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HARMONISATION OF REGULATIONS ON CROSS-BORDER RECEIVABLES IN INDONESIA IN AN EFFORT TO ACHIEVE LEGAL CERTAINTY AND PROTECTION FOR BUSINESS ACTORS

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ABSTRACT

This research examines the urgency of harmonizing cross-border factoring regulations in Indonesia in response to the dynamics of economic globalization and the need for legal certainty for business actors. Factoring has emerged as a strategic financing instrument, playing a significant role in maintaining cash flow stability, fostering MSME growth, and providing alternative funding sources, including through cross-border schemes. However, Indonesia has yet to establish a comprehensive legal framework governing such practices, resulting in legal uncertainty and potential disputes. Employing a normative juridical method with a statutory and comparative law approach, this research contrasts domestic regulations with legal practices in Singapore, Malaysia, and the Philippines. These countries have adopted adaptive legal models, including the implementation of the UNIDROIT Model Law on Factoring. In Indonesia, factoring practices are still based on the principle of freedom of contract under Article 1338 of the Civil Code, which, while offering flexibility, fails to provide standardized legal norms, thereby contributing to uncertainty and weakening competitiveness. The absence of specific regulations places Indonesia at a disadvantage in creating a conducive legal climate for international business actors. This study recommends the formulation of national regulations aligned with international legal principles to promote an inclusive, transparent, and globally competitive financing system. Harmonizing regulations is expected to enhance investor confidence and provide legal protection for all parties involved in cross-border factoring transactions.
Keywords: *Factoring, Regulatory Harmonization, Legal Certainty, UNIDROIT, International Financing.*

Introduction

In this era of globalisation and global economic and digital development, the need for financial flexibility and ease of cross-border transactions is becoming increasingly urgent. One financial instrument that plays an important role in meeting these needs is factoring, known in Indonesian positive law as anjak piutang, which is a financing mechanism whereby business receivables are transferred from the creditor to a third party (factor) in order to obtain cash quickly. Factoring, hereinafter referred to as 'anjak piutang,' not only provides liquidity solutions for businesses, but also reduces the complexity of the process when businesses apply for credit as an alternative means of obtaining funds to finance their businesses and support business continuity, especially for micro, small, and medium enterprises (MSMEs) that often face limited access to financing (Goode, Roy, 2004).

In the early days, the business financing system in Indonesia was heavily centred on the banking sector. This can be seen in Law No. 10 of 1998 *jo* Law No. 7 of 1992 on Banking, which sets out various strict requirements for businesses wishing to borrow capital from banks. At that time, the banking system was not flexible in providing funding to SMEs and small and medium-sized enterprises (SMEs) due to strict loan requirements and high collateral requirements. Only large companies were able to meet these criteria, making funding for the informal sector or micro-enterprises difficult to access.

The laws that formed the initial basis for business financing in Indonesia focused more on regulating traditional banking and capital markets, such as Law No. 10 of 1998 *jo* Law No. 7 of 1992 on Banking, which in Article 6 stipulates that banks are the only institutions that can provide fixed-interest loans.

Only large banks have sufficient capital and networks to provide this service, while MSMEs more often face challenges in gaining access to funding sources. Changes in the direction of regulations related to corporate financing began to show a significant pattern since the beginning of the 21st century. This was marked by the enactment of a number of laws aimed at expanding access to financing for business actors.

One of these is Law No. 8 of 1995 on Capital Markets, which plays an important role in opening up funding opportunities through market mechanisms, such as the issuance of shares and bonds. At around the same time, Law No. 1 of 1995 on Limited Liability Companies began to form a more modern legal framework related to corporate institutions and capital management. These regulations were later refined and replaced by Law No. 40 of 2007 on Limited Liability Companies (Rachmadi Usman, 2013), which not only improved corporate structure and governance but also provided flexibility in share ownership, including the regulation of shares with different voting rights and the simplification of the process of establishing a limited liability company. The combination of these regulations has contributed to the development of non-bank financing instruments, which are increasingly relevant for small and medium-sized enterprises (Munir Fuadi, 2011). Among these instruments, factoring and securitisation of receivables have begun to gain ground, although they still face limitations in terms of legal regulations in Indonesia.

In the era of digitalisation and globalisation, technological developments have significantly influenced the business financing system in Indonesia. The development of information technology has also driven the transformation of the payment system, which was originally manual, to banking with transfer systems, credit card payments and ATMs. In a financing system where all loans are secured by collateral, there are security rights, which were originally mortgages, then fiduciary rights, stock sales on the exchange, and now one of the modern financing methods is through information technology-based money lending services, known as *fintech lending*. To regulate these activities, the Financial Services Authority (hereinafter referred to as '**OJK**') issued OJK Regulation No. 40 of 2024 *jo* OJK Regulation No. 10/POJK.05/2022 of 2022 *jo* OJK Regulation No. 77/POJK.01/2016 concerning Information Technology-Based Money Lending Services (hereinafter referred to as '**POJK 40/2024**'). This regulation governs institutional aspects, licensing, system security, consumer protection, and restrictions on activities to maintain industry stability and legal protection for all parties. POJK 40/2024 allows peer-to-peer lending (P2P) platforms to operate in Indonesia, connecting borrowers with lenders online without going through a bank. These platforms offer various forms of financing, including unsecured loans that were previously only available through traditional financial institutions.

In the context of the Indonesian economy, MSMEs play a strategic role as the backbone of the national economy. Based on data from the Coordinating Ministry for Economic Affairs of the Republic of Indonesia (2025), MSMEs contribute more than 60% to the national Gross Domestic Product (GDP) and absorb nearly 97% of the total workforce. However, one of the main obstacles faced by MSMEs is limited access to formal financing. This limitation makes it difficult for MSMEs to develop their businesses and compete globally. Factoring is expected to be one of the alternative solutions in increasing liquidity access for MSMEs and other business sectors.

Unfortunately, the implementation of factoring in Indonesia still faces various obstacles, both in terms of law, business practices, and financial infrastructure readiness. The legal framework governing factoring activities in Indonesia does not yet have clear and detailed standards. This causes legal uncertainty, especially in cross-border transactions, due to the low level of trust among investors and business actors in optimally utilising this instrument.

Based on the author's observations and experience in business practices related to factoring, the development of factoring in Indonesia is still relatively slow and has not become a commonly known financing practice. Therefore, it is reasonable that in the context of cross-border transactions, the mechanisms and regulations are not yet fully adequate. This is partly due to the absence of a specific legal framework that comprehensively regulates factoring, especially on an international scale. Based on the facts, according to the author, this legal vacuum needs to be filled through the establishment of regulations that are in line with international standards, in order to provide legal certainty and protection for business actors.

In the context of the author's current research, the term regulatory harmonisation is not interpreted as an effort to reconcile disharmony or conflicts between existing laws and regulations. Instead, harmonisation refers to the process of filling the legal void (regulatory gap) that currently exists in the regulation of factoring, particularly cross-border factoring. To date, Indonesia does not have any laws or government regulations that specifically regulate factoring as an alternative financing instrument, especially in the context of international transactions. The available legal instruments are still very limited and sectoral in nature, such as the implicit regulations in the Financial Services Authority (OJK) regulations on financing institutions, as well as the use of general provisions in the Civil Code (KUHPerdata) related to the transfer of receivables. This creates legal uncertainty, both for domestic businesses that wish to use cross-border factoring services and for foreign investors or financing institutions that wish to enter Indonesia.

Based on the background of the issues mentioned above, two legal questions can be formulated as follows: 1) How are factoring regulations in Indonesia and across borders currently regulated, and to what extent do gaps in national legal norms impact legal certainty and the smooth practice of cross-border factoring for business actors? 2) How urgent is it to develop a model for regulatory harmonisation within the Indonesian legal system that is in line with international practices and provides adequate legal protection for business actors?

Research Methodology

The type of research used in this legal study is normative juridical research. Normative juridical research is a research method conducted by examining reference materials or secondary data as the basis for legal research by conducting a search of regulations and literature related to the issue being studied (Satjipto Rahardjo, 2000).

The approaches used in this study are the statute approach and the conceptual approach (Marzuki, P. M, 2017) as well as the foreign case study approach. This combination of approaches is used to obtain valid answers to the legal issues raised based on the available data sources (Soekanto, S., 2007).

Results and Discussion

The current legal framework for factoring in Indonesia and across borders, and the extent to which gaps in national legal norms affect legal certainty and the smooth practice of cross-border factoring for business actors

Regulations and Practices Changes in Rights and Obligations Regarding Receivables in Indonesia

In Indonesian civil law, there are three main mechanisms that are often used as references in the transfer or change of legal relationships related to receivables, namely cessie, subrogation, and novation. Although all three affect the parties involved in a contract, the fundamental differences lie in their objectives, processes, and legal consequences. The author presents the comparison as follows:

Comparative Aspects	Cessie	Subrogation	Novation	Brief Description
Definition	Transfer of debt from the old creditor to the new creditor without altering the content of the agreement.	Replacement of the old creditor by a third party who pays the debtor's debt.	Renewal of a contract that cancels the old contract and replaces it with a new one.	Distinguishing between types of transfer or renewal of contracts in civil law .
Regulations Governing	Article 613 of the Civil Code	Articles 1400–1403 of the Civil Code	Articles 1413–1424 of the Civil Code	Each is regulated in a different chapter of the Civil Code..
Characteristics	Does not alter the substance of the principal agreement; requires notification to the debtor.	Occurs after payment by a third party; may occur due to law or agreement.	Terminating old agreements; forming new agreements .	Fundamental differences in the legal consequences of principal obligations.
Party Involvement	Must be notified/obtain the debtor's consent if agreed upon in the contract	May occur with or without the debtor's consent	Requires the consent of the debtor and creditor	Fundamental differences in the involvement of the parties
Advantages	Effective for debt transfer; flexible for cross-border transactions.	Providing protection to parties who repay debts.	Enabling a complete restructuring of legal relationships.	Different advantages according to transaction needs.
Shortcomings	Requires notification procedure; risk of dispute if the debtor is not notified.	Not relevant for the transfer of receivables that are not yet due.	Not suitable for factoring; severing old legal ties.	Limitations in its use according to the purpose of the transaction.

According to Subekti, as quoted by Puteri Nataliasari (2010) in her thesis, cessie is a method of transferring receivables on behalf of the creditor, whereby the receivables are sold by the old creditor to the new creditor, but the legal relationship of the debt is not terminated, rather it is transferred in its entirety to the new creditor. Cessie is regulated in Article 613 of the Civil Code, the essence of which is the transfer of collection rights (receivables) from the old creditor to the new creditor. This mechanism does not change the substance or content of the principal agreement; only the subject entitled to collect changes. In practice, cessie is highly relevant in factoring because it allows for the transfer of receivables without altering the original contract between the debtor and creditor. The cessie procedure requires notification to the debtor for the transfer to be effective against them. The advantage is flexibility in business transactions, especially cross-border transactions. The disadvantage is that this process is prone to disputes if the notification is not done correctly.

To illustrate, in practice, cessie can be explained as follows: a bakery (Creditor A) has a receivable from a café (Debtor B) amounting to £50 million for the purchase of bread on credit. Creditor A needs cash immediately, so he sells his claim to a finance company (Creditor C) through a written agreement. Debtor B is notified that from then on, payments must be made to Creditor C. The initial agreement between the bakery and the café remains valid, only the party entitled to collect the debt has changed. However, there are restrictions on the objects of assignment, namely those that cannot be transferred by law, such as wages and employers, those that cannot be transferred due to their nature, such as alimony and pension rights, and claims that are highly personal in nature/attached to the debtor's person (Rachmad Setiawan and J. Satrio. 2010).

The provisions regarding subrogation are regulated in Articles 1400 to 1403 of the Civil Code (KUHPerdata). Based on the Civil Code, subrogation is the replacement of the rights (receivables) of the old creditor by a third party/new creditor who pays, where subrogation occurs due to a payment made by a third party (Misbahul Huda Rihandy, 2022). POJK stipulates that '*once the claim is paid by the guarantee company or sharia guarantee company (new creditor), the claim rights of the guarantee recipient (old creditor) to the guaranteed party are transferred to the claim rights of the guarantee company or sharia guarantee company* (**B. Waluyo, 2002**)'.

Meanwhile, the Banking Law explains that '*in the event that a bank experiences difficulties that jeopardise its business continuity, Bank Indonesia may take action to have the bank write off non-performing loans or financing based on Sharia Principles and calculate the bank's losses with its capital*.' The practice of subrogation in Indonesia is regulated in Articles 1400–1403 of the Civil Code. This occurs when a third party pays the debtor's debt to the creditor and then replaces the creditor's position. Subrogation can occur due to legislation (e.g., a guarantor paying the debtor's debt) or due to an agreement. This mechanism is more common in the context of guarantees or insurance, not in factoring. The advantage is that it protects the third party who pays off the debt, giving them the right to collect from the debtor. The disadvantage is that subrogation is not relevant for the transfer of receivables that are not yet due because it requires the debt to be paid first.

As an illustration, the author can explain as follows: there is an entrepreneur (Debtor B) who owes a bank (Creditor A) Rp100 million. His friend (Party C) pays off the debt to the bank to help B. After the payment, Party C becomes the new creditor who has the right to collect Rp100 million from B. Subrogation often occurs in insurance cases, for example, an insurance company pays the insured's losses and then collects from the party that caused the loss.

Changes in Rights and Obligations regarding Receivables in Novation are regulated in Articles 1413–1424 of the Civil Code. Novation is the renewal of an agreement that removes the old agreement and replaces it with a new one.

According to the Civil Code, novation can take three forms, due to substantial changes, namely: objective novation, active subjective novation, and passive subjective novation. The advantage of novation is that it provides scope for comprehensive restructuring of legal relationships.

The disadvantage is that novation is not suitable for factoring or the transfer of receivables that maintain the principal obligation, because novation actually cancels the obligation. To make it easier to understand, the author can illustrate it as follows. For example, a construction company (Debtor B) owes Rp500 million to a material supplier (Creditor A). Both parties agree to cancel the debt and replace it with a new agreement, for example, B will provide office renovation services to A worth IDR 500 million as a substitute for cash payment. The old obligation is cancelled and replaced with a new obligation with a different object. Novation can also take the form of debtor substitution, for example, another party takes over all of B's obligations to A.

The author has outlined the above comparison to understand the context of the use of each mechanism for changing rights and obligations related to receivables. When it comes to factoring, especially cross-border factoring, which the author discusses in this thesis, cession is the most relevant mechanism and the one the author refers to in this study.

Comparison of Legal Regulations on Factoring and Other Financing in Indonesia

In financing practices in Indonesia, we recognise several financing mechanisms and their regulatory bases, namely as follows:

Types of Financing	Legal Basis Regulations in Indonesia (Among Others)	Relevant Regulatory Bodies	Explanation
Bank Credit	UU No. 10 Years 1998; POJK No. 42/POJK.03/2017	OJK, Bank Indonesia	Financing by banks to debtors for consumption, investment or working capital purposes.
Leasing	POJK No. 7/POJK.05.2022 *jo* POJK No. 35/POJK.05/2018; KMK No. 1169/KMK.01/1991	OJK	Financing of capital goods for lease with an option to purchase at the end of the lease term.
Factoring	Civil Code (Article 613), UU No. 4 2023 Law on Financial Sector Development and Strengthening (P2SK Law) UU No. 42/1999, POJK No. 7/POJK.05.2022 *jo* POJK No. 35/POJK.05/2018;	OJK	The transfer of trade receivables from a creditor (the seller of the receivables) to a factoring company (*factor*) in exchange for a specific payment, which may be done with or without recourse (*recourse*).

Venture Capital	POJK No. 7/POJK.05.2022 *jo* POJK No. 35/POJK.05/2018;	OJK	Capital participation by venture companies in MSMEs or high-risk start-ups.
Credit Cards & Consumer Finance	POJK No. 10/POJK.03/2022; POJK No. 19/POJK.03/2014	OJK	Consumer financing for goods/services with short-term maturities.
Sharia Financing	UU No. 21 2008 on Islamic Banking Fatwa of the Indonesian Ulema Council	OJK, DSN MUI	Financing based on sharia principles such as murabahah, mudharabah, ijarah.
Peer-to-peer lending	POJK No. 10/POJK.03/2022;	OJK	Comprehensively regulating **technology-based lending and borrowing services (*fintech lending*)**, with the official term **LPBBTI** replacing POJK 77/2016, which is no longer relevant.
Sukuk and Bonds	UU No. 24/2002 about Government Bonds; UU No. 19/2008 about State Sharia Securities (SBSN)	OJK, Kemenkeu	Securities as evidence of long-term debt for project financing.
Crowdfunding	POJK No. 57/POJK.04/2020	OJK	Public fundraising via the internet for business or social projects.

Based on the types of financing above, we generally know that bank loans are the most common and widely used type of financing by MSMEs as a source of investment or financing. However, most bank loans always require collateral in terms of financing. In fact, there are still many types of financing, both working capital and investment, that can be utilised by MSMEs, one of which is factoring.

When compared to other financing schemes such as leasing and working capital credit, according to the author's observations and opinions, the fact is that factoring in Indonesia does not yet have adequate technical regulations, especially when the factoring is carried out across or between countries, or what we know as cross-border factoring. Leasing, for example, already has clear OJK regulations regarding implementation procedures, requirements, and supervision. Bank loans are also subject to very detailed provisions from Bank Indonesia and the OJK. Meanwhile, factoring still operates based on the principle of freedom of contract with a legal basis from the Civil Code and is limited to the general requirements specified in OJK regulations that are included in the provisions on financing companies, so they are not specifically provisions on factoring.

The urgency and model of regulatory harmonisation that can be developed in the Indonesian legal system to be in line with international practices and provide adequate legal protection for business actors

Harmonisation of Factoring Regulations in Indonesia

The practice of factoring in Indonesia has been based on the principle of freedom of contract between the parties. However, this freedom of contract often becomes a source of controversy for the recipient of financing. For example, in the context of the implementation of a sale and purchase agreement involving factoring practices, the agreement is subject to the provisions of Articles 1457 to 1540 of the Civil Code (KUHPerdata) Chapter V Book Three, which discusses obligations. Furthermore, because the sale and purchase process is usually followed by a transfer or levering, the provisions in Article 613 of the Civil Code must also be taken into account, including because the object of the sale and purchase in question is a commercial receivable, which is legally categorised as intangible movable goods, so that under certain conditions, additional relevant provisions may refer to Chapter VI and Chapter VII of Book One of the Commercial Code (KUHD). On a separate issue, the level of trust of the factor towards the client or supplier is usually low, so the factor in such a way seeks to create clauses that secure itself. This condition makes factors tend to have a more dominant position in the legal relationship, so factoring contracts generally contain various clauses that are designed unilaterally to protect the interests of factors from the risk of loss in carrying out their business.

This condition also indicates an urgent need for more specific legal regulations regarding factoring in the form of separate regulations. Furthermore, harmonisation with the principles of international contract law as developed by UNIDROIT (*International Institute for the Unification of Private Law*) is also required. According to UNIDROIT, this form of balance is based on the international principles of equality (*balance*) and openness (*transparency*). The application of the principle of equality aims to create a more balanced position between the factor and the client, so that there is no longer unilateral domination by the factor. The principle of transparency is also important to create a common understanding between the parties regarding their respective conditions and obligations, which are in line with the principles of good faith and fair transaction practices. These principles are expected to be adopted in the national legal system in order to balance the principle of freedom of contract and form the basis for the implementation of cross-border factoring in Indonesia (Dewi Astutty Mochtar. 2019).

Although regulations have developed, there are no specific and structured regulations regarding cross-border factoring in Indonesia. There are no normative provisions that explicitly regulate cross-border aspects such as the legal recognition of foreign factoring contracts, dispute resolution jurisdiction, and certainty regarding the protection of creditors and debtors from different countries. This has created a legal vacuum that has resulted in a lack of international factoring practices by Indonesian companies. In the context of legal certainty, the absence of written norms can create uncertainty for business actors, particularly in the context of the enforceability and validity of cross-border contracts.

Regulatory harmonisation is an important approach in aligning national legal systems with international legal dynamics, especially in the context of cross-border factoring. In Indonesian law, the absence of specific regulations on cross-border factoring has become an obstacle to the integration of the domestic legal system with the principles of international trade (**Etty Susilowati**, 2019).

According to René David, legal harmonisation does not have to eliminate the national characteristics of a legal system, but rather create compatibility and equivalence between systems so that they can work synergistically (Wijayanti, 2024: 22–23).

This is also emphasised by Zweigert and Kötz, who state that legal harmonisation is an effort to unite diversity without imposing uniformity (Maria Farida Indrati Wijayanti, 2024). The urgency of harmonising cross-border factoring laws is increasingly pressing given the growth of international trade and the need for fast, flexible and secure financing mechanisms.

In the context of national law, Article 1338 of the Civil Code provides the basis for freedom of contract, but it is not sufficient to address the challenges of cross-border factoring practices, which require jurisdictional certainty, cross-border recognition, and legal protection in the event of cross-border default (Munir Fuady, 2011).

In civil law doctrine, Subekti asserts that '*agreements are binding as law for the parties who make them*,' but the application of the principle of *pacta sunt servanda* requires a legal structure capable of guaranteeing *enforceability* in other jurisdictions (**Subekti**, 2005). Therefore, a model of legal harmonisation is needed that goes beyond the adoption of the provisions of the 1988 UNIDROIT Convention and includes the reformulation of norms in national regulations.

Comparison of Factoring Laws

In conducting this research, the author also conducted comparative research with several countries and found that countries such as the United Kingdom, Singapore, and the United States already have a more mature legal regime related to factoring, both in terms of collateral recognition, contract transparency, and protection of third parties.

In the United Kingdom, for example, the transfer of receivables is regulated flexibly within the framework of common law, while in Singapore, factoring transactions are also protected by a strict monetary authority system and have a contract and financing legal system based on contractual freedom and flexibility, as well as a legal framework that is in line with the 1988 UNIDROIT Convention. Learning from these international practices is crucial for Indonesia in formulating regulations that can bridge national interests and global compatibility (Sri Redjeki Hartono, 2018, Aliah Pratiwi, 2023).

Furthermore, Malaysia (Abdullah, M. F., & Ismail, R. 2020) has also developed a special legal regime that facilitates cross-border factoring by regulating factoring through the legal structure of financing companies and banking law, and has recognised the principle of international bill transfer as part of cross-border trade mechanisms. The Philippines (Bangko Sentral ng Pilipinas, 2021), as a representative of the civil law system, has banking and financing provisions that touch on cross-border finance, although they are still based on bilateral conventions and the principle of lex mercatoria or commercial law, which is a collection of rules and practices of trade that have developed naturally among traders and international business actors, often outside the national legal system. This term originates from Latin and literally means '*commercial law*'. Countries such as Singapore have become successful examples of integrating international principles into national law through the implementation of *flexible contract law* and the adoption of UNIDROIT convention principles (**Monetary Authority of Singapore (MAS)**, 2022).

Similarly, Malaysia (Bank Negara Malaysia, 2021) and the Philippines (Bangko Sentral ng Pilipinas (BSP, 2021) have adjusted their financing regulations to accommodate cross-border practices. Indonesia could take a similar approach by amending OJK regulations or even enacting new legislation specifically regulating cross-border factoring.

Account Receivable Discounting Harmonisation Model

In the author's opinion, the harmonisation model that Indonesia can adopt is to incorporate the principles of the 1988 UNIDROIT Convention into the Indonesian legal system, either by incorporating them into new POJKs or as considerations in sectoral regulations. This convention was designed to bridge differences in legal systems and provide legal certainty for cross-border debt transfers. The adoption of these principles can strengthen legal protection for domestic businesses operating globally, while also creating legal certainty in international trade.

In this case, the Financial Services Authority, which has a role and obligation as a non-bank financing regulator, has a strategic role in promoting regulatory reform of Financial Services Authority Regulation (POJK) Number 7/POJK.05/2022 *jo* Financial Services Authority Regulation (POJK) Number 35/POJK.05/2018 concerning the Operation of Financing Companies, which is currently still general in nature and does not cover the international dimension of receivables financing. Meanwhile, in practice, Indonesian businesses often encounter legal obstacles in collecting foreign receivables due to the absence of explicit provisions that recognise and protect *cross-border factoring* contracts.

In the author's opinion, legal harmonisation not only serves a legalistic purpose, but also has significant macroeconomic implications. As stated by Satjipto Rahardjo, the law must uphold the values of justice and provide protection to the weak (Satjipto Rahardjo, 2009). In this context, MSME players, as the main users of factoring, need clear legal instruments so that they are not caught up in international legal uncertainty. By strengthening the model of legal harmonisation of factoring, Indonesia will have legal instruments that are responsive to global economic developments, strengthen legal certainty for investors, and open up great opportunities for national export financing through a secure and structured cross-border factoring mechanism.

In the context of economic globalisation, legal harmonisation is a strategic necessity to create legal certainty and fair legal protection in cross-border transactions (**Etty Susilowati,** 2019). Factoring as a modern financing instrument has been regulated in various international legal models, such as the UNIDROIT Convention on International Factoring (1988), which provides minimum standards regarding the transfer of receivables, recourse rights, and recognition of jurisdiction. Legal gaps can be filled through the harmonisation of Indonesian domestic regulations with these standards, which will strengthen the legal position of Indonesian business actors in international trade (Munir Fuady, 2013).

In the author's opinion, after conducting this research and then comparing it with the author's own experience, cross-border factoring can be an important bridge between the financial sector and the business world, particularly in the context of financing small and medium-sized enterprises (SMEs). With harmonious and integrated regulations in the capital market and corporate law systems, Indonesia can encourage the formation of a more efficient funding ecosystem that also supports national strategic programmes in financial digitalisation and non-bank productive financing inclusion.

Conclusion

1. The legal regulations governing factoring in Indonesia have undergone developments since the issuance of Presidential Decree No. 61 of 1988 and Minister of Finance Decree No. 1251/KMK.013/1988. However, these regulations have been functionally replaced by OJK Regulation No. 7/POJK.05/2022 of 2022 jo POJK No. 35/POJK.05/2018, which amended POJK No. 29/POJK.05/2014 of 2014 and OJK Circular Letter No. 49/SEOJK.05/2017. Nevertheless, there are no specific and comprehensive regulations regarding factoring practices in Indonesia, particularly cross-border factoring, resulting in a legal vacuum. This has led to legal uncertainty for business actors and has hampered and disrupted factoring activities, especially those that cross borders. The absence of legal norms regarding factoring practices in Indonesia, especially those specifically regulating cross-border factoring, has led to legal uncertainty and weak legal protection for business actors, particularly in terms of the recognition of cross-border contracts, dispute resolution mechanisms, and protection against default. As a

result, the implementation of cross-jurisdictional factoring depends on the principle of freedom of contract as stipulated in Article 1338 of the Civil Code. Although this principle provides flexibility for the parties, the absence of standardised legal norms creates potential legal uncertainty, particularly in terms of enforcement of rights and dispute resolution. This is an obstacle to the expansion of international trade and the integration of domestic financial systems into the global network. Countries such as Singapore, Malaysia, and the Philippines have demonstrated adaptive legal harmonisation practices with international standards such as the 1988 UNIDROIT Convention. They have adopted the flexibility of freedom of contract, the principle of lex mercatoria, and explicit regulations on cross-border financing. In the context of Indonesian law, basic principles such as freedom of contract (Article 1338 of the Civil Code) and the principle of pacta sunt servanda are not sufficient to address the complexity of cross-border transactions. Therefore, a model of legal harmonisation that adopts some or all of the principles of the UNIDROIT Convention needs to be developed to strengthen legal protection and enhance national economic competitiveness. This gap or regulatory vacuum has shown that Indonesia is in a less competitive position in providing a legal and business climate conducive to business actors who wish to take advantage of cross-border factoring. Factoring has become less popular because business actors are reluctant to use this scheme in their business activities, such as seeking capital and so on.

2. This harmonisation is urgent and can be achieved by adopting the principles of the 1988 UNIDROIT Convention into the Indonesian legal system, either by incorporating them into new POJK or as considerations in sectoral regulations. The Financial Services Authority, which has the role and obligation as a non-bank financing regulator, has a strategic role in promoting regulatory reform of Financial Services Authority Regulation (POJK) Number 7/POJK.05/2022 jo Financial Services Authority Regulation (POJK) Number 35/POJK.05/2018 concerning the Operation of Financing Companies, is still general in nature and does not yet cover the international dimension of receivables financing.

Recommendations

1. The Indonesian government is advised to ratify or adopt some of the principles of the 1988 UNIDROIT Convention as a strategic step in harmonising national law with international standards, particularly for the protection of the interests of national businesses in the global market. This is important to provide legal certainty and support the financing ecosystem. When drafting these regulations, inclusive rules on cross-border factoring were also created. Academics and legal practitioners are expected to continue to encourage interdisciplinary research in

the field of international financing law and to be actively involved in formulating legal norms based on international practices and local needs.

2. After the Indonesian government harmonised regulations by accommodating special rules on factoring, particularly cross-border factoring, it was then necessary to conduct outreach and improve the legal capacity of MSME actors regarding the benefits and mechanisms of factoring, including cross-border factoring, so that they could access international financing safely and efficiently..

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