

Equitable Model of Mitigation and Ideal Risk Forms of Credit Guarantee Institutions in Indonesia

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This study aims to examine the Risk Mitigation Model in Credit Guarantee Institutions in Indonesia today. Bank failures have no systemic impact; a) The estimated cost of rescue is up to 60% of the estimated cost of not doing the rescue; b) The bank's business prospects with indicators: net NPL < 5% and no violations and the bank's health level is not healthy with a Composite rating of 4 (Commercial Banks) and Unhealthy Rating 3 (BPR); c) A statement of the GMS that is willing to hand over the management, rights and authority of the GMS to LPS, d) The bank's shareholders' willingness to submit the bank's settlement to LPS including to submit the required documents. The research method used is empirical juridical with a legislative approach, a conceptual approach, and a case study. The results showed that; 1) Forms of Risk of Credit Insurance Institutions in Indonesia include; a) legal risk, b) market risk, c) operational risk, d) credit risk, e) reputational risk, e) strategic risk, and compliance risk. (2) Banks fail to have a systemic impact; a) Estimated handling costs < estimated costs not handling, b) The bank's business prospects are still good, after being saved, c) There is a statement of the bank's GMS that is willing to hand over the management, rights and authority of the GMS to LPS, d) The bank submits documents to LPS. 2) The construction of a risk mitigation model in credit guarantee institutions in Indonesia is currently not ideal because of several things in the handling of Failed Banks, such as the handling of Century Bank, namely; (a) Corruption related to Bank mergers; (b) Changes in Regulations for the Distribution of Short-Term Funding Facilities (FPJP); (c) FPJP BC that does not have complete collateral requirements; (d) Accounting Engineering, Fictitious Credit, and Other Violations; (e) There is embezzlement of foreign exchange cash. 3) The construction of the ideal risk mitigation model in Credit Guarantee Institutions in Indonesia is carried out in stages; a) Identification of legal risks; (b) Legal Risk Measurement; (c) Legal Risk Monitoring; (d) Legal Risk Control; (e) Credit Risk Control; (f) Legal Risk Management Information System; (g) Internal Control for Legal Risks

Keywords: Equitable Model, Mitigation, Ideal, Risk Forms, Credit Guarantee, Institutions, Indonesia

INTRODUCTION

Background

This study is focused on the ideal construction of the risk mitigation model in credit guarantee institutions in Indonesia. This departs from the banking business as a business full of risk. On the one hand, this business promises great profits if managed properly and carefully. On the other hand, it becomes full of risk (*full risk business*) because its activities mostly rely on public deposits, both in the form of savings, current accounts and deposits. The large role played by the banking sector does not mean that opening the faucet is as free as possible for anyone to establish, because the bank's business must be backed up with good and healthy rules.¹

The banking business is a risky business. On the one hand, this business promises great profits if managed properly and carefully. On the contrary, it becomes a *full risk business* because its activities mostly rely on public deposits, both in the form of savings, current accounts and deposits. The large role played by the banking sector does not mean that it opens the faucet as freely as possible for anyone to establish, manage or run their bank business without being supported or backed up by good and healthy banking rules. The government through financial and banking authorities is authorized to establish rules and responsibilities for supervision of banking businesses and activities.²

Risk can be defined in a variety of ways. For example, risk can be defined as an adverse event. Another definition that is often used for investment analysis, is the possibility that the results obtained deviated from what was expected. In avoiding risks that may occur, banks need to play a role in overcoming risks by using proper risk management. Risk management is a set of policies, complete procedures, that an organization has, to manage, monitor, and control an organization's exposure to risk.³ Therefore, government policies in the banking sector must be directed at efforts to realize healthy, strong and solid banking. Savings and investments also play an important role in maintaining macroeconomic stability through their linkage with the effectiveness of monetary policy.⁴

In the banking world, both banks with conventional principles and with sharia principles, risk management is an important thing that must be considered, both in terms of distributing funds to customers and collecting funds from customers. With

¹ Arno and Assad, "The Role of Financial Services Authorities in Overseeing Financing Risk in Fraudulent Investments."

² Abd. Kadir Arno and A. Ziaul Assad, "The Role of Financial Services Authorities in Supervising Financing Risk in Fraudulent Investments," *Journal of Islamic Economic Law* 2, no. 1 (2017): 85–95.

³ Mamduh. M. Hanafi, *Risk Management* (Yogyakarta: Publishing and Printing Unit, YKP College of Management Sciences, 2006), p.1.

⁴ Syahril Sabirin, 2001, *Efforts to Get Out of the Economic and Monetary Crisis*, Scientific Oration delivered at the Undergraduate Graduation Ceremony of the University of Muhammadiyah West Sumatra on September 29 in Padang, p.5

the implementation of risk management, banks can also increase value *added* to shareholders because they can provide information about potential losses that banks can face so that they can take steps to mitigate them, one of which is by providing sufficient capital based on the risk profile faced by banks.⁵

The development of this payment system has an effect on the certainty and legal protection for customer transactions. In addition, an efficient and regular payment system has been created, while technological developments have created banking services that can reach all regions without the need to open branches (branchless banking) which makes it easier for customers to transact through smartphones (Brett King, 2014: 48). At the global banking level, what is known as private banking or wealth management is developing, as another form of bank business driven by several forces, namely: markets, regulatory, environment, clients and competitor.⁶

Seeing the rapid development of Indonesian banking products and services that are increasingly diverse and complex, the application of the principle of prudence in banking activities is becoming increasingly urgent and relevant. The principle of bank prudence is the main principle in banking activities, but in practice it is often interpreted narrowly, namely it is only associated with the bank's obligation to be careful in conducting analysis in providing credit or financing based on sharia principles. This arises from differences in interpretation of the prudential principle in the Banking Law, especially regarding the subject or organ of the bank responsible.⁷

Legal risk is a risk caused by a weakness in the juridical aspect, caused by a lawsuit, the absence of supporting laws and regulations, or weakness of the agreement such as the non-fulfillment of the conditions of the validity of the contract and the imperfect binding of collateral.⁸ Legal risks can be caused by external factors and internal factors. External factors such as regulations that affect certain business activities, while internal factors are factors related to the management or employees of the bank such as misappropriation and violations of laws and regulations.⁹

Credit risk or in Islamic banks, known as financing risk, is a risk that occurs due to the other party failing to fulfill its obligations.¹⁰ Financing risks can be sourced from various bank functional activities such as financing (provision of funds), investments, and trade financing recorded in banking books and trading books. Credit risk can arise

⁵ Rachmat Firdaus and Maya Ariyanti, *Commercial Bank Credit Management* (Bandung: Alfabeta, 2009), p. 23.

⁶ Putri and Dharma, "Analysis of the Difference in Financial Performance Between Conventional Banks and Sharia Banks."

⁷ Kiki Rizki, "Legal Protection for Customers of Conventional and Sharia Financial Institutions," *Actuality (Legal Journal)* 1, no. 2 (2019): 589–608, <https://doi.org/10.29313/aktualita.v1i2.4033>.

⁸ Veithzal Rivai and Ariviyar Arifin, *Islamic Banking*, (Jakarta: Bumi Aksara, 2010), p. 995.

⁹ Toriqulloh Khan. HA, *Risk Management of Islamic Financial Institutions*, (Jakarta: Bumi Aksara, 2008), p. 14

¹⁰ Veithzal Rivai and Ariviyar Arifin, *Islamic Banking*, (Jakarta: Bumi Aksara, 2010), p. 966.

from the possibility that credit provided by the bank, or the bond purchased, cannot be repaid. In addition, credit risk also arises from the non-fulfillment of various forms of obligations of other parties to banks, such as failure to fulfill payment obligations in derivatives contracts.

For some banks, credit risk is the biggest risk faced. In general, the margin calculated to anticipate credit risk is only a small part of the total credit provided by the bank and therefore losses on credit can destroy the bank's capital in a short period of time. Therefore, banks use a number of techniques and policies in managing credit risk to minimize the possibility of the occurrence or impact of credit losses, policies to anticipate the existence of credit risks or financing risks in banking are commonly called financing analysis.

Problem Statement

1. What is the Current Form of Risk of Credit Insurance Institutions in Indonesia?
2. Why is the construction of the risk mitigation model in credit rating agencies in Indonesia currently not ideal?
3. What is the ideal construction of the risk mitigation model for credit guarantee institutions in Indonesia?

THEORETICAL FRAMEWORK

Mitigation is a planned and continuous action taken to minimize a loss/risk. Risk mitigation is the process of identifying risks, measuring to reduce risks. Mitigation is closely related to risk management, where a risk mitigation strategy is considered an effort made by the owner to reduce the occurrence of a risk that will arise or the impact of the risk. This preventive measure requires identification first, especially what happens to the company related to the strategy carried out and the impact of the strategy. This is because these precautions aim to reduce the risk.¹¹

Mitigation strategies have several objectives: 1) Identify and manage the risks faced 2) Minimize the impact that may occur 3) Protect the organization from impacts that can hinder the organization's goals. 4) Improving organizational performance as well as employee awareness and concern for the importance of risks. So in this case, the mitigation strategy plays a very important role in the progress of the institution because it is considered the initial stage before the business to be carried out.¹²

The 5C principles in Analyzing Creditors are as follows:

- 1) *Character*, where this is the character of a customer is assessed on his ability to pay. Where in this case we believe that the nature or disposition of the

¹¹ Ayi Ahadiat. Strategic Management: A Multi-Perspective Theoretical Review. (Bandar Lampung: Research Institute of the University of Lampung, 2010), p. 14

¹² Zuhri Ruslan, "Letter of Credit: Uniform Custom Practice and Fraud in International Trade," *Equity: Journal of Economics* 10, no. 2 (2022), <https://doi.org/10.33019/equity.v10i2.118>.

people who will be given credit is really trustworthy, this is reflected in the client's background, both in terms of work and personal background.

- 2) *Capacity*, where in this case we can assess the ability of the customer to pay the debtor, to see the customer in his ability in the business field that is related to his education, the business ability is also measured by his ability to understand the provisions of the government.
- 3) *Capital* (capital), in this case can be done by assessing the amount of capital owned compared to the amount of debt, to see whether the use of capital is effective, it can usually be seen from financial statements (balance sheet and income statements) by taking measurements such as liquidity, solvency, profitability, and other measures.
- 4) *Collateral* (collateral), looking at the economic conditions in which the debtor runs a business. This is done to see the guarantees provided by prospective customers, both physical and non-physical. The guarantee should exceed the amount of credit provided. The guarantee must be examined for its validity, so that if a problem occurs, the guarantee entrusted will be able to be used as soon as possible.
- 5) *Condition*, in assessing credit, should also be assessed the current and future economic and political conditions according to their respective sectors, as well as the business prospects of the sector being run. The prospect of the business sector that is financed should really have good prospects, so the possibility of the credit being problematic is relatively small.¹³

In addition, the principles in risk mitigation activities also use the 3R principle in providing credit to customers, namely:

- 1) *Returns*, which are the results obtained by the debtor in terms of when the credit has been utilized and can be anticipated by prospective creditors. This means that the acquisition is sufficient to pay for other company needs such as cash flow, other credits if any, and so on.
- 2) *Repayment*, which is the ability to pay from the debtor, of course, must also be considered, and whether the ability to pay matches the repayment schedule of the credit given.
- 3) *Risk Bearing Ability*, which is the extent to which the debtor has the ability to bear the risk. For example, in the event that things happen beyond the anticipation of both parties. Especially if it can cause bad credit to arise.¹⁴

In terms of overcoming problematic financing, financing restructuring will usually be carried out. Where financing restructuring is an effort made by banks to resolve

¹³ Ruslan, "Letter of Credit: Uniform Custom Practice and Fraud in International Trade."

¹⁴ Djaja Perdana, "INDONESIAN BANKING RESILIENCE DURING THE COVID-19 PANDEMIC: A MULTIDIMENSIONAL EVALUATION BASED ON MCDM," *Journal of Accounting Applications* 7, no. 2 (2023), <https://doi.org/10.29303/jaa.v7i2.212>.

problematic financing through rescheduling, re-requirements, and restructuring. The bank is obliged to maintain the level of health of the bank in accordance with the quality of its assets, where this credit is the quality of assets that is a factor and indicator that determines the performance of a bank. So that if this bad loan is not handled properly, it will cause losses that must be borne by the bank and will affect the level of health of the bank.¹⁵ For this reason, an effort is needed by the bank to rescue bad loans, namely by *rescheduling*, *reconditioning* requirements and restructuring.¹⁶

In this case, we can explain in more detail the 3 things as follows;¹⁷

- 1) *Rescheduling*, this is done by rescheduling/changing the payment schedule made by the customer.
- 2) *Reconditioning*/return requirements, this is done by changing part or all of the financing requirements by changing the payment schedule, installment amount, provision of deductions, and term.
- 3) *Restructuring*, this is done by reorganizing which is inseparable from Rescheduling and Reconditioning. The above strategic actions are carried out in order to reduce and be able to handle the problematic financing faced. So that in the mitigation strategy for non-performing financing services, it is also necessary to implement the three stages of the strategy above, to overcome problematic financing.

The Deposit Insurance Corporation (LPS) is an independent, transparent and accountable institution. In its implementation, the LPS, which consists of the Board of Commissioners and the Chief Executive, is directly responsible to the President. In Law Number 20 of 2004 concerning LPS which was later described in Government Regulation Number 32 of 2005.¹⁸

On January 17, 2016, Law Number 1 of 2016 concerning Guarantee was enacted, which is one of the important milestones in the history of guarantee in Indonesia. The Guarantee Law can strengthen the legal basis for the implementation of guarantee activities so far and can integrate all regulations that have been governing guarantees. In addition to functioning to ensure customer deposits in banks, the Deposit Insurance Corporation is also expected to actively participate in maintaining the stability of the banking system.¹⁹

¹⁵ Rachmadi Usman, *Aspects of Banking Law in Indonesia. Second Print* (Jakarta: PT. Gramedia Pustaka Utama, 2003), p. 237.

¹⁶ Agus Budiarto, *Bank Mergers in Indonesia* (Bogor: Ghalia Indonesia, 2004), p. 62.

¹⁷ Bank Indonesia Regulation in point 1.3 number 13/18 Dpbs. Concerning Financing Restructuring for Sharia Commercial Banks and Sharia Units

¹⁸ Ari Muliarta Ginting, "Challenges and Prospects of the Indonesian Economy in 2019 in the Midst of a Slowdown in Global Economic Growth," *Quick Info* 11, no. 2 (2019).

¹⁹ Satrio Ronggo Buwono, Lastuti Abubakar, and Tri Handayani, "BANKING READINESS TOWARDS DIGITAL TRANSFORMATION AFTER THE COVID-19 PANDEMIC THROUGH FINANCIAL TECHNOLOGY (FINTECH)," *Journal of the Axis of Padjadjaran Law* 3, no. 2 (2022), <https://doi.org/10.23920/jphp.v3i2.764>.

LPS also has the obligation to prepare an annual consisting of work activity reports and financial statements. This annual report is submitted to the President and the House of Representatives, accompanied by the obligation to announce financial statements that have been audited by the BPK in at least 2 (two) daily newspapers that have a wide circulation. The function of LPS is to ensure the deposits of depositor customers and actively participate in maintaining the stability of the banking system so that LPS is tasked with: a) Formulating and determining policies for the implementation of deposit guarantees and maintaining the stability of the banking system; b) To carry out deposit guarantees; c) Formulate, establish and implement a policy to settle Bank Defaults that do not have a systematic impact, and d. Carry out the handling of Failed Banks that have a systemic impact.²⁰

And to carry out these tasks, LPS is given the authority: a. Establish and collect guarantee premiums; b. Establish and collect contributions when the bank first becomes a participant; c. Managing the assets and obligations of LPS; d. Obtain customer deposit data, bank health data, bank financial statements, and bank audit results reports as long as it does not violate bank confidentiality; e. To reconcile, verify and/or confirm customer deposit data, bank health data, bank financial statements, and bank audit results reports as long as they do not violate bank confidentiality; f. Establish the terms, procedures and conditions of claim payment; g. Appointing, controlling and/or assigning other parties to act in the interests and/or names of LPS, in order to carry out certain duties; h. Conducting counseling to banks and the public about deposit guarantees; i. Imposing administrative sanctions; j. To take over and exercise all rights and authorities of shareholders, including the rights and authorities of the GMS; k. Controlling and managing the assets and liabilities of the Failed Bank that were rescued; l. Review, cancel, terminate and/or amend any contract binding on the rescued Failed Bank with a third party that is detrimental to the bank; and m. Selling and/or transferring bank assets without the debtor's consent and/or bank obligations without the creditor's approval. By looking at their functions, duties and authorities, all banks that carry out business activities in the territory of the Republic of Indonesia are obliged to become guarantee participants.²¹

All of these banks have an obligation to: a. Submit documents in the form of copies of the articles of association and/or deed of establishment of the bank, copies of bank licensing documents, certificates from the Banking Supervisory Institution (LPP) regarding the level of health of the bank (including the principal financial ratios and supervisory status of the bank), and statements from Shareholders, Controllers

²⁰ Reka Dewantara, "The Juridical Implications of Regulations on Branchless Banking by Bank Indonesia and the Financial Services Authority," *Journal of Legal Treatises* 10, no. Volume 10, Number 1, June 2014 (2014): 1–11, <https://e-journal.fh.unmul.ac.id/index.php/risalah/article/view/95/46>.

²¹ Taufiq Mahendra and Amrie Firmansyah, "EVALUATION OF THE DISCLOSURE OF HEDGING DERIVATIVES TRANSACTIONS IN BANKING SUB-SECTOR COMPANIES IN INDONESIA," *JABI (Indonesian Journal of Sustainable Accounting)* 2, no. 3 (2019), <https://doi.org/10.32493/jabi.v2i3.y2019.p306-327>.

of Cooperative Legal Entities, Head Offices of Foreign Bank branches, Directors and Commissioners; b. Pay membership contributions, amounting to 0.1% (one thousandth) of the bank's paid-up capital for banks that obtain a business license on or after the stipulation of this regulation; c. Pay the guarantee premium 2 (two) times a year, which is set at 0.1% (one thousandth) of the average monthly balance of total deposits in each period; d. Submit periodic reports in the prescribed format; e. Provide data, information and documents needed in the context of the implementation of guarantees; f. Placing proof of membership or a copy of it in a bank office or other place so that it can be easily known by the public; and g. Placing announcements at all bank offices that can be easily known by depositor customers regarding the maximum interest rate that is considered reasonable set by LPS.²²

RESEARCH METHODOLOGY

1. Types of Research

This research is included in the type of collaborative research, where the approach method used is normative as well as empirical, namely normative juridical and empirical juridical collaboration.

This research uses various approaches, with the aim of obtaining information from various aspects of the issue under study.²³ Therefore, to solve the problems that are the subject of discussion in this study, the following approaches are used: Statute *approach*, conceptual approach, and case study approach is used with ideal construction for risk of bank.

2. Research Data Sources

The data source of a study is primary data and secondary data. Because this research is empirical and normative legal research, the sources studied are primary data sources, secondary data, and tertiary data.²⁴

Primary legal materials are data that are materials in binding legal research sorted based on the hierarchy of legislation.²⁵ Secondary legal materials, which can be in the form of draft legislation, research results, textbooks, scientific journals, newspapers (newspapers), *pamphlets*, *lefleats*, brochures, and internet news.²⁶

²² Bank Indonesia, "Financial Technology Education," Bank Indonesia, 2019.

²³ Johnny Ibrahim, *Theory and Methodology of Normative Legal Research* (Malang: Banyumedia Publishing, 2006), p. 101.

²⁴ Soekanto and Mamudji, *Normative Legal Research, A Brief Review*.

²⁵ Mahmud Marzuki and Peter Mahmud, "Legal Research," *Journal of Legal Research* (Jakarta: Kencana Prenada Media Group, 2011), p. 25.

²⁶ Satjipto Rahardjo, *The Science of Law: The Search, Liberation and Enlightenment*. (Semarang: Diponegoro University, 2003).

Tertiary legal material, in the form of dictionaries, encyclopedias, lexicons and others related to the problem under study.²⁷

3. Technical Data Collection

The studies conducted are field studies (*field research*) and literature studies (*library research*) which use primary data and secondary data. Perimer data through field studies, secondary data in this study were obtained through literature studies.

4. Data Analysis

The research technique in this study is descriptive analytical, where the analysis is carried out critically. The data collected in this study will be analyzed descriptively with a *qualitative approach*, namely by providing a thorough and in-depth explanation and explanation (*holistic / verstelen*).²⁸

RESEARCH RESULTS

Forms of Risk of Credit Guarantee Institutions in Indonesia Today

Law No. 40 of 2014 concerning Insurance contains regulations on the scope of reinsurance services that justify the existence of reinsurance institutions as a form of risk mitigation for credit guarantees. This regulatory material is a critical record of the relationship and synchronization between laws and regulations where the existence of the reinsurance institution is not used as a theoretical study in the Academic Manuscript of Law No. 1 of 2016 concerning Insurance Institutions. Referring to the insurance law, the position of reinsurance institutions that are possible as an alternative form of risk mitigation besides reinsurance institutions, at least the position of reinsurance institutions can be seen from three aspects, namely aspects of the scope of the company, the scope of business, and specifically the scope of the business scope of insurance services.²⁹

Article 1 number 7 of Law No. 40 of 2014 concerning Insurance⁴ stipulates that the guarantee company is one of the objects of reinsurance services against risks that may be faced by the company. Reinsurance companies are part of the insurance business and one of the insurance business service fields that is part of the reinsurance business is the guarantee institution.

The law on risk mitigation in credit guarantee is doctrinally based on the school of positivism is an explicit order of the ruler/sovereign holder. This explicit order is then outlined in Law No. 1 of 2016 concerning Guarantee and Law No. 40 of 2014 as

²⁷ Marzuki, *Legal Research*.

²⁸ Sugiyono, "Quantitative, Qualitative and R&D Research Methods," 26th (Bandung: Cv. Alfabeta, 2018), p.

34.

²⁹ Noviendri Djalil et al., "Financing Risk Mitigation for the Underprivileged at Bank Btpn Syariah," *Journal of Accounting and Management Research* 10, no. 1 (2021).

a binding regulation for anyone who is related to or concerned with credit guarantee activities. To express problems, it can only be implemented with a legislative approach based on binding legal materials (relevant laws) and explanatory legal materials, both in the form of academic manuscripts and explanatory memorabilia. Armed with these legal materials, the problem in this case is solved by analyzing the consistency between laws that regulate credit guarantee risk mitigation.³⁰

Forms of risk grouping based on Financial Services Authority Regulation Number 18/POJK.03/2016 concerning the Implementation of Risk Management for Commercial Banks:

Legal Risks

Legal Risk is a risk caused by the weakness of the juridical aspect. Weaknesses in the juridical aspect include due to lawsuits, Legal Risks arise, among others, due to the absence of supporting laws and regulations or weaknesses of the agreement such as the non-fulfillment of the conditions for the validity of the contract or imperfect collateral binding.³¹

Legal risk is a risk caused by weaknesses in juridical aspects such as legal claims, the absence of supporting laws and regulations or weaknesses in the contract such as the non-fulfillment of the conditions for the validity of a contract or imperfect collateral binding. According to Bank Indonesia Circular Letter No. 5/21/DPNP dated September 29, 2003 concerning the implementation of risk management of commercial banks, every bank is required to implement legal risk management in every banking activity carried out.

Legal risks are related to the risk of non-performance of the contract. Legal risk is closely related to legal, legislative and regulatory issues that may affect the fulfillment of contracts or transactions. The management and handling of legal risks can be carried out by involving several divisions according to the risk factors, for example with credit carried out by the legal division and credit investigation.

Market Risk

Market Risk is a risk that arises due to the movement of market variables from the portfolio owned by the bank, which can be detrimental to the bank. These market variables are interest rates and exchange rates. What is meant by "Interest rate risk" is the risk due to changes in the price of financial instruments from trading book positions or due to changes in the economic value of banking book positions, caused

³⁰ Adelia Viani Kusuma Pradewi, "Analysis of Risk Mitigation Strategies in Subsidized BTN Ib Mortgage Financing During the Covid-19 Pandemic (Case Study on Bank BTN Syariah Surakarta Branch Office)," *Thesis*, 2023.

³¹ Zuhri, Polytechnic, and Bina, "Legal Risk Control in the Provision of Credit by Commercial Banks."

by changes in interest rates. What is meant by "Exchange rate risk" is the risk due to changes in the value of trading book and banking positions. Liquidity Risk.³²

Bank market risk is the risk of losses that can occur to banks due to adverse market price movements. This risk can occur in the position of the bank's balance sheet and administrative accounts. Bank market risk can be caused by various factors, such as: Market price fluctuations, Interest rate fluctuations, Changes in economic variables, Changes in market conditions, Changes in option prices. Some types of market risk include: Interest rate risk, Commodity risk, Currency risk, Country risk. To manage market risk, banks can do several things, such as: Creating a loss threshold, Monitoring and managing market risk, Diversifying assets, investment value (hedging), Staying informed.

Operational Risk

Operational Risk is a risk that is caused by, among other things, the inadequacy and/or malfunction of internal processes, human error, system failure, or external problems that affect bank operations.³³ Bank operational risk is the risk of loss caused by inadequate or failure of internal processes, human error, and external events. Operational risks can occur in all types of businesses, including banking. If not managed properly, this risk can lead to considerable losses.

Some examples of operational risks in banking are: Errors in providing information, Internal fraud, Incomplete data, Errors in making transactions, Data input errors, Utility service failures, Computer system failures, Accounting errors, Mark-to-market errors.³⁴ Operational risk management is a way to overcome obstacles that occur in the business to prevent losses.³⁵

Credit Risk

Credit Risk is a risk that arises as a result of the counterparty's failure to fulfill its obligations to the bank.³⁶ Bank credit risk is a potential loss that occurs when the debtor or other party cannot fulfill their obligations to the bank. Credit risk is one of

³² Nurul . Sukma, Ivonne S. Saerang, and Joy Elly Tulung, "THE EFFECT OF THIRD-PARTY FUNDS, CREDIT RISK, MARKET RISK AND OPERATIONAL RISK ON PROFITABILITY IN BANKS IN BOOK CATEGORY 2 PERIOD 2014-2017," *EMBA Journal: Journal of Economics, Management, Business and Accounting Research* 7, no. 3 (2019).

³³ Murdiana, "Risk Management of Sharia Banks," *Al-Hisbah Journal of Sharia Economics* 4, no. 1 (2024), <https://doi.org/10.57113/his.v4i1.380>.

³⁴ PUTRA, SAPARUDDIN, and NURNASRINA, "RISK MITIGATION: AN ANALYSIS OF RISK ANTICIPATION IN SHARIA MICROFINANCE."

³⁵ Shashi Jeevita Matadeen, "The Macroeconomic Determinants of Stock Market Development from an African Perspective," *Theoretical Economics Letters* 07, no. 07 (2017): 1950–64, <https://doi.org/10.4236/tel.2017.77132>.

³⁶ Rizki, "Legal Protection for Customers of Conventional and Sharia Financial Institutions."

the main risks that banks must face.³⁷ Factors that can cause credit risk include: Economic factors, Changes in business conditions, Borrower's inability to pay his or her financial obligations.

To reduce credit risk, banks can mitigate credit risks. Credit risk mitigation is an effort to reduce the risks that occur due to the provision of credit. One way to mitigate credit risk is to implement a credit application decision support system.³⁸ To measure credit risk, banks can use Non-Performing Loans (NPLs). NPL is a comparison between non-performing loans and total loans. The higher the NPL ratio, the worse the credit quality.

Reputational Risk

Reputation Risk is a risk due to a decline in the level of stakeholder trust which among other things is due to negative publications related to the bank's business activities or negative perception of the bank. Reputation risks arise, among others, due to negative media reports and/or rumors about the Bank, as well as the Bank's less effective communication strategy.³⁹

A bank's reputation risk can be caused by: Negative news in the media, Negative rumors about the bank, Less effective communication strategy, Non-compliance with compliance requirements, Negative customer reviews on public review sites, Negative social media posts from customers, Data leaks or attacks on computer systems.

To manage reputational risks, banks can do: Maintain the quality of products and services, Maintain business ethics, Increase information disclosure, Conduct regular communication with stakeholders, Conduct Corporate Social Responsibility (CSR) programs, Conduct anticipation and reputation maintenance programs⁴⁰

Bank reputation risk is a risk that occurs when a bank fails to meet stakeholder expectations. This risk can arise from various actions of banks, employees, or parties who cooperate with the bank.

Strategic Risks

Strategic Risk is a risk that is partly due to inaccuracies in the bank's strategic recruitment and implementation or the bank's lack of responsiveness to external changes. Strategic risks arise, among others, because the Bank sets strategies that

³⁷ Johannes Ibrahim, *Thoroughly Exploring Commercial and Consumptive Credit in Bank Credit Agreements: Legal and Economic Perspectives* (Mandar Maju, 2004).

³⁸ Siti Zuleha, "Risk Mitigation Model in Credit Insurance Institutions in Indonesia," *Law Pulpit - Faculty of Law, Gadjah Mada University* 30, no. 2 (2018): 291, <https://doi.org/10.22146/jmh.30286>.

³⁹ Arsyadona et al., "Reputation Risk Management in Islamic Banks," *National Seminar on Computer Technology & Science (SAINTEKS)*, 2020.

⁴⁰ Dita Anis Zafani and Islamiyah, "Assessment of the Liquidity Health of Sharia Banks through Financing to Deposit Ratio (FDR) and Its Impact on Bank Reputation (Case Study of Bank BCA Syariah)."

are not in line with the Bank's vision and mission, conduct a non-comprehensive analysis of the strategic environment, and/or there are inconsistencies in strategic plans between strategic levels.⁴¹

Strategic risk is a risk that can hinder or prevent an organization from achieving its strategic goals. This risk can be caused by improper strategy setting, improper decisions, or failure to deal with changes in the business environment.⁴²

Strategic risks can have serious consequences that affect the organization in the long run. These risks can lead to poor business decision-making, inadequate resource allocation, or sharp declines in a short period of time.⁴³

Some of the factors that can cause strategic risks include the following: Financial difficulties, Declining market value, Consumer demand, Threat of competition, Technological changes, Stronger new competitors, Inefficient production⁴⁴

Strategic risk management is an important aspect of strategic management. By paying attention to the risks that will occur to the company's business, a little can reduce the failure of the company.

Compliance Risks

Bank compliance risk is a risk that occurs when a bank does not comply with laws and regulations, industry standards, and other regulations. These risks can be in the form of regulatory sanctions, financial losses, or reputational damage.⁴⁵

Bank compliance risks can be caused by the following: Bank behavior that deviates from the provisions of the law, Bank behavior that is contrary to applicable standards, Failure of banks to implement legal provisions⁴⁶

To minimize compliance risks, banks can conduct compliance risk management. Compliance risk management aims to ensure that risk management processes can minimize the negative impact of a bank's deviant behavior.⁴⁷

⁴¹ F A H Fachryana, "Strategic Risk Management of Islamic Banks," ... *Management, Economics, Finance ...*, 2020.

⁴² Ahmad Suhaimi, M.A, "Risk Management Study at Bank Syariah Indonesia (BSI)," *JOURNAL OF RISK MANAGEMENT* 2, no. 1 (2021), <https://doi.org/10.33541/mr.v2i1.3438>.

⁴³ Solehuddin Solehuddin, Ladito Risang Bagaskoro, and Ria Casmi Arrsa, "JURIDICAL FRAMEWORK FOR FRAUD PREVENTION STRATEGIES IN THE IMPLEMENTATION OF LOCAL GOVERNMENT INVESTMENT IN ORDER TO REALIZE GOOD GOVERNANCE IN MALANG REGENCY," *Source: Journal of Administrative Law* 4, no. 2 (2023), <https://doi.org/10.22437/mendapo.v4i2.24782>.

⁴⁴ Iwan Setiawan, "The Impact of Financing Risk on Islamic Banking Performance in Indonesia," *Title: Journal of Islamic Economics and Finance* 10, no. 2 (2021), <https://doi.org/10.22373/share.v10i2.9400>.

⁴⁵ Anton Rubianto, "The Implementation of Risk Management and Good Corporate Governance: A Study on the Insurance Brokerage Company PT Barron Pandu Abadi for the 2021 - 2022 Period," *Journal of Economics and Business UBS* 12, no. 5 (2023), <https://doi.org/10.52644/joeb.v12i5.518>.

⁴⁶ Husna Husnaini et al., "Compliance Risk Management Management in Islamic Banks," *MABIS: Journal of Sharia Business Management* 2, no. 2 (2022), <https://doi.org/10.31958/mabis.v2i2.5393>.

⁴⁷ Dzulham Fadillah, Dinar Rahmayanti, and Iqlima Fairuz Syifa, "Literature Study of Management and Compliance Risk in Islamic Banks," *Journal of Accounting and Management* 17, no. 01 (2021), <https://doi.org/10.36406/jam.v17i01.295>.

The Construction of Risk Mitigation Models in Credit Guarantee Institutions in Indonesia Is Currently Not Ideal

Corruption Related to *Bank Mergers*

Prior to the merger of the three banks, Bank Pikko and Bank CIC had problems related to securities (SSB) and Capital Adequacy Ratio (CAR). This merger is allegedly to avoid the closure of Bank Pikko and Bank CIC which are in unhealthy condition. Since the merger, the status of Century Bank has always been problematic. Bank Indonesia is suspected of providing leniency to the merger requirements, namely by: 1. SSB assets that were originally declared stuck-free by BI are then considered smooth to meet the performance of CAR 2. Maintain controlling shareholders (PSPs) who do not pass the fit and proper test 3. Commissioners and Board of Directors of the Bank are appointed without a fit and proper test 4. The KAP audit of the financial statements of Bank Pikko and Bank CIC was declared a disclaimer.

The BPK's findings regarding the merger of these three banks are as follows: 1. The acquisition of Bank Danpac and Bank Pikko is not in accordance with the provisions of Bank Indonesia 2. The Chinkara Acquisition Permit for Bank Pikko and Bank Danpac is still carried out despite indications of unhealthy banking practices and unlawful acts involving Chinkara 3. Bank Indonesia avoided the closure of Bank CIC by including the Bank in the Merger Scheme 4. It did not cancel the acquisition approval even though in 2001-2003 the results of BI's audit of the three banks found indications of significant violations 5. The treatment of securities (SSB) that was originally jammed became smooth with the recommendation Evaluation Committee.

Since 2005-2007, BI's audit results found violations of BMPK in Bank Century's activities but no firm action was taken. Violations of the net foreign exchange position (PDN) should be subject to a fine of Rp. 22 billion, but BI provides relief by only paying 50% or Rp. 11 billion. Two months after the merger, on February 28, 2005, Bank Century's CAR position was negative (-132%). This is due to SSB's low-quality \$203 million assets and \$116 million of which is still controlled by shareholders. BI agreed not to conduct PPAP (Preliminary Elimination of Fixed Assets) on the SSB even though it was in accordance with BI Regulation (PBI) No. 7/2/PBI/2005 concerning the assessment of the quality of commercial bank assets, a PPAP of 100% should have been carried out. In accordance with the provisions, BI should have designated Century Bank as a bank under special supervision, namely since October 31, 2005 (after the results of BI's audit of Century Bank were published). However, at the suggestion of the Director of Supervision of Bank 1 and approved by the Deputy Governor 6, Bank Century is only subject to the status of a bank under intensive supervision. Regarding this neglect, there was a delay in determining the status of the bank under special supervision of Bank Century for approximately 3 years (October 31, 2005 – November 6, 2008).

Changes in Regulations for the Distribution of Short-Term Funding Facilities (FPJP)

Since July 2008, Century Bank has experienced liquidity difficulties and is dependent on interbank money lending (PUAB). Because PUAB is difficult to obtain, until October 27, 2008, Bank Century has violated the fulfillment of the Minimum Reserve Requirement (GWM) of at least 5% of third-party funds (DPK). Bank Century then wrote to the Directorate of Monetary Management (DPM) with a copy to the Directorate of Bank Supervision (DPB) to propose to BI the asset repo facility.

This letter was sent twice, namely: 1. On October 30, 2008 amounting to Rp. 1 trillion (application for asset repo facility) 2. On November 3, 2008 amounting to Rp. 1 trillion (submitting additional credit asset data) Bank Century's CAR position when applying for FPJP (position on September 30, 2008) was positive 2.35%. At this time, BI (PBI) No. 153 10/26/PBI/2008 is in effect that FPJP facilities are given to banks that have a minimum CAR of 8%. Thus, Century Bank is actually not eligible to receive FPJP. However, on November 14, 2008, BI changed the PBI regarding the allocation of FPJP from a minimum of 8% CAR to a positive CAR. This is allegedly to smooth out Century Bank using FPJP facilities.

Based on Bank Century's CAR position as of September 30 (positive 2.35%), BI stated that Bank Century is eligible. In fact, Bank Century's CAR position as of October 31, 2008 was negative (-3.53%) and did not meet the requirements even for the PBI that had been changed as of November 14, 2008. BI then approved the provision of FPJP facilities to Bank Century as of November 14, 2008, amounting to Rp. 689.39 billion, with the following details: 1. On November 14, 2008, Rp. 356.81 billion was disbursed 2. On November 17, 2008, Rp. 145.26 billion was disbursed 3. On November 18, 2008, Rp. 187.32 billion was disbursed In response to a letter from Bank Century (October 30, 2008), there was actually a fairly tough process within BI. This is related to the formulation of the appropriate decision related to Century Bank which took place between October 30, 2008 and November 14, 2008.

The change of PBI No. 10/26/PBI/2008 to PBI No. 10/30/PBI/2008 looks very urgent on the grounds that "no bank should fail for now", quoting the Deputy Governor of SCF. Impressively, although this policy is based on urgent conditions to save the banking system and the economy, it is directed to smooth BC to receive FPJP funds. This is also strengthened by the poor condition of BC with the average condition of other commercial banks, based on the results of the Non-Commercial Bank Report, it is known that for the position of September 2008, the CAR ranged from 10.39% - 476.34% and the average CAR was 34.6%. Thus, the disbursement of these funds seems forced. Based on Bank Century's CAR position as of September 30 (positive 2.35%), BI stated that Bank Century is eligible. In fact, Bank Century's CAR position as of October 31, 2008 was negative (-3.53) and did not meet the requirements even for PBI which had been changed as of November 14, 2008.

FPJP BC that does not have the completeness of collateral requirements

After the PBI amendment regarding FPJP for commercial banks, the process of granting FPJP and BI began to be processed. However, in the midst of the approval process, ZA, the Director of DPBI sent a note No. 10/78/DpG/DPBI/Confidential dated November 14, 2008. This note was sent to the DpG Field 6, SCF. This note is related to FPJP BC guarantees that do not have the following collateral requirements:

According to the deputy director of DPBI, FPJP is still carried out because it must be completed on November 14, 2008 and this process is awaited by the Deputy Governor of SBR and BM. Since November 4, 2008, BI has designated Bank Century as a Bank under special supervision and placed a supervisor.

The existence of Accounting Engineering, Fictitious Credit, and other Violations

Based on the BI Board of Governors Meeting (RDG) on November 20, 2008, BI designated Bank Century as a Failed Bank. This determination is based on the following considerations: 1. Bank Century CAR dated October 31, 2008 at a negative position (-3.53%) and is considered incapable of being increased to positive 8% so that it is considered insolvent. This is shown by shareholders who are unable to raise capital and efforts to invite new investors fail. 2. Although the liquidity condition of the minimum mandatory current account (reserve requirement) in rupiah dated November 19, 2008 was positive 1.85% (Rp. 134 billion), there were outstanding RTGS and clearing obligations of Rp. 401 billion so that the rupiah reserve requirement was negative. In addition, there are obligations that will mature on November 20, 2008 amounting to Rp. 458 billion.

The condition of Bank Century is considered to be unable to increase its liquidity, even though FPJP disbursed Rp. 689 billion. This is due to a much larger withdrawal of funds from customers. The determination of Bank Century's condition as a Systemic Failed Bank was carried out on the basis of the MoU-On Cooperation Between the Financial Supervisory Authorities, Central Banks and Finance Ministries of European Union; On Cross-Border Financial Stability (dated June 1, 2009). In accordance with the terms of this MoU, four basic aspects were agreed in determining systemic impact measured using quantitative indicators, namely: 1. Financial institution aspects; 2. Financial market aspects; 3. Payment system aspects; and 4. Real sector.

Although the four aspects above are measured by quantitative indicators, BI only applies one factor quantitatively, namely the financial institution aspect, namely the aspect of function, relationship with customers, bank size, sustainability and linkage. The result is that Century Bank is not very important in the banking industry with Bank Deposits/Industrial Deposits of only 0.68%. Bank Credit/Industrial Credit is also only 0.42%.

In customer service, it can also be seen that Century Bank credit facilities are 76.57% or the majority are given for working capital, 21.79% for 159 processing industries, 22.93% for trade, restaurants and hotels, and 28.47% for business services. However, when viewed from the share of credit to credit in the banking industry (0.42%), the role is relatively small) in terms of fund gathering, 84.82% is collected in the form of deposits. In terms of bank capitalization, it is also relatively small, namely bank assets/industrial assets are only 0.72%, bank deposits/industrial deposits are 0.68% and bank loans/industrial loans are also only 0.42%. In addition, the substitution function related to the sustainability of the bank's business for similar banks is also quite a lot of banks of the same type as Bank Century.

In the results of this study, it was found that the relationship between Bank Century and other banks was relatively significant as shown by interbank transactions of assets/total assets reaching 24.28% and transactions between banks of liabilities/total liabilities reaching 19.34%. However, in providing conclusions regarding this systemic aspect, BI added one more factor, namely the aspect of market psychology. By bringing up this aspect, the determination of three other indicators based on the MoU is carried out qualitatively.

Based on this aspect, BI concludes: "that there will be high uncertainty, especially in the psychology of the public market, which can further trigger disruptions/uncertainty in the financial market and payment system". This basis was then conveyed through letter No. 10/232/GBI/Confidential dated November 20, 2008 concerning the Determination of Bank Century as a Failed Bank and the Determination of Its Follow-up. 160 Regarding the Letter of the Governor of BI No. 10/232/GBI/Confidential dated November 20, 2008 concerning the Determination of Bank Century as a Failed Bank and the Determination of Its Follow-up, the Ministry of Finance and LPS held a KSSK consultation meeting on November 14, 17, 18, 19 and 20, 2008.

KSSK then held a meeting on November 21, 2008. The meeting was preceded by a presentation from BI. At the meeting, many parties disagreed with BI's argument that Bank Century would have a systemic impact. Against the dissenting opinion, BI stated that: "it is difficult to measure whether there will be a system impact or not because it is a chain impact that is difficult to measure from the beginning with certainty. What can be measured is the amount of costs incurred if the rescue is carried out. Seeing uncertain conditions, it is better to take a cautious approach by carrying out rescues, but by minimizing costs. The decision must be taken immediately and cannot be postponed until Friday afternoon because Century Bank does not have enough funds to refund the clearing and meet the clearing throughout the day".

In the KSSK Meeting on November 21, 2008 which was attended by the Minister of Finance as the Chairman of the KSSK, the Governor of BI as a member of the KSSK and the Secretary of the KSSK, it was decided that Bank Century was a Failed Bank

with a systemic impact and determined its handling to LPS. The results of this decision were then brought to the Coordination Committee meeting on the same day between the Minister of Finance, the Governor of BI and the Chairman of the Board of 161 Commissioners of LPS which then handed over the handling of Century Bank to LPS to be carried out in accordance with Law Number 24 of 2004 concerning Deposit Insurance Institutions. Bank Century's condition deteriorated during the November 2008 period, so BI then issued new data on the need for funds for LPS's temporary capital participation (PMS) for the rescue of Bank Century. PMS funds then swelled from Rp. 632 billion to Rp. 6.76 trillion.

Regarding the distribution of these funds, and the emergence of data on the need for additional PMS that is very large for Bank Century, it can be conveyed that BI did not provide information on the risk of CAR compliance caused by the deterioration in asset quality that should have been known earlier by BI. This is due to several things, among other things: 1. Allegations of accounting engineering that have been carried out by Century Bank by not implementing PPAP correctly 2. Alleged LC and fictitious credit 3. Other alleged irregularities were committed by the owner/management of Bank Century before it was taken over by LPS. Related to the distribution of funds decided by the KSSK and Government Regulation in Lieu of Law Number 4 of 2008 on the Financial Sector Safety Net (JPSK) on October 15, 2008.

In this regard, the Plenary Meeting of the House of Representatives of the Republic of Indonesia on December 18, 2008 has decided that the government should propose a Bill on JPSK. This means that the KSSK has been running without full approval by the House of Representatives of the Republic of Indonesia. Thus, the authority or authority of the KSSK actually does not have a strong enough legal basis constitutionally, so all decisions made can still be questioned. Regarding the disbursement of funds to Century Bank, if referring to the approval of the House of Representatives of the Republic of Indonesia, a total of Rp. 2.88 trillion is still distributed by LPS.

On November 6, BI prohibited Bank Century from allowing the withdrawal of current accounts, savings and deposits from parties related to the bank and/or other parties determined by BI. This is written in the letter of the Deputy Governor of BI to the board of directors of Bank Century No. 10/9/DpG/DPBI/Confidential dated November 6, 2008. This provision is valid from 6 November 2008 to 10 August 2009 (after the change of status from SSU to intensive supervision). The findings of BPK during the SSU period have been that there has been a withdrawal of deposits by parties related to Century Bank, namely: 1. The period before FPJP (6-13 November 2008) amounted to Rp. 344,015 billion 2. FPJP period (14-21 November 2008) amounted to Rp. 273,842 billion 3. PMS period (November 24, 2008 - August 10, 2008) amounted to Rp. 320,797 billion. The total withdrawal of funds by related parties to Century Bank during the SSU period amounted to Rp. 938,654 billion.

The Existence of Foreign Exchange Cash Embezzlement

In addition to the withdrawal of related parties, there was also an element of embezzlement of foreign exchange cash funds of US\$ 18 million and the dissolution of 247 NCDs with Rp. 2 billion each involving DT and BS. The breakdown into 247 NCDs has been resolved in court with the change of NCDs to CDs of 40 bilyet masing worth US\$ 1 million each. On November 14, 2008, there was a request from RT requesting the Head of Operations of Bank Century Surabaya-Kertajaya Branch to transfer deposits belonging to PT LSB (BS) one of Bank Century's customers worth US\$ 96,388 million to the Senayan Operational Head Office (KPO), Jakarta.

After the move, DT and RT disbursed the customer's funds worth US\$ 18 million on November 15, 2008. This money was then used by DT to cover the shortage of bank notes that had been used for DT's personal needs. The customer's deposit was then replaced by Bank Century with funds from PMS. Regarding the crime of corruption, in the case of Century Bank there is a debate whether the funds disbursed by LPS are state finances or not. Especially since the money comes from premiums paid by banks that follow the guarantee program. LPS collects premiums from banks which amount to 0.1% of the total deposits managed by 165 banks for one semester. Currently, LPS's capital is Rp. 18 trillion consisting of initial capital from the government of Rp. 4 trillion and premiums which reach Rp. 14 trillion.

IDEAL CONSTRUCTION OF RISK MITIGATION MODEL IN CREDIT GUARANTEE INSTITUTIONS IN INDONESIA

The ideal construction of the implementation of Risk Management through the process of identification, measurement, monitoring, and control of Risks, as well as the Risk Management information system for Legal Risks as follows:

Identify Legal Risks

The implementation of identification for Legal Risks is to carry out the identification of all Risks periodically, to identify Risks in all products and business activities of the Bank, and the Risk identification process is carried out by analyzing all sources of Risk that are least carried out on the Risk of the Bank's products and activities.

Banks must identify the legal risks inherent in all bank activities to run their businesses, namely in the form of credit, fund providers, treasury, investment, operations, services, information system technology, information system management and human resource management. The Bank must record and administer every event related to legal risks, including a number of losses caused by the event in question in a data administration. The recording and administration of the data is compiled in a statistical data that can be used to project potential losses in a period and activity.⁴⁸

⁴⁸ Zuhri, Polytechnic, and Bina, "Legal Risk Control in the Provision of Credit by Commercial Banks."

It is generally known that the scope of legal risk in banking includes all bank activities in carrying out their business, these activities are divided into several parts as follows:

- 1) The impact of providing credit is because every credit provision has inherent risks both from imperfections of the agreement and legal requirements that are not met by the debtor himself.
- 2) The application of the rules of Standard Operating Procedures, BPP, SK, and SI of the Board of Directors which are often inappropriate, this can have an impact on legal risks due to non-compliance with the implementation of existing rules.
- 3) Keeping bank secrets can save banks from legal risks.
- 4) The impact of contracts, and agreements on legal risks is very large because every agreement made has inherent risks in the material of the agreement.
- 5) Lawsuits from customers for dissatisfaction with existing bank services, policies, or features.
- 6) Human resource mismanagement

At this stage before providing financing, the Bank takes action in the form of risk management, by identifying the risks that will be experienced by each company by looking at the potential risks that are visible and unseen. Banks are required to identify risks periodically and have existing methods or systems in place before providing financing. The risk identification process is carried out by analyzing all sources of risk to risk and ensuring that the risks of the product are feasible to be implemented and implemented.⁴⁹

Legal Risk Measurement

Banks must have adequate Risk for Legal Risk measurement methods that are integrated with the Bank's Risk Management framework, both using quantitative and qualitative approaches. - In measuring Legal Risks, the Bank may use indicators or parameters in the form of potential losses due to litigation demands, cancellation of agreements caused by weaknesses in the agreement, changes in laws and regulations that cause Bank products to be inconsistent with existing provisions.

In this legal risk measurement process, banks use a combination of approaches in measuring legal risks, banks divide the activities inherent in the bank into 7 activities, namely: Credit. Treasury and investment, Operational activities and services. Financing and trading. Funding and debt instruments, Information system technology (TSI) and Management Information Systems, HR management.

Next, it measures the potential for legal risks in each activity, by input data *on inherent legal risk*

⁴⁹ Fahmi, I. (2016). Risk Management (Theory, Case and Solution). Bandung: Alfabeta.

Furthermore, scoring the violations committed. Scoring is carried out on 5 scales, namely, scale 0 - 4, where a score of 0 is given if the Bank often violates the applicable provisions (very bad) and a score of 4 is given if the Bank has never violated the applicable provisions (very good).

Table 4.2. Scoring Legal Risk Violations

Scoring	Value
0	0
1	25
2	50
3	75
4	100

Furthermore, the value is divided into 5 predicates in accordance with Bank Indonesia Regulation Number: 11/25/PBI/2009 dated July 1, 2009, namely:

Table 4.3. Legal Risk Value Interval

Value Interval	Predicate
0 to 20	High
21 to 40	Moderate to High
41 to 60	Moderate
61 to 80	Moderate to Low
81 to 100	Low

Risk identification is by conducting a risk evaluation that aims to understand what kind of character/individual risk will be faced so that the risk can be more controlled, techniques are carried out various depending on the risks to be faced. An example of a technique used is VAR (*Value at Risk*) which is the maximum loss that is likely to harm the bank. The theory of VAR is used for market risk and the technique (*duration*) for interest risk. Banks are required to take several actions in order to implement risk measurement, which includes 2 things, namely, periodic evaluation of the suitability of assumptions, data sources, and procedures used to measure risk. Improvement of the risk measurement system if there are changes in the bank's business activities, products, transactions and risk factors that are material that may affect the bank's financial condition.⁵⁰

At this stage, the Bank's management has placed the size or scale used, including the design of the research methodology model to be used. The incoming data can be used and further processed in accordance with the company's existing operational standards. A risk measurement system used to measure a bank's risk exposure as a

⁵⁰ Hanafi, M. M. (2006). Risk Management. Yogyakarta: UPP STIM YKPN.

guideline for carrying out controls. Risk measurement must be carried out in a scalable and structured manner by looking at the bank's business and business portfolios. Risk measurement methods can be carried out in accordance with BI and policies developed by the Bank. The selection of methods is adjusted to existing conditions. Subsequently, the risk measurement system must be evaluated and refined periodically or at any time if necessary to ensure the suitability of the necessary assumptions, accuracy, expertise, and data integrity.⁵¹

The mitigation measurement technique used for working capital financing with the technique used by measuring the level of debt and receivables inventory, to measure how much we have to provide by looking at customer receivables and working capital. As well as the Bank's ability to manage its investments using the RPC ratio (calculating the customer's ability to pay installments) by predicting how much the customer can pay installments by looking at the customer's income every month.

Legal Risk Monitoring

Furthermore, the process of managing risks, the risks that occur can be managed/anticipated in many ways, for example avoiding risks, withholding risks or transferring risks to other parties.⁵² Banks must carry out several actions in order to carry out risk monitoring which includes 2 things, namely the evaluation of risk exposure. Evaluation of risk exposure is carried out by monitoring and reporting risks that are material or that have an impact on the bank's capital condition, including based on assessing potential risks using historical trends and improving the reporting process if there are changes in activities.

At this stage, the management has processed the data. The results of the processing have been described in the recommended form according to the existing SOPs and the consequences or influences that will arise. Marketing must be meticulous in analyzing customers during regular visits to see the development of the customer's business. Marketing must be able to place existing alternatives in case unwanted things happen in the future.

Banks have systems or procedures in place to conduct risk monitoring. Monitoring is carried out by Islamic banks periodically and is periodically submitted to management to prepare several risk mitigation strategies if needed. Banks must implement effective procedures to prevent disruptions. in the process of monitoring risks, and conducting checks and reassessments of the system.

The implementation of monitoring for Legal Risks refers to the scope of application in general, namely compiling and establishing transaction approval mechanisms, including those that exceed the limits and authorities for each level of position. The bank monitors legal risks periodically in accordance with past experience

⁵¹ Rustam, B. R. (2013). Sharia Banking Risk Management in Indonesia. Jakarta: Salemba Four.

⁵² Kholis, N. (2008). Risk Management of Sharia Banks Module 1 (Sharia Banking Management Lecture Module). Yogyakarta: Islamic Economics, Faculty of Islamic Religion, UII.

of losses caused by legal risks. The management information system must be able to provide a complete, accurate and timely legal risk exposure report in the context of the management decision-making process.⁵³

Legal Risk Control

All banks are required to take measures to control risks that can endanger the bank's business continuity. The determination of risk control measures must always be in accordance with sharia principles, control measures are carried out by means of risk mitigation, including hedging and capital addition to absorb potential losses. The Bank has a control system and how to manage risks in accordance with the provisions and policies issued by the Bank. The risk control process must be appropriate to the exposure and level of the risk that exists. Risk control can be taken by banks, among others, by risk mitigation methods in accordance with existing procedures. In risk control, marketing must establish existing alternatives.

The work unit or function under the legal field must periodically review the contracts and agreements between the Bank and other parties, including by conducting a reassessment of the effectiveness of the *enforceability process* to check the validity of the rights in the contract and agreement. In the event that the Bank issues guarantees such as *netting agreements*, *collateral pledges*, and *margin calls*, it must be supported by effective and *enforceable legal documents*.⁵⁴

The implementation of legal risk control inherent in all organizational functions, both directly and indirectly, handles activities related to legal risks, including:

- 1) The legal department regularly reviews contracts and agreements between banks and other parties outside the bank.
- 2) The issuance of bank documents such as bank guarantees, purchase agreements, cooperation agreements is supported by complete documents.
- 3) Ensure that legal risks have been implemented for; The implementation of operations, organization and internal control has been carried out in accordance with the provisions and regulations, code of ethics and business strategies that have been set.
- 4) Compliance with internal procedures and applicable regulations.
- 5) Bank financial statements.
- 6) Risk management information system.
- 7) Communication organizers related to the impact of legal risks on all employees and every level of the organization.

⁵³ Syahriati Fakhriah, "Analysis of Legal Risk Mitigation of Credit Granting with Base Transceiver Station (BTS) as Guarantee," *Journal of Doctrinal Law* 5, no. 1 (2020).

⁵⁴ Zuhri, Polytechnic, and Bina, "Legal Risk Control in the Provision of Credit by Commercial Banks."

Legal Risk Control in Credit

The provision of credit is carried out after there is a loan and borrowing agreement between banks with the Debtor/Prospective Debtor which contains aspects of legality, a credit agreement that contains the rights and obligations of the parties.

Legal Risk Management Information System

The Bank shall record and administer each event, including the litigation process related to Legal Risk and the amount of potential losses resulting from such events in a data administration. The recording and administration of the data is compiled in a statistical data that can be used to project the potential loss of the Bank's business activities in a certain period.⁵⁵

The Legal Risk Management Information System is a system that supports the management of legal risks arising from the company's business activities. Legal Risk Management Information Systems help companies identify, measure, monitor, and control legal risks. The purpose of the Legal Risk Management Information System is to minimize the negative impact of legal risks, such as lawsuits, regulatory absences, and litigation processes.⁵⁶

The Legal Risk Management Information System has the following objectives:

1. Legal Risk Management Information Systems help companies collect data and information regarding legal risks
2. Legal Risk Management Information System helps companies analyze legal risks at regular intervals
3. Legal Risk Management Information System helps companies monitor legal risks on a regular basis
4. The Legal Risk Management Information System helps companies report legal risks on a regular basis.⁵⁷

Legal Risk Management Information Systems can be managed with the following steps:

- 1) Banks can support an actual and up-to-date legal information system
- 2) Banks can have a competent legal unit
- 3) Banks can conduct legal audits for large, high-risk activities
- 4) Banks can conduct legal due diligence
- 5) Banks can review legal risk management periodically

In order to support the process of identifying, measuring, controlling, and monitoring risks, the Company has developed an information management system

⁵⁵ Nuryani Ambri et al., "Profit Management and Mitigation Measures in Islamic Banking," *Journal of Management, Business and Economics (JIMBE)* 1, no. 1 (2023), <https://doi.org/10.59971/jimbe.v1i1.1>.

⁵⁶ Ribut Hari Wibowo, "RESTORATIVE JUSTICE APPROACH IN STOPPING PROSECUTIONS BASED ON RESTORATIVE JUSTICE," *Journal of Progressive Law* 9, no. 2 (2021), <https://doi.org/10.14710/jhp.9.2.146-157>.

⁵⁷ I Putu Agus Eka Pratama and Made Toby Sathya Pratika, "Information Technology Risk Management Related to System Manipulation and Hacking at Bank XYZ in 2020 Using ISO 31000:2018," *Telematics Journal* 15, no. 2 (2021), <https://doi.org/10.61769/telematika.v15i2.333>.

supported by competent Human Resources. The system was developed to support more efficient risk management so that decision-making can be faster while still referring to the principle of prudence. The risk management information system can include information, such as: risk exposure, compliance with Risk Management policies and procedures, realization of implementation compared to set targets, and then the information is regularly submitted to the Board of Directors.⁵⁸

Internal Controls for Legal Risk

The implementation of the Internal Control System for Legal Risks must be equipped with a reliable internal control system. The effective implementation of an internal control system can help the Bank's management to safeguard the Bank's assets, ensure the availability of reliable financial and managerial reporting, improve the Bank's compliance with laws and regulations, and reduce the risk of losses, irregularities and violations of prudential aspects.

CONCLUSION

The results showed that; 1) Forms of Risk of Credit Insurance Institutions in Indonesia including; a) legal risk, b) market risk, c) operational risk, d) credit risk, e) reputational risk, e) strategic risk, and compliance risk. (2) Banks fail to have a systemic impact; a) Estimated handling costs < estimated costs not handling, b) The bank's business prospects are still good, after being saved, c) There is a statement of the bank's GMS that is willing to hand over the management, rights and authority of the GMS to LPS, d) The bank submits documents to LPS. 2) The construction of a risk mitigation model in credit guarantee institutions in Indonesia is currently not ideal because of several things in the handling of Failed Banks, such as the handling of Century Bank, namely; (a) Corruption related to Bank mergers; (b) Changes in Regulations for the Distribution of Short-Term Funding Facilities (FPJP); (c) FPJP BC that does not have complete collateral requirements; (d) Accounting Engineering, Fictitious Credit, and Other Violations; (e) There is embezzlement of foreign exchange cash. 3) The construction of the ideal risk mitigation model in Credit Guarantee Institutions in Indonesia is carried out in stages; a) Identification of legal risks; (b) Legal Risk Measurement; (c) Legal Risk Monitoring; (d) Legal Risk Control; (e) Credit Risk Control; (f) Legal Risk Management Information System; (g) Internal Control for Legal Risks

⁵⁸ Fathira Rahmawati, Syahpawi Syahpawi, and Nurnasrina Nurnasrina, "Juridical Study of Risk Management Management in Islamic Banking," *MONEY: JOURNAL OF FINANCIAL AND ISLAMIC BANKING* 2, no. 1 (2024), <https://doi.org/10.31004/money.v2i1.23805>.

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