

Legal Protection Of Electronic Money User In Indonesia

Abdul Rasyid, Meri Kristi Natali

Abstract: Currently, in Indonesia, electronic money as electronic payment has been developing significantly. It is now used immensely by society as an alternative means of cash payment. With the increasing use of electronic money, it must be regulated with comprehensive regulation. One important aspect which must be regulated is about legal protection for the user of electronic money, particularly for the user of unregistered e-money. Electronic money in Indonesia is regulated with Bank Indonesia Regulation Number 20/6/PBI/2018. This paper tries to analyze whether this electronic money regulation provides comprehensive legal protection for user of electronic money.

Index Terms: electronic money, legal protection, User, Issuer

1. INTRODUCTION

Current development of technology and information has influenced the mechanism of the payment system. The cash payment system gradually to be substituted with an electronic payment which is known as electronic money (e-money). The use of e-money as an alternative means of non-cash payment in several countries shows that there is considerable potential to reduce the growth rate of cash use, particularly for payments that are micro to retail [1]. According to Bank for International Settlement (BIS), e-money is defined as stored-value or prepaid products in which a record of the funds or value available to a consumer is stored on an electronic device in the consumer's possession. the value of money in e-money will decrease when consumers use it for payment [2]. E-money can also broadly be defined as an electronic store of monetary value on a technical device that may be widely used for making payments to entities other than the e-money issuer. The device acts as a prepaid bearer instrument which does not necessarily involve bank accounts in transactions. E-money products can be hardware-based or software-based, depending on the technology used to store the monetary value [3]. Furthermore, according to the Financial Conduct Authority of England, e-money is an electronic payment product. The value is held electronically or magnetically on the payment instrument itself (either locally or remotely), and payments using the value are made electronically [4]. By virtue of the above definitions, it can be understood that e-money is a means of payment in electronic form where the value of the money is stored in certain electronic device. The user must first deposit the funds to the publisher and save it in electronic media before using it for the transaction. When it used, the value of e-money stored in electronic device will be reduced by the number of the transaction and afterward can be topped up again. Electronic media to store the value of electronic money can be in the form of chip or server. The use of e-money as a means of payment can provide a variety of advantages, such as offering convenience and speed in making payment transactions without the need to carry out cash money, no longer accepting change in the form of goods (such as candy) due to traders not having small change and very applicable for mass transactions whose value is small but high frequency, such as: transportation, parking, tolls, fast food, etc. [5]. Development of e-money payment systems all over the world has also affected the payment system in Indonesia. Currently, e-money in Indonesia has been developing significantly and is starting to reduce the use of cash payment system. In Indonesia, e-money was first issued

in 2007 by Bank Indonesia and began to be regulated apparently in 2009 by Bank Indonesia Regulation No. 11/12/PBI/2009 concerning Electronic Money. Along with the development of technology, Bank regulation Indonesia regarding e-money above has been amended several times and now is regulated by Bank Indonesia Regulation No. 20/6/PBI/2018 concerning E-Money. In Indonesia, the use of e-money has increased significantly after Bank Indonesia, as a central bank, launched a program of the National Movement of Non-Cash on August 14, 2014. This program aims to encourage society to use a non-cash instrument (less cash society) in conducting their transaction economic activities[6]. According to statistic issued by Bank Indonesia, the volume and value of e-money transaction have experienced significant growth. Until July 2019, the total nominal of e-money transaction was IDR 12,939.44 trillion, and the volume of e-money transaction increased to IDR 476,037 million transaction. The increase in volume and value of e-money transaction cannot be separated from the rise in the amount of e-money circulating in community, which was recorded at IDR 232,348.97 million. Currently, there are 38 electronic money issuers registered with Bank Indonesia [7]. With the increasing use of e-money, it is necessary to have a comprehensive regulation of e-money. One important aspect which must be regulated is about legal protection for the users of e-money. Having mentioned above that e-money in Indonesia is now regulated with Bank Indonesia Regulation Number 20/6/PBI/2018 concerning E-Money. This paper tries to analyze whether the current e-money regulation provides comprehensive legal protection for users of e-money.

2 TYPE OF ELECTRONIC MONEY

According to Section 3 (2), (b) Bank Indonesia Regulation No. 20/6/PBI/2018 concerning Electronic Money, e-money based on the registration of user identity data consist of two types, namely: registered e-money and unregistered e-money. Registered e-money is e-money in which the identity data of the user is registered at the issuer. This registered e-money is usually in the form of a digital application/server (e-wallet), equipped with a personal identification number authentication and with maximum balance of IDR 10,000,000.00. Registered e-money can be issued by bank and non-bank institution that have obtained licenses from Bank Indonesia. While unregistered e-money is e-money in which the identity data of the user is not registered with the issuer. Unregistered e-money is in the form of a pre-paid card, with a maximum balance of IDR 2,000,000.00. Unregistered e-money is not

protected by a personal identification number to speed up payment transaction activities. Simply by tapping into a particular scanner, the balance will be deducted automatically. Furthermore, the amount which is stored on unregistered e-money is not guaranteed by the Deposit Insurance Corporation, since it is not deemed as a deposit. Unregistered e-money can be issued by the bank and non-bank institution after having a license from Bank Indonesia. The differences between the registered e-money and unregistered e-money two are described in the following table:

No	Unregistered e-money	Registered e-money
1	Prepaid card	Server based (e-wallet)
2	The issuer does not record owner identification data	The issuer records owner or holder identification data.
3	Card based	Server based
4	Maximum balance of IDR 2,000,000.00	Maximum balance of IDR 10,000,000.00.
5	Not protected by a personal identification number	Protected by a personal identification number or phone number
6	Transactions are undertaken offline	Transactions are undertaken online
7	Quick payment transactions (such as toll and train payment)	Payment transaction via fund transfer, and other transaction facilities provided by the Issuer (such as the purchase of electricity token, pulse, and other bill payments)
8	Example of product: e-toll, flazz BCA, and BNI TapCash etc.	Example of product: Shoppay (Shopee), OVO (Grab), GoPay (Gojek) etc.

3 LEGAL PROTECTION OF ELECTRONIC MONEY USERS

Registered e-money and unregistered e-money provide various kinds of convenience to the users. Both forms of e-money have a similar purpose, i.e., as a means of electronic payment instead of cash that aims to provide ease for the users when doing a transaction. Since e-money has grown increasingly with a large number of users, one aspect that must be considered to be clearly regulated is of legal protection for users. Section 2, 34, and 43 of Bank Indonesia Regulation No. 20/6/PBI/2018 concerning Electronic Money has stated clearly that in the operation of e-money, the issuer is required to implement the principle of consumer protection. Provisions regarding the application of consumer protection will be regulated further in the Regulation of the Board of Governors. However, until now such Regulation of the Board of Governors has not yet been. If we see Bank Indonesia Regulation No. 20/6/PBI/2018 concerning E-Money carefully, there is no provision which regulates the legal protection for the users of e-money explicitly, particularly legal protection for the users of unregistered e-money. Since it is increasingly being used, legal protection for users of unregistered e-money must be precisely regulated. Otherwise, it will cause injustice and legal uncertainty for users. That injustice and legal uncertainty may arise when the card of unregistered e-money possessed by the users is damaged or lost. The users cannot claim compensation for the value of money, which is still stored on the card. This situation may inflict a financial loss to the users of unregistered e-money since the value of money stored on the card is substantively not lost and is still recorded at the issuer. It is said that the value of money stored in the card of unregistered e-money cannot be claimed when it lost or damaged because it is considered the same as cash.

Besides, the identity of the users of the unregistered e-money is not recorded at the issuer as well. Therefore, if a card lost or damaged, then the value of money stored on the card cannot be claimed and will automatically lose. It is different from registered e-money; the data of the user is registered at the issuer. If the registered e-money is damaged or lost, then the users can still claim again the value of money stored on it. According to Filianingsih Hendarta, Assistant Governor, Head of Payment System Policy Department Bank Indonesia, Bank Indonesia does not require issuers to return the balances of the lost and damage unregistered e-money because identity data of the user is not registered. It is difficult for issuers to ascertain whether the user is the owner of the card or not. Furthermore, another reason why the balances of the lost and damage unregistered e-money do not be returned to the user is to prevent money laundering transactions and terrorist activities. Therefore, the fund transfer and cash withdrawal features are not provided for unregistered e-money. Based on the above reason, Bank Indonesia also limited the maximum balance in unregistered e-money to IDR 2,000,000.00 million only [8]. However, according to Sukiran, Head of Bank Negara Indonesia, West Kalimantan Sub-Branch Office, the legal protection for the user of unregistered e-money needs to be clearly regulated to provide legal certainty and protect the right of the users. In his opinion, Bank Indonesia Regulation No. 20/6 /PBI/2018 concerning Electronic Money does not explicitly regulate the legal protection of the users of unregistered e-money. If the unregistered e-money is lost or damaged, it will be difficult for users or consumers to claim compensation to the issuer because no compensation mechanism is regulated [9]. According to writers, the user of unregistered e-money as a consumer is entitled to have convenience, security, and legal protection while using it. If the user's unregistered e-money card is lost or damaged, the user has the right to claim his/her money to the issuer. At the same time, the issuer is also required to return the money to the user. In this situation, the issuer may be allowed to take some expenses of replacing lost and damaged card with a new one to the user. The user of the unregistered e-money, of course, will feel comfortable if he can claim his money again when the card is lost or damaged. The law must protect his right, and it is the government's responsibility to provide legal protection to users of unregistered e-money. With regards to the above discussion, legal protection for consumer in Indonesia is clearly regulated by law No. 8 of 1999 concerning Consumer Protection. The consumer, in the eyes of this consumer protection law, is the main legal subject. Consumer protection law facilitates the improvement of consumer's position before the law. The consumer no longer merely function as 'complement sufferer' in dealing with the business actor. The consumer is an economic actor whose function is to absorb the availability of production of goods and services. Without the consumer, there is no point in the products and services produced. Without the consumer, the economy will not work [10]. According to Section 4 (a) of the Consumer Protection Law, the consumer has the right to obtain safety and convenient when consuming goods or services. Section 7 (f) and 19 (1) of the Consumer Protection Law requires a business actor to provide compensation or replacement for losses resulting from the utilization of traded goods or services. Section 18 (3) also prohibits business actor from transferring responsibility to the consumer when suffering losses. Presently the use of unregistered e-money is

increasing significantly, and it will be continuously growing in the future. The money stored on unregistered e-money might be considered as a small value. However, if there are a large number of unregistered e-money users whose cards are lost or damaged, how much loss will be suffered by the users. The card of unregistered e-money maybe vanish, but in reality, the money does not disappear, it still exists and in the hands of the issuer. This situation, of course, will harm the user and benefit the publisher. Furthermore, the argument which says the loss or damage of an unregistered e-money card is the same with the loss of cash is also inappropriate. The loss of money cannot be compared with the loss of the unregistered e-money card. If cash is lost, the owner automatically will lose his money since its position is unknown. Nevertheless, if the card of unregistered e-money is lost, only the card is lost, but the actual money still exists and in the hands of the issuer. This situation is not fair enough for the users. It may harm the users and benefit the publisher. This injustice condition is also clearly in conflict with the consumer protection law, as explained above. Therefore, legal protection for the user of unregistered e-money must be specifically regulated.

4 CONCLUSION AND RECOMMENDATION

Based on the above discussion, it can be understood that Bank Indonesia Regulation Number 20/6/PBI/2018 concerning Electronic Money does not explicitly regulate the legal protection for users of unregistered e-money. Unlike with registered e-money, in unregistered e-money, the users cannot claim or receive any compensation from the issuer when the card is damaged or lost. This situation is, of course, detrimental to users because the money of users which is stored in the unregistered e-money is still recorded at the issuer. In using unregistered e-money, consumer rights must be protected. This is in line with the fundamental purpose of the consumer protection law, which is to protect consumer. In general, the position of consumer is not in line with the position of business actor. The consumer is often disadvantaged. Therefore his interest must be protected. The Issuers, as a business actor, is required to provide compensation to the user when his unregistered e-money card is lost or damaged. Legal protection for unregistered e-money users must be regulated clearly. Regulation of the Board of Governors of Bank Indonesia regarding the implementation of consumer protection must be immediately issued. Such Regulation must accurately and clearly regulate the mechanism of financial compensation for users of lost or damaged unregistered e-money.

REFERENCES

- [1] S. Hidayati, I. Nuryanti, A. F. A. Fadly & I. Y. Darwan, "Operasional E-Money", Bank Indonesia, October 2006, p. 1.
- [2] Implications for Central Banks of the Development of Electronic Money, Bank for International Settlements, Basle, October 1996, page 1
- [3] https://www.ecb.europa.eu/stats/money_credit_banking/electronic_money/html/index.en.html
- [4] <https://www.handbook.fca.org.uk/handbook/PERG/3A/3.html>
- [5] <https://www.bi.go.id/id/edukasi-perlindungan-konsumen/edukasi/produk-dan-jasa-sp/uang-elektronik/Pages/default.aspx>
- [6] Report of International seminar on 'Towards Less Cash

- Society in Indonesia, conducted by Bank Indonesia in 17-18 Mei 2009.
- [7] Statistik Sistem Pembayaran, <https://www.bi.go.id/id/statistik/sistem-pembayaran/uang-elektronik/contents/infrastrukturuaangelektronik.aspx>
- [8] Angga Sukmawijaya, "BI; Penerbit Tak Wajib Ganti Saldo Di Uang Elektronik Yang Hilang" (Online), Tersedia di <https://kumparan.com/@kumparanbisnis/bi-penerbit-tak-wajib-ganti-saldo-di-uang-elektronik-yang-hilang-1r7s4KsHkhl> (30 June 2019).
- [9] Interview conducted by the writers at Bank Negara Indonesia, West Kalimantan Sub-Branch Office, 20 June 2019.
- [10] Shidarta, "Hukum Perlindungan Konsomen", in Shidarta, A. Rasyid and A. Sofian (eds), *Aspek Hukum Ekonomi dan Bisnis*. Jakarta. Prenada, 2018. pp. 177-200, 2018.