

Access Rights of the Electronic Fiduciary Registration System for Corporation in Indonesia

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ABSTRACT

In the modern era, legal services in Indonesia have to transform from conventional to electronic-based, including electronic fiduciary registration system. The electronic fiduciary registration system is a breakthrough in the field of legal services that aims to increase state revenue through non-tax state revenues and create legal services in the registration of fiduciary guarantees that are faster, easier, cheaper and more accurate. Statistically, the enactment of an electronic fiduciary registration system since 2013 has provided a positive trend that has prompted the government to continue to improve both facilities and infrastructure regarding the electronic fiduciary guarantee registration system. Its existence is currently regulated in the Regulation of the Minister of Law and Human Rights Number 25 of 2021 concerning Procedures for Registration, Amendment and Abolition of Fiduciary Guarantees. This regulation regulates new content that has not been regulated previously, such as access rights for electronic fiduciary registration for corporate as one of the applicants. The granting of access rights to corporate is inseparable from the use of fiduciary guarantees as one of the guarantees in the credit distribution process by corporate in the form of banking, non-banking, and other service industries.

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ABSTRAK

Di era modern, pelayanan hukum di Indonesia harus bertransformasi dari konvensional menjadi berbasis elektronik, termasuk sistem pendaftaran jaminan fidusia secara elektronik. Sistem pendaftaran jaminan fidusia secara elektronik merupakan terobosan di bidang pelayanan hukum yang bertujuan untuk meningkatkan pendapatan negara melalui penerimaan negara bukan pajak serta menciptakan pelayanan hukum dalam pendaftaran jaminan fidusia yang lebih cepat, mudah, murah dan akurat. Secara statistik, diberlakukannya sistem pendaftaran jaminan fidusia secara elektronik sejak 2013 telah memberikan trend yang positif sehingga membuat Pemerintah untuk terus melakukan penyempurnaan baik sarana dan prasarana hingga peraturan hukum tentang sistem pendaftaran jaminan fidusia secara elektronik. Eksistensinya saat ini diatur dalam Peraturan Menteri Hukum dan HAM Nomor 25 Tahun 2021 Tentang Tata Cara Pendaftaran, Perubahan dan Penghapusan Jaminan Fidusia. Peraturan ini mengatur materi baru yakni adanya pengaturan terkait hak akses pendaftaran jaminan fidusia secara elektronik bagi korporasi sebagai salah satu pemohon. Pemberian hak akses bagi korporasi tidak terlepas dari penggunaan jaminan fidusia sebagai salah satu jaminan dalam proses penyaluran kredit oleh korporasi baik di industri perbankan, keuangan non bank, atau jasa lainnya.

INTRODUCTION

Technology and information in the modern era have given rise to complex implications in various aspects, not least in the field of legal services. In addition to providing easy access to information,¹ Sophisticated technology and information also bring significant changes in the legal administration process. Currently, technology and information play a key role in providing modern legal services for the community.²

Satjipto Rahardjo believes that the law must continue to change and develop according to the times.³ Thus, legal services in the modern era must transform from conventional to electronic-based. Currently, almost all legal service sectors in Indonesia have transformed into an electronic system, one of which is the fiduciary guarantee registration system.

The electronic fiduciary guarantee registration system is one of the breakthroughs in the field of legal services. This breakthrough was motivated by several things. First, fiduciary guarantees as one of the guarantees that are often used in credit agreements in the banking sector, non-bank financial industry and other service industries⁴ must be registered.

This is the mandate of the provisions of Article 11 paragraphs 1 and 2 of Law of Republic Indonesia Number 42 of 1999 Concerning Fiduciary Guarantees, which read:

- (1) Objects that are burdened with fiduciary guarantees must be registered;
- (2) If the object encumbered with a fiduciary guarantee is located outside the Republic of Indonesia, the obligations referred to in paragraph (1) continue to apply.⁵

Second, the non-electronic fiduciary registration system in practice often creates problems. These problems, such as the registration process that is too long, the accumulation of applications, the risk of errors in document checking, the low level of accuracy of the examination, as well as the potential for corruption and collusion among notaries and employees of the fiduciary registration office, can cause great losses for the applicants. Based on the existing problems, there is a need for more effective and efficient legal services as well as providing more legal certainty.⁶

Third, the need to increase state revenue through non-tax state revenues. With the enactment of the electronic fiduciary registration system, it has had a positive impact on increasing state revenue for 6 years, from 2013 to 2019, reaching Rp. 4.939.330.175.000.⁷

¹ Juan Maulana Alfredo, 'Analisis Kasus Penyebaran Berita Bohong Terkait Covid-19 di Sumatera Selatan dalam Perspektif Hukum Pidana' (2020) 1 (4) *Jurnal Hukum Lex Generalis (JHLG)* 27.

² Esther Salmeron-Manzano, 'Legaltech and Lawtech: Global Perspectives, Challenges and Opportunities' (2021) 10 (2) *MDPI Journal Laws* 1.

³ Hansel Kalama Ng dan Hery Firmansyah, 'Urgensi Sistem Hukum Berbasis Legal Community Empowerment dalam Upaya Meminimalisasi Korban Perdagangan untuk Tujuan Seksual Terhadap Perempuan di Indonesia' (2017) 2 (2) *Jurnal Era Hukum* 235.

⁴ Priyanto Hadisaputro dan Ulya Yasmine Prisdani, "Negosiasi dan Mediasi Penagihan" (Jakarta Adhi Sarana Nusantara 2021) 90.

⁵ Article 11 Paragraphs 1 dan 2 Law of Republic Indonesia Number 42 of 1999 Concerning Fiduciary Guarantees.

⁶ Yudi Yuliadi and Budiono Widagdo, "Modul Best Practice Jaminan Fidusia Online dalam Memberikan Kepastian Layanan, Teknik Substantif Administrasi Hukum Bidang Pelayanan Jaminan Fidusia" (Jakarta Badan Pengembangan Sumber Daya Manusia Hukum dan Hak Asasi Manusia Kementerian Hukum dan Hak Asasi Manusia 2020) 40-41.

⁷ *Ibid* 45.

Based on the above background, the electronic fiduciary registration system is considered important because it is considered more beneficial than the non-electronic registration system. Historically, the electronic fiduciary registration system has been implemented by the Ministry of Law and Human Rights of the Republic of Indonesia since 2013. Statistically, after the implementation of the electronic fiduciary registration system, the number of registrations has increased very significantly. From 2013 to 2019, electronic registration of fiduciary guarantees reached 55,984,116 (fifty five million nine hundred forty eight thousand one hundred and sixteen) registrations.⁸

The positive trend of the electronic fiduciary registration system has made the government continue to make efforts to continuously improve its quality and quantity. Various efforts to improve the electronic fiduciary registration system continue to be carried out, starting from improving facilities and infrastructure to regulations that form the legal basis for implementation. The legal basis for the electronic fiduciary registration system is embodied in the regulation of the minister of law and human rights. The regulation of the minister of law and human rights regarding the electronic fiduciary registration system has been amended several times. Currently, the electronic fiduciary guarantee registration system is guided by Regulation of the Minister of Law and Human Rights Republic Indonesia Number 25 of 2021 concerning Procedures for Registration, Amendment and Abolition of Fiduciary Guarantees.

The regulation has new content that has not been regulated in the previous regulation, namely regarding the regulation of access rights for applicants such as corporations. Access rights have an important role for applicants to find out the status of objects that have been registered as objects of fiduciary security and to reduce illegal practices. This is because in practice, debtors often pawn goods that are the object of a fiduciary guarantee without written approval from the creditor.⁹

The existence of a corporation has been recognized as a legal subject who can take legal actions for the sake of its business continuity. So that the regulation provides legality for corporations to be able to act as one of the applicants for access rights to the electronic fiduciary registration system as long as various predetermined requirements are met.

In carrying out their business activities, corporations engaged in the banking industry, non-bank financial industry and other service industries cannot be released from fiduciary guarantees in providing credit. So that the granting of access rights to corporations as one of the applicants for registration of electronic fiduciary guarantees is deemed necessary to be granted like other applicants. Based on the description above, the formulation of the problems in this article are, (1) How is the electronic fiduciary registration system implemented? and (2) How is the implementation of access rights for the Electronic Fiduciary Registration System for corporation in Indonesia?

⁸ *Ibid* 45.

⁹ HAG, 'Inilah Lima Permasalahan Hukum dalam Penerapan Jaminan Fidusia', <<https://www.hukumonline.com/berita/baca/lt5729fa53ed660/ini-lima-permasalahan-hukum-dalam-penerapan-jaminan-fidusia/>>, accessed 20 October 2021.

METHODS

This article is a type of normative legal research or doctrinal legal research. It is called so because this research is aimed at the study of legislation. According to Johnny Ibrahim, normative legal research is not only sufficient to analyze various legal texts, but also involves the ability to scientifically analyze legal materials with the support of understanding legal principles and theories.¹⁰ This research focuses on regulating access rights in the electronic fiduciary registration system for corporations in Indonesia.

In finding answers to the formulation of the problem which is the core of the topic of the problem raised, the author uses the statute approach. What is meant by the statute approach, as one of the research approaches used by the author is to conduct a study of the relevant laws and regulations,¹¹ related to the legal issues that the author examines. The author uses this research approach because it can direct this normative research on various legal rules that can be a central part of the research. In this study, using legal materials consisting of legal materials (primary, secondary, and tertiary) which are defined as follows:

a. Primary Legal Materials

A primary legal material is a legal material that has a binding nature and is systematically and authoritatively adopted in the form of statutory regulations.¹² The following are the primary legal materials used which are sourced from statutory regulations including:

- 1) Law of Republic Indonesia Number 10 of 1998 concerning Banking;
- 2) Law of Republic Indonesia Number 42 of 1999 Concerning Fiduciary Guarantees;
- 3) Law of Republic Indonesia Number 25 of 2009 Concerning Public Services;
- 4) Law of Republic Indonesia Number 19 of 2016 on The Amendment to Law of Republic Indonesia Number 11 of 2008 Concerning Electronic Information and Transaction;
- 5) Regulation of the Minister of Law and Human Rights Republic Indonesia Number 10 of 2013 Concerning Procedures for Electronic Fiduciary Guarantee Registration;
- 6) Regulation of the Minister of Law and Human Rights Republic Indonesia Number 25 of 2021 concerning Procedures for Registration, Amendment and Abolition of Fiduciary Guarantees;
- 7) Regulation of Financial Services Authority Number 1/POJK.05/2015 concerning the Implementation of Risk Management for Non-Bank Financial Services Institutions.

b. Secondary Legal Materials

Secondary legal materials are legal materials that serve as support to help provide explanations and analyze primary legal materials, including books, literature, scientific journals, and so on, obtained conventionally (print media) and media electronic.

c. Tertiary Legal Materials

Tertiary legal materials are legal materials that function to provide additional knowledge and/or explanations of primary and secondary legal materials, which are useful for strengthening and completing legal data and arguments in this study, which include: Big Indonesian Language Dictionary (KBBI) to check each word is written correctly.

¹⁰ Johnny Ibrahim, "Teori dan Metodologi dan Penelitian Hukum Normatif" (Malang Bayumedia 2007) 282.

¹¹ *Ibid* 96.

¹² H. Ishaq, "Metode Penelitian Hukum dan Penulisan Skripsi, Tesis, serta Disertasi", (Bandung CV. Alfabeta 2017) 101.

The techniques of tracing legal materials used in this research are through internet study and literature study. Internet study refers to the technique of searching for legal materials by optimally utilizing legal materials obtained from the internet,¹³ and literature study refers to tracing legal materials by conducting a study of library materials related to research. Further, analysis of legal materials in this normative legal research is carried out by processing all legal materials that have been collected and then inventoried, classified, and analyzed with the aim of describing the legal issues raised. In analyzing legal materials, several interpretation methods are used, including grammatical interpretation, which is used in analyzing the meaning of words and terms contained in legal products¹⁴ and systematic interpretation, which is used to analyze a legal product by linking it with other legal products.¹⁵

RESULTS AND DISCUSSION

1. The Electronic Fiduciary Registration System

In simple terms, the electronic fiduciary registration system can be interpreted as a fiduciary guarantee registration system carried out by utilizing electronic devices. According to the Regulation of the Minister of Law and Human Rights Republic Indonesia Number 25 of 2021 concerning Procedures for Registration, Amendment and Abolition of Fiduciary Guarantees, registration of fiduciary guarantees is carried out by applicants by submitting an application to the Minister of Law and Human Rights through an electronic fiduciary guarantee registration system.

The application is done by filling out an online registration form. The forms contain the following items:

- a. Identity of the fiduciary giver and recipient;
- b. The date, number, and name and domicile of the Notary who made the Fiduciary Guarantee deed;
- c. Data from a fiduciary-guaranteed principal agreement;
- d. A description of the object covered by the Fiduciary Guarantee;
- e. Ensure worth; and the
- f. Value of the object that is the object of the Fiduciary Guarantee.

After filling out the registration application form, the applicant will then receive proof of registration. The proof of registration contains:

- a. Number of registration;
- b. Date of application submission;
- c. in the name of the applicant;
- d. The Fiduciary Registration Office's name;
- e. As well as any type of application; and
- f. Registration fees for Fiduciary Guarantees in accordance with the provisions of laws and regulations.

¹³ Johnny Ibrahim, *Op.Cit* 342.

¹⁴ Peter Mahmud Marzuki, "Penelitian Hukum" (Jakarta Kencana 2007) 111.

¹⁵ Moh Nazir, "Metode Penelitian" (Jakarta Ghalia Indonesia 2005) 35.

Furthermore, the applicant is required to pay the registration fee for the Fiduciary Guarantee in accordance with the provisions of the legislation in the field of non-tax state revenues applicable to the Ministry of Law and Human Rights based on the registration evidence. After making the payment, the applicant can print a Fiduciary Guarantee certificate that has been signed electronically by the authorized official.¹⁶

The electronic fiduciary registration system has a fundamental difference with the non-electronic fiduciary guarantee registration system. The electronic fiduciary registration system is more modern because it uses more sophisticated devices such as the internet. While the non-electronic fiduciary guarantee registration system is still conventional and manual. In terms of its objectives, the online fiduciary guarantee registration system is to create legal services for the realization of fiduciary guarantee registration with integrity, fast, accurate, cheap, convenient and able to encourage economic growth in Indonesia for the welfare of the community, especially through to increase state revenue through non-tax state revenues.¹⁷

From the statement above, it can be seen that in addition to increasing state revenue, the transformation of the electronic fiduciary registration system also aims to provide more optimal public services in the legal field. This is a form of fulfilling the state's obligations in this case through the Government towards the basic rights and needs of its citizens, especially in obtaining satisfactory public services in accordance with the mandate of the 1945 Constitution of the Republic of Indonesia.

In the perspective of public service, the electronic fiduciary system registration system is a form of application of principles in public services as regulated in Law of Republic Indonesia Number 25 of 2009 concerning Public Services. The principles are as follows:¹⁸

- a. The principle of openness means that every service recipient can easily access and obtain information about the desired service. This principle is implemented by granting access to applicants in the electronic fiduciary guarantee registration system.
- b. The principle of timeliness means that the adjustment of each type of service is carried out on time in accordance with service standards. This principle is certainly in line with the goal of reforming the electronic fiduciary registration system which focuses on the registration process in accordance with the specified time.
- c. The principle of speed, convenience, and affordability means that every type of service is carried out quickly, easily, and affordably. This principle is in line with the grand design of the electronic fiduciary registration system in creating a service system that is fast and not protracted and provides convenience for the public to register online at a low price.

2. Access Rights the Electronic Fiduciary Registration System for Corporate in Indonesia

Access rights consist of 2 words, namely "rights" and "access". Notonegoro defines rights as the power to receive or do something that should be accepted or done by certain

¹⁶ Article 10-11 Regulation of the Minister of Law and Human Rights Republic Indonesia Number 25 of 2021 concerning Procedures for Registration, Amendment and Abolition of Fiduciary Guarantees.

¹⁷ Yudi Yuliadi and Budiono Widagdo, *Op. Cit.*, hlm. vii.

¹⁸ Article 5 point h, k dan l Law of Republic Indonesia Number 25 of 2009 concerning Public Services.

parties.¹⁹ Meanwhile, access, according to Article 1 Number 15 of Law of Republic Indonesia Number 19 of 2016 on The Amendment to Law of Republic Indonesia Number 11 of 2008 Concerning Electronic Information and Transaction, is an activity of interacting with electronic systems that stand alone or in networks.²⁰ Juridically, the definition of access rights has been regulated in Article 1 point 3 of the Regulation of the Minister of Law and Human Rights Republic Indonesia Number 25 of 2021 concerning Procedures for Registration, Amendment and Abolition of Fiduciary Guarantees, which means the rights granted to the Applicant to access the Fiduciary Guarantee registration system in the form of an account. consisting of a username and password. According to this regulation, access rights need to be given to the entire community to be able to access the fiduciary guarantee registration system as a form of improving legal services and providing ease of doing business in obtaining loans, especially fiduciary guarantees.²¹

The granting of access rights is a form of application of the principle of publicity in fiduciary guarantees.²² So that according to the mandate of Article 18 of Law of Republic Indonesia Number 42 of 1999 concerning Fiduciary Guarantees that "All information regarding objects that are objects of fiduciary guarantees in the fiduciary registration office is open to the public."²³

Table 1. Comparison of Regulatory Content about Fiduciary Guarantee Registration

| Regulatory Content | MoLHR Regulation Number 10 of 2013 Concerning Procedures for Electronic Fiduciary Guarantee Registration. | MoLHR Regulation Number 25 of 2021 concerning Procedures for Registration, Amendment and Abolition of Fiduciary Guarantees |
|---------------------------------|--|---|
| Registration system | Electronic | Electronic |
| Access Rights | Unregulated | It is regulated in Article 1 paragraph 3, Article 3 until Article 9. |
| The applicants of Access Rights | Unregulated | Notary, Corporate or Individuals |

Source: Regulation of Ministrer of Law and Human Rights Republic Indonesia Concerning Electronic Fiduciary Guarantee Registration System

¹⁹ R. Juli Moertiono, 'Perjanjian Kerjasama dalam Bidang Pengkayaan dan Jasa Tenaga Kerja antara PT. Sinar Jaya Pura Abadi dan PT. Asianfast Marine Industries', (2019) 18 (3) Jurnal Hukum Kaidah Media Komunikasi dan Informasi Hukum dan Masyarakat, 132.

²⁰ Article 1 point 15 Law of Republic Indonesia Number 19 of 2016 on The Amendment to Law of Republic Indonesia Number 11 of 2008 Concerning Electronic Information and Transaction.

²¹ Regulation of the Minister of Law and Human Rights Republic Indonesia Number 25 of 2021 concerning Procedures for Registration, Amendment and Abolition of Fiduciary Guarantees.

²² Yudi Yuliadi dan Budiono Widagdo, *Op. Cit.*, hlm. 37.

²³ Article 18 Law of Republic Indonesia Number 42 of 1999 Concerning Fiduciary Guarantees.

Based on the table above, access rights are new content material in the Regulation of the Minister of Law and Human Rights Republic Indonesia Number 25 of 2021 concerning Procedures for Registration, Amendment and Abolition of Fiduciary Guarantees. In the previous regulation, namely the Regulation of the Minister of Law and Human Rights Number 10 of 2013 concerning Procedures for Electronic Fiduciary Guarantee Registration, it did not regulate the access rights to the fiduciary guarantee registration system for applicants. With the regulation of access rights to the fiduciary guarantee registration system, applicants are given the right to access the fiduciary guarantee registration system by fulfilling several predetermined requirements.

According to the Regulation of the Minister of Law and Human Rights Republic Indonesia Number 25 of 2021 concerning Procedures for Registration, Amendment and Abolition of Fiduciary Guarantees, to obtain the access right, the applicant is required to fill out an access right application form. The applicants who can be granted access rights come from notaries, corporations or individuals.²⁴ In this regulation, corporations as legal subjects are given the same rights as other legal subjects, namely notaries and individuals in order to obtain access rights to the fiduciary guarantee registration system. This is inseparable from the needs of corporations as one of the credit service providers who use fiduciary as one of the credit guarantees. In order for the fiduciary guarantee to have legal force, it must be registered."²⁵

This regulation does not provide a definition of a corporation as an applicant for access rights to the fiduciary registration system. This regulation only divides 3 forms of corporations that can be granted access rights in the fiduciary registration system, namely the banking industry, non-bank financial industry and corporate forms with other business fields.²⁶ However, when referring to the "Online Fiduciary Guarantee Best Practice Module in Providing Service Assurance, Legal Administration Substantive Techniques in the Field of Fiduciary Guarantee Services", the corporation in question is a corporation that has been registered with the Financial Services Authority or OJK and the Association of Indonesian Financing Companies or APPI and has registered the user online and obtained a User ID and Password from the Directorate General of General Legal Administration of the Ministry of Law and Human Rights of the Republic of Indonesia Corporations that have obtained a User ID and password can register their branch offices. Branch offices do not register their own corporations but registration is carried out by the head office. Central corporations only register once to get a User ID and password.²⁷

2.1. Access Rights for Corporate In the form of Banking Industry

The banking industry is one of the corporations that is granted access rights to the fiduciary guarantee registration system. The granting of access rights to the banking industry cannot be separated from the process of providing credit provided by the banking industry as a creditor which requires the existence of an object as collateral that must be fulfilled by the

²⁴ Article 3 Paragraphs (1) and (2) Regulation of the Minister of Law and Human Rights Republic Indonesia Number 25 of 2021 concerning Procedures for Registration, Amendment and Abolition of Fiduciary Guarantees.

²⁵ Sundari, 'Pelaksanaan Pendaftaran Jaminan Fidusia Secara Elektronik (*Online*)' (2018) 4(2) Jurnal Morality, 159.

²⁶ Article 3 paragraph (3) Regulation of the Minister of Law and Human Rights Republic Indonesia Number 25 of 2021 concerning Procedures for Registration, Amendment and Abolition of Fiduciary Guarantees.

²⁷ *Op. Cit*, Yudi Yuliadi and Budiono Widagdo 46.

debtor. One type of guarantee that is often given by debtors is a fiduciary guarantee. The fiduciary guarantee plays a role in providing certainty and security for the bank as a creditor if in the credit process the debtor defaults.²⁸

The existence of the banking industry in Indonesia is regulated in Law of Republic Indonesia Number 10 of 1998 concerning Banking. According to the law, banking is everything related to banks, including institutions, business activities as well as methods and processes in carrying out their business activities. While what is meant by a bank is a business entity that collects funds from the public in the form of savings and distributes them to the public in the form of credit and/or other forms in order to improve the standard of living of the people at large.²⁹

In Indonesia, there are two types of banks: commercial banks and rural banks. The two banks have fundamental differences, especially regarding the types of services provided to customers. A bank that conducts business conventionally and/or according to Sharia Principles, and which provides payment traffic services as part of its operations. While rural banks are banks that carry out business activities conventionally or based on Sharia principles, their activities do not provide services in payment traffic.³⁰

The Financial Services Authority of the Republic of Indonesia released data on banks registered as of July 2021 covering 4 Commercial Banks Ltd, 68 National Private Commercial Banks, 27 Regional Development Banks, 8 Bank branch offices domiciled abroad.³¹ Meanwhile, according to data from the Financial Services Authority per December 2020, there were 1506 Rural Banks registered.³² Only banks that are officially registered with the Financial Services Authority have the access rights the fiduciary guarantee registration system.

The banking industry as an applicant, if you wish to apply for access rights to the fiduciary security registration system, is required to fill out an access rights application form which at least contains:

- a. Applicant's identity;
- b. Applicant's Taxpayer Identification Number;
- c. Attempt the master number;
- d. Number and expiration date of a banking industry; and
- e. Applicant's e-mail address.³³

²⁸ Sriono, 'Tanggung Jawab Pemberi Fidusia Terhadap Benda Jaminan Fidusia dalam Perjanjian Kredit' (2019) 7(2) Jurnal Ilmiah Advokasi 149.

²⁹ Article 1 point 1 and 2 Law of Republic Indonesia Number 10 of 1998 concerning Banking

³⁰ Article 1 point 3 and 4 Law of Republic Indonesia Number 10 of 1998 concerning Banking.

³¹ Financial Services Authority, 'Daftar Alamat Kantor Pusat Bank Umum dan Syariah' <<https://www.ojk.go.id/id/kanal/perbankan/data-dan-statistik/Pages/Daftar-Alamat-Kantor-Pusat-Bank-Umum-Dan-Syariah.aspx>> accessed 27 August 2021.

³² Financial Services Authority, 'Daftar Alamat Kantor Pusat Bank Perkreditan Rakyat', <<https://www.ojk.go.id/id/kanal/perbankan/data-dan-statistik/Pages/Daftar-Alamat-Kantor-Pusat-BPR.aspx>> accessed 27 August 2021.

³³ Article 5 Regulation of the Minister of Law and Human Rights Republic Indonesia Number 25 of 2021 concerning Procedures for Registration, Amendment and Abolition of Fiduciary Guarantees.

2.2. Access Rights for Corporate in the Form of Non-Bank Financial Industry

In addition to the banking industry, corporations in the form of non-bank financial industries in the Regulation of the Minister of Law and Human Rights Republic Indonesia Number 25 of 2021 concerning Procedures for Registration, Amendment and Abolition of Fiduciary Guarantees are also granted access rights to the guarantee registration system. Fiduciary duty In carrying out their duties, the non-bank financial industry also often uses fiduciary guarantees as credit guarantees that must be provided by debtors to obtain certainty while minimizing the risk if the debtor defaults.

The non-bank financial industry is also often referred to as the Non-Bank Financial Services Institution. Juridically, the definition and types of non-bank financial institutions can be seen in the Regulation of Financial Services Authority Number 1/POJK.05/2015 concerning the Implementation of Risk Management for Non-Bank Financial Services Institutions. According to this regulation, Non-Bank Financial Services Institutions are institutions that carry out activities in the insurance sector, pension funds, and financing institutions, which include:³⁴

- a. Insurance companies, general insurance companies, life insurance companies, and reinsurance companies, including those that operate all or part of their business on sharia principles as referred to in the laws and regulations concerning insurance;
- b. Insurance brokerage firms, reinsurance brokerage firms, and insurance loss assessing firms, as defined by insurance laws and regulations;
- c. Retired funds, including those that conduct all or part of their operations in accordance with Sharia principles, as defined in retired fund laws and regulations;
- d. Finance companies, including those that operate all or part of their business based on sharia principles as referred to in the laws and regulations concerning financing institutions.

Table 2. Actors of Non-Bank Financial Industry

| Component | June 2021 | | Total |
|--|--------------|------------|--------------|
| | Conventional | Sharia | |
| Insurance | 136 | 13 | 149 |
| Financial Institutions | 221 | 9 | 230 |
| Retirement Funds | 213 | 4 | 217 |
| Special Financial Institutions | 126 | 4 | 130 |
| Supporting Services of Non-Bank Financial Industry | 223 | - | 223 |
| Micro Financial Institutions | 146 | 82 | 228 |
| Financial Technology | 115 | 9 | 124 |
| Totals | 1.180 | 121 | 1.301 |

Source: Financial Service Authority (2021)

³⁴ Article 1 point 1 Regulation of Financial Services Authority Number 1/POJK.05/2015 concerning the Implementation of Risk Management for Non-Bank Financial Services Institutions.

According to data from the Financial Services Authority, the number of non-bank financial industry players in Indonesia as of June 2021, amounted to 1,301 consisting of 1,180 conventional and 121 sharia. Among the types of non-bank financial industries, financial institutions have the largest number.³⁵

The non-bank financial industry as an applicant, if you wish to apply for the right of access to the fiduciary guarantee registration system, must fill out an application form for access rights which at least contains:

- a. Applicant's identity;
- b. Applicant's taxpayer identification number;
- c. Number and date of Non-Bank Financial Industry;
- d. Type of business in the Non-Bank Financial Industry; dan
- e. Applicant's e-mail address.³⁶

2.3. Access Rights for Corporate in Form of Other Business Fields

The third type of corporation granted access rights to the fiduciary registration system is corporations with other business fields. In the Regulation of the Minister of Law and Human Rights Republic Indonesia Number 25 of 2021 concerning Procedures for Registration, Amendment, and Abolition of Fiduciary Guarantees, it is not explained what kind of industry criteria are required to be considered a corporation with other business fields.

However, according to the author's view, corporations with other business fields are corporations outside the banking and non-bank financial industry that are officially registered with the Financial Services Authority and/or the Association of Indonesian Financing Companies.

In this regulation, it is explained that corporations with other business fields as applicants for other business fields if they wish to apply for access rights must fill out an access rights application form which at least contains:³⁷

- a. Type of business entity or legal entity;
- b. Applicant's identity;
- c. Applicant's taxpayer identification number;
- d. Number of the letter of establishment of a business entity or legal entity; dan
- e. Applicant's e-mail address.

³⁵ Financial Services Authority, 'Statistik IKNB Periode Juni 2021' <<https://www.ojk.go.id/id/kanal/iknb/data-dan-statistik/statistik-iknb/Pages/Statistik-IKNB-Periode-Juni-2021.aspx>> accessed 27 August 2021.

³⁶ Article 6 Regulation of the Minister of Law and Human Rights Republic Indonesia Number 25 of 2021 concerning Procedures for Registration, Amendment and Abolition of Fiduciary Guarantees.

³⁷ Article 7 Regulation of the Minister of Law and Human Rights Republic Indonesia Number 25 of 2021 concerning Procedures for Registration, Amendment and Abolition of Fiduciary Guarantees.

CONCLUSION

Based on the explanation above, several conclusions can be drawn. First, the electronic fiduciary registration system is a form of government attention in providing legal services in the registration of fiduciary guarantees that are faster, easier, cheaper and more accurate to the public in accordance with the mandate of the 1945 Constitution of the Republic of Indonesia and Law of Republic Indonesia Number 25 of 2009 Concerning Public Services. The electronic fiduciary registration system is also a form of legal adaptation in the modern era and to increase state revenue through non-tax state revenues.

Second, The granting of access rights to corporates in the form of banking industry, non-bank financial industry, and other financial industries is a new content material in Regulation of the Minister of Law and Human Rights Republic Indonesia Number 25 of 2021 concerning Procedures for Registration, Amendment and Abolition of Fiduciary Guarantees. Granting access rights to corporates is the right step considering that fiduciary guarantees cannot be separated from corporate business activities in the credit distribution process as security guarantees if the debtor defaults. However, this regulation is not explained what kind of industry criteria are required to be considered a corporation with other business fields as one of access rights applicant.

The regulation should explain the criteria for corporations with other business fields in order to provide more certainty and not cause multiple interpretations in their implementation. Because access rights is a new element in this regulation, it must be evaluated and improved on a regular basis in order to meet the community's needs for fair legal services in accordance with the development in modern era.

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