



## As a Result of the Legal Issuance of the Financial Services Authority Regulation on the Obligation to Fulfill the Minimum Core Capital for the Existence of People's Economic Banks (Study on PT. People's Economic Bank Straightforward Dana Mandiri Padang)

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### Abstract

Article 13 of the Financial Services Authority Regulation (POJK) Number 5/POJK/03/2015 concerning Minimum Core Capital Provisions for People's Credit Banks has required all People's Credit Banks to fulfill the minimum core capital of Rp. 6 billion until the deadline ending December 31, 2024. Based on the above provisions, Bank Perkreditan Rakyat which does not have a core capital of Rp. 6 billion must find funds, including by selling its personal assets, looking for new investors and also for shareholders to sell their Bank Perkreditan Rakyat to other parties. The approach of this research is normative juridical supported by empirical juridical. The data used in this study are secondary data and primary data in the form of interviews. Based on the results of the research, the discussion and analysis were concluded. First, the legal consequences of the issuance of financial services authority regulations regarding the obligation to fulfill the minimum core capital for the existence of the People's Economic Bank are subject to administrative sanctions in the form of: 1) it is stated that the health level of BPR has decreased; 2) it is forbidden to open an office network; 3) it is prohibited to carry out Foreign Exchange Business Activities and electronic banking device services; 4) subject to restrictions on the area of disbursement of funds to one district that is the same as the location of the BPR office; 5) subject to remuneration restrictions or other forms equivalent to it to members of the Board of Commissioners and/or the Board of Directors of BPR, or in return to related parties, 6) revocation of BPR's operational license. Second, the obstacles faced in the implementation of the Financial Services Authority Regulation on the obligation to fulfill the minimum core capital by the People's Economic Bank are divided into two, namely: legal and non-legal constraints. Legal obstacles are 1) limited BPR business activities, 2) merger efforts (consolidation) can eliminate the historical traces of BPR Lugas Dana Mandiri, 3) takeover efforts have the potential to cause the relocation of BPR business locations, and non-legal obstacles, namely; 1) the financial ability of BPR shareholders, 2) the existence of sectoral egos in BPR merger efforts.

### Introduction

Indonesia is a country of law which means that every aspect of its life system moves based on rules or laws. In carrying out the principle of the state of law, the existence of rules in state life will certainly give birth to influences, consequences and impacts on the life system of Indonesian citizens. The legal impact or things caused by the existence of the law are commonly known as legal consequences. According to Marwan Mas, Legal Consequences are the consequences arising from the formation of laws, legal events or the emergence of certain

attitudes of legal subjects.<sup>1</sup>

In accordance with the principle of the state of law described above, all aspects of the life system in Indonesia have been regulated with clear regulations, including in the economic aspect. In the Indonesian economic system, things have been regulated that can support the economy, one of which is the business system of the financial industry such as Banking<sup>2</sup>. Regulations related to banking are specifically contained in Law Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 concerning

Banking. Based on the provisions of Article 5 Paragraph (1) of Law Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 concerning Banking, in the banking business there are two types of banking, namely Commercial Banks and People's Economic Banks. Commercial banks refer to banks that carry out banking business activities conventionally or sharia, mostly engaged in payment traffic services.<sup>3</sup> Meanwhile, Bank Perekonomi Rakyat is a bank whose business is run with conventional or sharia principles but does not provide payment traffic services.<sup>4</sup> Based on the two types of banks recognized in Indonesia, the People's Economic Bank has currently experienced a degradation in terms of development when compared to commercial banks.<sup>5</sup> This happened due to several factors, one of which was the impartiality of the existing legal system to the growth of the People's Economic Bank. The Indonesian government has issued regulations that do not support the development and existence of the People's Economic Bank, even the existing regulations seem to have limited the space for movement of the People's Economic Bank starting from the fields of licensing, coaching to supervision.

Regarding the supervision of banking businesses, the Indonesian government has established a special institution to carry out this task, namely the Financial Services Authority.<sup>6</sup> The Financial Services Authority is a special institution tasked with supervising the Financial Services Industry. In 2015, in carrying out its duties, the Financial Services Authority has issued a regulation that is quite difficult for the development of the People's Economic Bank, namely the Financial Services Authority Regulation (POJK) Number 5/POJK/03/2015 concerning the Minimum Core Capital Provisions for the People's Economic Bank, which was issued and enforced as of April 1, 2015.<sup>7</sup>

Financial Services Authority Regulation (POJK) Number 5/POJK/03/2015 concerning Minimum Core Capital Provisions for People's Economic Banks is a regulation that requires People's Economic Banks to be able to meet the minimum core capital requirements of Rp. 3 billion for People's Economic Banks with a core capital of less than Rp. 3 billion until the deadline of December 31, 2019 and requires the fulfillment of the minimum core capital for People's Economic Banks of Rp. 6 billion until the deadline ends 31 December 2024. Referring to the provisions of Article 13 of the Financial Services Authority Regulation (POJK) Number 5/POJK/03/2015 concerning the Provisions of the Minimum Core Capital for People's Economic Banks, some People's Economic Banks must seek funds, including by selling their personal assets, looking for new investors and also for shareholders to sell their People's Economic Bank to other parties. Based on data released by the Association of Indonesian

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<sup>1</sup> Marwan Mas, *Introduction to Law*, Ghalia Indonesia, Bogor, 2003, p. 39.

<sup>2</sup> Dasrol, The Strategic Function of the Financial Services Authority Institution in Indonesian National Banking Supervision, *Journal of Economics, Faculty of Law, University of Riau*, Vol. XXI, No. 02, 2023, p. 43.<sup>3</sup> Kasmir, *Financial Statement Analysis*, PT. Raja Grafindo Persada, Jakarta, 2012, p. 19.

<sup>3</sup> Cashmere, *Financial Statement Analysis*, PT. Raja Grafindo Persada, Jakarta, 2012, p. 19.

<sup>4</sup> *Ibid*

<sup>5</sup> Suhardi, Gunarto, *Banking Business in Legal Perspective*, Kanisius, Yogyakarta, 2003, p. 43.

<sup>6</sup> Annisa Arifka Sari, *The Role of the Financial Services Authority in Supervising Financial Services in Indonesia*, *Supremacy: Journal of Law*, Volume 1, No. 1, 2018, pp. 23-33.

<sup>7</sup> Renaldi Vandoli Situmorang, et al., Legal Consequences for Banks When Minimum Core Capital Obligations Are Not Met, *PenKoMi Journal: An Education and Economic Study*, Vol. 7, No. 1, 2024. pp. 19-31.

People's Economic Banks (Perbarindo) in June 2023, the number of People's Economic Banks in Indonesia, including in West Sumatra, has shrunk.<sup>8</sup> In June 2023, Perbarindo noted that there are 1575 Economic Banks in Indonesia, including 91 People's Economic Banks in West Sumatra Province.

This number when compared to the number in 2015 is much smaller because in 2015 there were 1637 Economic Banks in Indonesia, 101 of which were in West Sumatra.<sup>9</sup> Deni Bustanul Arif and Dharu Triasih in their writing explained that the shrinking number of People's Economic Banks in Indonesia is one of the reasons for *the merger process* as a step and effort to respond to the obligation to comply with regulations related to the minimum amount of core capital for the People's Economic Bank by the shareholders of the People's Economic Bank.<sup>10</sup>

In addition to having caused the number of People's Economic Banks to decrease, the OJK Regulation on the fulfillment of the amount of core capital for the People's Economic Bank is actually contrary to the provisions of Article 33 Paragraph (1) of the Constitution of the Republic of Indonesia which emphasizes that the economy is structured as a joint venture based on the principle of kinship. Based on the provisions of this article, it can be said that the economic system developed should not be based on competition and not on a very individualistic principle.<sup>11</sup>

The People's Economic Bank, which is owned by the Shareholders at first with limited deposited capital, can grow and develop and can contribute to the growth of the community's economy by not making maximum profit as the main goal, but rather emphasizing how to maximize efforts in lifting the community's economy. This moral obligation has been able to make the community as consumers also feel that they have a People's Economic Bank, especially the People's Economic Bank which is located and established by the community in the West Sumatra Province area. However, with the implementation of the provisions for the fulfillment of the minimum core capital, shareholders must make efforts to take policies that must be taken to comply with these regulations for the People's Economic Bank that has not been able to fulfill it. These efforts will certainly also have an impact on the sustainability or existence of the People's Economic Bank in the future.

Regarding efforts to fulfill the current Minimum Core Capital Provisions for People's Economic Banks, PT. Bank Perekonomi Rakyat Lugas Dana Mandiri Padang as one of the BPRs that is quite active in providing financial services to the lower middle class is also experiencing difficulties. Based on the pre-research review carried out, currently PT. Bank Perekonomi Rakyat Lugas Dana Mandiri Padang only has a core capital of approximately one billion rupiah. This figure is certainly still far from the set target, which is six billion rupiah. According to the Commissioner of Bank Perekonomi Rakyat Lugas Dana Mandiri Padang, Bank Perekonomi Rakyat Lugas Dana Mandiri Padang is currently in a critical period.<sup>12</sup> To avoid administrative sanctions, Bank Perekonomi Rakyat Lugas Dana Mandiri Padang is still trying to meet the core capital requirements even though the fulfillment deadline will end in a matter of months.

Based on the above legal issues, it is necessary to carry out the Legal Consequences of the issuance of a regulation of the Financial Services Authority concerning the obligation to

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<sup>8</sup> <https://www.perbarindo.or.id>, accessed on July 19, 2024, at 20:23 WIB.

<sup>9</sup> *Ibid*

<sup>10</sup> Deni Bustanul Arif, Dharu Triasih, The Concept of Minimizing the Revocation of Business Licenses of People's Credit Banks (BPR) by the Financial Services Authority (OJK), *Journal of Humani (Law and Civil Society)*, Volume 11 No. 1, 2021, pp. 120-132.

<sup>11</sup> Wardhana, A. K. and Kurniasih, Determinants of MSME Credit Distribution of Bank Persero, *TEKUN: Journal of Accounting and Business Studies*, Vol. 9, No.1, 2018, pp. 1-14.

<sup>12</sup> Pre-research interview with the Commissioner of Bank Perekonomi Rakyat Lugas Dana Mandiri Padang, on July 10, 2024, at 13:20 WIB.

fulfill the minimum core capital for the existence of the People's Economic Bank.

## Research Methods

The specification of this study is descriptive analysis. The approach used is a normative juridical approach supported by an empirical juridical approach. The data used in this study are secondary data and primary data. Then the data is analyzed qualitatively and presented in a qualitative descriptive form.

## Results of Research and Discussion

### Legal Consequences of the Issuance of Financial Services Authority Regulation on the Obligation to Fulfill the Minimum Core Capital for the Existence of Bank Perekonomi Rakyat Lugas Dana Mandiri Padang

Legal consequences refer to the representation of actions taken by a legal entity or individual in connection with a legal event or the application of a law and regulation. Soeroso emphasized that legal consequences are the results or impacts that arise on matters regulated by law.<sup>13</sup> Legal consequences can arise from actions that are compliant or unlawful. Based on the above understanding, it can be said that this discussion will try to describe the impacts that will occur on the People's Economic Bank, especially in terms of its existence after the issuance of the Minimum Core Capital Fulfillment Obligation for the People's Economic Bank by the Financial Services Authority.

Before describing the legal consequences, it is first necessary to explain the content of the Minimum Core Capital Fulfillment Obligation for People's Economic Banks that has been issued by the Financial Services Authority in 2015. In general, the important point of the Financial Services Authority Regulation (POJK) Number 5/POJK03/2015 concerning the Obligation to Provide Minimum Capital and Fulfill the Minimum Core Capital of People's Credit Banks is listed in Article 13 which stipulates that all BPR banks in Indonesia must meet the minimum core capital of Rp. 6,000,000,000.00 (six billion rupiah) with a deadline of December 31, 2024.

Then, in Article 14 of the Financial Services Authority Regulation (POJK) Number 5/POJK03/2015 concerning the Obligation to Provide Minimum Capital and Fulfill the Minimum Core Capital of Bank Perkreditan Rakyat has also been described that the efforts that can be made by BPR banks in Indonesia to meet the minimum amount of core capital that have been set are divided into several forms, namely through the growth of business profits, through capital increase from shareholders, through mergers, through mergers or acquisitions.

Financial Services Authority Regulation (POJK) Number 5/POJK03/2015 concerning the Obligation to Provide Minimum Capital and Fulfill the Minimum Core Capital of People's Credit Banks emphasizes that People's Credit Banks that cannot meet the minimum amount of capital before the deadline that have been subject to administrative sanctions in the form of:

1. Decreased BPR health level.
2. Prohibition of opening office networks.
3. Prohibition of conducting Foreign Exchange Business Activities, and electronic banking device services.
4. The limitation of the area of disbursement of funds to one district is the same as the location of the BPR office.
5. Remuneration restrictions or other forms of equivalent to it to members of the Board of Commissioners and/or the Board of Directors of BPR, or rewards to related parties.

In addition to the administrative sanctions above, the Financial Services Authority Regulation (POJK) Number 5/POJK03/2015 concerning the Obligation to Provide Minimum

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<sup>13</sup> R. Soeroso, *Introduction to Law*, Sinar Grafika, Jakarta, 2006, p. 295.

Capital and Fulfill the Minimum Core Capital of People's Credit Banks also stipulates that People's Economic Banks that are unable to meet the minimum capital amount of Rp. 6,000,000,000.00 (six billion rupiah) before the set deadline, namely before December 31, 2024, are required to make several efforts to meet the minimum core capital such as conducting a merger or merger (consolidation) or being taken over (acquired) and/or getting new investors.

The ratification of the Financial Services Authority Regulation (POJK) Number 5/POJK03/2015 concerning the Obligation to Provide Minimum Capital and Fulfill the Minimum Core Capital of People's Credit Banks When viewed from the theory of legal certainty, it can be said that this regulation has realized legal certainty for People's Credit Banks. According to Jan Otto as quoted by Sidharta, legal certainty can be described in several situations including: the existence of clear and definite rules, the rules that have been made are implemented by the government and are obeyed and obeyed by everyone and applied continuously, existing rules describe the situation or in accordance with the view of life of the people who are bound to it and the community also behaves obedient to these rules, Every court or judge applies the rule without coercion and consistently when resolving disputes that have occurred, and the court decisions that have been made are implemented clearly and definitely.<sup>14</sup>

Legal certainty in the implementation of Financial Services Authority Regulation (POJK) Number 5/POJK03/2015 concerning the Obligation to Provide Minimum Capital and Fulfill the Minimum Core Capital of People's Credit Banks can be said to be realized because in this regulation it has been regulated that People's Credit Banks must have a minimum core capital, which is Rp. 6,000,000,000.00 (six billion rupiah). This regulation also states that the minimum core capital must be available at every People's Credit Bank throughout Indonesia no later than December 31, 2024. In other words, the content of the regulation is clear and can be understood by the community.

In relation to this regulation, it can also be said that its implementation has been carried out by Bank Perekonomian, by merging or merging with several Other People's Economic Banks as an effort to meet the minimum core capital of Rp. 6,000,000,000.00 (six billion rupiah) before December 31, 2024.<sup>15</sup> The merger process must have reached the stage of merger agreement through the Extraordinary General Meeting of Shareholders (EGMS) with the merger approval agenda.

The legal consequences of the issuance of a regulation on the financial services authority regarding the obligation to fulfill the minimum core capital for the existence of a People's Economic Bank, are: **first**, if the People's Economic Bank acts to meet the minimum amount of core capital that must be owned by the People's Economic Bank, then the People's Economic Bank must make efforts to increase the growth of business profits, increase capital from shareholders, carry out mergers (*merger*), merger (consolidation) or transfer of the existing banking business to another party (acquisition). **Second**, the legal consequence that occurs is that if the People's Economic Bank is unable or does not make efforts to meet the minimum core capital of Rp. 6,000,000,000.00 (six billion rupiah), the People's Economic Bank will receive administrative sanctions in the form of stating that the health level of its banking business has decreased; it is prohibited to open an office network; it is prohibited to carry out Foreign Exchange Business Activities, and prohibited from providing banking device services electronically; limited the area of distribution of funds to one district that is the same as the location of the office of the People's Economic Bank Lugas Dana Mandiri; and is limited to providing remuneration or other forms equivalent thereto to members of the Board of Commissioners and/or the Board of Directors of BPR, or remuneration to related parties.

As a result of the law that emerged with the issuance of the Financial Services Authority

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<sup>14</sup> Bernard Arief Sidharta, *Reflections on the Structure of Law*, Mandar Maju, Bandung, 2000, p.60.

Regulation (POJK) Number 5/POJK03/2015 concerning the Obligation to Provide Minimum Capital and Fulfill the Minimum Core Capital of People's Credit Banks above, when viewed from the theory of justice, it can be said that as a result of the legal issuance of the Financial Services Authority regulation on the obligation to fulfill the minimum core capital for the existence of people's economic banks, it is included in the principle of Distributive Justice according to Muhammad Syukri Albani Nasution.<sup>15</sup> Distributive justice is economic justice that concerns the justice of several people or groups so that it can be a benefit and equality that is equally felt by many people.

### **Obstacles Found in the Implementation of the Financial Services Authority Regulation on the Obligation to Fulfill the Minimum Core Capital by Bank Perekonomi Rakyat Lugas Dana Mandiri Padang**

An obstacle is an obstacle or obstacle that can prevent the achievement of a set goal or a situation that can limit, slow down, or hinder the realization of a goal.<sup>16</sup> Meanwhile, the implementation of the Financial Services Authority Regulation on the obligation to fulfill the minimum core capital by the People's Economic Bank refers to the efforts made by the People's Economic Bank to meet the minimum amount of core capital that has been set by the Financial Services Authority Regulation (POJK) Number 5/POJK03/2015 concerning the Obligation to Provide Minimum Capital and Fulfill the Minimum Core Capital of the People's Credit Bank.

The implementation of the Financial Services Authority Regulation on the obligation to fulfill the minimum core capital by Bank Perekonomi Rakyat has several obstacles: 1) the financial ability of Bank Perekonomi Rakyat's shareholders, 2) merger efforts (consolidation) can eliminate the historical footprint of Bank Perekonomi Rakyat, 3) takeover efforts have the potential to cause a change of business location of Bank Perekonomi Rakyat. 4) The existence of sectoral egos in the merger of the People's Economic Bank.

Regarding the obstacles in the implementation of the Financial Services Authority Regulation regarding the obligation to fulfill the minimum core capital by the People's Economic Bank by Bank Perkreditan Rakyat Lugas Dana Mandiri Padang above, Lawrence M. Friedman as quoted by Ishaq, explained that the law has three functions, namely the function of control or social control, the function of dispute resolution and Social Engineering.<sup>1718</sup>

Based on these three forms of legal functions, it can be said that the obstacles found in the implementation of the Financial Services Authority Regulation on the obligation to fulfill the minimum core capital by the People's Economic Bank occur due to the control or social control function of the Financial Services Authority Regulation (POJK) Number 5/POJK03/2015 concerning the Obligation to Provide Minimum Capital and Fulfill the Minimum Core Capital of the People's Credit Bank. Satjipto Rahardjo, explained that the law has a very important role in society as a means to ensure legal certainty, realize justice, order, and harmony. The obstacles in the implementation of the Financial Services Authority Regulation on the obligation to fulfill the minimum core capital by the People's Economic Bank by the People's Credit Bank Lugas Dana Mandiri Padang show that legal certainty related to the Financial Services Authority Regulation (POJK) Number 5/POJK03/2015 concerning

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<sup>15</sup> Muhammad Syukri Albani Nasution, *Law in Philosophical Approach*, Second Ctk., Kencana, Jakarta, 2017, pp. 217-218.

<sup>16</sup> Lubna Faiqotul 'Ula and Veri Antoni, *Juridical Analysis of Financial Services Authority Regulation Number 5/Pojk.03/2015 of 2015 concerning Minimum Capital Provision Obligations and Minimum Core Capital Fulfillment at People's Credit Banks to Shareholders of People's Credit Banks (Case Study on PT BPR UGM)*, Thesis, Gadjah Mada University, 2018, <http://etd.repository.ugm.ac.id/>.

<sup>17</sup> Ishaq, *Basics of Law*, Sinar Grafika Offset, Jakarta, 2012, p.12.

<sup>18</sup> Satjipto Rahardjo, *Law in the Perspective of History and Social Change in Legal Development in the Perspective of National Legal Politics*, Rajawali Press, Jakarta, 1996, p. 19.

the Obligation to Provide Minimum Capital and Fulfill the Minimum Core Capital of the People's Credit Bank has not been formed. In other words, the legal function to establish order and harmony in people's lives has not been carried out properly.

## Conclusion

As a legal consequence of the issuance of a regulation on the financial services authority regarding the obligation to fulfill the minimum core capital for the existence of the Lugas Dana Mandiri Padang people's economic bank, it is subject to administrative sanctions in the form of: 1) it is stated that the health level of BPR has decreased; 2) it is forbidden to open an office network; 3) it is prohibited to carry out Foreign Exchange Business Activities and electronic banking device services; 4) subject to restrictions on the area of disbursement of funds to one district that is the same as the location of the BPR office; 5) subject to remuneration restrictions or other forms equivalent to it to members of the Board of Commissioners and/or the Board of Directors of BPR, or in return to related parties, 6) revocation of BPR's operational license.

The obstacles faced in the implementation of the Financial Services Authority Regulation on the obligation to fulfill the minimum core capital by Bank Perekonomi Rakyat Lugas Dana Mandiri Padang are divided into two, namely: legal and non-legal constraints. The legal obstacles are 1) BPR Lugas Dana Mandiri's business activities are limited, 2) merger efforts (consolidation) can eliminate the historical footprint of BPR Lugas Dana Mandiri, 3) takeover efforts have the potential to cause a change of BPR Lugas Dana Mandiri's business location, and non-legal obstacles, namely; 1) the financial ability of BPR Lugas Dana Mandiri Limited shareholders, 2) the existence of sectoral ego in the effort to merge BPR Lugas Dana Mandiri with 10 other BPRs in West Sumatra.

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