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Legal Analysis of the Authority of Notaries to Issue Covernotes to Banks

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Abstract. *A covernote is a certificate issued by a notary in banking practice as a statement that the deed creation and credit guarantee binding process is ongoing. Although commonly used by banks as a basis for credit disbursement, the notary's authority to issue a covernote is not explicitly regulated in the Notary Law. This condition raises legal issues related to the notary's position, binding power, and liability in the event of default or loss to the bank. This study aims to analyze the notary's authority to issue a covernote and its legal implications in banking practice. The research method used is normative juridical with a statutory and conceptual approach. The results of the study indicate that a covernote is not an authentic deed and does not have perfect evidentiary power, so the notary does not have attributive authority to issue it. However, a covernote still creates legal liability for the notary based on the principles of prudence and professionalism.*

Keywords: *Authority; Bank; Covernote; Legal; Notary.*

1. Introduction

The development of banking credit activities demands legal certainty and speed in the collateral binding process. In practice, banks often disburse loans before all administrative processes and deed preparation are complete. To address this need, notaries are required to issue covernotes as a certificate confirming that the deed preparation and collateral binding process are underway.

Problems arise when a cover note is used as the basis for a bank's trust, even though there are no explicit regulations regarding the notary's authority to issue it. This raises questions about the legal basis for a cover note, its place in the legal system, and the notary's responsibility if the cover note's contents are not met.

The development of the banking sector, as a key pillar of the national economy, demands legal certainty, speedy service, and legal protection for all parties involved in credit relations. In lending practices, banks are often faced with the need to quickly disburse funds to debtors, while the legal administration process, particularly the preparation of deeds and the binding of collateral by a notary, is not yet fully completed. This situation has given rise to the practice of using covernotes as a means of fostering trust between banks and notaries.[1]

A covernote is essentially a certificate issued by a notary stating that the deed preparation, certificate processing, or loan collateral binding process is in progress. In banking practice, covernotes are often used by banks to disburse loans to debtors before all legal requirements have been fully met. However, the use of covernotes raises quite complex legal issues, given that their existence is not explicitly regulated by law, particularly the Notary Law.

As a public official, a notary public has limited authority expressly regulated by law. This authority is principally related to the creation of authentic deeds and other powers expressly granted by statutory regulations. However, in notarial practice, notaries are often requested by banks to issue covernotes as a form of moral and professional assurance that ongoing legal proceedings will be resolved in accordance with applicable regulations. This raises fundamental questions about whether issuing covernotes is part of a notary's authority or simply a customary practice that has developed outside the normative framework of positive law.

The lack of clear regulations regarding covernotes has the potential to create legal uncertainty, both for notaries and banks. In some cases, covernotes issued by notaries cannot be realized as stated, resulting in losses for banks. This situation then has implications for the emergence of legal liability claims against notaries, both civil and administrative, and regarding professional ethics. Therefore, it is important to examine in depth the legal status of covernotes and the limits of notaries' authority to issue them.

On the other hand, from a banking perspective, covernotes are often viewed as part of the application of the prudential principle in lending. Banks place significant trust in notaries as public officials perceived to possess integrity, professionalism, and legal responsibility. However, excessive reliance on covernotes without a strong legal basis has the potential to undermine the principle of legal certainty and open up the possibility of future disputes.

Based on the above description, it can be understood that covernotes are in a dilemma: on the one hand, they are essential in banking practices to support the smooth running of credit activities, but on the other hand, they lack a clear legal basis within the notarial legal system. Therefore, this research is important to provide a comprehensive legal analysis of the Notary's authority to issue covernotes, the legal standing of covernotes within the Indonesian legal system,

[1]Law Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 concerning Banking, especially Article 8.

and the implications of the Notary's legal liability for the issuance of covernotes for banks.

This research is expected to provide a clearer understanding of the limitations of a notary's authority, ensuring that the issuance of covernotes does not exceed the authority granted by law. Furthermore, the results of this study are expected to contribute to the development of more stringent regulations or guidelines regarding the use of covernotes, ensuring legal certainty, legal protection, and fairness for all parties involved in banking credit practices.

From the things that the author has described above, the author is interested in studying further, discussing and raising research entitled:

"LEGIDAL ANALYSIS OF THE AUTHORITY OF A NOTARY IN ISSUING A COVERNOTE TO A BANK"

2. Research Methods

This study uses a normative juridical research method, namely research that focuses on the study of applicable legal norms related to the authority of Notaries in issuing covernotes to banks. The approach used includes a statutory approach by examining the provisions in the Notary Law and related laws and regulations, as well as a conceptual approach to analyze the concept of the authority of public officials and the legal status of covernotes in the Indonesian legal system. The legal materials used consist of primary legal materials, namely relevant laws and court decisions; secondary legal materials, in the form of legal textbooks, scientific journals, and opinions of notary experts, as well as tertiary legal materials that serve as supporting materials. The legal material collection technique is carried out through literature studies, while the legal material analysis is carried out qualitatively using descriptive-analytical methods, namely by describing, interpreting, and drawing conclusions regarding the problems studied.

3. Results and Discussion

3.1. The Authority of Notaries to Issue Covernotes as a Condition for Approval of Credit Applications at Banks

A notary is a public official authorized by the state to make authentic deeds and other authorities as stipulated in laws and regulations. This position is affirmed in Article 1 number 1 of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary (hereinafter referred to as UUJN), which states that a notary is a public official authorized to make authentic deeds and other authorities as referred to in the law.[2]

[2]Article 1 number 1 of Law Number 2 of 2014 concerning the Position of Notary.

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As a public official, a notary public is responsible for providing legal certainty, order, and legal protection for all parties involved in legal actions. In banking practice, the role of a notary public is highly strategic, particularly in the granting of loans secured by land rights.[3]

A covernote is a written statement prepared and issued by a notary public stating that a specific legal process, such as deed preparation, mortgage registration, or certificate transfer, is in progress. Normatively, covernotes are not explicitly regulated in the UUJN or its implementing regulations. However, covernotes emerged and developed as a customary practice (usage) in the legal relationship between notaries and banks, particularly to expedite credit disbursement.[4]

Covernote has the following characteristics:

1) Administrative and informative in nature;

2) Excluding authentic deeds;

3) Does not have perfect evidentiary power;

4) Contains only information or promises regarding completion of legal work.

Although it is not expressly regulated in the UUJN, the authority of a Notary to issue a covernote can be traced from several provisions, including Article 15 paragraph (1) of the UUJN, which gives the Notary the authority to make authentic deeds regarding all legal acts, Article 15 paragraph (2) letter e of the UUJN, which gives other authority to the Notary as long as it does not conflict with statutory regulations, the principle of freedom of contract as regulated in Article 1338 of the Civil Code, Banking practices and needs in the financing system.[5] [6]

Thus, a covernote can be understood as an additional, functional authority, not the primary authority of a Notary, such as the preparation of an authentic deed. In banking practice, a covernote is used as: A temporary basis for banks to disburse credit, a moral guarantee that the collateral binding process is ongoing, and an administrative instrument to expedite credit services. Banks generally require a covernote if collateral documents, such as land title certificates or mortgage registration, are not yet fully completed. This shows that a covernote is

[3]Habib Adjie, Indonesian Notary Law, Refika Aditama, Bandung, 2015, p. 23.
[4]Sjaifurrachman and Habib Adjie, Aspects of Notary Accountability, Mandar Maju, Bandung, 2011, p. 145.
[5]Habib Adjie, Cancellation and Revocation of Notarial Deeds, Refika Aditama, Bandung, 2018, p. 112.
[6]Journal of the Faculty of Law, Sebelas Maret University, "Legal Analysis of Covernotes Issued by Notaries in Bank Credit Agreements", available at: https://jurnal.uns.ac.id/repertorium/article/view/covernote-notaris (accessed January 13, 2026).

not an absolute legal requirement, but rather an internal banking administrative requirement.

A notary does not have the authority to guarantee the outcome of a legal process. Therefore, when creating a covernote, a notary must adhere to limitations such as: not promising results beyond their authority, not providing information inconsistent with the actual situation, and not exceeding the administrative function of the covernote. Violating these limitations can potentially result in legal liability for the notary, whether civil, administrative, or ethical.

In state administrative law, authority is understood as legal power (rechtsmacht) granted by statutory regulations to public officials to carry out certain legal actions. According to the theory of authority, authority can be obtained through attribution, delegation, and mandate.[7]

The attributive authority of a notary derives from the UUJN. However, the authority to issue covernotes is not attributive authority, as it is not explicitly stated in the UUJN. Therefore, the notary's authority to issue covernotes is more accurately classified as an implicit power arising from the needs of legal practice and cooperative relationships with banks.[8]

This confirms that the covernote is not a pure product of public authority, but rather an administrative-professional product that falls in a gray area between public law and civil law. Article 1868 of the Civil Code states that an authentic deed is a deed made by or before an authorized public official in a form determined by law. Based on this provision, the covernote does not fulfill the elements of an authentic deed, because it is not made in the form of a deed, is not signed by the parties, and does not have the formal structure of a notarial deed.[9]

Thus, a covernote does not have the full evidentiary power of an authentic deed, but rather only the evidentiary power of an ordinary document as stipulated in Article 1875 of the Civil Code. Consequently, banks cannot rely solely on the covernote for legal certainty of credit, but are still required to ensure that the legal aspects of the credit guarantee are met.[10]

The issuance of a cover note is essentially born from a legal relationship between a notary and a bank that is contractual in nature. This relationship is usually expressed in the form of cooperation or the appointment of a notary as a bank

[7]Ridwan HR, State Administrative Law, RajaGrafindo Persada, Jakarta, 2018, p. 99.
[8]Philipus M. Hadjon, Introduction to Indonesian Administrative Law, Gadjah Mada University Press, Yogyakarta, 2014, p. 130.
[9]R. Subekti, Law of Evidence, Pradnya Paramita, Jakarta, 2015, p. 27
[10]Habib Adjie, Indonesian Notary Law, Refika Aditama, Bandung, 2015, p. 141.

partner. In this context, the principle of freedom of contract as stipulated in Article 1338 of the Civil Code applies. However, this freedom of contract must not exceed the authority of the notary's office. This means that even if the bank requests a cover note as a condition for credit disbursement, the notary remains bound by the principles of prudence and independence of office. The notary may not issue a cover note that contains a promise of certainty of results, states something that is not legally certain, or contradicts known legal facts.[11]

As a public official, a Notary is required to apply the prudential principle in all his/her official actions, including in issuing covernotes. This principle aims to prevent losses for the parties and protect the Notary from future legal risks. The application of the prudential principle can be done by: Conducting a thorough initial examination of the document, Limiting the contents of the covernote to only verified facts, Including a clause confirming that the covernote is not a legal guarantee. Thus, the covernote functions as process information, not as a guarantee of legal certainty.

In the banking legal system, credit granting must, in principle, be based on an analysis of creditworthiness and the certainty of collateral, as stipulated in Law Number 10 of 1998 concerning Banking. The use of a cover note as the basis for credit disbursement is essentially an internal bank policy, not a legal obligation. Therefore, if credit risk arises due to incomplete collateral binding, the bank cannot fully place the responsibility on the notary. This indicates an imbalance in legal understanding between banks and notaries regarding the function and status of the cover note.[12]

A notary's responsibility for a covernote is limited to the formal accuracy of the information provided. As long as the notary acts procedurally, honestly, and based on the available data, the notary cannot be held responsible for legal process failures beyond their control.

However, if the Notary provides incorrect information, knows that there is a legal defect but still issues a covernote, acts negligently or unprofessionally, the Notary can be held responsible in Civil Law (default or unlawful act), Administrative Law (sanctions from the Notary Supervisory Board), Ethical Law (violation of the Notary Code of Ethics).[13]

Based on evolving practice, the existence of covernotes has become a real necessity in the banking world. However, the lack of clear regulations creates legal uncertainty, both for notaries and banks. Based on evolving practice, the existence of covernotes has become a real necessity in the banking world. However, the lack of clear regulations creates legal uncertainty, both for notaries

[11]Munir Fuady, Contract Law, Citra Aditya Bakti, Bandung, 2017, p. 18.
[12]Article 8 of Law Number 10 of 1998 concerning Banking.
[13]Code of Ethics of the Indonesian Notaries Association (INI), 2018

and banks. This regulation is important to avoid multiple interpretations and protect notaries from excessive legal risk.

3.2. Notary Obstacles in Issuing Covernotes to Banks

The main obstacle faced by Notaries in issuing covernotes is the lack of explicit provisions in legislation. Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary (UUJN) does not explicitly regulate the authority of Notaries to issue covernotes.[14]

This situation places notaries in a vulnerable position, as every notary's official action must, in principle, have a clear legal basis. When a cover note is issued without a normative basis, the notary could potentially be deemed to have acted beyond his or her official authority (ultra vires) if a dispute or loss arises for the bank later.

In banking practice, a covernote is often considered an absolute administrative requirement for loan disbursement. Banks, in pursuit of loan disbursement targets, often pressure notaries to issue covernotes immediately, even though the legal process is not yet fully legally secure. In banking practice, a covernote is often considered an absolute administrative requirement for loan disbursement. Banks, in pursuit of loan disbursement targets, often pressure notaries to issue covernotes immediately, even though the legal process is not yet fully legally secure.[15]

Another obstacle is incomplete documents submitted by debtors through banks. Land documents, such as land title certificates, are often still being processed, encumbered by other encumbrances, or even contain administrative defects.

Even if the notary only states that the process is ongoing, if legal issues with the collateral are later discovered, the issued cover note could potentially be used as the basis for a lawsuit against the notary. This creates legal risks disproportionate to the notary's authority.

Another crucial obstacle is the differing perceptions between notaries and banks regarding the legal status of covernotes. Banks often interpret covernotes as a form of legal guarantee for the completion of a collateral agreement, while notaries view them merely as a document confirming an administrative process.[16]

This misunderstanding often leads to covernotes being misused as a basis for high-risk credit decisions. When a credit problem arises, the notary is often

[14]Habib Adjie, Indonesian Notary Law, Refika Aditama, Bandung, 2015, p. 137.
[15]Adrian Sutedi, Legal Aspects of Banking, Sinar Grafika, Jakarta, 2019, p. 182.
[16]Sjaifurrachman and Habib Adjie, Aspects of Notary Accountability, Mandar Maju, Bandung, 2011, p. 148.

blamed, even though legally, a covernote is not as binding as an authentic deed.

Issuing a covernote carries a significant risk of legal liability for a notary. If the contents of the covernote are not fulfilled, the notary could potentially be sued for breach of contract or unlawful acts as stipulated in Article 1365 of the Civil Code. Furthermore, the notary could also be subject to administrative sanctions from the Notary Supervisory Board and ethical sanctions from the Indonesian Notaries Association (INI). These multidimensional risks pose a psychological and professional obstacle for notaries in issuing covernotes, particularly when the requested substance exceeds reasonable limits.[17]

To date, there are no standard formats for the format, wording, or substance of covernotes. Each notary prepares a covernote based on their own customs or the bank's request. To date, there are no standard formats for the format, wording, or substance of covernotes. Each notary prepares a covernote based on their own customs or the bank's request.[18]

As public officials, notaries are required to maintain the principle of independence and must not be under the influence of any party. However, in practice, long-term cooperative relationships with banks often give rise to conflicts of interest. Notaries are faced with a difficult choice between maintaining their professional independence and meeting the bank's expectations as a working partner. This conflict creates a structural obstacle that affects the notary's objectivity in issuing covernotes.

Another obstacle is the limited legal protection for notaries in cases where covernotes are used as the basis for lawsuits by banks or third parties. To date, there are no regulations explicitly limiting notaries' liability for covernotes. As a result, notaries are often on the defensive in legal disputes, even though covernotes are not legally binding documents and do not possess complete evidentiary force.[19]

Based on the above description, it can be concluded that the obstacles faced by notaries in issuing covernotes are normative, structural, and practical. The high legal risk, not matched by clear authority, creates legal uncertainty for notaries. This situation emphasizes the need to reorient the practice of issuing covernotes, positioning them as informative administrative tools, rather than as instruments guaranteeing legal certainty for credit.

To address these various obstacles, policy reformulation involving lawmakers,

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[17]Article 1365 of the Civil Code.
[18]Herlien Budiono, Notaries and the Code of Professional Ethics, Citra Aditya Bakti, Bandung, 2018, p. 94.
[19]Habib Adjie, Civil and Administrative Sanctions against Notaries, Refika Aditama, Bandung, 2017, p. 73.

professional organizations, and banking authorities is necessary. This reformulation must emphasize the limits of notaries' authority to issue covernotes, the limitations of notaries' legal liability, and the obligation of banks not to use covernotes as legal collateral. This way, the practice of issuing covernotes can balance banking interests and the protection of the notary profession.[20] [21]

4. Conclusion

The notary's authority to issue a covernote as a condition for approving a credit application can be seen in an analysis of the authority according to the concept and the authority according to the law. Conceptually, this is justified because it can be an alternative to streamline the credit application system in banks, which is often hampered by lengthy processing times. Legally, the law does not regulate the notary's authority to issue a covernote, relying solely on the general phrase "authority to issue deeds" in the UUJN. The obstacles faced by notaries in issuing covernotes as a condition for approving bank credit applications are due to several factors, including: First, low adherence to the code of ethics, with some notaries actually collaborating in criminal acts. Second, the lack of a legal basis for covernotes makes notaries vulnerable to criminalization. Third, weak oversight of notaries, despite the existence of supervisory bodies at all levels, from regional to national. 1. Firmer and more comprehensive regulations are needed regarding the status and limitations of covernote issuance by notaries, either through revision or affirmation in the Notary Law or through official guidelines from the Indonesian Notaries Association that are aligned with the policies of the Financial Services Authority. These regulations must emphasize that covernotes are not authentic deeds and do not guarantee legal certainty for the credit object, but rather merely administrative information regarding the ongoing process. With this regulatory certainty, it is hoped that balanced legal protection will be created for notaries and banks. 2.In practice, notaries and banks must consistently apply the principle of prudence. Notaries should limit the contents of covernotes to factual, verifiable information and avoid statements containing promises of certainty. Meanwhile, banks should not use covernotes as the sole basis for credit disbursement; instead, conducting risk analysis and verifying banking law is key to preventing disputes and maintaining the integrity of the legal and banking systems.

[20]Journal of Notary Law, “Covernotes in Banking Practice and Their Legal Implications”, Vol. 5 No. 2, 2020, p. 210.

[21]Journal of Law & Development, University of Indonesia, “Professional Responsibilities of Notaries in Banking Practices”, https://jhp.ui.ac.id

5. References

Journals:

Jurnal Hukum & Pembangunan Universitas Indonesia, "Tanggung Jawab Profesional Notaris dalam Praktik Perbankan", https://jhp.ui.ac.id

Jurnal Hukum Kenotariatan, "Covernote dalam Praktik Perbankan dan Implikasi Hukumnya", Vol. 5 No. 2, 2020. 210.

Jurnal Repertorium FH Universitas Sebelas Maret, "Analisis Yuridis Covernote yang Dikeluarkan oleh Notaris dalam Perjanjian Kredit Bank", Acessed on: https://jurnal.uns.ac.id/repertorium/article/view/covernote-notaris (13 January 2026).

Books:

Adrian Sutedi. (2019). *Aspek Hukum Perbankan,* Jakarta: Sinar Grafika.

Habib Adjie. (2015). *Hukum Notaris Indonesia,* Bandung: Refika Aditama.

Habib Adjie. (2015). *Hukum Notaris Indonesia,* Bandung: Refika Aditama.

Habib Adjie. (2015). *Hukum Notaris Indonesia,* Bandung: Refika Aditama.

Habib Adjie. (2017). *Sanksi Perdata dan Administratif terhadap Notaris*, Bandung: Refika Aditama.

Habib Adjie. (2018). *Kebatalan dan Pembatalan Akta Notaris, Bandung: Refika Aditama.*

Herlien Budiono. (2018). *Notaris dan Kode Etik Profesi,* Bandung: Citra Aditya Bakti.

Kode Etik Ikatan Notaris Indonesia (INI), 2018.

Munir Fuady. (2017). *Hukum Kontrak,* Bandung: Citra Aditya Bakti.

Philipus M. Hadjon. (2014). *Pengantar Hukum Administrasi Indonesia,* Yogyakarta: Gadjah Mada University Press.

R. Subekti. (2015). *Hukum Pembuktian,* Jakarta: Pradnya Paramita.

Ridwan HR. (2018). *Hukum Administrasi Negara,* Jakarta: RajaGrafindo Persada.

Sjaifurrachman & Habib Adjie. (2011). *Aspek Pertanggungjawaban Notaris,* Bandung: Mandar Maju.

Sjaifurrachman & Habib Adjie. (2011). *Aspek Pertanggungjawaban Notaris,* Bandung: Mandar Maju.

Regulation:

Article 1 number 1 of Law Number 2 of 2014 concerning the Position of Notary.

Article 1365 of the Civil Code.

Article 8 of Law Number 10 of 1998 concerning Banking.

Law Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 concerning Banking, especially Article 8.