

Perlindungan hukum bagi bank atas pelanggaran dan atau pelampauan batas maksimum pemberian kredit terhadap gugatan wanprestasi perjanjian kredit dalam pencairan fasilitas kredit debitur = Legal protection for bank on violation and or exceedances legal lending limit towards event of default lawsuit credit agreement within the drawdown credit facility of debtor

Muhammad Faisal Abdi, author

Deskripsi Lengkap: <https://lib.ui.ac.id/detail?id=20414839&lokasi=lokal>

Abstrak

[Dalam menjalankan bisnis bank selaku kreditur atau pihak pemberi pinjaman dalam pemberian fasilitas kredit kepada debitur terdapat risiko yang melekat, dan bank harus dapat memperhitungkan risiko yang dapat timbul terkait dengan aktivitas pemberian kredit tersebut, sehingga dapat meminimalkan potensi risiko yang dapat terjadi. Namun persetujuan bank atas pemberian fasilitas kredit ternyata dikemudian hari terjadi pelanggaran dan/atau pelampauan Batas Maksimum Pemberian Kredit (BMPK) sedangkan Perjanjian Kredit telah ditandatangani dan sah menurut hukum kemudian bank menghentikan pencairan fasilitas kredit maka menimbulkan hak bagi debitur untuk mengajukan gugatan wanprestasi. Penelitian hukum ini bertujuan untuk

mengetahui dan memahami mengenai akibat hukum bagi bank apabila telah melakukan pelanggaran dan/atau pelampauan Batas Maksimum Pemberian Kredit (BMPK) serta Untuk mengetahui dasar gugatan wanprestasi oleh debitur terhadap bank serta perlindungan hukum bagi bank atas adanya gugatan wanprestasi oleh debitur atas perjanjian kredit yang telah ditanda tangani antara bank dengan debitur atas pelanggaran dan/atau pelampauan batas maksimum pemberian kredit. Penulisan tesis ini dikaji dengan menggunakan metode penelitian hukum normatif atau yuridis normatif yaitu menggunakan teknik pengumpulan data berupa penelitian kepustakaan

dengan cara mempelajari berbagai literatur yang berhubungan dengan objek penelitian atas bahan-bahan hukum baik bahan menggunakan bahan hukum primer, bahan hukum sekunder, maupun bahan hukum tersier. Hasil yang diperoleh dari penelitian yang telah dilakukan, bahwa Terhadap pelanggaran dan/atau pelampauan atas ketentuan BMPK dapat dikenakan sanksi mulai dari sanksi administrasi dan tidak menutup kemungkinan dapat dikenakan sanksi pidana kepada Dewan Komisaris, Direksi, pegawai Bank, pemegang saham maupun pihak terafiliasi lainnya, mencerminkan adanya permasalahan tata kelola bank (GCG), hingga menyebabkan terjadinya penurunan tingkat kesehatan serta secara hukum bank dapat dilindungi dari gugatan wanprestasi debitur akibat terjadinya pelanggaran dan/atau

pelampauan batas maksimum pemberian kredit demi kepentingan bank.;In running a business bank as creditor or lender in the provision of credit facilities to borrowers there are inherent risks, and the bank must be able to take into account the risks that may arise relating to the credit granting activities, so as to minimize the potential risks that can occur. However, the approval of the bank credit facilities in the future turned out to be a violation and / or overrun Legal Lending Limit (LLL) while the Credit Agreement has been signed and lawful then stop the disbursement of bank credit facilities will cause a debtor the right to file a lawsuit for breach of contract. Legal research is aimed to know and understand the legal consequences for the bank when it is a foul and / or overrun Legal Lending Limit (LLL) as well as to

know the basis of the claim of default by the debtor to the bank as well as legal protection for banks on the lawsuit of default by the debtor on the credit agreement has been signed between the bank and the debtor for breach and / or overrun legal lending limit. This thesis was assessed using normative legal research or juridical normative that uses data collection techniques in the form of research literature by studying the literature relating to the object of research on legal materials both materials using primary legal materials, secondary law, and legal materials tertiary. The results of the research that has been done, that against violations and / or overrun on the legal lending limit may be subject to sanctions ranging from administrative sanctions and did not rule may be subject to criminal sanctions to the Board of Commissioners, Board of Directors, Bank employees, shareholders and other affiliated parties, reflecting the bank's governance issues (GCG), to cause a decrease in the level of health as well as legally the bank can be protected from a lawsuit the debtor defaults due to the violation and / or exceeding the maximum limit in the interests of bank lending., In running a business bank as creditor or lender in the provision of credit facilities to borrowers there are inherent risks, and the bank must be able to take into account the risks that may arise relating to the credit granting activities, so as to minimize the potential risks that can occur. However, the approval of the bank credit facilities in the future turned out to be a violation and / or overrun Legal Lending Limit (LLL) while the Credit Agreement has been signed and lawful then stop the disbursement of bank credit facilities will cause a debtor the right to file a lawsuit for breach of contract. Legal research is aimed to know and understand the legal consequences for the bank when it is a foul and / or overrun Legal Lending Limit (LLL) as well as to know the basis of the claim of default by the debtor to the bank as well as legal protection for banks on the lawsuit of default by the debtor on the credit agreement has been signed between the bank and the debtor for breach and / or overrun legal lending limit. This thesis was assessed using normative legal research or juridical normative that uses data collection techniques in the form of research literature by studying the literature relating to the object of research on legal materials both materials using primary legal materials, secondary law, and legal materials tertiary. The results of the research that has been done, that against violations and / or overrun on the legal lending limit may be subject to sanctions ranging from administrative sanctions and did not rule may be subject to criminal sanctions to the Board of Commissioners, Board of Directors, Bank employees, shareholders and other affiliated parties, reflecting the bank's governance issues (GCG), to cause a decrease in the level of health as well as legally the bank can be protected from a lawsuit the debtor defaults due to the violation and / or exceeding the maximum limit in the interests of bank lending.]