

Penerapan prinsip kehati-hatian dalam penerbitan surat pemberitahuan persetujuan kredit = The implementation of prudential banking principle in the issuance of the offering letter

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Abstrak

Surat Pemberitahuan Persetujuan Kredit (SPPK) adalah fondasi dibentuknya Perjanjian Kredit, yang diterbitkan dan ditandatangani oleh pejabat bank karena adanya permohonan kredit dari nasabah debitur. Sebelum bank sebagai pihak kreditur menerbitkan SPPK, tentu harus melalui beberapa tahap di antaranya analisis kelayakan kredit, keputusan kredit oleh Komite Kredit, hingga permintaan persetujuan SPPK kepada calon debitur. Namun pada prakteknya, terhadap pelaksanaan tahap-tahap tersebut tidak sepenuhnya diterapkan prinsip kehati-hatian sehingga menimbulkan kredit bermasalah serta permasalahan hukum di kemudian hari. Dalam penulisan skripsi ini dibahas mengenai penerapan prinsip kehati-hatian dalam penerbitan SPPK, dimana penelitian ini menggunakan bentuk penelitian yuridis normatif yang menghasilkan tipologi penelitian deskriptif. Penelitian ini dilakukan dengan tujuan untuk mengetahui lebih lanjut perihal peranan Prinsip Kehati-Hatian dalam penerbitan Surat Pemberitahuan Persetujuan Kredit dalam rangka mencegah kredit bermasalah serta untuk menganalisis permasalahan hukum bagi bank dalam penerbitan Surat Pemberitahuan Persetujuan Kredit yang tidak memenuhi Prinsip Kehati-Hatian pada PT. Bank X, Tbk.

Hasil dari penelitian ini menemukan bahwa tidak diterapkannya prinsip kehati-hatian seperti Prinsip 5C, Good Corporate Governance, Four Eyes Principle, dan Manajemen Risiko dalam penerbitan SPPK merupakan faktor utama timbulnya kredit bermasalah. Selain itu diketahui bahwa bank, dalam hal ini PT. Bank X, Tbk., telah berusaha menerapkan prinsip kehati-hatian dalam penerbitan SPPK namun masih ditemukan perlakuan yang tidak setara terhadap jenis atau plafond kredit yang berbeda dalam penerapan tersebut. Oleh karenanya, timbul berbagai permasalahan hukum bagi bank seperti jaminan kredit tidak dapat dieksekusi, gugatan perdata terhadap bank, perjanjian batal demi hukum, dan kerugian materiil. Dengan demikian, penulis menyarankan agar bank harus menerapkan prinsip kehati-hatian secara setara terhadap seluruh jenis pemberian kredit sesuai yang diamanatkan Undang-Undang Perbankan maupun ketentuan yang dikeluarkan Otoritas Jasa Keuangan dan Bank Indonesia.

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The Offering Letter is foundation of the establishment of Credit Agreement, issued and signed by bank officials due to credit application from the debtor. Before issuing the Offering Letter, the bank as a creditor must go through several stages including the analysis of creditworthiness, credit decisions by Credit Committee, to requesting approval of Offering Letter to prospective debtors. However, in practice, the implementation of these stages is not fully applied in the prudential principles, thus causing non performing loans in the future. In the writing of this thesis discusses about the implementation of prudential banking principle in the issuance of the Offering Letter, where this research uses a form of normative juridical research that results a descriptive research typology. This research was conducted with the aim to learn more about the role of the Prudential Principle in the issuance of Letter of Approval of Credit in order to prevent loan problems and to analyze legal issues for banks in the issuance of Letter of Approval of Credit that does

not meet the Prudential Principle at PT. Bank X, Tbk.

The result of this research has found that the non implementation of prudential principles such as the 5 C's of Credit, Good Corporate Governance, Four Eyes Principle and Risk Management in the Issuance of the Offering Letter were the main factors of non performing loans. Also note that the bank, in this case PT. Bank X, Tbk., has tried to apply prudential principles in the issuance of the Offering Letter but still found unequal treatment of different types or credit plafonds in the application. Therefore, there are various legal problems for the bank such as credit collateral cannot be executed, civil lawsuit against the bank, agreement null and law, and material loss. Thus, the researcher suggests that banks should apply prudential principles equally to all types of crediting as mandated by the Banking Act and the provisions issued by the Financial Services Authority and Bank Indonesia.