prevention and Management Financial System Crisis (PPKSK), which as early as possible determines the systemic level of a bank before it enters or categorized as a failed bank so that the handling and regulation of the systemic bank have been carried out from the beginning. By the time and the development of Information and Technology (IPTEK), also influenced the complexity of banking. With the established of the OJK, the Indonesian Banking Architecture (API) created by Central Bank (BI) needs to be changed in such a way that it can keep up with banking developments in the digital and modern era. This is what made the OJK as a supervisory institution for banking institutions to reform the futuristic banking regulations which be implemented the categorization of Commercial Banks based on Business Activities or what is known as BUKU.

The goals of global economic development have resulted in the integration of the national economy with regional and international economies as an opportunity as well as a challenge that must be exploited and anticipated in order to have a positive impact on the progress of the national economy.²³ Strengthening and competitiveness of banks needs to be followed by improving the role of the bank as an intermediary institution, particularly for productive business including for the development of Small and Medium Enterprise (UMKM), so that the national banking industry plays an active role in the advancement of the national economy.²⁴ The Categorization of Commercial Banks Based on Business Activities (BUKU), which was updated through this OJK Regulation, explains that BUKU is a grouping of Banks based on Business Activities which are adjusted to their Core Capital. The

the next paragraph said that the following regulation or derivated regulation came out by the devokated BI Regulation still valid and exist as long as doesn't conflicted to this OJK Regulation 2

²³ Natasha Hamilton Hart, *How Well Is Indonesia's Financial System Working*, *Journal of Southeast Asian Economies* Vol. 35 No. 2

²⁴ S. Batunanggar, *Indonesia's Banking Crisis Resolution: Lessons and the Way Forward*. Occasional International Paper. Desember 2002

renewal of API into BUKU is clearly illustrated in Article 3 which makes the classification of BUKU into 4 types, namely:

- a. BUKU 1 is a Bank with Core Capital up to less than one trillion rupiahs;
- b. BUKU 2 is a Bank with Core Capital from one trillion rupiah to five trillion rupiah;
- c. BUKU 3 is a Bank with Core Capital from five trillion rupiah to thirty trillion rupiah; and
- d. BUKU 4 is a Bank with Core Capital above thirty trillion rupiah.

In Commercial Banks Based on Business Activities (BUKU), the highest capital is above 30 trillion rupiah. This difference is based on the core capital capacity of commercial banks as illustrated in Article 8 of OJK Regulation Number 12/POJK.03/2016 on the Commercial Bank Consolidation.

In Article 5 of OJK Regulation Number 6/POJK.03/2016 on the Business Activities and Office Networks Based on Bank Core Capital, that Conventional Commercial Bank Business Activities that can be carrying out in each BUKU are stipulated:

- a. BUKU 1 can carry out business activities: Fundraising, Credit Distribution, Trade Financing, IKNB Agency Activities and Cooperation; Payment System and electronic banking; Temporary Equity Participation; Forex Trading; and other activities that do not conflict with statutory regulations;
- b. BUKU 2 can carry out all business activities conducted in BUKU I, plus limited Equity Participation and Treasury;
- c. BUKU 3 can carry out all activities in BUKU II overseas within the Asian region, and can issue derivative products; and
- d. BUKU 4 can carry out all activities in BUKU III within an unlimited range.

Thus, the differentiating factor is the area limitation or coverage or area of the bank. The termination of the core capital of a bank company is as described in OJK Regulation Number 11/POJK.03/2016 on the

Minimum Capital Requirement for Commercial Banks, as explained in Article 11, that core capital consists of main core capital (common equity tier 1) which includes: (i) paid-up capital; (ii) disclosed reserve, as well as additional core capital (additional tier 1), in which the bank is required to provide core capital of at least 6% of RWA (Risk Weighted Assets), both individually and consolidated with Subsidiary Companies and also banks. must provide core capital at least 4.5% of RWA, both individually and in a consolidated manner with subsidiaries.

The ability of a bank to be more productive and ready to face the global economic challenge that is marked by an increase or increase in the bank's core capital. The increase in core capital is one of the banking strategies to maintain public trust, so that in any situation, banking can become a place to rely on or be entrusted with. In the midst of situations and economic turmoil that are inadequate and unpredictable or calculated, banking is an institution that is often affected. The increase in the bank's core capital that meets the target in the BUKU category, allows customers to obtain security assurance when they place their funds.²⁵

API, which is no longer compatible with the banking phenomenon in the digital era of the Industrial Revolution 4.0 towards the 5.0 Industrial Revolution, has made banking institutions competing to highlight more attractive and lucrative transaction schemes. This is clearly attracting public attention using the bank concerned. One of the fundamental obstacles that make the API need to be transformed is that there are too many banks in Indonesia. The proliferation of many banks in Indonesia is no longer efficient, because in this modernization era what is needed is no longer the number of banks, but a large number of assets and bank core capital. This is what encourages national banking to be able to compete with foreign banks, for example, banks in the ASEAN.

²⁵ Bank Indonesia, *Krisis Global dan Penyelamatan Sistem Perbankan Indonesia*, Bank Indonesia, Jakarta, 2010, hal. 8

The number of middle and lower-class banks whose assets¹² and capital ownership are still low, needing to consolidate efforts with banks that have very large assets, so that the continuity of the development of these banks become bigger and normal. These are some of the fundamental problems that have made API not fully implemented, especially the size of assets when compared to huge banks in the Southeast Asian. The BUKU categorization is based on the condition of the Core Equity of a bank. Core Equity is the total capital owned by a bank in conducting its business activities. The amount of core capital will certainly affected the immensity and range of the bank's business. If the core capital owned by a bank is small, then the range and variety of activities carried out will tend to be smaller. Meanwhile, for banks with large amounts of core capital, certainly creates a huge range and variety of business activities and quite productive in providing innovation in banking products. In the banking industry, core equity is also a reflection of the credibility and accountability of guaranteed customer deposits.²⁶ The importance⁸ of dividing the banks based on the strength of their core equity is the level of security and the strength of the bank at facing operational risk. In other words, the greater the core equity, the safer the Customer Deposits in the bank.²⁷ Core Capital is considered as the foundation of the bank as well as the foundation in securing the bank from global shocks. The greater the level of BUKU categorization of a bank, the more diverse the services it provides. This certainly has an impact on its core capital, where the greater the core capital, the more the bank can provide a sense of security for its customers.²⁸

16

²⁶ Andriyanto Adhi Nugroho Sugianto, *Kajian Hukum Mengenai Peran dan Fungsi Lembaga Penjamin Simpanan Dalam Menjamin Simpanan Nasabah Perbankan*, Jurnal Y5dis Vol. 2 No. 2. Desember 2015, hal. 247

²⁷ I Putu Indra Prastika, *Perlindungan Hukum Terhadap Uang Simpanan Nasabah di Bank Gagal Oleh Lembaga Penjamin Simpanan (LPS) Menurut UU Nomor 10 Tahun 1998 dan UU Nomor 24 Tahun 2004*, Jurnal Magister Hukum Udayana, September 2016

²⁸ Jeanette Stephani, *Analisis Hukum Peranan Lembaga Penjamin Simpanan Dalam Melindungi Nasabah Bank*, Jurnal Ilmu Hukum Legal Opinion, Edisi 4 Vol. 1, 2013, hal. 3 – 4

Banks in the BUKU 3 and 4 categories certainly have strong enough capital, such as BUKU IV which dominates, whose core equity reaches 100 trillion rupiahs. BUKU 3 and 4 banks can absorb potential risks that are greater than the other categories (BUKU 1 and 2). The focus of financial services carried out by BUKU 3 and 4 is in the digital field, so that the sense of security and trust of customers who use this service is also the focus of BUKU 3 and 4 Banks are also allowed to have a wider service network, both domestically and abroad, so that access is the main key. BUKU 3 and 4 are allowed by laws and regulations to recruit banking agents, both individuals, and institutions, to support Digital Financial Services (DFS). So, this can be a solution for people who in fact, really need banking services. The greater the equity, the wider the opportunity for channeling financing facilities to drive the economy of a region and household. Credit has also become a focus in these categories 3 and 4, with due observance of prudential principles, risk profile (banking soundness level), and good banking governance. Banks with this categorization are also considered capable of dominating the market, because of the strong capital, derivatives, or business opportunities that are increasingly being worked on. Derivative products owned by banks in category 3 and 4 make the complexity of the bank even more apparent. It makes these banks when they fail will be very complex to handle, so that the required deadline cannot be only 3 years, but needs to be added so that negotiations and proper consolidation of the international derivative transaction are carried out with sufficient time. So, the problem from the Commercial Banks Based on Business Activities (BUKU) 3 and 4 could be minimized. The Commercial Banks Based on Business Activities (BUKU) 3 and 4 cannot be taken lightly or the same as the the Commercial Banks Based on Business Activities (BUKU) 1 and 2, but rather have a multiplier effect of complexity. BUKU 3 and 4 banks are in the systemic category, thus Law Number 9 of 2016 has accommodated it in advance by applying this categorization.

Conclusion

The conclusion of this paper is Bank Resolution or restructuring of failed banks by LPS that meets the beneficiary principle must carry out the following the four (4) categories of Commercial Banks Based on Business Activities (BUKU), where for category 3 and 4, a long period of restructuring is required because the bank has many derivative products.

References

Books

- [1] Napitupulu, Diana R. W. *Lembaga Penjamin Simpanan di Indonesia Edisi Revisi*. UKI Press. Jakarta. 2020
- [2] Bank Indonesia. *Krisis Global dan Penyelamatan Sistem Perbankan Indonesia*. Bank Indonesia. Jakarta. 2010

Journals

- [1] Arnone, Marco, Salim M. Darbar & Alessandro Gambini. *Banking Supervision: Quality and Governance*. IMF Working Paper 07/82
- [2] Batunanggar, S. *Indonesia's Banking Crisis Resolution: Lessons and the Way Forward*. Occasional International Paper. Desember 2002
- [3] Djiwandono, J. Soedrajad. *Indonesia Financial Crisis After Ten Years: Some Notes on Lessons Learned and Prospects (presented in International Conference at Woodrow Wilson Center Asia Program, Washington District of Columbia)*, September 22nd 1999
- [4] Hart, Natasha Hamilton. *How Well Is Indonesia's Financial System Working*. Journal of Southeast Asian Economies Vol. 35 No. 2
- [5] Jayadi, Hendri & Huala Adolf. *Fungsi Lembaga Penjamin Simpanan Dalam Hukum Perbankan Indonesia*. Jurnal Komunikasi Hukum (JKH) Vol. 4 No. 2. Agustus 2018
- [6] Kagramanto, L. Budi. *Eksistensi Lembaga Penjamin Simpanan Dalam Sistem Perbankan Nasional*. Jurnal Mimbar Hukum Vol. 19 No. 3. Oktober 2007

- [7] Kartiko, Galuh. *Analisis Terhadap Koordinasi Otoritas Jasa Keuangan Dengan Lembaga Lainnya Dalam Pengawasan Perbankan Berdasarkan Undang-Undang Nomor 21 Tahun 2011 tentang Otoritas Jasa Keuangan*. Jurnal Panorama Hukum. Vol. 2 No. 1. Juni 2017
- [8] Mamuja, Juanda. *Fungsi Lembaga Penjamin Simpanan Dalam Rangka Perlindungan Hukum Bagi Nasabah Perbankan di Indonesia*. Lex Privatum Vol. III No. 1. Januari – Maret 2015
- [9] Prananingtyas, Paramita. *Analisa Yuridis Tugas Komite Stabilitas Sistem Keuangan Dalam Pencegahan Krisis Sistem Keuangan di Indonesia*. Diponegoro Private Law Review Vol. 1 No. 1. Semarang. Desemb
- [10] Prastika, I Putu Indra. *Perlindungan Hukum Terhadap Uang Simpanan Nasabah di Bank Gagal Oleh Lembaga Penjamin Simpanan (LPS) Menurut UU Nomor 10 Tahun 1998 dan UU Nomor 24 Tahun 2004*. Jurnal Magister Hukum Udayana. September 2016
- [11] Rahman, Reza Fazlur. *Analisis Pemisahan Wewenang Pengawasan Lembaga Keuangan Perbankan Antara Bank Indonesia Dengan Otoritas Jasa Keuangan*. Private Law Vol. V No. 1. Januari – Juni 2017
- [12] Rahyani, Wiwin Sri. *Independensi Otoritas Jasa Keuangan Dalam Perspektif Undang-Undang Nomor 21 Tahun 2011 tentang Otoritas Jasa Keuangan (The Independence of The Financial Services Authority Perspectives in Law Number 21 Year 2011 concerning the Financial Services Authority)*. Jurnal Legislasi Indonesia Vol. 9 No. 3. Oktober 2012
- [13] Sinaga, Rebekka Dosma. 2013. *Sistem Koordinasi Antara Bank Indonesia dan Otoritas Jasa Keuangan Dalam Pengawasan Bank Setelah Labirnya Undang-Undang Nomor 21 Tahun 2011 tentang Otoritas Jasa Keuangan*. Jurnal Hukum Ekonomi Universitas Sumatera Utara
- [14] Sitompul, Zulkarnain. *Pentingnya Keberadaan Lembaga Penjamin Simpanan Dalam Sistem Perbankan (presented in Seminar on The Existence of Indonesia Financial Services Authority to Implement The Stabilization and Sustainable Economy (Keberadaan Otoritas Jasa Keuangan Untuk Mewujudkan Perekonomian Nasional yang Berkelanjutan dan Stabil)*. 25 November 2014

[15] Solahudin, Ahmad. *Pemisahan Kewenangan Bank Indonesia Dengan Otoritas Jasa Keuangan Dalam Pengawasan Bank*. Jurnal IUS Vol. III No. 7. April 2015

[16] Stephani, Jeanette. 2013. *Analisis Hukum Peranan Lembaga Penjamin Simpanan Melindungi Nasabah Bank*. Jurnal Ilmu Hukum Legal Opinion Edisi 4 Vol. 1

[17] Sugianto, Andriyanto Adhi Nugroho. *Kajian Hukum Mengenai Peran dan Fungsi Lembaga Penjamin Simpanan Dalam Menjamin Simpanan Nasabah Perbankan*. Jurnal Yuridis Vol. 2 No. 2. Desember 2015

[18] Sulistyandari. *Lembaga dan Fungsi Pengawasan Perbankan di Indonesia*. Mimbar Hukum Vol. 24 No. 2. Juni 2012.

[19] Sumanto. *Analisis Pengembangan Ekonomi Atas Hukum di Indonesia*. Ragam Jurnal Pengembangan Humaniora Vol. 8 No. 2. Agustus 2008

[20] Satalaksana, M. Dahlan. *The Importance of a Deposit Protection Scheme (presented in ASEAN Conference on Deposit Protection System on December 1993)*

[21] Windiantina, Wiwin Wintarsih. *Sistem Koordinasi Antara Otoritas Jasa Keuangan Dengan Lembaga Penjamin Simpanan Dalam Penanganan Bank Gagal*. Jurnal Cita Hukum Vol. III No. 2. Desember 2015

Regulation

[1] Republic of Indonesia. Law Number 24 of 2004 on the Deposit Insurance Corporation. State Gazette of 2004 Number 96. Additional State Gazette Number 4420;

[2] Republic of Indonesia. Law Number 9 of 2016 on the Prevention and Management of Financial System Crisis. State Gazette of 2016 Number 70. Additional State Gazette Number 5872;

[3] Republic of Indonesia. Law Number 2 of 2020 on the Stipulation of Government Regulation In Lieu of Acts Number 1 of 2020 on the State Financial Policy and Financial System Stability for Handling the Covid-19 Pandemic. State Gazette of 2020 Number 134. Additional State Gazette Number 6485;

[4] Government Regulation Number 33 of 2020 on the Implementation of the Authority of the Indonesia Deposit Insurance Corporation in the Context of Implementing Measures for Handling Financial System Stability Problems. State Gazette of 2020 Number 165. Additional State Gazette Number 6535;

[5] OJK Regulation Number 11/POJK.03/2016 on the Minimum Capital Requirement for Commercial Banks. State Gazette of 2016 Number 25. Additional State Gazette Number 5848

BENEFICIARY OF RESOLUTION BANK BY INDONESIA DEPOSIT INSURANCE CORPORATION (LPS)

ORIGINALITY REPORT

17%

SIMILARITY INDEX

17%

INTERNET SOURCES

8%

PUBLICATIONS

10%

STUDENT PAPERS

PRIMARY SOURCES

1	ditjenpp.kemenkumham.go.id Internet Source	2%
2	ssbfnet.com Internet Source	2%
3	123dok.com Internet Source	1%
4	Submitted to Universitas Jenderal Soedirman Student Paper	1%
5	ojs.unud.ac.id Internet Source	1%
6	documents.mx Internet Source	1%
7	islamicmarkets.com Internet Source	1%
8	repository.president.ac.id Internet Source	1%
9	Submitted to Universitas Pelita Harapan Student Paper	1%
10	Submitted to School of Business and Management ITB Student Paper	1%
11	Submitted to University of Auckland Student Paper	1%
12	jurnal.fh.unila.ac.id Internet Source	1%

13	www1.lps.go.id Internet Source	1 %
14	repositori.usu.ac.id Internet Source	1 %
15	bankjatim.id Internet Source	1 %
16	e-journal.metrouniv.ac.id Internet Source	1 %
17	www.bankmayapada.com Internet Source	1 %

Exclude quotes On

Exclude matches < 1%

Exclude bibliography On