

THE POLICY ON THE DETERMINATION OF TOP UP FEE OF E-MONEY



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ABSTRACT

The top-up fee of e-money has been determined by Bank Indonesia which is loaded in the Board Governor Member Regulation Number 19/8/PADG/2017 on the National Payment Gateway. The price scheme was set into two kinds depending on where the transaction channel was made whether the transaction channel was through the or different from the issuer payment channel. This research aimed to analyze whether the actions of Bank Indonesia in determining the top-up fee in the form of the Board Governor Member Regulation Number 19/8/PADG/2017 on the National Payment Gateway is in line with its duties and authorities. This research uses the normative legal research type with the statute approach to research the legislation which regulate the authority of Bank Indonesia regarding the policy on top-up fee which has been issued by Bank Indonesia and the supervision on the implementation of that such policy. The research concluded that Bank Indonesia is authorized to regulate the top-up fee of e-money to ensure the consumer protection and the smoothness of the payment system. Moreover, the supervision regarding to the e-money top up fee was in the hand of Bank Indonesia. But in case that the consumer suffered loss because of the fault of the e-money organizer, the Financial Service Authority could take lead to facilitate the complaint of the customer.

Keywords: electronic money, top up fee, policy

A. BACKGROUND

Money as the valid payment tool has undergone big changes, especially in the shape. Nowadays there is innovation in the form of some amount of money that is saved in an electronic medium which owned by someone, which is called as e-money. E-money is an innovation for the micro payment transaction which means the e-money is used as payment means in the small amount. The unique of e-money is that the transaction using e-money does not need any authorization process such as Personal Identification Number or Signature. However, the ownership of e-money can be easily transferred or handed over to other.

B. PROBLEM STATEMENT

Based on the above facts, rise some questions which become the problem statement as follows:

1. How is the regulation on the electronic money (e-money)?
2. Is the action of Bank Indonesia in making the policy on the determination of top up fee of e-money in line with its duties and authorities?
3. How is the supervision of Bank Indonesia and Financial Service Authority related to the transaction using e-money?

C. OBJECTIVES AND BENEFIT OF RESEARCH

1. To understand and analyze the regulation on electronic money in detail including the process and the parties that are involved in the payment process with electronic money.
2. To analyze whether the action of the Bank Indonesia in making the

policy on the determination of top up fee of e-money was in line with the duties and authorities of Bank Indonesia.

3. To analyze the supervision on the Bank Indonesia's policy on the top up fee of e-money.

D. LITERATURE REVIEW

1. Bank

Bank is the important and main element in the financial system of a country. Bank is a financial institution which become a place for individual, private enterprises, and state-owned enterprises, even the government institution to save their owned funds. Through the activity and many services that given, bank serves the financing and smoothens the mechanism of payment system for all sectors of economy.¹

In Article 1 Point 2 of Law Number 10 of 1998 on Amendment of Law Number 7 of 1992 on Banking formulate the definition of bank as an enterprise that collects the fund from the society in the form of savings and channels to the society in the form of credit and/or other forms in order to increase the standard of living of the society. From the above description, it can be explained that bank is company that run in the field of finance; it means that the banking business is always related to the problem of finance

2. Bank Indonesia

Based on Article 4 paragraph 1 of Law Number 3 of 2004 on Bank Indonesia *juncto* Law Number 6 of 2009 on The Stipulation of Government Regulation in Lieu of Law Number 2 of 2008, it is mentioned that Bank Indonesia is the Central Bank of

¹ Hermansyah, 2013, Hukum Perbankan Indonesia, Jakarta, Kencana Prenada Media Group, p.7.

Republic of Indonesia. Central bank is state institute that has the authority to issue the valid payment tools of a country, to formulate and implement the monetary policy, to regulate and maintain the continuity of payment system, to regulate and supervise the bank, and also to run the function as the lender of the last resort.²

3. E-Money

The electronic money was regulated in the Bank Indonesia Regulation Number 11/12/PBI/2009 on the Electronic Money. Electronic Money is a means of payment that fulfilled the elements as follow:³

1. Issued based on the money that is deposited firstly by the holder to the issuer;
2. Money value is saved in electronically in a medium such like server or chips;
3. Used as the means of payment to the traders which is not the issuer of that such electronic money;
4. The value of electronic money deposited by the holder and managed by the issuer is not a savings as meant in laws that regulate on banking.

If we look to the medium that are used, there are two types of electronic money products, they are⁴:

1. Prepaid Card, with the characteristics:
 - a. The value of money was converted into the electronic

value and saved in a chip (integrated circuit) that is planted in the card;

- b. The mechanism of the transfer of the value is done by entering the card into a card reader;
2. Prepaid Software (also called as digital cash), with the characteristics:
 - a. The value of money is converted into electronic value and is saved in a hard disk of computer that is found in the Personal Computer (PC);
 - b. The mechanism of the transfer of the value is done online by a communication network such as internet, at the moment of paying.

4. Financial Service Authority

According to Article 1 point 1 of Law Number 21 of 2011 on the Financial Service Authority defines that Financial Service Authority hereinafter shall be abbreviated to OJK, which shall be the independent agency of which is free from the intervention from whatsoever party, which has function, assignment, and control authority, supervision, investigation as set forth herein.

The objectives of FSA are:⁵

1. Create the implementation of all activities in the financial service regularly, justly, and accountably;
2. Create financial system which grow continually and stable;

² Explanation of Article 4 of Law Number 3 of 2004 on Bank Indonesia *juncto* Law Number 6 of 2009 on The Stipulation of Government Regulation in Lieu of Law Number 2 of 2008.

³ Article 1 point 3 of Bank Indonesia Regulation Number 11/12/PBI/2009 on the Electronic Money

⁴ Siti Hidayati *et al*, 2006, "Operasional E-Money", Jakarta, Bank Indonesia,

<https://www.bi.go.id/id/publikasi/sistem-pembayaran/riset/Documents/4a79ad4a8dbe4ebca2c0f86a5a2f1c69KajianEMoney.pdf>, accessed on March 5th, 2018 at 13.45, pp. 6-8.

⁵ Article 4 of Law Number 21 of 2011 on Financial Service Authority

3. Protect the interest of consumer and society.

The duties of FSA are appropriate with the Article 6 of Law on the Financial Service Authority, namely conducting the task of regulating and supervising against:

1. Activities of financial service in the banking sector;
2. Activities of financial service in the capital market sector;
3. Activities of financial service in the sector of insurance, pension fund, financing institution and other financial services.

E. RESEARCH METHOD

This research is juridical normative legal research, that is research using law as the foundation which is related to the principle, norm, and rules from legislation, verdict, treaties, and doctrine.⁶ The research uses the statute approach which analyze the existing and prevailing legislation. The type of data is the secondary data which consist of primary legal materials, secondary legal materials, and tertiary legal materials. The data were collected through library research. Then the data is systemized and analyzed prescriptively and qualitatively to explain the action of Bank Indonesia in determining the top up fee is inline with its authority including the supervision of that such regulation.

F. FINDING AND ANALYSIS

1. Review of E-Money

The e-money issue was regulated in the Bank Indonesia Regulation Number 11/12/PBI/2009 amended by Bank Indonesia Regulation Number 16/8/PBI 2014 on Electronic Money. If

we look at the media that used, there are two types of e-money, they are:

1. Prepaid card/electronic purses with the characteristics:
 - a. Value of money is converted into electronic value and is stored in a chip (integrated circuit) which is planted in a card.
 - b. Mechanism of fund transfer is done by putting the card in a card reader.
2. Prepaid software (also known as digital cash) with the characteristics:
 - a. Values of money is converted into electronic value and is stored in a hard disk of computer which is contained in a Personal Computer (PC).
 - b. Mechanism of fund transfer is done online through a communication network such as internet, at the moment of conducting the payment.

The electronic money must contain the transparency of products. The issuer has to give the written information to the holder on the issued electronic money. That information is obliged to be delivered with Indonesian Language which is clear and easy to understand, written in the letter and number that are easy to be read by the card holder. That information is appropriate with the Circulation Letter Number 11/11/DASP on the electronic money which contains matters as follows:

1. Information that electronic money is not a saving as it is meant by the law on the banking, so the value of the

⁶Zainuddin Ali, 2009, *Metode Penelitian Hukum*, Jakarta, Sinar Grafika, p.105.

electronic money is not guaranteed by the Indonesia Deposit Insurance Corporation (IDIC).

2. The procedure and the way order to use the electronic money, facility that is attached to the electronic money such as the top up, value transfer, cash withdrawal, and redeem and also the risk that may rise from the use of electronic money.
3. Rights and Obligation of the Holder include:
 - a. Important things that must be noted by the holder in the use of the electronic money such the validity period of the electronic money media, if exist, and the rights and also the obligations of the Holder on the expiration of the validity period of the electronic money media.
 - b. The rights and the obligations of the Holder if there is something that cause the loss for the Holder and/or Issuer, either caused by the system failure or other causes; and
 - c. Types and the number of cost that is used.
4. Procedures of the submission of complains that are related to the use of electronic money and estimation time for the handling of the complaint.
5. Procedures and consequences of the use of product including the procedures of returning of all value of electronic money that is left in the electronic money at the time when the Holder ends the use of the electronic money (redeem).

The issuer can determine the validity period of the electronic money media such as by the consideration on the limit of technical age of the

electronic money media that are used. By the end of the validity period of the electronic money media, the value of electronic money that is left in that media is not immediately being erased. The holder has the rights of bill on the rest of that electronic money that is saved in that media until the expiration period as regulated in the Civil Code, as long as the rest of money is exist in the electronic money, and this can be done in many ways such as transferring the rest of value on the new media. The fulfillment of the right of bill can be reduced by the administration fee that is imposed by the issuer to the holder of the electronic money.

Appropriate with the Bank Indonesia Regulation Number 11/12/PBI/2009 on the electronic money as amended by the Bank Indonesia Regulation Number 16/8/PBI/2016 then we can look to the parties who are involved in the transaction of e-money, they are:

1. Principal

Bank or other institution which is not a bank that is responsible for the system management and/or network between their members, either who has role as issuer and/or acquirer, in the electronic money transaction that has cooperation with other member is based on a written agreement.

2. Issuer

Bank or other institution which is not bank that issue the electronic money.

3. Acquirer

Bank or other institution which is not bank that conduct cooperation with the merchant which able to process the data of electronic money that issued by other party.

4. Holder

Party who uses the electronic money

5. Merchant

Seller of goods and/or service that receive the transaction payment from the holder.

6. Clearing Organizer

Bank or other institution which is not bank that calculate the financial rights and duties of each issuer and/or acquirer in the context of electronic money transaction

7. Clearing Settlement Organizer

Bank or other institution which is a not bank that conducts and is responsible for the final settlement on the rights and duties of each issuer and/or acquirer in the context of electronic money transaction based on the result of the calculation and clearing organizer.

The relationship between the Issuer, Holder and Merchant was the most important relationship in the electronic money transaction. The value of electronic can be gained by exchanging a number of cash money or through debiting of account in the issuer bank and then is saved in the form of e-money card. The transfer of electronic value happened if there is a transaction of payment that done by the merchant through a special machine for the card (card reader).

2. E-Money Top Up Fee Regulation as Enacted by Bank Indonesia

The Bank Indonesia also issued the regulation on determination of top-up fee to ensure that the top-up fee that is charged by issuer and imposed to the e-money card holder has uniform price and limited.⁷ The scheme of top-up fee of e-

money was regulated in Board Governors Member Regulation Number 19/10/PADG/2017 on the National Payment Gateway. The top-up fee only imposed to the chip-based e-money. The price scheme of top-up is divided into two, they are:

1. Top Up On Us

The transaction of top-up on us is top-up transaction done through the same payment channel of Issuer.

Amount of Top Up	Charge
≤ IDR 200.000,-	Free of charge
> IDR 200.000,-	Maximum charge of IDR 750,-

So based on the above table, for the top up amount less than or equal to IDR 200.000,- there will be no charge that will be imposed to the holder, while if the top up amount is greater than IDR 200.000,- the holder will be charged for IDR 750,-.

2. Top Up Off Us

The transaction of top up off us is the top-up transaction done through other party that cooperated with the Issuer and/or use the other party's payment channel. The charge amount of top up off us is IDR 1.500,- for any top up amount.

Regarding to the position of Bank Indonesia in the Constitution, there is another aspect which have to be concerned, that is regarding to the position of Bank Indonesia Regulation in the hierarchy of legislation. The explanation of Article 4 paragraph (3) of Law Number 3 of 2004 stated that Bank

⁷ Desi Aditia Ningrum, "Ini alasan BI kenakan biaya isi ulang e-money", [https://www.merdeka.com/uang/ini-alasan-bi-](https://www.merdeka.com/uang/ini-alasan-bi-kenakan-biaya-isi-ulang-e-money.html)

[kenakan-biaya-isi-ulang-e-money.html](https://www.merdeka.com/uang/ini-alasan-bi-kenakan-biaya-isi-ulang-e-money.html) accessed on March 19, 2018 at 13.38.

Indonesia is a public legal body which is authorized to determine the regulation and to impose sanction in its authorization limit. There are 4 (four) types of regulation which are issued by Bank Indonesia, they are:⁸

- a. Bank Indonesia Regulation
Bank Indonesia Regulation is the legal provision which enacted by Bank Indonesia and bind every individual or body and loaded in the gazette.⁹
- b. Board Governor Regulation
Board Governor Member Regulation is the legal provision enacted by the Board of Governor containing the internal regulations such as regarding to the code of conduct of implementation of duties and authorities of Board of Governor, staffing, and organization of Bank Indonesia
- c. Board Governor Member Regulation
Board Governor Member Regulation is legal provision enacted by the Board Governor Member as the implementing regulation of Bank Indonesia Regulation and bind every individual or body.
- d. Intern Board Governor Member Regulation.

Intern Board Governor Member Regulation is legal provision which is enacted by the Board Governor Member which contains the intern regulation of Bank Indonesia as the implementing regulation of Bank Indonesia Regulation and/or Board Governor Regulation.

In the Law Number 23 of 1999 *juncto* Law Number 3 of 2004 *juncto* Law Number 6 of 2009 at least there are 11 (eleven) Articles which firmly mandate that certain matters were regulated by the Bank Indonesia Regulation.¹⁰ For example Article 2 paragraph (3) which state “every conduct which use the money or having purpose of payment or obligation which has to be fulfilled by money if done in the Republic of Indonesia territory shall use the rupiah money, unless determined other by Bank Indonesia Regulation. This matter is in line with the authority of Bank Indonesia to issue regulation and authority to impose sanction.¹¹

Specifically, Bank Indonesia has duty to regulate and maintain the smoothness of payment system.¹² In the regulating duty is in the form of Bank Indonesia regulation which bind the parties of the payment system. Regarding to the position of Bank Indonesia Regulation as the implementing regulation, it should be noted that the Bank Indonesia is very

⁸ Article 4 of Bank Indonesia Regulation Number 18/42/PBI/2016 on Formulation of Regulation in Bank Indonesia

⁹ Article 1 point 8 of Law Number 23 of 1999 *juncto* Law Number 3 of 2004 *juncto* Law Number 6 of 2009 on the Bank Indonesia.

¹⁰ Badan Pembinaan Hukum Nasional Kementerian Hukum dan HAM RI, 2010, “Laporan Akhir Pengkajian Hukum Tentang Eksistensi Peraturan Perundang-undangan di Luar Hierarki Berdasarkan UU No. 10 Tahun 2004 Tentang Pembentukan Peraturan Perundang-undangan, Pusat Penelitian

dan Pengembangan Sistem Hukum Nasional”, p. 58. http://www.bphn.go.id/data/documents/eksistensi_peraturan_perundang-undangan.pdf, accessed on April 20, 2018 at 15.40.

¹¹ Ashinta Sekar Bidari, “Kedudukan Bank Indonesia (BI) Setelah Terbentuknya Otoritas jasa Keuangan (OJK)”, *Ratu Adil*, Volume 3 Number 1 (2014), ISSN 2549 1350, p.4

¹² Article 8 of Law Number 23 of 1999 on Bank Indonesia

important in determining the achievement of the goals and the implementation of Bank Indonesia's duties. This thing also related to the position of Bank Indonesia as the independent state institution.¹³

The existence of Bank Indonesia Regulation actually has been recognized in the Law Number 12 of 2011 on the Establishment of Legislation, especially in Article 8 paragraph (1) which said that the other type of legislation as mentioned in the Article 7 paragraph (1) covers the regulation which is enacted by the People Consultative Assembly, House of People Representative, People Representative Council, Supreme Court, Constitutional Court, Audit Board, Judicial Commission, Bank Indonesia, Ministry, body, institution, or commission with the same level established by the Law or Government based on the mandate of Law, Regional House of People Representative of Province, Regional House of People Representative of Regency/City, Regent/Major, Village Chief or others with the same level. Then in the second paragraph, it is said that the Legislation as meant in the paragraph (1) is recognized and has legal power of binding as long as it is mandated by the higher legislation or established based on the authority.

So based on the above explanation, it can be concluded that Bank Indonesia action for issuing the regulation on the top-up fee of e-money is in line with its authorities and duties which already contained in Article 4 of Law Number 23 of 1999 *juncto* Law Number 3 of 2004 *juncto* Law Number 6 of 2009 on Bank Indonesia. The regulating on the

payment system was in the scope of Bank Indonesia's authorities. Even the determination on the price scheme of top up fee of e-money is purposed to ensure the consumer protection and make the uniform price of top up fee.

3. Supervision on the E-Money Top Up Fee

According to the Banking Law, it is mentioned that the task of regulation is defined by the guidance which is the effort to create regulations concerning the institutional aspect, ownership, management, business, reporting, and other aspects related to the bank's operational activities. By the establishment of the FSA, the bank supervision system was fully already become the FSA's authority, and Bank Indonesia is expected to still have the discretion to the banking data access quickly and accurately.¹⁴

Concept of the establishment of the supervision institution in Indonesia is the full authority. The supervision authority against the banking, capital market, and the non-bank financial institution was held by one institution, so those three-supervision authorities which are capital market, banking and non-bank financial institution will be joined into one independent authority. It means that Bank Indonesia only has monetary policy without having the authority to conduct the bank supervision. But the transferring of the regulation and supervision duties on the banking to the FSA did not make Bank Indonesia completely free from the bank regulatory and supervisory interest.¹⁵ In the explanation of Article 7 of FSA Law, it is mentioned that the regulation and

¹³ Agus Santoso and Anton Purba, *Ibid*.

¹⁴ Zulfi Diane Zaini, "Hubungan Hukum Bank Indonesia sebagai Bank Sentral dengan Otoritas Jasa Keuangan (OJK) Pasca Pengalihan Fungsi Pengawasan Perbankan", *Jurnal Media Hukum*

Universitas Muhammadiyah Yogyakarta, Volume 20 Number 2, (2015), ISSN 0854-8919, p. 374.

¹⁵ Metia Winati Muchda, Maryati Bachtiar and Dasrol, *op.cit*, pp. 82-83.

supervision that are done by FSA regarding the institutional, health, prudential aspects, and bank checks are the scope of microprudential regulation and supervision. The scope of regulation and supervision of macroprudential are regulation and supervision beside the matters that are set in Article 7 which contains the authority of FSA in carrying out the regulation and supervision duties in the banking sector, is the duty and authority of Bank Indonesia.

According to Bismar Nasution, macroprudential supervision is directing and pushing the bank, as well as monitoring them in order to play a role in the program of achieving macroeconomic goals, whether it is related to general policies to push the economic growth, balance of payments, expansion of employment, monetary stability, equal distribution of income and business opportunity. While the aim of the microprudential supervision is to strive for each bank to be individually healthy and secure, and also the overall banking industry become healthy and able to maintain the trust of society. It means that every bank, since the beginning, has to be avoided from any risks that will rise.

The task of the supervision by Bank Indonesia against the banking in the macroprudential scope is that Bank Indonesia conduct direct inspection to the certain bank which is rated in Systemically Important Bank and/or other bank appropriate with Bank Indonesia in the scope of macroprudential. Then Bank Indonesia also can conduct steps of recapitalization to the bank that undergoing difficult of liquidity or the health condition which is going to be bad. This thing is mentioned in Article 41 paragraph (2) of FSA Law which said: "In the case of OJK indicating that certain banks are experiencing liquidity difficulties and / or worsening soundness, OJK will immediately inform the Bank of

Indonesia to take steps in accordance with the authority of Bank Indonesia." The steps in accordance with the authority of Bank Indonesia is the giving of short-term financing facility in running the Bank Indonesia function as the lender of the last resort. This is also included in the Bank Indonesia duty in the macroprudential scope.

If we look at the law that regulate the electronic money issue which is regulated in Bank Indonesia Regulation Number 11/12/PBI/2009 which has got amended by Bank Indonesia Regulation Number 16/8/2014 and Bank Indonesia Regulation Number 18/17/PBI/2016 although the amendment did not make any changes on the Chapter V on Supervision, which means that the supervision on the implementation of electronic money is still held by Bank Indonesia. The Articles that regulate on it are Article 22 and 23. In Article 22 Bank Indonesia could hold supervision to the Parties that are involved in the implementation of electronic money such as Principal, Issuer, Acquirer, Clearing Organizer and/or Clearing Settlement Organizer. In the next paragraph it is mentioned that Bank Indonesia was able to hold consultative meeting with those parties.

The more specific and technical matters on the implementation of e-money including its supervision are regulated in the Bank Indonesia Circulation Letter Number 16/11/DKSP, especially in the sub chapter VIII. The supervision on the e-money is purposed to make sure that the implementation of e-money is done efficiently, quickly, safely, and reliably by concerning the principle of consumer protection, anti-money laundering, and prevention of terrorism funding. The supervision against the e-money implementation is focused the:

1. Practice of risk management aspect;

2. Obedience to the policy and prevailing legislation, including the truth and accuracy on the information and report delivery, practice the anti-money laundering and prevention the terrorism funding, principle of healthy competition, fund transfer and other legislations;
3. Practice on the consumer protection aspects.

Specifically, the supervision to the implementation of electronic money done by Bank Indonesia through:

1. Research, analysis and evaluation which are based on the periodic report, incidental report, data and/or other information obtained by Bank Indonesia from the other parties, and discussion with the organizers;
2. On site visit to the organizers which is done in order to:
 - a. Make sure the fulfillment of the implementation of electronic money policies.
 - b. Make sure the truth of the report and data that are delivered;
 - c. Check the physical means, system, supporting application, and database; and
 - d. Check the activities of e-money implementation if there is report or allegation of fraud, money laundering and terrorism funding in the Organizers. If it is needed, the on-site visit can be done to the parties who cooperate with the Organizers;
3. Consultation meeting with the organizers to get the

organization information and to deliver the recommendation; and

4. Coaching to the organizers including to conduct change or to repair in organizing the electronic money.

Regarding to the supervision, the Organizers are also obliged to give:

1. Information and/or data which are related to the Electronic Money implementation, either in the form of hard copy or soft copy; and
2. Access to Bank Indonesia to conduct on site visit to the implementation of Electronic Money including the physical means, system, supporting applications, and database.

Besides that, if there is an error on the system, the Organizer of Electronic Money has to deliver the incident report to Bank Indonesia, that is the report on the system error and effort that has been done to settle it, such as:

1. The existence of network failure in processing the electronic money transactions;
2. Failure of data center and disaster management center; and/or
3. Fraud which happen at least covering the information regarding:
 - a. Chronology;
 - b. Loss impact that caused by it.

There is a special provision which allows Bank Indonesia to order another party to conduct on site visit against the Organizers. What is meant by another party is the public accountant or information technology consultant as regulated in the Article 22 of Bank Indonesia Regulation on Electronic Money. The amendment of Bank

Indonesia Regulation Number 16/8/PBI/2014 on the Electronic Money, also gives Bank Indonesia authority of giving sanctions to the Organizer of electronic money; they are principal, issuer, acquirer, clearing organizer, and final settlement organizer. The sanctions are:

1. Administrative Sanctions:
 - a. Reprimand;
 - b. Fine;
 - c. Temporary termination of part or entire electronic money activities.
2. Sanctions of Electronic Money Organizer License Revocation.

The form of legal protection is basically an effort of legal enforcing. Factors that need to be considered in the legal enforcing is the legal factor itself, means or legal enforcing supporting facility factors, society factor which is where the law is applied.¹⁶ The form of preventive legal protection for the e-money card holder can be realized through the regulation to the provisions on the use of standard agreement which is more detail regarding to the nature, character, distribution of rights and obligations which is poured in the form of law which gives the shelter place for the card holder through the regulation of the clauses in the standard agreement of requirements and provision of card holder. Standard agreement is agreement where the provision and the requirements are already prepared and determined unilaterally by the user and binds other parties. That other parties cannot change or negotiate to change it.¹⁷

The form of repressive legal protection can be done by the parties,

either the issuer or the holder of card through the dispute settlement pattern which can be divided into 2 (two), they are:

1. Through the court (litigation)
2. Alternative dispute resolution (dispute settlement outside the court or non-litigation) which covers:
 - a. Consultation
 - b. Negotiation
 - c. Mediation
 - d. Conciliation

When there is complaint as the effect of the service use of business actor on the financial service, the consumer can make the complaint directly to the concerned business actor. Article 32 paragraph 1 of FSA Regulation Number 1 of 2013 on the Consumer Protection on Financial Service Sector said that business actor on the financial service must have and implement the mechanism of service and settlement of complaint for the consumer. The complaint from that consumer is in the form of when there is a trouble or error which happen either from the system or the parties in the electronic money transaction. When there is error that happens in the financial service sector, the business actor obliged to report the consumer complaint to the FSA.

If there is complaint from the customer (holder of e-money) which caused by the business actor in the financial service sector the FSA has authority to conduct supervision in the financial system in Indonesia and give the rights to the e-money holder to be able to make complaint directly to the bank or business actor that has issued the e-money because it has been regulated in

¹⁶ Johannes Ibrahim, 2005, Dilematis Penerapan Undang-Undang Nomor 24 Tahun 2004 tentang Lembaga Penjamin Simpanan, Antara Perlindungan Hukum dan Kejahatan Perbankan, *Jurnal Hukum*

Bisnis, Volume 24 No. 1 (2005), ISSN 1411-1128, p. 43

¹⁷ Djoni S. Gazali and Rachmadi Usman, 2012, *Hukum Perbankan*, Jakarta, Sinar Grafika, p. 321

Article 32 paragraph 1 of FSA Regulation Number 1 of 2013 on the Consumer Protection on Financial Service Sector which said that the business actor is obliged to have and implement the mechanism of settlement and complaint treatment for the consumer and the business actor obliged to report continually on the existence of consumer complaint and obliged to follow up the service and settlement of the consumer complaint, complaint from the business actor is reported to the FSA which has authority in supervising the financial service sector.

Article 35 paragraph 1 of FSA Regulation Number 1 of 2013 on the Consumer Protection in Financial Service Sector has regulated on the time period of complaint from the consumer or the e-money holder will be responded and processed; in this article, it is said that the financial service business actor is obliged to follow up and settle the complaint no later than 20 (twenty) working days after the date of the complaint received, but that time period can be extended for next 20 (twenty) days after the date of complaint received. As the form of quick respond on the complaint, the financial service business actor is obliged to have work unit and/or function to handle and settle the complaint that is submitted by the consumer.

The Financial Service Authority gives the protection to the consumer if the consumer suffers loss caused by the use of that service. The form of protection that is given by FSA is the chance to the consumer to conduct complaint until the dispute settlement. Article 40 paragraph 1 of FSA Regulation Number 1 of 2013 on the Consumer Protection on the Financial Service Sector said that consumer can deliver the complaint which indicates the dispute between the financial service business actor with the consumer to the FSA. In Article 40 paragraph 2, it is also

said that consumer and/or society are able to deliver complaint which indicates the violation of legislation in the financial service sector to the FSA.

The e-money holder has the right to get facility of complaint until the phase of dispute settlement, appropriate with Article 40 of FSA Regulation Number 1 of 2013, because the holder of electronic money has fulfilled the requirements as consumer who is able to continue the complaint until the dispute settlement phase. The consumer who is able to continue the complaint to the phase of dispute settlement, one of it is that the loss suffered by the e-money holder is not exceeding the amount that has been regulated in Article 40 paragraph 1 because the electronic money has maximum limit of IDR 5.000.000,- (five million rupiah) so if experiencing the complaint of harmed feeling in the use of electronic money service the consumer can make complaint and get the facility of dispute settlement financial service business actor with consumer to the FSA.

So, regarding the issue on the supervision on the e-money implementation, Bank Indonesia has to coordinate with the Financial Service Authority in order to make sure that the electronic money activities were held properly based on the regulation. Bank Indonesia itself already conduct the supervision since the submission of documents as requirements of a company who want to be principal, issuer, acquirer, clearing organizer, and/or final settlement organizer. Before a company runs a role as a party in the electronic money implementation, Bank Indonesia has to review the requirements that have been submitted to Bank Indonesia as the permit giver. Before a company is able to run their business on the electronic money they have to get a permit from Bank Indonesia. This could be a preventive supervision by Bank Indonesia, even after the company runs

the electronic money business activities, Bank Indonesia still has authority to supervise the business. This is based on the macroprudential supervision authority, which cause Bank Indonesia have authority of supervision on the macro-economy matters including the payment system.

On the other hand, the Financial Service Authority as supervision institution which has authority to supervise the implementation of financial service including bank and non-bank financial service institution has authority to make sure the consumer protection on the financial service sector which held properly, in case that there is a customer which suffered loss because of financial institution, the FSA has authority to give dispute settlement between the consumer and the related financial institution.

G. CLOSING

1. Conclusion

- a. The electronic money is properly regulated by Bank Indonesia in Bank Indonesia Regulation Number 11/12/PBI/2009 on the Electronic Money as amended by Bank Indonesia Regulation Number 16/8/PBI/2014 and Bank Indonesia Regulation Number 16/8/PBI/2016.
- b. The making of the policy on the top-up fee is in line with the duties and authorities of Bank Indonesia. The price scheme is regulated in the Board Governor Member Regulation Number 19/10/PADG/2017 on National Payment Gateway. The issuing of that regulation is purposed to ensure that the top-up fee that is charged by issuer and imposed to the e-money card holder has uniform price and limited. Specifically, Bank Indonesia has duty to regulate and maintain the

smoothness of payment system. The regulating duty is in the form of Bank Indonesia regulation which bind the parties of the payment system.

- c. The supervision on the implementation of electronic money was under the authority of Bank Indonesia which clearly stated in the Bank Indonesia Regulation Number 11/12/PBI/2009 on the Electronic Money. This is relevant with the status of Bank Indonesia as the Central Bank which still has the authority of supervision although the Financial Service Authority takes the supervision authority of Bank Indonesia. In case there is a holder of e-money who suffered loss caused by the issuer, the FSA can take a role to facilitate the dispute settlement to settle the claim.

2. Recommendation

- a. Based on the above conclusion, Bank Indonesia must coordinate with the FSA to make sure the payment using electronic money is safe and reliable to be used by the society. Bank Indonesia must improve the supervision and guidance to the Issuer that has been existed.
- b. The development of electronic money must consider the safety feature from the system that is used.
- c. The development of e-money should be poured in the regulation in order to ensure the legal certainty.

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