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Implementation of Know Your Customer Principle in Banking Practices at Bank BNI 46 Bima Branch

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ABSTRAK

Artikel ini merupakan penelitian hukum yang menganalisis penerapan prinsip mengenal nasabah (know your customer) dalam praktik perbankan, hal ini sangat penting dilakukan untuk dapat mengidentifikasi transaksi yang mencurigakan sejak dini, dan meminimalkan berbagai risiko, seperti risiko operasional, risiko hukum, risiko transaksi terkonsentrasi, dan risiko reputasi. Metode yang digunakan dalam penelitian ini adalah metode penelitian hukum empiris, dengan mengambil lokus di Bank BNI 46 Cabang Bima. Temuan baru yang ditemukan dari penelitian ini adalah pelanggaran terhadap prinsip kerahasiaan di mana bank diizinkan untuk mengetahui identitas nasabah terkait dengan profil dan karakter transaksi nasabah. Hasil dan pembahasan menunjukkan bahwa Bank BNI 46 Cabang Bima menerapkan Prinsip know your customer. Aturan Know Your Customer sebagaimana tercantum dalam PBI Nomor 3/10/PBI/2001 yang kemudian diubah oleh Bank Indonesia Mengenai Penerapan Prinsip dengan Peraturan Bank Indonesia Nomor 5/21/PBI/2003 Mengenai Perubahan Kedua atas Peraturan Bank Indonesia Nomor 3/10/PBI/2001 tentang Penerapan Prinsip Kenal Nasabah. Dalam menerapkan prinsip mengenal nasabah, bank dapat mencurigai transaksi yang diduga berasal dari hasil kejahatan, seperti penyelundupan uang, suap, tindak pidana korupsi, penyelundupan tenaga kerja, dan kejahatan perbankan. Selain itu, transaksi keuangan yang menyimpang dari profil, karakteristik, atau kebiasaan pola transaksi nasabah perusahaan juga patut dicurigai. Kesimpulannya, prinsip mengenal nasabah (know your customer principle) adalah salah satu prinsip penting dalam dunia perbankan dan keuangan, yang telah diimplementasikan oleh Bank BNI 46 Cabang Bima mengacu pada kebijakan dan prosedur yang diterapkan oleh lembaga keuangan untuk memastikan identitas dan karakteristik nasabah sebelum memberikan layanan keuangan kepada mereka. Namun, hal ini justru bertentangan dengan tradisi kerahasiaan antara bank dan nasabahnya, yang menjadi pilar utama membangun hubungan kepercayaan antara bank dan nasabahnya.

Kata Kunci: prinsip nasabah; praktik perbankan; kenal nasabah

ABSTRACT

This article is a legal research that analyzes the application of the principles get to know customers (know your customer) in banking practice, this is very important to do to be able to identify transactions early suspicious, and minimize various risks, such as operational risk, legal risk, risk of concentrated transactions, and reputation risk. **The method** used in this research is an empirical legal research method, by taking the locus at BNI 46 Bima branch. **novelty** What is found from this research is a violation of the principle of confidentiality where the bank is allowed to know the identity of the customer related to the profile and the character of the Customer's transaction. **The results and discussion** show that BNI has 46 Bima branches apply Know Your Customer Principles. Know Your Customer Rules as set forth in PBI Number 3/10/PBI/2001 which was later amended by Bank Indonesia Concerning Application of Principles with Bank Indonesia Regulation Number 5/21/PBI/2003 Concerning the Second Amendment to Bank Indonesia Regulation Number 3/10/PBI/ 2001 concerning Application of Know Your Customer Principles . In implementing the principle of knowing your customer, banks can suspect transactions that are suspected of originating from the proceeds of crime, for example money smuggled, bribery, corruption crimes, labor smuggling, banking crimes. In addition, financial transactions that deviate from the profiles, characteristics or habits of the company's customer transaction patterns are also suspect. **In conclusion,** the principle of knowing your customer (know your customer principle) is one of the important principles in the world of banking and finance, which has been implemented by Bank BNI 46 Bima Branch referring to the policies and procedures implemented by financial institutions to ensure the correct identity and characteristics of their customers before provide financial services to them. However, this is precisely the opposite of the tradition of secrecy between the bank and its customers, which is the main pillar for building a trusting relationship between the bank and its customers.

Keywords: customer principle; banking practice; know your costumer.

INTRODUCTION

The world of banking in Indonesia is growing very rapidly because of the various services and banking products offered. There are several banks in Indonesia, including commercial banks, Islamic banks and development banks. Commercial bank is a type of bank engaged in traditional banking, ie. offer loans and accept deposits from customers. Commercial banks also offer services such as wire transfers, bill payments and currency purchases. Meanwhile, Islamic banks are banks that carry out their banking operations based on sharia principles, for example using *mudharabah* and musyarakah contracts in lending.

Currently banking services in Indonesia are also increasingly digitized due to internet and *mobile banking banking* that allows customers to do banking online. This will make banking services more accessible and efficient. However, the Indonesian banking world is still facing several problems such as rampant banking crimes such as data theft and online fraud. In addition, the problems are unfavorable *credit levels and less stringent banking supervision.* Therefore, Bank Indonesia as the banking *regulator* will continue to improve banking supervision and regulation to provide better protection to customers.(Sumantri, 2014)

The banking world recognizes the principle of " *Know your Customer* ” (KYC) which is one of the most important principles in the world of banking and finance. This principle refers to the policies and procedures implemented by financial institutions to ensure the correct identity and characteristics of their customers before offering financial services to them. The principle objective of KYC is to protect financial institutions from the risks of fraud, money laundering or terrorist financing. By ensuring that each customer has gone through a proper identity verification process, financial institutions can build a good image and increase public trust in their financial services. Therefore, financial institutions must ensure that the KYC system implemented complies with applicable regulations and is able to detect potential risks and take the necessary precautions to combat these risks. (Iryana et al., 2017)

This know your customer principle allows banks to find out details about bank customers. The bank is also given the power to decide whether the customer intends to enter into a legal relationship with the bank. Banks are also entitled to obtain information so that banks can obtain an overview of their customers. Banks can also monitor customer transactions and suspicious activity can be reported immediately.

By applying this know your customer principle, banks can report suspicious transactions. According to "Bank Indonesia Regulation Number 5/21/PBI/2003 concerning the Second Amendment to Bank Indonesia Regulation Number 3/10/PBI/2001 concerning Application of Know Your Customer Principles" means suspicious financial transactions are:

1. Financial transactions that deviate from the profile, characteristics or habit of the transaction pattern of the customer concerned;

2. transactions by customers that are reasonably suspected to have been carried out with the aim of avoiding reporting of the transactions in question which must be carried out by the bank in accordance with the provisions in Law Number 15 of 2002 concerning the Crime of Laundering as amended by Law Number 25 of 2003 ; or
3. Financial transactions that are carried out or canceled are carried out using assets that are suspected of originating from the proceeds of crime. (Ariana, 2016)

The implementation of the anti-money laundering program begins with the preparation of guidelines and standard practices for implementing Know Your Customer principles which are a prerequisite for BPRs to support the program. The guidelines stipulated by Bank Indonesia in the application of Know Your Customer Principles cover at least the principles of acceptance and identification of prospective customers, practices for controlling customer accounts and transactions, and risk management practices. The decree also states that each bank is required to establish a special work unit to implement anti-money laundering and eradicate the financing of terrorism programs, namely the work unit for Application of Know Your Customer Principles (UKPN). Functional work units must ensure the implementation of correct, error-free and efficient internal controls and ensure that all functional work unit employees have received sufficient training so that each employee has the same understanding of money laundering and terrorism financing. (Fitriyani, 2021)

Banks must prioritize public money in collecting customer money so that it benefits both the bank itself and the customer which automatically leads to the security of public money. Careful consideration of public money held by banks enables banks to conduct their business with great care. Because no one can deny that banking is basically about people's money, which is none other than banking. The relationship between the bank and the depositor is a contractual relationship between the debtor and the creditor based on the precautionary principle. (Katili, 2013)

Based on the description above, it can be understood that the application of the know your customer principle in the banking world is very important to maintain the stability of the banking situation. Along with developments in technology and information, as well as increasingly complex banking products and processes, the risks faced by banks have also increased. This increase in risk must be compensated for by improving the quality of risk management. Regulations for implementing the know your customer principle have also been further developed based on international standards with the new term " *customer" . due diligence* " and " *enhanced due diligence* ". This shows how important it is to apply this principle in banking to avoid increasingly complex risks, which will eventually lead to healthy trust between customers and banks. (Fitriyani, 2021)

With the increasing complexity of bank products, functions and information technology, it is feared that it will increase the opportunities for irresponsible parties to use bank products / services to support their crimes, thereby minimizing the use of banks as a means to reduce money laundering. . and financing is complete. , banks must play a bigger role than before, namely by implementing optimal and effective APU and PPT programs. The implementation of APU and PPT programs by banks is important not only to prevent money laundering, but also to support the implementation of a sound banking system that can protect banks from various potential risks, including legal risk, reputation risk and operational risk. (Fitriyani, 2021) .

As we know, laws and regulations governing Indonesian banking business practices tend to be administrative in nature, with emphasis on procedural aspects. Indonesian banking practices are based on legal public and private regulations. Several laws and regulations, including but not limited to so-called laws and regulations, are in the form of Bank Indonesia laws and regulations. This is regulated in laws and regulations related to banking, for example: regarding banking principles. (Rozali, 2011)

RESEARCH METHOD

Empirical legal research is a legal research method that allows law to be recognized in its true sense and how it functions in society. Therefore, the empirical legal research method can also be referred to as the sociological legal research method. (Arrasyid, 2021) The approach used in this study uses a statutory approach (*statute approach*), case approach (*case approach*) and analysis approach (*analysis approach*) . This approach is basically carried out by examining all laws and regulations that are related to the problems (legal issues) that are being faced**.** (Nasution, 2019) The data to be used is primary data, namely legal material. Conducting structured interviews with the research bank, the researcher gave research approval and attached a number of questions for the bank to answer. The data analysis technique used in this study uses quantitative analysis methods, namely qualitative descriptions of data in sentences that are orderly, consistent, logical, non-overlapping and effective, which facilitate interpretation and analysis of information and data to obtain answers. to the problem of this research.

RESULTS & DISCUSSION

The In the United States since 1970 there have been laws that require banks to voluntarily report suspicions of transactions made by their customers. The regulation is Bank *Secrecy of* 1970 whose content is contrary to the tradition of secrecy of bank relations with its customers which is the main pillar for building trust relationships between banks and their customers. The customer in this case is the party that uses banking services. This means that the customers who become the object are debtor customers and creditor customers of the bank concerned. (Ariana, 2016)

With this know your customer principle, banking institutions are given the authority to know the ins and outs related to bank customers. The bank is also given the authority to find out if there is a customer's intention in carrying out a legal relationship with the bank. Banks also have the right to obtain information so that banks get an overview of customers. Banks can also monitor customer transaction activities and also activities that are considered suspicious can be reported immediately. As is known, the existence of a bank as a financial institution is very dependent on customer funds in the bank. This happens because the bank's profit depends on how the bank can manage customer funds by receiving customer funds and issuing them again in the form of credit. The positive difference or *positive spread* is the bank's profit that can maintain the existence of the banking institution.

Departing from this, it can be understood that public trust in banking institutions is the most essential thing for the sustainability of these banks. In such a situation where banks really need funds from customers, funds from anywhere will certainly be received by banking institutions because those funds are very dominant in upholding the existence of banking institutions. The implementation of the know your customer principle by the bank must really be applied by the bank in a very careful manner, this is due to the fact that as previously described the implementation of the know your customer principle is something that can assist banks in implementing the precautionary principle but on the other hand that implementation of the know your customer principle by banking institutions should not complicate customer activities which in the end will provoke customer complaints and dissatisfaction with bank services.

If this happens it will be an unprofitable thing for banking institutions because customers will no longer trust banks and its form is withdrawing funds from banking institutions and if this happens it will threaten the health of the bank itself. Thus the implementation of the know your customer principle in a more careful manner without creating the impression of making it difficult for the customer will greatly assist in the implementation of this principle, so that banking institution human resources who know the essence of applying this principle, namely in the interest of the banking institution, are essential.

Dissemination of the principle of knowing your customer for the customers themselves is something that must be done so that customers do not feel they are *objects* of interest to banking institutions. So that the impression that the customer is a party that should be suspected in the use of bank services is something that must be *avoided* semantically . impure or not clean anymore (Ariana, 2016)

If it is in cash and the money is not counterfeit or counterfeit money, then the money is considered legal tender. So dirty money doesn't mean money, it means possession of money or process of possession of money that the bank needs to know. In this case, if the process of owning the money is the result of an activity that is considered legitimate, then the money is referred to as dirty money. Actions that attempt to disguise or disguise illegal ownership processes as something legal is known as “money laundering”. In this case, the bank automatically becomes a money laundering institution, because the bank's duties also include the payment function.

The crime was committed by disguising the source of wealth resulting from acts prohibited by the state, hiding illicit money using various existing means, including using a bank as a place to store it. For example, the Bank is a party that is very conducive and has the potential to be involved in the crime of money laundering. The definition is that the crime of money laundering is according to the provisions in article 3 “Law of the Republic of Indonesia Number 15 of 2002 Concerning Money Laundering Crimes.(Ariana, 2016)

This explanation It is understandable that the application of the know *your customer principle* is very important in the banking industry in order to maintain the stability of the soundness of the bank. Along with the development of technology and information, the more complex banking products and activities, the risks faced by banks will also increase. This increase in risk must be balanced with an increase in the quality of risk management. Regulations for the application of the know your customer principle have also been refined based on international standards using the new terms *customer due diligence and enhanced due diligence* . This indicates how important it is to apply this principle in banking in order to avoid increasingly *sophisticated risks* which in the end is expected to create healthy bank and customer trust.

Along with the development of products, activities and bank information technology The more complex it is feared that it can increase opportunities for parties who do not responsible for using bank products/services in assisting their crimes. For this reason, in order to minimize the use of banks as a means of money laundering and funding, a bigger role for banks is needed than before by implementing an optimal and effective APU and PPT program. The implementation of the APU and PPT programs by banks is not only important for eradicating money laundering, but also for supporting the implementation of *prudential banking* which can protect banks from various risks that may arise, including legal risk, reputation risk, operational risk. (Fitriyani, 2021)

In the banking world in Indonesia, since the issuance of the Pakto in 1988, the growth of banks in Indonesia has been very rapid. Unfortunately the bank's growth was not followed by good management and quality and performance. The government revoked the operating licenses of 16 (sixteen) national private banks in 1997 because they were deemed to be no longer viable. This was done with the aim of creating sound banking conditions in Indonesia. It is true that banking development after Pakto 1988 was very rapid but poorly controlled, giving rise to various problems in practice , and the principles of *Prudent Banking* were completely ignored.

Attention to the application of the precautionary principle with the aim of maintaining the health of banks at this time is needed because of the national banking tragedy in on. The rise of the banking world is a manifestation of the development of regulatory instruments in the banking sector, as an instrument of the government in carrying out policies in the economic sector in pursuit of economic growth. (Katili, 2013)

The prudential principle *is* a principle which states that financial institutions that carry out their functions and business activities must (Katili, 2013) apply the precautionary function by knowing customers in order to protect public funds entrusted to them by the public. The application of the precautionary principle can be seen in an in-depth analysis of lending using the 5C principle *(the five C principles)* , which includes *character* , *capital* , *capacity* , *condition of economy* , *collateral*. (Monulandi et al., 2016)

The application of the 5C principle is intended so that the bank is not harmed by debtors who later commit defaults, such as non-performing loans. Non-performing loans are loans that are classified as substandard loans, doubtful loans, and bad loans. This situation can disrupt the smooth return of credit in accordance with a predetermined time. The term non-performing loans has been used by Indonesian Banking as a translation of *problem loans* , which are terms that are commonly used internationally. Another term in English is *nonperforming loan* in where The credit quality is classified as substandard, doubtful or loss collectibility. Meanwhile, the banking law contains rules regarding violations that do not implement banking principles which are included in an offense that can be subject to criminal witnesses and can be called a criminal offense in banking.(Guntara & Griadhi, 2019)

Given that the application of Know Your Customer Principles is an important factor, it is necessary for Securities Companies to apply Know Your Customer Principles more effectively. The strategic role of a Securities Company as an investment manager is highly dependent on the extent to which the public places their trust in the Securities Company that will manage investors' funds. Trust (trust) from its service users. Inadequate application of Know Your Customer Principles can lead to suspicious transactions. Such circumstances will make it easier for money laundering perpetrators to use legitimate economic means to hide or disguise their activities and to facilitate the speed of transfer of proceeds of crime with the aim of avoiding investigations by law enforcement officials. (Utami, 2013)

Banking practices in the Republic of Indonesia, as in many other countries, require a lot of regulation (*most heavily regulated industries*). This is because banking practices have special characteristics as follows: " *The banking industry has special characteristics. First, as one of the subsystems of the financial services industry, the banking industry is often regarded as the heart and driving force of a country's economy* . In this regard, Lovett stated: " *Banks and financial institutions collect money and deposits from all elements of society and invest these funds in loans, securities and various other productive assets* ". From what has been stated, it can be said that without the existence of a banking industry, it is difficult to imagine the accumulation of money from the public to be channeled in the form of credit to various industries.

The second characteristic is that the banking industry is an industry that relies heavily on the "trust" (*fiduciary*) of the public who have money to save. Public trust for the banking industry is everything". Banking law that regulates banking practices and is used as a legal reference. (Rozali, 2011)

If in conventional banks it is known as bank interest, which can be interpreted as remuneration provided by banks based on conventional principles to customers who buy or sell their products. Interest can also be interpreted as a price to depositors (who have deposits) and creditors (customers who obtain loans) that must be paid to the bank. However, bank interest, which in this case is interest that does not include usury or can be said to be profit-sharing according to Islamic law (shari'ah banking), has become an important part of the economic system of the Arab nation as well as the economic system in other (non-Islamic) countries. -

Muslim). In fact, interest has been considered essential for the successful operation of the existing economic system for society. But Islam considers the flower as an evil that spreads misery in life. (Dan, nd)

In essence, Banking Law contains the following meanings: Overall legal principles and legal principles governing banking governance covering aspects of banking operations, supervision and relations between banks and customers and other related institutions. Referring to the definition of banking law, the scope of banking law includes four aspects, namely:

1. Principles and principles of banking law;
2. Banking governance as a financial institution;
3. Legal relationship between banks and individual and corporate customers;
4. Legal relationship between the bank and other related institutions. Example: Government, BI, OJK, other banks, and other financial institutions; And
5. Banking supervision and sanctions imposed for violations of banking regulations. Aspects;

The legal aspects regulated in banking law are as follows:

1. Banking Legal Principles as values or principles in Banking;
2. The rules or norms contained in the laws and regulations related to banking that regulate:
   a. Bank operational activities;
   b. Position, Duties and Authorities of Commissioners, Directors and ranks in the banking structure;
   c. Banking Risk Analysis and Management;
   d. Assessment of bank health level; And
   e. Banking internal and external supervision;
   f. Criminal acts within the scope of banking; and
   g. Dispute resolution. (Yusmad, 2018)

CLOSING

1. Conclusion

know your customer principle is one of the important principles in the world of banking and finance, which has been implemented by Bank BNI 46 Bima Branch referring to the policies and procedures implemented by financial institutions to ensure the correct identity and characteristics of their customers before providing services. finance to them. The application of this principle is not only limited to information regarding customer personal data, but also regarding transactions carried out by customers and also if there are suspicious transactions it is mandatory to report them. This aims to prevent crime, protect financial institutions from the risk of fraud, money laundering, or the financing of terrorism and other banking crimes. By ensuring that each customer has gone through the proper identity verification process, financial institutions can build a good image and increase the level of public trust in their financial services.

2. Suggestion

a. Bank BNI 46 Bima Branch needs to strictly and wisely apply *the know your customer principle* with reference to Bank Indonesia Regulation No. 5/21/PBI/2003 concerning the Second Amendment to Bank Indonesia Decree No. 3/10/PBI/2001 concerning the application of "Know Your Customer Principles", Regulation of the Minister of Finance Number 143/PMK.010/2009 concerning Application of Know Your Customer Principles because this directly relates to customer data which should be protected by banks.
b. The application of the know your customer principle must be applied very carefully, because the application of the know your customer principle can help the bank, but on the other hand, the application of the know your customer principle must not make it difficult for the customer to act, which in turn can lead to customer complaints and dissatisfaction with banking services.
c. Bank BNI 46 Bima Branch needs to improve the security system for protecting customer data, due to leakage of customer data through misuse of implementation (*know your customer principle*) the potential for crimes against customers.

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