
Transformation of Microfinance Institutions into Rural Banks

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ARTICLE INFO

Article history:

DOI:

[10.30595/pssh.v14i.1086](https://doi.org/10.30595/pssh.v14i.1086)

Submitted:

June 08, 2023

Accepted:

September 29, 2023

Published:

November 16, 2023

Keywords:

microfinance institutions,
rural banks, transformation

ABSTRACT

As time progresses there is more and more growth in various kinds of economic activities in Indonesia. One of them is in the banking sector. More and more microfinance institutions continue to grow in Indonesia. Microfinance institutions are the most crucial and important financial institutions for the people in Indonesia. Microfinance institutions also have the opportunity to transform into people's credit banks. Microfinance institutions can be divided into 2 parts, namely conventional microfinance institutions and sharia microfinance institutions. Likewise, people's credit banks are divided into 2, namely sharia people's credit banks and conventional people's credit banks. Then regarding factors needed from the process of changing the transformation of Microfinance Institutions into People's Credit Banks, to the legal certainty of changing the transformation of Microfinance Institutions into People's Credit Banks. In accordance with the title and problems to be discussed in this study, in order to provide useful results, the type of research used by the author is Empirical Juridical research. Juridical-empirical research is legal research on the enactment or implementation of normative legal provisions directly on each specific legal event that occurs in society. The Legal Basis of Microfinance Institutions in Indonesia is that the business activities and operations are regulated in official regulations contained in the Microfinance Institutions Law and Government Regulations. Furthermore, MFIs also receive supervision from the Financial Services Authority (OJK). It is expected to know and criticize what factors are needed in the process of changing the transformation of Microfinance Institutions into Rural Banks, as well as the legal certainty of these issues.

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I. INTRODUCTION

Microfinance institutions also have the opportunity to transform into people's credit banks. Microfinance institutions can be divided into 2 parts, namely conventional microfinance institutions and Islamic microfinance institutions. Likewise, people's credit banks are divided into 2, namely Islamic people's credit banks and conventional people's credit banks.

MFIs are financial institutions specifically established to provide business development services and community empowerment, both through loans or financing in micro-scale businesses to members and the

community, deposit management, as well as providing business development consulting services that are not solely for profit.

MFIs have three main objectives, the first of which is to increase access to micro-scale financing for the community. It is undeniable that there are people who are unable to apply for loans from formal financial institutions such as banks, for example people who do not have access to bank accounts or do not have collateral. For this reason, MFIs can be a solution. The second objective is to help increase economic empowerment and community productivity. By increasing access to microfinance, the community has alternative business capital, so that the community's economy can improve and create jobs. The third objective is to help increase the income and welfare of the community, especially the poor or low-income community, so that they can become an empowered community.¹

MFI business activities are more limited unlike banks and other financial service institutions. OJK prohibits MFIs from conducting the following businesses:

- Receive deposits in the form of demand deposits and participate in payment traffic
- Conduct business activities in foreign exchange
- Conduct insurance business as an insurer
- Acting as a guarantor
- Providing loans or financing to other MFIs, except to overcome liquidity difficulties for other MFIs within the same district/city area
- Distributing loans or financing outside the scope of business area
- Conducting business outside the business activities as referred to in Article 2 of OJK Regulation Number 19/POJK.05/2021 on the Implementation of Microfinance Institution Business.

BPR activities are much narrower when compared to commercial bank activities because BPRs are prohibited from accepting current account deposits, foreign exchange activities, and insurance. The business activities of Rural Banks can be described as follows.

- Collecting funds from the public in the form of deposits in the form of time deposits, savings, and or other forms that are equated with it.
- Providing credit.
- Providing financing and placement of funds based on Sharia Principles, in accordance with the provisions stipulated by Bank Indonesia.
- Placing funds in the form of Bank Indonesia Certificates (SBI), time deposits, certificates of deposit, and or savings at other banks.²

II. RESEARCH PROBLEMS

1. What factors are needed in the transformation process of Microfinance Institutions into Rural Banks?
2. How is the legal certainty of the transformation of Microfinance Institutions into Rural Banks?

III. RESEARCH METHODS

In accordance with the title and problems to be discussed in this study, in order to provide useful results, the type of research used by the author is Empirical Juridical research. Juridical-empirical research is legal research on the enactment or implementation of normative legal provisions directly.

on every specific legal event that occurs in society³. This research uses descriptive techniques, what is meant by descriptive techniques is research conducted by explaining a picture and focusing on solving problems of legal events and events that occur. By analyzing a research result using legislation that is associated with a relevant legal theories and positive legal implementation practices.⁴

IV. RESULT AND DISCUSSION

1. First Research Problem Discussion

Microfinance Institutions are entities established specifically to support business development and community empowerment, especially small business owners or MSMEs. Primarily, Microfinance Institutions (MFIs) are known as entities that provide loans or financing in micro-scale businesses to members and the community.

¹ Sikapi uangmu OJK ,diunduh dari <https://www.ojk.go.id/id/kanal/iknb/pages/lembaga-keuangan-micro.aspx>

² Kusumaningtuti S.Soetiono,2016 *Sikapi Uangmu* Jakarta: Gramedia pustaka

³ Dikutip dari uinsatu <http://repo.uinsatu.ac.id/26210/6/BAB%20III.pdf>

⁴ Diunduh dari Pert, <http://lilyasusanti.lecture.ub.ac.id/files/2018/03/MODUL-METODE-PENELITIAN.pdf>

Like other financial institutions - central banks, commercial banks, and others like them - MFIs collect funds, manage deposits, but mainly distribute funds in the form of loans to MSMEs and provide business development services through consultation. The loans provided have lighter terms and conditions, so they are not burdensome for MSME actors.

MFIs have a vital role as a driver of national economic recovery, namely as one of the funding/capital distributors for MSMEs, which are the backbone of the Indonesian economy. In addition, MFIs also play a role in upgrading MSMEs from ultra-micro businesses to micro businesses, micro businesses to larger businesses, and so on⁵

The Legal Basis of Microfinance Institutions in Indonesia are: The business activities and operations of MFIs are regulated by official regulations contained in the Microfinance Institution Law and Government Regulations. Furthermore, MFIs are also supervised by the Financial Services Authority (OJK). The following are the legal basis of Microfinance Institutions:

1. Law Number 1 of 2013 on Microfinance Institutions (MFIs).
2. Government Regulation No. 89/2014 on interest rates on loans or returns on financing and business area coverage of microfinance institutions.
3. Circular Letter of the Financial Services Authority (SEOJK) number 29/SEOJK.05/2015 concerning Financial Reports of Microfinance Institutions.

Financial Services Authority Regulation (POJK):

POJK number 12/POJK.05/2014 regarding Business Licensing and Institutionalization of Microfinance Institutions.

1. POJK number 13/POJK.05/2014 on Business Implementation of Microfinance Institutions.
2. POJK number 14/POJK.05/2014 on the Guidance and Supervision of Microfinance Institutions.
3. POJK number 61/POJK.05/2015 regarding Amendments to Financial Services Authority Regulation Number 12/POJK.05/2014 regarding Business Licensing and Institutionalization of Microfinance Institutions.
4. POJK number 62/POJK.05/2015 regarding Amendments to Financial Services Authority Regulation Number 13/POJK.05/2014 regarding Business Implementation of Microfinance Institutions.

As for the factors that support the transformation of microfinance institutions into people's credit banks, as explained in Law Number 62/2016 article 2, namely

LKM must transform into BPR or LKMS must transform into BPRS if:

- a. conducting business activities exceeding 1 (one) district/city where the MFIK or LKMS is located; or
- b. LKM or LKMS has:
 1. Equity of at least 5 (five) times the minimum paid-up capital requirement of BPR or BPRS in accordance with the provisions of laws and regulations; and
 2. The amount of third party funds in the form of deposits collected in the last 1 (one) year is at least 25 (twenty five) times the minimum paid-up capital requirement of BPR or BPRS in accordance with the provisions of laws and regulations.
 3. LKMK or LKMS that has a core capital of Rp6,000,000,000.00 (six billion rupiah) may apply for Transformasi on its own initiative.⁶

2. Second Research Problem Discussion

The legal certainty of the transformation of Microfinance Institutions into Rural Banks. Normatively, legal certainty can be interpreted as a legislation that is made and promulgated with certainty. This is because legal certainty can regulate clearly and logically so that it will not cause doubts if there are multiple interpretations. So that it will not clash and not cause conflict in the norms that exist in society.

According to Gustav Radbruch, legal certainty is one of the objectives of law and it can be said that legal certainty is part of the effort to realize justice. Legal certainty itself has a real form, namely the implementation and enforcement of a law against an action that does not look at who the individual is doing. Through legal certainty, everyone is able to predict what he will experience if he takes a certain legal action.

⁵ mengenal-lembaga-keuangan-mikro-pengertian-tujuan-hingga-contohnya, dikutip dari blog

<https://developers.bri.co.id/index.php/id/news/mengenal-lembaga-keuangan-mikro-pengertian-tujuan-hingga-contohnya>

⁶ PERATURAN OTORITAS JASA KEUANGAN NOMOR 62 /POJK.03/2016 TENTANG TRANSFORMASI LEMBAGA KEUANGAN MIKRO KONVENSIIONAL MENJADI BANK PERKREDITAN RAKYAT DAN LEMBAGA KEUANGAN MIKRO SYARIAH MENJADI BANK PEMBIAYAAN RAKYAT SYARIAH

Legal certainty is also needed to realize the principles of equality before the law without discrimination. From the word certainty, it has a close meaning with the principle of truth. This means that the word certainty in legal certainty is something that can be strictly syllogized in a formal legal way.

Gustav Radbruch explained that in the theory of legal certainty that he put forward there are four fundamental things that have a close relationship with the meaning of legal certainty itself, namely as follows

1. Law is a positive thing which means that positive law is legislation.
2. Law is based on a fact, meaning that the law is made based on reality.
3. The facts contained or listed in the law must be formulated in a clear way, so that it will avoid confusion in terms of meaning or interpretation and can be easily implemented.
4. Positive law should not be easily changed.

As stated in the financial services authority regulation number 62 /poj.03/2016 concerning the transformation of conventional microfinance institutions into people's credit banks and Islamic microfinance institutions into Islamic people's financing banks in article 7 explains that.

Adjustment of ownership, legal form, and PSP as referred to in Article 5 letter b refers to the Financial Services Authority Regulations and circular letters of the Financial Services Authority regarding BPR or regarding BPRS, among others:

- a. BPR or BPRS may only be established and owned by:
 1. an Indonesian citizen;
 2. an Indonesian legal entity whose owners are all Indonesian citizens; and/or
 3. local government.
- b. Form of legal entity:
 1. BPR in the form of a limited liability company or cooperative;
 2. BPRS resulting from Transformation in the form of a limited liability company
- c. BPR or BPRS has at least 1 (one) PSP with share ownership percentage of at least 25% (twenty five percent) of the total issued shares;
- d. PSP is prohibited from concurrently serving as a member of the Board of Directors. microfinance institutions that turns into Rural Banks is a cooperative that turns into a closed limited liability company. By adjusting the budget, adjusting ownership, management, and DPS.

V. CONCLUSION

Primarily, Microfinance Institutions (MFIs) are known as entities that provide loans or financing in micro-scale businesses to members and the community. The Legal Basis of Microfinance Institutions in Indonesia are: The business activities and operations of MFIs are regulated in official regulations contained in the Microfinance Institution Law and Government Regulations. POJK number 61/POJK.05/2015 concerning Amendments to Financial Services Authority Regulation Number 12/POJK.05/2014 concerning Business Licensing and Institutionalization of Microfinance Institutions. POJK number 62/POJK.05/2015 concerning Amendments to Financial Services Authority Regulation Number 13/POJK.05/2014 concerning Business Implementation of Microfinance Institutions. As for the supporting factors for the transformation of microfinance institutions into people's credit banks, as explained in Law Number 62 of 2016 article 2, namely 1.

LKMK must transform into BPR or LKMS must transform into BPRS if: a. conducting business activities exceeding 1 (one) Regency / City area where LKMK or LKMS is located; or b. LKMK or LKMS has:

1. equity of at least 5 (five) times the minimum paid-up capital requirements of BPR or BPRS in accordance with the provisions of laws and regulations; and
2. the amount of third party funds in the form of deposits collected in the last 1 (one) year of at least 25 (twenty-five) times the minimum paid-up capital requirements of BPR or BPRS in accordance with the provisions of laws and regulations. According to Gustav Radbruch, legal certainty is one of the objectives of law and it can be said that legal certainty is part of the effort to realize justice. Gustav Radbruch explained that in the theory of legal certainty that he put forward there are four fundamental things that have a close relationship with the meaning of legal certainty itself, namely as follows. The facts contained or listed in the law must be formulated in a clear way, so that it will avoid mistakes in terms of meaning or interpretation and can be easily implemented.

As stated in the financial services authority regulation number 62 /poj.03/2016 concerning the transformation of conventional microfinance institutions into people's credit banks and sharia microfinance institutions into sharia people's financing banks in article 7, it explains that the adjustment of ownership, legal form, and PSP as referred to in Article 5 letter b refers to the Financial Services Authority Regulation and the circular letter of the Financial Services Authority regarding BPR or regarding BPRS, among others: a. BPR or BPRS can only be established and owned by : 1. an Indonesian citizen; 2. an Indonesian legal entity whose owners are all Indonesian citizens; and/or 3. a local government.

REFERENCES

- Kusumaningtuti S. Soetiono, 2016 Sikapi Uangmu Jakarta: Gramedia Library
- Asikin Zainal, 2012, Introduction to Indonesian Legal System, Jakarta: Rajawali Press, p.2
- Mahendra Kurniawan, et al, Guidelines for Participatory PERDA Academic Paper, (Yogya karta: Kreasi Total Media, 2007), Cet. 1 p. 5
- DR. Revirsond Baswir, 2000, Indonesian Cooperatives, Yogyakarta, BPFE Yogyakarta
- Nurul Ichsan Hasan, 2018, PENDIRIAN BANK UMUM DAN BPR KONVENSIONAL ATAU SYARIAH ESTABLISHMENT OF COMMERCIAL BANKS AND CONVENTIONAL OR SHARIA BPR, Jurnal Ilmu Hukum, Vol. 4 No.1.
- UNS, 2020 Teori kepastian hukum; Vol. 4 No.1.
- OJK web. Dikutip melalui <http://www.ojk.go.id/id/kanal/iknb/Pages/Lembaga-Keuangan-Micro.aspx>
- Universal BPR, dikutip melalui <https://universalbpr.co.id/blog/apa-itu-bank-perkreditan-rakyat/>