

The Role of the Issuer in Loss of Electronic Money Users in the Failure of the Balance Refillment Process From the Consumer Protection Perspective

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Abstract

Electronic money services are an innovation from the publishers in terms of following world developments towards non-cash payments. Electronic money is referred to as a prepaid payment service which is different from debit and credit cards by not requiring a Personal Identification Number (PIN) so that the relationship between the user and the issuer is only limited to parties in buying and selling transactions. It is undeniable that there are several things that can harm consumers, such as failures during transactions to replenish electronic money balances but the funds owned by the user have been sent or have been deducted. So in this case the law regarding the payment service sector, especially electronic money and consumer protection is needed. The research this time aims to show the validity of the law in Indonesia regarding the rules for the implementation of refilling electronic money balances which are regulated in Bank Indonesia Regulation Number 20/6/2018/PBI concerning Electronic Money. Then the role of the issuer in the context of the loss of electronic money users when there is a failure in the balance refill process from the perspective of consumer protection, which of course still requires review considering that there are still problems with failed electronic money balance replenishment transactions. The research was conducted using a normative juridical method that is descriptive-analytical and uses a statutory approach.

Keywords

electronic money; transaction fail; replenishment balance; consumer protection



I. Introduction

The World Trade Organization (WTO) states that Indonesia is a developed country. So at least this affects the spirit and potential of the State of Indonesia in order to accompany the development of the world. It is not surprising that along with the rapid development of the world, especially in terms of technology, people experience changes in their lifestyle. The process of world development has one of the main pillars, namely the economy. The world economy will not be separated from the existence of trade and banking as a driving force. Of course, the community is the first layer to be affected by these developments.

As a party who directly experiences changes in the world of trade and banking, one of the lifestyles desired by the community is the aspect of convenience, flexibility, efficiency, to simplicity in conducting trading and banking activities, namely transacting. Banking is one of the important roles where the bank is an institution that collects public funds both in the form of credit and other financing transactions. Banking institutions are financial institutions which are used as a place for individuals, as well as private business

entities, to government institutions in terms of collecting or storing their funds. In the Banking Law no. 7 of 1992 and No. 10 of 1998, contains matters relating to banking problems, especially the definition or definition of a bank. Article 1 point 2 of the Banking Law states that a bank is a business entity that collects funds from the public in the form of savings and distributes them to the public in the form of credit and or other forms in order to improve the standard of living of the people.

In the world of economy, especially trade, the terms business actors and consumers are known, in which the two parties have different roles but need each other. Business actors have a need to market both their goods and services to consumers. Meanwhile, the consumer has all kinds of needs which of course can be fulfilled by the existence of goods and services from the business actor. The banking world considers that the consumer or often known as the customer is the party who must receive the best service because the role of the customer greatly determines the life and death of a banking institution. So it is a natural thing if the banking institution always strives to improve the quality and variety of services.

Apart from the reasons for the very rapid development of the world, the emergence of the Covid-19 pandemic has also affected all parties, where everyone is required to think harder in adapting to live the day by reducing direct activities. One of the things that have been adjusted is the payment method in a transaction. With the health protocol rules that require the public to reduce direct contact between humans, a transaction method that minimizes contact is needed. As a form of the development of banking services, one of the innovations of banking business actors is issuing non-cash payment options, namely debit cards, credit cards, and electronic money.

Services Electronic money or electronic money which can be used in various kinds of payments, one of which is payment transactions at toll gates. Electronic money is certainly different from other banking services such as debit cards and credit cards, but in terms of its use both are intended to make payments. (Bank Indonesia, 2009) Electronic money is a place where the card stores balances that have been transferred by users from the account he has on the electronic money card, or even from cash to non-cash, namely electronic money balances. Electronic money users must deposit the money they have to a banking institution as the issuer in electronic media for later use in transactions and the value in electronic money will decrease along with the use of the card. Then the user can top up the value on the card or what is commonly referred to as a top-up. Although the presence of electronic money is an option for users to suit their needs, the presence of electronic money does not necessarily replace the function of cash in its entirety. Development is a systematic and continuous effort made to realize something that is aspired. Development is a change towards improvement. Changes towards improvement require the mobilization of all human resources and reason to realize what is aspired. In addition, development is also very dependent on the availability of natural resource wealth. The availability of natural resources is one of the keys to economic growth in an area. (Shah, M. et al. 2020)

In addition to the very rapid development felt by consumers, of course it cannot be denied that there are several things that can harm consumers. This is reflected in the occurrence of several cases of violations or non-implementation of the precautionary principle by the issuer, namely banking institutions. The principle of prudence is one of the banking principles adopted in Indonesia and is contained in the provisions of Article 2 of Law Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 concerning Banking (Banking Law). In the provision it is stated that "Indonesian banking in carrying out its business is based on economic democracy by using the principle of prudence". It

can be interpreted that banking institutions operating in Indonesia are of course required to carry out their duties and authorities appropriately, carefully, thoroughly, and professionally so that it results in the trust of customers in the community. (Sugiyono, 2017)

Because according to Bank Indonesia Regulations concerning Electronic Money which is stated whereas the use of electronic money itself has similarities with the use of money in general, so that protection is needed for the holders of such electronic money in order to increase public trust which can also impact on the smooth running of Bank Indonesia's duties in maintaining monetary stability. This is also supported by Bank Indonesia Regulation Number 14/2/PBI/2012 concerning Amendments to Bank Indonesia Regulation Number 11/11/PBI/2009 concerning the Implementation of Card-Based Payment Instrument Activities, stating that along with the increase and development of payment instruments, it is believed In the future this will continue to happen so that the products issued by these banking institutions will be more varied. This requires special attention and supervision whose arrangements are separate from the regulation of payment instruments using cards (APMK). (Bank Indonesia, 2012) The problem that is often encountered by electronic money users is when there is a failure in the process of refilling electronic money balances, but the balance that has been deposited by the user has been deducted or accepted.

This is a fairly frequent occurrence that there have been several user reports as consumers on electronic media pages. This failure event occurred in various different situations, such as the type of platform used to top up balances, up to a quite significant time span, namely from 2019, 2020, to 2021. Electronic money users who are consumers of course feel very disadvantaged by this situation, until in that case it was stated that the user even had difficulty because he could not use his electronic money so that he had to top it up a second time with a different method. In addition, in some other cases the user even looks for a way out by refilling the balance on his other card. In this case, the relevant parties can only resolve the problem within a period of more than 30 days. One thing that has the potential to become a problem is when a customer suffers a loss due to a failed transaction to top up the balance on electronic money or top-up, where the service provider only provides certain options that the customer must do if this happens. So in fact, the condition of users or customers is at a weak point with a lack of information.

So, in the context of preventing or protecting against the impact of losses that can be felt by consumers, a consumer protection law is needed which is embodied in the Consumer Protection Law Number 8 of 1999 and POJK Number 1/POJK.07/2013 concerning Consumer Protection in the Financial Services Sector. However, how to implement all these legal rules if there is a loss that is felt by the consumer, one of which is filling a balance that does not enter but the balance has been deducted or sent. Users of electronic money products are considered more vulnerable to experiencing losses when compared to users of other banking products because of the concept offered by electronic money This is that the user does not need an account to be able to save the balance in the electronic money card. So, it is also stated that the balance contained in it cannot be guaranteed by the relevant institution or the Deposit Insurance Corporation. Therefore, in using electronic money, users do not need to confirm data or prove their authenticity or test authentication through a Personal Identification Number (PIN).

But even so, the presence of electronic money innovation has been approved by Bank Indonesia, for example, electronic money services issued by BCA with Flazz products, Bank Mandiri with E-Money products, BNI with Tap-Cash products, Bank BRI

with Brizzi products, and others. Implementation of electronic money banking services is different from other non-cash banking services such as debit and credit cards because electronic money users are not the owners of money saving accounts, such as debit or credit card customers. The relationship between electronic money users and the issuer of banking services is between business actors and their consumers which is in accordance with the concept of buying and selling with the same obligations and rights as other buying and selling transactions. In the process of purchasing the electronic money card, customers can do so through the nearest bank service branch or currently even available at minimarkets.

So, at this writing, the author conducts research related to banking services, especially electronic money with problems regarding the validity of law in Indonesia regarding the rules of the implementation of refilling electronic money balances. Then proceed with a discussion about the role of the issuer in the context of the loss of electronic money users when there is a failure in the balance replenishment process from the perspective of consumer protection.

II. Research Method

Writing this law, the author uses a normative juridical method that is descriptive analytical, namely providing an explanation or description of the relationship between the rules used and the issues raised. Normative juridical research can be said as a method of legal research which makes legal principles and rules into something that is concentrated to be seen as norms or rules with reference to laws and regulations, court decisions, to legal doctrines initiated by legal experts as a source. Furthermore, the approach that the author uses in writing with this normative method is the legal approach. This approach can be described as an approach by using the process of analyzing all laws or other regulations that are related to the legal problems currently being faced.

Then the author uses secondary data with primary legal materials, namely Law Number 8 of 1999, Bank Indonesia Regulation Number 20/6/2018/PBI concerning Electronic Money, and Bank Indonesia Regulation Number 16/1/2014/PBI concerning Consumer Protection System Services, Payments, and Regulation of the Financial Services Authority Number 1/POJK.07/2013 concerning Consumer Protection in the Financial Services Sector, as well as other legal rules that are in accordance with this writing. From this data, of course, it will go through the process of analyzing and reviewing data that are related and can be used as reinforcement in this research in order to produce accurate findings and answers.

III. Result and Discussion

3.1 Among

Based on the results of SYNC Southeast Asia research, it states that Indonesia is a country with a large number of consumers, especially digital consumers, which is estimated to reach 165 million by the end of 2021. With the number of digital consumers, of course there are also electronic money users in it. Statistical data from Bank Indonesia shows that as of January 2022, there are around 583 million electronic money units circulating throughout Indonesia. With such a large number and wide distribution, of course, it cannot be denied that it will be directly proportional to the growth in the number of transaction volumes and the value of reloading electronic money balances. Data shows

that as of January 2022, there have been 185 thousand electronic money balance refill transactions with a value of around 29 billion Rupiah.

It should be noted that since the issuance of Bank Indonesia Regulation Number 14/2/PBI/2012 concerning Amendments to Bank Indonesia Regulation Number 11/11/PBI/2009 regarding payment instruments using cards, the use of electronic money cards has become a commonplace and sufficient practice. popular with users considering its functionality and convenience. Because with this regulation, consumers feel that their rights are guaranteed and of course the publishers have clearly stated what their obligations are. So it can be said that the regulation is a legal umbrella for the start of payment instruments using cards, including electronic money. In addition, electronic money products can not only be issued by banks. Over time, problems and special discussions arose regarding electronic money, which at that time was increasingly widely used. So the government provides a solution or a way out, namely a special legal umbrella regarding electronic money. The regulation was issued by Bank Indonesia, namely Bank Indonesia Regulation Number 20/6/PBI/2018 concerning Electronic Money.

Based on the General Provisions in Article 1, the definition of electronic money is a means or instrument of payment, which includes elements issued on the basis of the value of money that was deposited in advance to the issuer, the value of money stored electronically in a media server or chip, and the value of electronic money managed by the issuer is not a deposit as referred to in the Act that regulates banking. Furthermore, according to the Bank for International Settlements , electronic money is a prepaid product in which the user's money is stored in a medium, namely an electronic money card. In the use of electronic money, transactions that are often carried out by users are balance replenishment transactions, namely transaction processes that aim to increase the value of money on electronic money cards so that they can be used in subsequent transactions.

Given that there are many payment transaction activities using electronic money every day, of course, it is very crucial to apply the rules or regulations that underlie these transaction activities, especially balance replenishment. Bank Indonesia Regulation Number 20/6/PBI/2018 concerning Electronic Money itself in Article 46 paragraph (1) it is stated that one of the features that can be provided by the issuer is the feature of refilling electronic money balances. The article means that balance replenishment transaction activities are transaction activities that are permitted to operate. However, apart from the rule that the transaction feature is a legitimate activity organized by the issuer, there are no further rules regarding this matter. Until the explanation section of the articles in the regulation does not include further explanations regarding the electronic money balance replenishment transaction. This indicates that there is a legal vacuum, namely rules that specifically address the issue of top-up transactions.

In the absence of further information and rules regarding the balance refill transaction process, it can be considered as being returned to the respective issuers to regulate the procedures for all balance replenishment transaction rules. Regarding the rules for reloading balances, the issuer is regulated in such a way by various different methods, such as through NFC on cell phones, through debit cards via ATMs, through EDC, through third parties, namely e-commerce or minimarkets, as well as through several machines that have been provided. at transit locations for travel modes such as busway stops, train stations, and others. Each issuer has different provisions regarding the balance replenishment transaction process, especially if a problem occurs regarding the failure of the transaction but causes losses while the user's balance is still being deducted or in the status of money being received. Given the absence of clear regulations regarding these

transactions, implementation in the event of a failed balance replenishment transaction becomes uncertain.

If we look back at the failed case of Rifqi's electronic money balance refill transaction which was carried out through one of the e-commerce sites in Indonesia and also Jayadi which was carried out through a server-based payment service application, we can find that there are similar problems, namely regarding how to handle this problem. Both cases had difficulty in submitting a continuation for the failure of the funds they put into the card on the grounds that the issuer and third parties, namely e-commerce, needed more time to trace and follow up on the case and the evidence provided by consumers was deemed inadequate. Meanwhile, the evidence sent by the consumer can be considered as concrete evidence because the evidence is even obtained through a printed list of transactions from the issuer itself. The resolution of these problems takes quite a long time, even exceeding 30 days since the transaction to top up the balance is carried out.

This is contrary to the rules that have been stated in Law Number 8 of 1999 concerning Consumer Protection or Article 19 of the UUPK which states that the settlement of the problem of losses felt by consumers is completed within a deadline of 7 days since the transaction took place. However, based on the Financial Services Authority Regulation Number 1/POJK.07/2013 concerning Consumer Protection in the Financial Services Sector Article 35, it is stated that the issuer is required to resolve the problem of consumer losses within a deadline of 20 days, but under certain conditions it can carry out an extension plus the extension must This is done by giving advance notice to the consumer, which is not done. This is of course the impact of the absence of special rules that cover and discuss the process of top-up transactions. So that when things happen that are not profitable or even detrimental to consumers, namely users of electronic money, there is no specific reference for solving these problems. So under these conditions, it can put the relationship between the electronic money user and the issuer in an unequal position, because the user is in a weak position.

3.2 The Role of the Issuer in the Context of Loss of Electronic Money Users When the Process of Replenishing Balances Fails from the Perspective of Consumer Protection

According to a data source from one of the electronic money issuers in Indonesia, which has more than 20 million users, electronic money balance replenishment transaction activities for the DKI Jakarta area already exceeded 50 million transactions. The activities for refilling electronic money balances are carried out through various media, such as E-commerce, ATMs, and also M-banking. For the number of transactions for refilling the electronic money balance, of course there will be a failed transaction process, which according to one electronic money issuer, the percentage of the number is 2% at most. Although it is not a large number, of course the position of the user as a consumer is on the weak side, namely the party who is disadvantaged. So that the issuer of electronic money has an obligation to be responsible for resolving and providing appropriate handling of these problems. This certainly reflects the importance of the existence of a legal regulation that is owned by Indonesia with the aim of providing certainty and protection for consumers.

Currently, Indonesia has its own legal regulations that raise the issue of consumer protection, namely Law Number 8 of 1999 concerning Consumer Protection, hereinafter known as UUPK. With the presence of UUPK, all matters relating to consumer protection must already have a reference. However, the presence of the UUPK also has the aim of achieving an equal position between consumers and business actors. One of the

explanations contained in the UUPK is a statement that of course the UUPK will not be the only legal rule that overshadows consumer protection issues, because of course in the future other regulations will emerge with more relevant issues at that time. Based on Article 1 paragraph (1) of Law Number 8 of 1999 concerning Consumer Protection, it is stated that consumer protection is all efforts that guarantee legal certainty to provide protection to consumers. It should also be borne in mind that with the passage of the sentence "all efforts to ensure legal certainty", it is considered as a reference that can prevent arbitrary behavior in the name of consumer protection to business actors.

In addition to the existence of the UUPK, the problem of the losses experienced by electronic money users when there is a failure in the electronic money balance replenishment transaction process is also one of the issues that can be linked to the Financial Services Authority Regulation Number 1/POJK.07/2013 concerning Consumer Protection in the Services Sector. Finance, and Bank Indonesia Regulation Number 16/1/PBI/2014 concerning Consumer Protection for Payment System Services. The regulation regarding financial service products is expected to be used as a basis for banking institutions so that the implementation of business activities and their products can take place in accordance with the regulations. The existence of regulations issued by the Financial Services Authority cannot directly be regarded as one of the legal products entitled consumer protection. However, these regulations certainly have the same goal, namely the stability of the financial services industry, both from the side of consumers as users and publishers as business actors. Where the thing behind the creation of the regulation is conformity with the function of the existence of the Financial Services Authority itself, namely the function of education and also consumer protection. The relationship between the two things is that education is carried out first as a preventive thing in order to create a good understanding on the part of the user.

In accordance with the role of OJK which takes a preventive side The form of legal protection also has a preventive side. Preventive legal protection itself can be said to be more focused on how the government can prevent consumer problems through socialization of consumer protection regulations, carrying out social control functions, and others. So it is hoped that the presence of preventive measures can increase knowledge as a human resource on how to actually protect consumers, as well as create a harmonious relationship as economic actors, namely between business actors and also consumers or users. This is because business actors are encouraged to always provide maximum and responsible product results, and consumers also understand their rights and obligations. With the preventive side of legal protection, the direction is to protect from the possibility of violations which are certainly against the law. The existence of preventive protection itself is one of the freedoms owned by the government which is encouraged to make discretionary decisions. So it can be said that the existence of regulations regarding consumer protection is one form of example from the preventive side.

When discussing consumer protection in terms of prevention, of course the government can be said to have done its role. However, of course, the financial services sector cannot be separated from the business actors, which in this case are the issuers of electronic money. In accordance with Bank Indonesia Regulation Number 20/6/PBI/2018 in Article 2, the implementation of activities from electronic money itself must prioritize various principles, one of which is consumer protection. This is also reinforced by Article 34 paragraph (2), namely:

“In addition to fulfilling the obligations as referred to in paragraph (1), specifically for Providers in the form of Issuers, they are required to:

- a. Apply the principles of anti-money laundering and prevention of terrorism financing;

b. Applying consumer protection principles.”

Based on the article, the issuer of electronic money has also been confirmed to have an obligation to carry out the principle of consumer protection.

Prior to further discussion on consumer protection, each party in the electronic money balance reloading transaction activity certainly has rights and obligations that cannot be separated. The issuer of electronic money or can be referred to as a financial services business actor, based on Article 4 of the Financial Services Authority Regulation Number 1/POJK.07/2013 concerning Consumer Protection in the Financial Services Sector, has an obligation to convey to consumers information about products or services accurately, honestly, clear, and not misleading which can be stated in a document or other means, either when providing an explanation of the rights and obligations of consumers, when making agreements with consumers, or through print or electronic media. Where the information must be easily accessible, which is emphasized in Article 5. Then followed by Article 8 which states that the information submitted by the issuer as a business actor is submitted in a summary which includes the benefits, risks, costs of products or services, as well as terms and conditions. In addition to this, Article 11 also states that the terms and conditions section of a financial product or service contains procedures for the service and settlement of disputes in the Financial Services Business Actor. The issuer, based on Article 7 of the UUPK, has an obligation to provide correct, clear and honest information regarding the condition and guarantee of goods and/or services as well as to provide an explanation of the use, repair, and maintenance.

This provision is certainly an obligation that must be obeyed by the issuer of electronic money. However, in fact, so far, several issuers have not implemented the regulation optimally, considering that several issuers have so far not included information on the procedure in the event of a failed electronic money balance replenishment transaction. In addition, in terms of preventive consumer protection, several issuers so far in their development still have systems that do not automatically detect if there is a disturbance which causes the failure of the top-up transaction. So if the issuer already has the system, it will indirectly reduce the risk of a failed balance replenishment transaction. So it can be said that the implementation of these rules still needs to be reviewed in accordance with Article 9 of PBI Number 16/1/PBI/2014 concerning Consumer Protection of Payment System Services which states that the organizers, which in this case the issuer, are required to establish a reliable system in system services. payment. Because based on the regulations in Article 4 of the UUPK, consumers, namely users of electronic money, are entitled to information about the electronic money as clearly as possible.

Given the failure of the electronic money balance replenishment transaction process so far, it is not only the right to information, but the user also has the right to have their complaints heard about the services used for further settlement in the form of compensation, compensation or others. Because one of the obligations of business actors which is also mentioned in the UUPK, POJK No. 1/POJK.07/2013, and PBI No. 16/1/PBI/2014, that the resolution of these problems must be followed up considering that the fault lies with the publishers themselves as business actors. The resolution of these problems certainly requires several procedures or steps that are also mandatory to be fulfilled and carried out by the user considering that this is one of the obligations of the user. The thing that needs to be included as evidence in the case of failed electronic money balance replenishment transactions is a list of transactions showing that the user has carried out balance replenishment transactions. Where based on Article 27 POJK No. 1/POJK.07/2013 that the issuer or business actor is required to provide information or data regarding the balance held by the user which in this case will be used as evidence.

Furthermore, regarding the settlement period for the problem of user losses due to the failure of the balance replenishment transaction, the issuer according to Article 19 of the UUPK is obliged to complete it and provide compensation to the user within 7 days after the transaction occurs. However, based on Article 35 of POJK No. 1/POJK.07/2013 that the issuer is required to resolve the issue no later than 20 working days after the transaction failure, which can then be extended if there are certain reasons, such as the office receiving the complaint is different from the transaction failure, there are things that are out of control such as the involvement of third parties, and transactions require special research. The extension of time can of course be carried out if a written notification has been given to the user before the first period ends. In fact, in Rifqi's case, the issuer was only able to resolve the problem of the failed balance replenishment transaction after more than 1 month with the issuer's position not providing a follow-up deadline for the case. So that it can be said that in this case the role of the issuer still needs to be reviewed in terms of resolving the problem of failure to refill electronic money balance transactions.

IV. Conclusion

Bank Indonesia Regulation Number 20/6/PBI/2018 concerning Electronic Money itself in Article 46 paragraph (1) states that one of the features that can be provided by the issuer is the feature of refilling electronic money balances. The article means that balance replenishment transaction activities are transaction activities that are permitted to operate. However, apart from the rule that the transaction feature is a legitimate activity organized by the issuer, there are no further rules regarding this matter. Until the explanation section of the articles in the regulation does not include further explanations regarding the electronic money balance replenishment transaction. This indicates that there is a legal vacuum, namely rules that specifically address the issue of top-up transactions. In the absence of further information and rules regarding the balance refill transaction process, it can be considered as being returned to the respective issuers to regulate the procedures for all balance replenishment transaction rules. So in this condition, it can put the relationship between the electronic money user and the issuer in an unequal position, because the user is in a weak position.

In addition to the existence of UUPK, problems regarding the losses felt by electronic money users when there is a failure in the charging transaction process Re-balancing of electronic money is also one of the issues that can be linked to the Financial Services Authority Regulation Number 1/POJK.07/2013 concerning Consumer Protection in the Financial Services Sector, and Bank Indonesia Regulation Number 16/1/PBI/2014 concerning Consumer Protection for Payment System Services. . The issuer, based on Article 7 of the UUPK, has an obligation to provide correct, clear and honest information regarding the condition and guarantee of goods and/or services as well as to provide an explanation of the use, repair, and maintenance. However, in fact, several issuers have so far not implemented the regulation optimally considering that several issuers have so far not included information about the procedure in the event of a failed electronic money balance replenishment transaction. In addition, in terms of preventive consumer protection, several issuers so far in their development still have systems that do not automatically detect if there is a disturbance which causes the failure of the top-up transaction. Then the issuer still needs to study further on how the process of solving problems occurs when there is a failure to fill in the electronic money balance which includes matters of proof up to the settlement period.

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