



Violation of the Prudential Principle in Cooperative Credit Granting

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Abstract

This research examines the violation of the prudential principle in credit granting by cooperatives from a normative legal perspective. The research aims to analyze the legal framework governing the prudential principle in cooperative credit granting, identify common forms of violations, and formulate legal implications and recommendations to strengthen the application of this principle. The research method used is normative juridical with statutory and conceptual approaches. The results show that although regulations governing the prudential principle in cooperative credit granting exist, their implementation still faces significant challenges. Common forms of violations include negligence in credit analysis, weak monitoring systems, and conflicts of interest in decision-making. The legal implications of these violations range from administrative sanctions to criminal charges for involved cooperative officials. This research recommends strengthening the regulatory framework, enhancing supervisory capacity, and reforming cooperative governance to prevent future violations of the prudential principle. In conclusion, enforcing the prudential principle in cooperative credit granting requires a comprehensive approach involving regulatory reform, institutional strengthening, and increasing legal awareness among cooperative actors.

Keywords: *Prudential Principle; Cooperative; Credit Granting; Cooperative Law; Cooperative Governance*

INTRODUCTION

Cooperatives, as a pillar of the Indonesian economy, play a vital role in national economic development and improving the welfare of their members. One of the main functions of cooperatives is providing credit to members and the community, which requires the application of the prudential principle to maintain the financial health of cooperatives and protect members' interests. However, in practice, violations of the prudential principle in credit granting by cooperatives still frequently occur, posing significant financial and legal risks.

The prudential principle in the context of cooperative credit granting refers to a set of rules, procedures, and practices aimed at ensuring that credit decisions are made wisely, based on in-depth analysis, and considering potential risks. This principle becomes an important foundation in maintaining the stability and operational sustainability of cooperatives, especially in their function as financial intermediaries.

The legal framework governing the prudential principle in cooperative credit granting in Indonesia is primarily based on Law Number 25 of 1992 on Cooperatives, which is then reinforced by various derivative regulations and circulars from the Ministry of Cooperatives and SMEs. However, the effective implementation of this legal framework still faces various challenges, ranging from limited institutional capacity of cooperatives to weak supervisory systems.

Previous research has identified various factors contributing to violations of the prudential principle in cooperative credit granting. According to [Wijaya and Suasih \(2023\)](#), weak governance and potential conflicts of interest are the main factors driving imprudent credit decision-making. Meanwhile, [Firmansyah and Anto \(2021\)](#) emphasize the importance of a holistic approach to credit risk management, which considers not only financial aspects but also social and ethical aspects.

Furthermore, a study conducted by [Rizki \(2024\)](#) reveals that violations of the prudential

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principle in microfinance institutions, including cooperatives, are often rooted in weak internal control systems and a lack of in-depth understanding of credit risk. These findings highlight the urgency to improve capacity and competence of human resources in the cooperative sector, especially in aspects of risk management and credit analysis.

From a regulatory perspective, [Ismail et al. \(2022\)](#) show that although the legal framework for microfinance institutions in Indonesia has become increasingly comprehensive, there are still significant challenges in its implementation and enforcement at the practical level. This underscores the importance of not only having strong regulations but also effective supervisory and enforcement systems.

In the international context, experiences from various countries show that the application of the prudential principle in the microfinance sector, including cooperatives, requires an approach tailored to the unique characteristics of this sector. A comparative study conducted by [García-Pérez \(2020\)](#) in several developing countries reveals that the successful implementation of the prudential principle greatly depends on the suitability of regulations to local conditions, the capacity of supervisory institutions, and the level of financial literacy in the community.

One crucial issue in applying the prudential principle to cooperatives is the balance between the social function of cooperatives and the need to maintain financial health. [Ascarya and Yumanita \(2020\)](#) argue that the prudential principle in the context of cooperatives should not only cover financial aspects but must also consider the social mission of cooperatives in empowering members and communities. This view emphasizes the need for a more nuanced approach in formulating and applying the prudential principle in the cooperative sector.

Furthermore, the issue of governance becomes a key factor in ensuring the effective application of the prudential principle. [Sari and Lubis \(2022\)](#) identify that weak checks and balances mechanisms in the organizational structure of cooperatives often become the root of violations of the prudential principle. They recommend cooperative governance reform that includes strengthening the role of internal supervisors, increasing transparency, and implementing a more robust risk management system.

From a law enforcement perspective, [Rohaya et al. \(2020\)](#) reveal a gap between existing legal provisions and their enforcement in the field. They identify several factors contributing to weak law enforcement, including limited resources and competencies of supervisory institutions, lack of coordination among relevant agencies, and low legal awareness among cooperative actors.

In a broader context, violations of the prudential principle in cooperative credit granting not only impact the financial health of the cooperative itself but also potentially create a domino effect on the stability of the microfinance system as a whole. Therefore, addressing this issue requires a comprehensive approach involving various stakeholders, from regulators and cooperative practitioners to the wider community.

Based on the literature review above, this research aims to analyze in depth the legal aspects of violations of the prudential principle in cooperative credit granting, identify gaps in the existing regulatory framework, and formulate recommendations to strengthen the enforcement of this principle. Thus, this research is expected to make a significant contribution to efforts to improve governance and health in the cooperative sector in Indonesia.

RESEARCH METHOD

This research uses a normative juridical method with a statutory approach and a conceptual approach. The normative juridical method is chosen because this research focuses on analyzing legal norms related to the prudential principle in cooperative credit granting. The statutory approach is carried out by reviewing various relevant laws and regulations, including Law Number 25 of 1992 on Cooperatives, its derivative regulations, and other related regulations. Meanwhile,

the conceptual approach is used to analyze legal concepts related to the prudential principle, cooperative governance, and credit risk management. Data sources used in this research include:

1. Primary legal materials: laws and regulations, court decisions, and other official legal documents.
2. Secondary legal materials: legal textbooks, scientific journals, articles, and other legal literature.
3. Tertiary legal materials: legal dictionaries, encyclopedias, and other sources that provide additional explanations.

Data collection is carried out through library research and legal document searches. Data analysis is conducted qualitatively using the descriptive-analytical method. The analysis process includes the following stages:

1. Identification of relevant legal norms
2. Systematization of legal materials
3. Legal interpretation
4. Legal construction
5. Drawing conclusions and formulating recommendations

Through this method, the research aims to provide a comprehensive analysis of the legal aspects of violations of the prudential principle in cooperative credit granting, as well as formulate applicable legal solutions.

FINDINGS AND DISCUSSION

Legal Framework of the Prudential Principle in Cooperative Credit Granting

The prudential principle in cooperative credit granting in Indonesia is regulated in various legal instruments, with Law Number 25 of 1992 on Cooperatives as the main foundation. Article 41 paragraph (2) of the Law states that "Cooperative business activities are conducted based on cooperative principles efficiently and effectively." Although not explicitly mentioning the prudential principle, this provision can be interpreted as a mandate to run cooperative businesses, including credit granting, prudently.

Regulation of the Minister of Cooperatives and SMEs Number 15/Per/M.KUKM/IX/2015 on Savings and Loans Business by Cooperatives provides more detailed guidance on the prudential principle in credit granting. Article 19 paragraph (2) of this regulation requires cooperatives to apply the prudential principle in granting loans, which includes:

1. Assessment of the character, capacity, capital, collateral, and business prospects of potential borrowers.
2. Limitations on lending to members and prospective members.
3. Provision of reserve funds to cover the risk of possible bad loans.

Furthermore, Regulation of the Deputy for Supervision of the Ministry of Cooperatives and SMEs Number 06/Per/Dep.6/IV/2016 on Guidelines for Health Assessment of Savings and Loans Cooperatives and Savings and Loans Units of Cooperatives establishes criteria and indicators to assess the application of the prudential principle in the operations of savings and loans cooperatives. Analysis of this legal framework reveals several challenges:

First, although there are general provisions on the prudential principle, existing regulations tend to be less specific in explaining the mechanisms for implementation and enforcement. This opens room for diverse interpretations and potential violations.

Second, there is a regulatory gap between savings and loans cooperatives and other types of cooperatives that also conduct credit granting activities. Existing regulations tend to focus more on

savings and loans cooperatives, while other types of cooperatives such as multi-purpose cooperatives that also distribute credit receive less regulatory attention.

Third, the existing legal framework has not fully accommodated the modern complexity and dynamics in cooperative credit granting, such as the use of financial technology or other innovative financing schemes.

Forms of Violations of the Prudential Principle in Cooperative Credit Granting

Based on analysis of various cases and literature, several common forms of violations of the prudential principle in cooperative credit granting can be identified:

1. **Negligence in Credit Analysis:** Cases show that negligence often occurs in conducting in-depth analysis of the creditworthiness of potential borrowers. For example, the case of Bank Jatim Syariah granting credit to the UPN Veteran Primary Cooperative despite knowing of previous bad loans illustrates this form of violation. Failure to conduct adequate due diligence can result in imprudent credit decisions and increase the risk of bad loans.
2. **Weak Monitoring System:** Many cases of violations of the prudential principle occur due to weak post-disbursement monitoring systems. Cooperatives often fail to effectively monitor the use of credit funds and the financial performance of borrowers, thus being late in detecting and responding to early signs of payment difficulties.
3. **Conflict of Interest:** In some cases, conflicts of interest are found in the credit granting process. For example, cooperative officials grant credit to companies or individuals with whom they have personal relationships, without going through strict evaluation procedures.
4. **Violation of Maximum Credit Limits:** Some cooperatives are identified as violating provisions on maximum credit limits, both to individuals and certain groups. This can increase risk concentration and threaten the financial stability of the cooperative.
5. **Data and Document Manipulation:** There are cases where financial data or supporting documents are manipulated to facilitate credit granting that actually does not meet the requirements. This practice not only violates the prudential principle but also potentially violates criminal law.
6. **Negligence in Collateral Assessment:** Some cases show negligence in assessing the adequacy and quality of collateral provided by borrowers. Inaccurate or overvalued assessments can result in cooperatives not having adequate protection in case of default.
7. **Lack of Credit Portfolio Diversification:** Some cooperatives are identified as having high credit concentration in certain sectors or groups, which is contrary to the principle of risk diversification as part of prudence.

Case Study: UPN Veteran Primary Cooperative

The case involving the UPN Veteran Primary Cooperative and Bank Jatim Syariah Capem North Surabaya becomes a real example of violation of the prudential principle in cooperative credit granting. In 2024, a corruption trial revealed that Bank Jatim Syariah provided credit facilities to the UPN Veteran Primary Cooperative despite knowing of bad loans at five previous banks with a total reaching more than 8 billion rupiah.

Testimony from six witnesses, including analysts, supervisors, and branch leaders of Bank Jatim Syariah, indicated serious negligence in applying the prudential principle. The Panel of Judges in the trial questioned, "How could you give approval for credit facilities to the UPN Veteran Primary Cooperative, when you also knew that the UPN Veteran Primary Cooperative was still entangled in debt at 5 previous banks and the amount was also fantastic."

Furthermore, this case also revealed a weak post-disbursement monitoring system. The bank only took action when installment payments began to have problems. This fact shows a violation of the prudential principle in aspects of supervision and credit risk management.

This case also highlights the complexity of relationships between financial institutions, cooperatives, and their members. The executing system applied in credit granting, where responsibility is cut off only at the UPN Veteran Primary Cooperative level without directly involving its members, creates its own problems in terms of accountability and credit repayment.

The legal implications of this case are quite broad. The Indonesian Anti-Corruption Society (MAKI) East Java plans to report the management of the UPN Veteran Cooperative for the period 2000 to 2015 as well as credit customers who have not paid off their debts. As stated by Heru MAKI, "Bismillah, we will see and prove later how the construction of legal reporting will become a small Judgment Day for the UPN Veteran Campus institutionally." This statement indicates the potential for social and institutional turmoil that may arise as a result of this case.

Legal Implications of Violations of the Prudential Principle

Violations of the prudential principle in cooperative credit granting can result in various legal implications, including:

1. **Administrative Sanctions:** Based on the Regulation of the Minister of Cooperatives and SMEs, violations of the prudential principle can result in administrative sanctions ranging from written warnings to revocation of cooperative business licenses.
2. **Civil Liability:** Cooperative officials who are negligent in applying the prudential principle can be held civilly liable for losses incurred, both by cooperative members and injured third parties.
3. **Criminal Sanctions:** In certain cases, violations of the prudential principle involving elements of fraud or embezzlement can lead to criminal charges against the parties involved.
4. **Reputational Impact:** Although not a direct legal implication, violations of the prudential principle can seriously impact the reputation of cooperatives, which in turn can affect the trust of members and the community.

Challenges in Enforcing the Prudential Principle

Enforcement of the prudential principle in cooperative credit granting faces several significant challenges:

1. **Limited Supervisory Capacity:** Cooperative supervisory institutions, both at the central and regional levels, often face limitations in resources and competence to conduct effective supervision of all cooperatives under their jurisdiction.
2. **Operational Complexity:** The increasing complexity of cooperative operations, especially with the adoption of financial technology, creates new challenges in applying and supervising the prudential principle.
3. **Internal Resistance:** In some cases, there is internal resistance from cooperative officials or members against the application of strict prudential principles, especially if it is considered to hinder business growth.
4. **Regulatory Gaps:** The existence of gaps in regulations, especially for types of cooperatives outside savings and loans cooperatives, creates gray areas in the application and enforcement of the prudential principle.

Recommendations for Strengthening the Application of the Prudential Principle

Based on the above analysis, several recommendations can be proposed to strengthen the application of the prudential principle in cooperative credit granting:

1. **Regulatory Reform:** Revision and harmonization of regulations are needed to provide a more comprehensive and specific legal framework on the application of the prudential principle, including for types of cooperatives outside savings and loans cooperatives.
2. **Strengthening Supervisory Capacity:** Increasing the capacity and competence of cooperative supervisory institutions, including through training and development of technology-based supervisory systems.
3. **Procedure Standardization:** Development and application of stricter standard operating procedures for credit analysis, monitoring, and risk management processes in cooperatives.
4. **Education and Awareness Raising:** Continuous education programs for cooperative officials and members about the importance of the prudential principle and its legal implications.
5. **Strengthening Governance:** Reform of cooperative governance structures to ensure effective checks and balances, including strengthening the role of internal supervisors.
6. **Inter-Agency Cooperation:** Increasing coordination and cooperation between cooperative supervisory institutions and other financial authorities for information exchange and strengthening supervision.
7. **Stricter Sanctions:** Application of stricter and more consistent sanctions for violations of the prudential principle to provide a deterrent effect.

CONCLUSIONS

This research reveals that violations of the prudential principle in cooperative credit granting remain a significant issue that requires serious attention from various stakeholders. Although there is a legal framework governing the prudential principle, its implementation in the field still faces various challenges, ranging from regulatory gaps to limited supervisory capacity. The identified forms of violations, such as negligence in credit analysis, weak monitoring systems, and conflicts of interest, indicate systemic weaknesses in cooperative governance and risk management. The legal implications of these violations can be serious, ranging from administrative sanctions to criminal charges, which can threaten the operational continuity of cooperatives and public trust in the cooperative system as a whole.

Based on these findings, several legal suggestions can be proposed: (1) **Revision of the Cooperative Law:** A revision of Law No. 25 of 1992 on Cooperatives is needed to provide a stronger and more specific legal basis on the application of the prudential principle in cooperative credit granting. This revision must include more detailed provisions on risk management standards, reporting obligations, and supervisory mechanisms. (2) **Issuance of Comprehensive Implementing Regulations:** The Ministry of Cooperatives and SMEs needs to issue more comprehensive and up-to-date implementing regulations to regulate in detail the implementation of the prudential principle, including standard operating procedures for credit analysis and monitoring. (3) **Strengthening Law Enforcement Mechanisms:** Strengthening of law enforcement mechanisms is needed, including granting greater authority to cooperative supervisory institutions to conduct investigations and impose sanctions. Coordination with law enforcement agencies also needs to be improved to handle cases with potential criminal elements.

(4) **Establishment of a Cooperative Deposit Insurance Agency:** The establishment of a special deposit insurance agency for cooperatives, similar to the Deposit Insurance Corporation (LPS) for banking, needs to be considered to increase protection for cooperative members and encourage stricter application of the prudential principle. (5) **Supervisory System Reform:** Reform of the

cooperative supervisory system is needed, including increasing the independence and professionalism of supervisors, as well as developing a risk-based supervision system. (6) Strengthening Regulations on Cooperative Governance: Stricter regulations on cooperative governance need to be issued, including qualifications and certification of officials, checks and balances mechanisms, as well as provisions on transparency and accountability. (7) Development of a Cooperative Credit Information System: An integrated credit information system for the cooperative sector needs to be developed that can be accessed by all cooperatives and supervisory institutions to support more accurate credit analysis. (8) The implementation of these legal suggestions is expected to strengthen the legal framework and practice of applying the prudential principle in cooperative credit granting, thereby improving the health and sustainability of the cooperative sector in Indonesia. However, it needs to be emphasized that the effectiveness of these measures will greatly depend on the commitment and cooperation of all stakeholders, from regulators and supervisors to cooperative actors themselves.

REFERENCES

- Ascarya, & Yumanita, D. (2020). Prinsip kehati-hatian dalam perspektif perbankan syariah di Indonesia. *Jurnal Ekonomi dan Keuangan Islam*, 6(2), 155-170.
- Firmansyah, I., & Anto, M. B. H. (2021). Manajemen risiko kredit dalam perbankan syariah: Pendekatan holistik. *Jurnal Ilmiah Ekonomi Islam*, 7(1), 87-101.
- García-Pérez, I., Fernández-Izquierdo, M. Á., & Muñoz-Torres, M. J. (2020). Microfinance Institutions Fostering Sustainable Development by Region. *Sustainability*, 12(7), 2682.
- Ismail, A. G., Tohirin, A., & Ahmad, M. A. J. (2022). Regulasi perbankan syariah di Indonesia: Perkembangan dan tantangan implementasi. *Islamic Economic Studies*, 30(1), 1-22.
- Kementerian Koperasi dan UKM. (2015). Peraturan Menteri Koperasi dan UKM Nomor 15/Per/M.KUKM/IX/2015 tentang Usaha Simpan Pinjam oleh Koperasi.
- Kementerian Koperasi dan UKM. (2016). Peraturan Deputi Bidang Pengawasan Kementerian Koperasi dan UKM Nomor 06/Per/Dep.6/IV/2016 tentang Pedoman Penilaian Kesehatan Koperasi Simpan Pinjam dan Unit Simpan Pinjam Koperasi.
- MakiNews.com. (2024). Bank Jatim Syariah Capem Surabaya Utara diduga langgar prinsip kehati-hatian dalam kasus korupsi Primer Koperasi UPN Veteran. <https://makinews.com/2024/05/bank-jatim-syariah-capem-surabaya-utara-diduga-langgar-prinsip-kehati-hatian-dalam-kasus-korupsi-primer-koperasi-upn-veteran/>
- Rizki, I. K., Fatekhah, P. S., & Ali, M. M. (2024). Implementasi Prinsip Kehati-hatian dalam Penyaluran Pembiayaan di Bank Syariah. *Journal of Islamic Finance*, 3(1), 205-220.
- Rohaya, N., Noor, M. A. N. M., & Azli, R. M. (2020). Tantangan implementasi prinsip kehati-hatian dalam perbankan syariah di Indonesia. *Sharia Journal of Management*, 6(1), 45-62.
- Undang-Undang Republik Indonesia Nomor 25 Tahun 1992 tentang Perkoperasian.
- Wijaya, K., & Suasih, N. N. (2023). Tata kelola koperasi berafiliasi perguruan tinggi: Tantangan dan solusi. *Jurnal Manajemen dan Kewirausahaan*, 25(1), 51-65.