

Efektivitas pengaturan dan pengawasan bank Indonesia dalam memitigasi risiko kegagalan sistem pembayaran oleh penyelenggara fintech = The effectiveness of bank Indonesia regulation and supervision in mitigating the risk of payment system failure by fintech providers.

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Abstrak

Kegagalan sistem pembayaran pada kasus wirecard terjadi akibat lemahnya pengaturan dan pengawasan terhadap Penyelenggara Fintech Sistem Pembayaran di Jerman. Sebagai penyelenggara fintech sistem pembayaran, yang tidak diawasi oleh Otoritas, Wirecard AG dapat menawarkan produk, layanan, teknologi maupun model bisnis mereka kepada Penyelenggara Jasa Sistem Pembayaran (PJSP). yang memegang peranan penting dalam proses pembayaran. Kegagalan sistem pembayaran dapat terjadi, jika Wirecard berhenti menyediakan layanan teknologinya ke banyak PJSP yang menjadi mitra kerjasamanya. Untuk itu, penelitian ini mencoba meninjau pengaturan dan pengawasan penyelenggara fintech sistem pembayaran di Jerman dan di Indonesia, bagaimana otoritas mengklasifikasikan penyelenggara fintech dalam regulasi sistem pembayaran di negaranya, apakah termasuk sebagai PJSP yang perlu diawasi atukah hanya sebagai Penyelenggara Penunjang. Selain itu, apakah peraturan dan sistem pengawasan yang ada di Indonesia sudah cukup efektif memitigasi risiko kegagalan pada sistem pembayaran. Penelitian ini menggunakan penelitian hukum normatif, dengan pendekatan perundangan-undangan dan pendekatan perbandingan. Hasil analisis menunjukkan bahwa pengaturan perizinan penyelenggara fintech sistem pembayaran di Indonesia lebih baik dibandingkan Jerman, karena sudah memiliki regulasi khusus yang mengatur perizinan dan mengawasi penyelenggara fintech, namun demikian ketentuan terkait penyelenggara sistem pembayaran di Indonesia masih tersebar dibanyak peraturan, sehingga disarankan untuk melakukan peyederhanaan peraturan dengan metode omnibus law. Adapun pengaturan dan pengawasan yang dilakukan Bank Indonesia sudah cukup efektif untuk memitigasi risiko kegagalan sistem pembayaran, namun kurang efektif dalam memproses perizinan yang berupa persetujuan pengembangan kegiatan, produk dan aktivitas baru jasa sistem pembayaran serta kerjasama dengan pihak lain. Untuk itu perlu dilakukan perubahan ketentuan, dimana persetujuan kerjasama dan pengembangan produk serta aktivitas baru yang bersifat sederhana dan tidak berisiko cukup dikenakan wajib lapor serta ditentukan batas waktu pemberian hasil keputusan.

.....The failure of the payment system in the wirecard case occurred due to weak regulation and supervision of the fintech payment system companies in Germany. As a fintech payment system provider, which is not supervised by the Authority, Wirecard AG can offer their products, services, technology and business models to Payment System Service Providers. (PJSP). which plays an important role in the payment process. Payment system failures can occur, if Wirecard stops providing its technology services to the many PJSPs that are its partners. For this reason, this research tries to review the regulation and supervision of the fintech payment system providers in Germany and in Indonesia, how the authorities classify fintech providers in their payment system regulations, whether they are entered as PJSPs that need to be closely monitored or only as supporting providers. In addition, this study will analyze whether the existing regulations and supervisory systems in Indonesia are sufficiently effective in mitigating the risk of the payment system

failure. This research uses normative legal research, with a statutory approach and a comparative approach. The results of the analysis show that the regulations for fintech payment system providers in Indonesia are better than Germany, because it already has special regulations that regulate licensing and supervise fintech providers. However, the provisions related to payment system operators in Indonesia are still scattered in many regulations, so it is advisable to simplify regulations using the omnibus law method. The regulation and supervision carried out by Bank Indonesia was effective enough to mitigate the risk of payment system failures, however, it was not effective enough in processing approvals for developing new payment system activities, products and services as well as collaborating with other parties. For this reason, it is necessary to change the provisions, in which cooperation agreements and product development as well as new activities that are simple and not sufficiently risky are subject to a mandatory report and a deadline for the issuance of the decision results.