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Legal Position for Electronic Money Owners in Non-Cash Payment Transactions

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Abstract— *With the development of the new era, the use of electronic money (e-money) is very rapid which makes it easier for users to transact but can also cause losses for the owner. if the electronic money is lost or stolen. Transactions using e-money can be carried out without going through an authorization process such as a PIN (Personal Identification Number) so that the e-money action can be used easily by other unauthorized or digital theft. Where in Bank Indonesia regulation Number 20/6 / PBI / 2018 has been included regulations related to financial compensation but not yet regulated clearly and in detail so that the regulations are unclear, this has resulted in different interpretations between different institutions one another. This research describes legal arrangements for owners of electronic money if there was a loss on the e-money card and to find out the responsibility the bank is responsible for providing non-payment instrument activities cash for losses suffered by the e-money card owner. Method the research used in this paper is the research method normative law. The study results show that replacement losses to e-money can only be made if occurs damage from the publisher. The bank is not responsible for any losses the e-money owner caused due to negligence of users who were this regulation violates the consumer protection principle.*

Keywords— *Transaction Legal, E-money, normative law.*

I. Introduction

Technological developments have brought about a change the need by the community for an acceptable means of payment meet the speed, accuracy, and safety in each electronic transactions. History attests to the development of tools payments are constantly changing forms, ranging from forms metal, conventional banknotes, to the means of payment we have undergoing an evolution in the form of data that can be placed on a container or known as an electronic payment instrument. The world of banking can affect economic activity in within a country, the progress of a bank within the country can be as a measure of the country's progress, then a progress the state in line with the duties and roles of banks in controlling the role of a certain country, the banking world has a close relationship with economic development in a country (Nasution et al., 2018).

When deep a healthy country's banking system will be able to support it economic development, but the opposite if the system banking in a country is not healthy so it can have a bad impact for the development and economic growth of a country. In the development of a country's economic life, money has a very important role. The speed current technological developments propel banks as the main proponent of national development to develop services both to customers and the public. The impact of the development of technology and information penetrates various fields without exception in the banking sector, especially in payment systems such as electronic payment systems or noncash (Rusiadi et al., 2018).

Along with the development of payment instruments in Indonesia changing very rapidly as a nonpayment instrument cash. Regarding payments using an electronic system or non-cash, Bank Indonesia will be one of them financial institutions have an interest in ensuring that the non-cash payment system is running safely and efficient when used by the general public. This is important considering the principle of security and consumer safety as part of protecting consumers besides protecting the interests of business actors (Setiadi, R. & Wulandari, F., 2016).

Transaction using e-money can be done without go through the authorization process in advance besides the transaction using e-money has no relationship with the customer's account at a bank, therefore customers who use e-money do not need it use the confirmation PIN to use the e-money. In its use, it should be noted that e-money is a human-created technology that has several weakness. As for the problems that will arise in the use of e-money occurs when the use of e-money is in making the non-cash payment transaction is misused by other unauthorized parties which may result loss for the owner of the e-money (Umar, 2011).

To anticipate this, Bank Indonesia has a legal arrangement related to electronic money regulated through Bank Indonesia Regulation Number 20/6 / PBI / 2018 which is in the regulation has included regulations related to the implementation among others, the principles of consumer protection are regulated on the mechanism for compensating financial losses to users who are stated in Article 43 paragraph (2) letter c. Despite the Bank Regulations Indonesia Number 20/6 / PBI / 2018 concerning this Electronic Money has stated regarding the compensation mechanism financial but not yet regulated clearly and in detail how the replacement mechanism, for example, the user loses the card e-money is not due to its negligence or fault, but rather the existence of unforeseen circumstances such as theft or robbery (Siahaan et al., 2017).

The regulations are unclear and the regulations are not in detail cause different interpretations between the one institution with others, both bank institutions and non-bank institutions. so that a legal protection is needed for e-money owners as consumers, given the complexity of the problems related to legal protection for e-money owners, given the current era where trade and transactions are increasingly global.

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II. LITERATUR REVIEW

2.1. Money

The definition of money can be divided into two definitions, namely the definition of money according to the law and the definition of money according to its function. Money according to law is something that has been determined by law as a legal tool used for transactions in trading activities. Meanwhile, the money is seen according to the function is something that is generally accepted in trading transaction activity as well as can also be used in payment of accounts payable. (Umar, 2011), explains that there are four basic functions of money, as follows:

a. Money as a means of exchange

With the function of money as a medium of exchange, a person can directly exchange the money for goods needed to others who produce the item, so that someone can meet his needs.

b. Money as a store of value

Humans are fond of collecting and store wealth in the form of goods valuable which can be used in the future, even if the wealth that can be saved its various forms and money is one the option to save wealth.

c. Money as a unit of account

If there is no counting unit, you can imagine difficulty in assessing a goods. With money, exchange and assessment of an item will be easier done so that there is an exchange of money between two different physical items can be done.

d. Money as a measure of pending payments

(standard for deferred payments) The money function here is related to lending-borrowing transactions, where money is used to calculate the repayment amount of the loan. Objects that are used and accepted as tools payments in an economic system in general are objects that are considered valuable and have a use for consumed or for production purposes. The object used

As money is generally easy to carry and not easy damaged or durable (Umar et al., 2018).

2.2. Based on its range of use

According to Rivai, (2001: 136). Electronic money (e-money) based on the range of use can be divided into two form, namely:

a. Single-Purpose

Single-purpose is the type of e-money used in the payment of a type of economic transaction, such as only used for toll payments or can only used for public transportation payments.

b. Multi-Purpose

Multi-Purpose is a type of e-money that is used in various types of economic transactions, such as payment of transactions for tolls, telephone, transportation general, and shopping.

2.3. Based on the recording of the identity of the money holder Electronic

According to Rivai, (2001: 138) electronic money (e-money) based on the recording of electronic money holder identity data can be divided into two types, namely:

a. Electronic money with the identity data of the holder registered and registered with the issuer (registered)

b. Electronic money where the identity data of the holder is not registered and not registered with the publisher (unregistered).

2.4. The difference between e-money and payment instruments using other cards

Payment instruments using cards are mentioned (Rivai, 2001) in Indonesia are as follows:

a. Credit card

A credit card is an electronic payment instrument in the form of a card that is used as a tool payment of transactions for the purchase of goods and services, payment can be made by the buyer all at once or installments within a certain period after the card is used as a means of payment. Card credit can also be used to make withdrawals cash through the teller at the bank or through an ATM.

b. Charge Card

A charge card is a form of card issued by a financial institution that is used as a tool payment for the purchase of goods and services the payment must be made by the buyer all at once within a certain period after the card used.

c. Debit Card

A debit card is a card issued by financial institutions, used as a means of payment transactions for the purchase of goods or services by way debit or reduce the deposit account balance. Transactions can only be made if the cardholder is has sufficient balance in his account for cover the purchase transaction costs.

d. ATM card

ATM cards serve user customers automatically any time through an ATM that is available anywhere. The services provided through ATMs, among others cash withdrawal, check and print the balance amount user customers, and also make payments payment for electricity, telephone, credit card, money transfers and other things. In several banks ATM card issuers have a combination of functions between debit card and ATM in one card at a time.

III. METHODS

Legal research is a process that is pursued for find legal rules, legal doctrines for can answer legal issues that exist.2 In this paper the author using formative research methods as a solution issues of legal issues in this paper. This research will reviewing related norms or laws and regulations relating to legal protection to the giver of fiduciary over the fiduciary guarantee guaranteed by the recipient fiduciary to third parties through a guarantee agreement in Indonesia.

3.1. Legal Arrangements for Electronic Money Owners If There was a loss on the E-Money Card

Money is a legal and acceptable means of payment in general, money is the applicable payment instrument in certain areas apart from that money can also be a tool to make purchases of goods and services. In the present Bank Indonesia is making every effort to improve the use of non-cash payment instruments via electronic money (E-money). In

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simple terms, it can be defined as electronic money as a means of payment that is stored in the media in the form of cards in electronic form in which there is several money. Several values have been recorded on the electronic money, it can also be said that someone who has Electronic money is the same as having cash however the difference lies in the value for money that has been converted in form of electronic data. As for the legal basis for the implementation electronic money as a non-cash payment instrument the territory of the Unitary State of the Republic of Indonesia is regulated by regulations Bank Indonesia Number 20/6 / PBI / 2018 concerning electronic money.

In general, regulations relating to the protection of consumer rights have been regulated in the Law of the Republic of Indonesia Number 8 of 1999 concerning Consumer Protection (hereinafter called UUPK). Article 1 number 2 UUPK states that each people who use goods and/or services available and available at a community for the benefit of themselves, the community, or family other living things and not for sale are called with consumers. So from the provisions of the article the owner Electronic money can be said to be a consumer when the card owner makes prepaid electronic transactions with the issuer.

Article 1 number 1 UUPK states that protection consumers are all efforts to ensure their existence legal certainty and to provide legal protection to consumers. Look at these provisions then it can be said that the owner or holder of e-money is entitled get the legal protection that has been recognized and guaranteed protection by the State.

Regarding losses due to loss of electronic money is not regulated explicitly in Bank Indonesia Regulation Number 20/6 / PBI / 2018. However, it can be found in Article 43 paragraph (2) letter c it is stated about which consumer protection principles apply issuers are required to have an offset mechanism caused not because of user error or negligence.

This financial compensation contains only reimbursement losses due to errors of the publisher. But it is not explained in detail regarding what types of errors and omissions that user. In addition, this article is not made explicit in which case the consumer can claim indemnity from the publisher.

To provide protection for users electronic money, Bank Indonesia has issued a Regulation Bank Indonesia Number 16/1 / PBI / 2014 concerning Protection Payment System Service Consumers. The regulation stipulates the protection includes consumer protection in system service activities payment, one of which is electronic money activities. Apart from these regulations can also be found regarding consumer protection in the UUPK

3.2. Responsibilities of the Bank as Operator of Equipment Activities Non-cash payment for losses suffered by E-Money Card Owner

Electronic money (Electronic money) as referred to in This article is not the same as other electronic payment instruments although both are in the form of cards, they are a means of payment an electronic form of e-money is different from payment instruments such as credit card and debit card. There are two terms in tools electronic payment, namely prepaid products and access products. The debit card and credit card are products access products.

Bank Indonesia Regulation Number PBI 14/2 / PBI / 2012 Tetang Amendments to Bank Indonesia Regulation Number 11/11 / PBI / 2009 concerning the Implementation of Payment Instrument Using Activities Cards govern credit and debit card matters. Meanwhile, electronic money (electronic money) is regulated in PBI Number 20/6 / PBI / 2018 Regarding Electronic Money (Electronic Money).

The use of electronic money (e-money) provides a lot of benefits for human life. There are many advantages to using electronic money instead of using money cash for example in small amounts of transactions. In making these small transactions we are not required to use the exact change and we don't have to wait for the change. The most important thing about using e-money is that consumers and merchants can avoid it error in calculating the change of change.

If explored further, use electronic money for easier transactions when compared to payment instruments other non-cash. This is because in the transaction using e-money owners do not require a signature authorization process or enter a security code such as a PIN at the time of the transaction take place.

The legal relationship between the issuer and cardholder is deep the use of prepaid electronic money can it is said that the legal relationship is a sale and purchase. Publisher sell a data storage device in the form of a stored card value card) is different from the means of payment using a card (AMPK) which is the legal relationship between cardholders and the publisher is based on a save agreement to save by Article 1 point (5) of the Banking Law. In transactions using money electronically, the electronic value is obtained by exchanging a number cash or by debiting the account at the issuing bank for then stored in the form of electronic money.

IV. RESULTS

The legal relationship between the issuer and cardholder is deep the use of prepaid electronic money can said that the legal relationship is a sale and purchase. The issuer sells a data storage device in the form of a prepaid card (stored value card) which is different from the card-based payment instrument (AMPK) in which the legal relationship between the cardholder and the issuer is based on a saving agreement by Article 1 number (5) of the Banking Law. In transactions using money electronically, electronic value is obtained by exchanging an amount of cash or by debiting the account at the issuing bank to be stored in the form of electronic money.

If the electronic money is lost or stolen by a party others who are not the owner, the publisher cannot responsible because it is fully prepaid are under consumer control as well as all the consequences loss or theft is the full responsibility electronic money owner and cannot be blocked against the e-money card. It's the same with cash electronic money if lost or stolen will not be traced or blocked. This is because it is in money

There is no electronic device such as a chip or code verification, and its use cannot be traced. In addition, because

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e-Money is offline, blocking cannot be done. If the transaction using electronic money occurs misuse by other parties who are not entitled to e-money then the owner or holder of electronic money can immediately report to the bank. The unauthorized party can use e-money without the owner's permission to make transactions or change the contents and data on the card.

Between issuers and cardholders as consumers in terms of this has a legal relationship that is buying and selling. Article 1457 Civil Code (hereinafter referred to as Civil Code) states that buying and selling is an agreement, with which the one-party binds himself to surrender a material, and another party to pay the desired price. The original property rights owned by the seller will change hands on the buyer if there has been a juridical handover by Article 1459 Civil Code. So based on the above principles the bank, all officials, supervisors, and partners involved in this matter are not can be held accountable by the cardholder and by any party for the user's claim of losing the card, claim for card damage resulting from carelessness of cardholder, demands of card damage for not place the card according to the instructions for use, and claim for loss of the amount of money on the card the result of using improper payment transactions this is because there is no longer a legal relationship between the seller and the buyer after the sale and purchase transaction or it can be said breaking up the law.

Article 1 number 16 Law Number 7 of 1992 concerning banking as amended by Law Number 10 of 1998 states that a customer is a person using bank services. Electronic money holders can be called as a customer for using bank services but as a parties who use bank services but do not open account by only using bank services to do financial transactions, the relationship between the bank and its customers is a civil relationship. In that relationship, customers of a bank can be categorized as consumers.

In the event of problems with the fulfillment of rights and obligations in the administration of electronic money (electronic money), must be resolved by the parties. There are two ways to do this solve problems in the administration of electronic money namely through the courts and through institutions outside the court. Problems that are resolved through guided courts on the procedural law governing the requirements must be fulfilled so that the dispute can be filed and can it is known what efforts can be made. While solving problems outside the court is settlement of problems carried out by agreement from the parties. Solving this problem is based on the agreement of the parties and the settlement procedure on a the dispute is fully submitted to the parties in question.

Electronic money (e-money) can be a means of payment non-cash which provides convenience in transactions payment, but it can also harm the owner if it occurs loss or theft. Full use of electronic money become the responsibility of the electronic money holder because if lost or stolen owner unable to block. In the occurrence of loss or theft of the bank as the issuer electronic money cannot be held accountable for losses suffered by the electronic money user if electronic money is lost or stolen, all the consequences of loss is the full responsibility of the electronic money holder.

V. Conclusion

1. Legal arrangements for owners of electronic money as a tool non-cash payment in the event of a loss due to loss e-money card as stipulated in the Bank Regulation Indonesia Number 20/6 / PBI / 2018 has not yet been regulated maximum because the replacement of electronic money losses only can be done if it is damaged from publisher.
2. Banks as electronic money issuers cannot responsible for the losses suffered by the user.

Any consequences of loss are fully responsible owner or holder of electronic money and owner of the money electronics can't do blocking where they can it is said that this regulation violates the principle of protection consumer.

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