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LEGAL CHALLENGES AND REGULATIONS OF TRAVELOKA AS A TOURISM BUSINESS TO PAYLATER APPLICATIONS

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Abstrak: Penelitian ini bertujuan untuk mengidentifikasi posisi Paylater dalam pembayaran antara wisatawan yang berkunjung ke Bali dengan Traveloka sebagai pelaku usaha pariwisata, hubungan hukum antara konsumen Paylater dengan Traveloka dan praktik pembayaran dengan fasilitas Traveloka Paylater. Berdasarkan latar belakang tersebut maka perlu dilakukan penelitian tentang tantangan hukum dan peluang penggunaan Paylater dalam transaksi konsumen dengan Traveloka. Penelitian yang dilakukan adalah penelitian hukum normatif. Peneliti menggunakan alat pengumpulan data berupa studi pustaka atau studi dokumen dengan mengkaji Peraturan OJK Nomor 77/POJK.01/2016. Posisi Traveloka dalam menerapkan Paylater dapat dilihat dalam tiga aspek, yaitu: Dalam transaksi elektronik yaitu sebagai emiten (Pasal 1 angka 6) dimana emiten adalah bank dan lembaga selain bank. Teknologi finansial dimana Traveloka Paylater menyediakan perjanjian online dengan konsumennya. Pembiayaan Konsumen, yaitu sebagai kreditur yang memberikan pembiayaan kepada debitur dalam hal ini adalah konsumen. Dalam implementasi Paylater, hubungan hukum yang terjalin antara Traveloka dengan pengguna adalah: Hubungan hukum perjanjian, dimana Traveloka sebagai penyedia dana, sedangkan pengguna adalah pihak yang menggunakan dana dengan perjanjian pembayaran yang dilakukan secara kredit. Hubungan hukum pembiayaan yaitu Traveloka sebagai perusahaan pembiayaan dan pengguna adalah pelanggan. Hubungan antar pelaku usaha, dimana Traveloka sebagai pelaku usaha berhak mendapatkan haknya melalui perjanjian usaha yang dibuat dengan pengguna.

Abstract: This study aims to identify Paylater's position in payments between tourists visiting Bali and the Traveloka as a tourism business, the legal relationship between Paylater consumers and Traveloka and payment practices with Traveloka Paylater facilities. On that basis, it was deemed necessary to conduct research on the legal challenges and opportunities of using Paylater in consumer transactions with Traveloka. The research conducted was normative legal research. Researchers used data collection tools in the form of a literature study or document study by examining OJK Regulation Number 77/POJK.01/2016. Traveloka's position in implementing Paylater can be seen in three aspects, namely: In electronic transactions, namely as an issuer (Article 1 number 6) where the issuer is a bank and an institution other than a bank. Financial Technology, Traveloka Paylater provides online agreements with its consumers. Consumer Financing, namely as a creditor who provides financing to the debtor in this case is the consumer. In the implementation of Paylater, the legal relationship that exists between Traveloka and the user is: The legal relationship of the agreement, where Traveloka is the provider of funds, while the user is the party using the funds with the payment agreement made on credit. The legal relationship of financing, namely Traveloka as a financing company and the users are the customers. The relationship between business actors, where Traveloka as a business actor is entitled to receive his rights through a business agreement made with the user.

Keywords: paylater, traveloka.

INTRODUCTION

An online travel agent (OTA) startup, Traveloka continues to grow and diversify its products. Now the application is rolling out several new features to make payments, travel and bookings easier. The features launched are Paylater, Flight Status, and Train Seat Alert. Pay Later, a payment facility that allows users to pay in installments with functions such as credit card installments. The difference is, registration for this feature is faster without a credit card, only 60 minutes by including personal data and a minimum transaction of IDR 50 thousand. Fintech still looks gray, about which products are included in Fintech or not. However, if it is indeed a Fintech, Traveloka must register with the OJK. Because until now, only 73 Fintechs have been registered and one of them is Paylater, which is owned by Traveloka, where Traveloka's Paylater feature has been licensed. Traveloka is more focused on customers than competitors and customer demand continue to grow for the services offered by Traveloka. From the voices of consumer desires, the unicorn with the white bird logo then spread its wings by providing hotel reservations as accommodation for traveling. Travel activities are not only flying or staying in hotels but also discovering new things in their lives, therefore in addition to providing flights and accommodation, they also carry out experiences.

Traveloka continues to expand its business to other services such as purchasing cinema tickets, concerts, to tourist attractions, all of which are carried out with the core business still relying on tourism, where to carry out travel activities requires a large amount of funds so that it requires flexibility in payment, so that payment options that can be made are born. be extended. The installment method is also a feature followed by other start-ups. Even Traveloka's steps were followed by a number of other start-ups to provide similar services.

METHOD

Qualitative descriptive analysis technique, which aims to present, describe, and explain clearly and systematically the data obtained in the field. The analysis process is carried out from the data collection stage through the process of organizing data which includes a series of categorization or coding processes, data interpretation, disclosure of relations between categories. Then an analysis of the relationships built is carried out in order to obtain an inductive theory of the research topic. Likewise, the data collected from distributing questionnaires to tourism business startup entrepreneurs who have the Fintech concept will be presented in the form of an explanation/description.

RESULT AND DISCUSSION

1. Payment with Traveloka Paylater is based on the principle of freedom of contract.

The principle of freedom of contract is one of the most important principles in contract law. This freedom of contract by some legal scholars is usually based on Article 1338 paragraph (1) of the Civil Code which stipulates that: "All agreements made legally are valid as law for those who make them." If it is observed in Article 1338 paragraph (1) above, the sentence "all agreements made legally" indicates the existence of the principle of freedom of contract contained in it. Freedom of contract guarantees freedom for a person to be free in several matters relating to the agreement. The principle of freedom of contract is a basis that guarantees the freedom of people to enter into agreements. This is also inseparable from the nature of Book III of the civil code, which is only a law that regulates so that the parties can deviate from it (set aside), except for certain articles that are coercive in nature. If it is associated with the Paylater payment system, which in this case the payment is made after the consumer has exercised his rights; it certainly does not conflict with the principle of freedom of contract. Because this implementation does not violate the law in this case related to banking laws and also does not violate decency. This means that as long as the payment is made in accordance with the agreed time, then there is no conflict with the principle of freedom of contract.

2. Paylater Position as Electronic Money

As explained above, that Paylater is part of electronic money. Electronic money is a technology-based payment system. Based on the provisions of PBI Number 16/8/PBI/2014 concerning Amendments to Bank Indonesia

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Regulation Number 11/12/PBI/2009 concerning Electronic Money, it can be seen that the parties included as organizers of e-money payment instruments are:

a. Principal (Article 1 point 5) Banks or non-bank institutions that are responsible for the management of the system and/or network among its members, both those acting as issuers and/or acquirers, in e-money transactions whose cooperation with its members is based on an agreement written.
b. The issuer or issuer (Article 1 point 6). As previously stated, e-money issuers are banks and institutions other than banks. As stipulated in Article 1 number (1) of PBI No. 16/8/PBI/2014 concerning Amendments to Bank Indonesia Regulation No. 11 / 12 / PBI / 2009 concerning Electronic Money which states “Banks as referred to in the Act that regulates banking, and Islamic banks as referred to in Law governing Islamic banking." Meanwhile, what is meant by an institution other than a bank based on Article 1 number (2) of PBI No. 16/8/PBI/2014 concerning Amendments to Bank Indonesia Regulation Number 11/12/PBI/2009 concerning Electronic Money states "Institutions Other Than Banks are Indonesian legal entities not Banks."

Traveloka's position in implementing Paylater as a transaction tool at Traveloka is as a publisher. This can be determined by looking at the existence of Traveloka, which is an institution other than a bank where Traveloka only provides transactions to Traveloka by means of Paylater credit but is not obligated to be responsible for managing the system and/or network between its members, both those who act as issuers and/or acquirers, in transactions. e-money whose cooperation with its members is based on an agreement. Banks and institutions other than banks can carry out the implementation of e-money, namely:

1. Bank

Bank is a Commercial Bank and Rural Bank as referred to in Act number 10 of 1998, on the amendment of Act Number 7 of 1992 concerning Banking including branch offices of foreign banks in Indonesia and Sharia Commercial Banks and Sharia Rural Financing Banks as referred to in the Act - Law number 21 of 2008 concerning Islamic Banking.

2. Institutions other than banks Non-bank

Institutions, which are non-bank business entities that carry out activities as e-money providers operating in the territory of the Republic of Indonesia with legal entities in the form of Limited Liability Companies and established under Indonesian law, such as telecommunications, service providers (cellular operators) that issue e-money in the form of a limited liability company in pulse form. The implementation of e-money activities carried out by banks and LSBs is based on Bank Indonesia Regulation Number 11/12/PBI/2009 concerning Electronic Money (State Gazette of the Republic of Indonesia of 2009 Number 65, Supplement to the State Gazette of the Republic of Indonesia Number 5001; hereinafter referred to as PBI No. 11/12/PBI/2009), which was later amended by PBI No. 16/8/PBI/2014 concerning Amendments to Bank Indonesia Regulation Number 11/12/PBI/2009 concerning Electronic Money (State Gazette of the Republic of Indonesia of 2014 Number 69, Supplement to the State Gazette of the Republic of Indonesia Number 5524; hereinafter referred to as PBI No. 16/ 8/PBI/2014).

According to this provision, e-money is essentially a substitute for cash; its issuance is based on the value of the money deposited whose balance is stored on a media server or chip. The e-money can be used as a means of payment at certain retail merchants who collaborate with e-money issuers. The use of e-money is also very easy and practical; e-money holders simply attach the relevant e-money card to the reader when making payment transactions. In other words, e-money is a cashless payment instrument for small-value financial transactions. The function of e-money is not much different from the function of cash. Therefore, it is necessary to analyze the characteristics of e-money as a non-cash payment instrument and the status of e-money in banking products.

The process of issuing and refilling e-money is carried out either through the issuer

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directly or through the issuing agent by depositing money either in cash or through account transfer using Rupiah currency. In order to see the impact of e-money, it is necessary to distinguish from the point of view of the issuer, namely banks and non-banks.

3. Issuance of e-money by banks

a. Issuance of e-money or prepaid cards purchased by the public with cash deposit (currency outside the bank) will cause a decrease in COB and an increase in float e-money on the bank's liability side. A decrease in COB will cause a decrease in base money. However, the decrease in base money is not necessarily as large as the decrease in COB. There are several scenarios of the possible impact of e-money on base money.

   Scenario 1: in the event that the float is categorized as a liability imposed by the reserve requirement, then the decrease in COB will be followed by an increase in bank reserves at the central bank in the amount of the reserve requirement. Thus the base money decreased by the difference between COB and the reserve balance obtained from the minimum mandatory demand deposit for float.

   Scenario 2: If the bank in cash places all floats, the decrease in COB will be offset by an increase in cash in vault at the central bank so that the issuance of e-money has a neutral effect on base money.

   Scenario 3: If the existing floats is used by the bank to buy SBI or government bonds in order to make a profit. This will cause COB to decrease by the amount of float e-money used by banks to buy these securities. A decrease in COB will cause base money to also decrease. Meanwhile, if float is used to channel credit, it will have the potential to increase aggregate demand, which can encourage price increases. As long as the float is not taken into account as part of the monetary amount, there is the potential for errors or difficulties in the formulation of monetary policy in controlling inflation.

b. If the customer purchases e-money at the expense of his checking account at a commercial bank (D), then the issuance of e-money will cause a decrease in M1 due to a decrease in D to float. If the customer is loading e-money at the expense of the savings account (S) and time deposit (T) at a commercial bank, the issuance of e-money causes a decrease in M2 due to a decrease in S and T to float. 2. Issuance of e-money by non-banks a. Issuance of e-money or prepaid cards by non-bank institutions purchased by the public with cash deposits (currency outside banks) will cause a decrease in COB and an increase in e-money float on the liabilities side of non-bank institutions. The decline in COB has the potential to cause a decrease in base money. There are several possible scenarios for the impact of e-money issuance on a decrease in base money due to a decrease in COB.

   Scenario 1: If all e-money floats (100%) are placed back by non-bank issuers into the banking system in the form of savings, both Current Accounts, Savings, and Time Deposits, the decrease in COB will be followed by an increase in bank reserves at the central bank as much as the statutory reserve requirement. Thus, base money decreases by the difference between COB and the amount of the reserve balance derived from the minimum statutory reserve requirement for float. If the bank to channel credit or buy other assets and remains in cash does not use the remaining float placed in the bank, the decrease in COB will be offset by an increase in cash in vault at the central bank so that the issuance of e-money has a neutral effect against base money.

c. If the customer purchases e-money at the expense of his checking account at a commercial bank (D), then the issuance of e-money will cause a decrease in M1 due to a decrease in D to Float at a non-bank institution. If the customer is loading e-money at the expense of the savings account (S) and time deposit (T) 19 at a commercial bank, then the issuance of e-money causes a decrease in M2 due to a decrease in S and T to float.

4. Traveloka Paylater as Financial Technology Traveloka Paylater is categorized as Financial Technology because Traveloka Paylater provides online agreements with its consumers. Verifying between consumers and Traveloka carries out this online agreement. Along with globalization, which presents the Internet with various facilities and advantages, it gives birth to online or Information Technology-based agreements in the financial services sector. An online agreement at a glance is an agreement that is wholly or partially born with the help and facilitation on an interconnected computer network. Where the agreement is contained in electronic documents and other electronic media. Legal relations in fintech based on POJK No. 77/POJK.01/201 concerning Information Technology-Based Borrowing-Lending Services (LPMUBT) arises because of a money-borrowing agreement. Borrowing and borrowing according to Article 1754 of the Civil Code is an agreement in which one party gives to the other a certain amount of goods that are exhausted due to use, on the condition that the latter party will return the same amount of the same type and quality. The subjects in the loan agreement are the lender (creditor) and the borrower (debtor). While the object in the loan agreement is all goods that are used up on condition that the goods must not conflict with the law, morality and public order. The online lending and borrowing agreement is also known as Peer-to-Peer Lending (P2P Lending). Basically the same as conventional money lending agreements, only the difference is that the parties do not meet in person, the parties do not need to know each other because there are organizers who will bring together the parties and the implementation of the agreement is carried out online.

CONCLUSION

Traveloka's position in implementing Paylater can be seen in three aspects, namely:

1. In electronic transactions, namely as an issuer (Article 1 number 6). As previously stated, the issuer is a bank and an institution other than a bank. As stipulated in Article 1 number (1) of PBI No. 16/8/PBI/2014 concerning Amendments to Bank Indonesia Regulation No.11/12/PBI/2009 concerning Electronic Money.
2. Financial Technology, Traveloka Paylater provides online agreements with its consumers. Verifying between consumers and Traveloka carries out this online agreement.
3. Consumer Financing, namely as a creditor who provides financing to the debtor in this case is the consumer.

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