

Analisa yuridis pemberian kredit tanpa agunan KTA melalui Anjungan Tunai Mandiri ATM = Legal analysis of the ATM non collateral loan

Rostika Kumalasari, author

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Abstrak

Produk pemberian KTA melalui ATM merupakan pengembangan dari pemberian KTA, yang proses penawaran, pengajuan, persetujuan dan pencairan kreditnya dilakukan melalui ATM. Penggunaan ATM sebagai produk Electronic Banking dapat menambah atau meningkatkan eksposur risiko tertentu pada Bank, sehingga perlu adanya analisa hukum. Permasalahan tesis ini adalah : 1. Bagaimanakah pelaksanaan pemberian KTA melalui ATM pada Bank X ditinjau dari peraturan perundang-undangan yang berlaku di Indonesia? 2. Bagaimanakah perlindungan hukum bagi Bank dan Nasabah dalam pemberian KTA melalui ATM pada Bank X ?

Penelitian ini dilakukan secara yuridis normatif dengan menggunakan data sekunder yang didukung dengan wawancara. Berdasarkan penelitian yang dilakukan penulis, mekanisme pemberian KTA melalui ATM pada Bank X telah dilakukan sesuai dengan peraturan mengenai perbankan, informasi dan transaksi elektronik serta perlindungan konsumen. Namun demikian, mengingat pada saat penelitian ini dilakukan, lembaga penyelenggara sertifikat elektronik belum dibentuk dan peraturan menteri yang mengatur mengenai tata cara memiliki sertifikat elektronik belum diterbitkan, maka tanda tangan elektronik terhadap pemberian kredit ini belum dilakukan sertifikasi. Sebagai upaya perlindungan hukum bagi Bank dan Nasabah, Bank X telah melakukan mitigasi risiko dalam pemberian KTA melalui ATM. Dengan demikian dapat disimpulkan bahwa Bank X telah menerapkan prinsip kehati-hatian dalam pemberian KTA melalui ATM sehingga memberikan perlindungan hukum bagi Bank X dan Nasabah.

The ATM Non Collateral Loan is a development of regular non collateral loan, which the marketing process, proposal submission, approval and loan disbursement are processed through ATM. The use of the ATM as one of Electronic Banking Product is expected to increase the certain risk exposure, therefore we need a comprehensive legal analysis. The legal issues that will be discussed in this thesis are:

1. How is the implementation of the ATM Non Collateral Loan at Bank X compared to regulations apply in Indonesia?
2. How is the protection to the Bank and the customers in the implementation of the ATM Non Collateral Loan in Bank X?

The research was conducted in a normative-juridical with secondary data and supported by interviews. The result of the research found that the implementation of providing the non collateral loan through ATMs in Bank X is complied with all regulations apply in Indonesia. However since during the research, the institution who suppose to produce electronic device certification is not formed neither the issuance of ministry regulation regarding the procedure of registering the electronic devices to be certified, the use of electronic signature is not yet certified. As an effort to implement the protection or security mechanism for both the Bank itself and its customer, Bank X mitigates the risk rises from the ATM Non Collateral Loan.

Based on the explanation above, we can conclude that Bank X has applied the banking prudential principal in providing the ATM Non Collateral Loan to its customers as a mechanism of legal protection to Bank X and the customers.</i>