# STRENGTHENING OF ELECTRONIC MONEY REGULATIONS PUBLISHED BY NON-BANK INSTITUTIONS IN INDONESIA IN THE FRAMEWORK OF MITIGATION OF THE RISK OF DAILY PAYMENT DUE TO BANKRUPTCY

**LEONARD EBEN EZER SIMANJUNTAK**[1]

[1]General Soedirman University, Purwokerto - Indonesia

***Abstract--****This article aims to find out: how to protect float funds in payment system regulations in Indonesia and how to optimize the protection of float funds managed by non-bank institutions as issuers of electronic money in the context of mitigating bankruptcy risk. This research will examine arrangements related to float funds managed by non-bank institutions as issuers of electronic money, which have experienced significant growth in recent years in line with the increasing use of digital finance by the public as users. In fact, the growth of float funds managed by non-bank institutions was greater than that managed by banks, namely 69.95% of the total float funds as of June 2020. The significant increase in float funds was also influenced by the implementation of community social distancing as a result of the Covid-19 pandemic which has accelerated the use of digital finance by the public. However, float funds managed by these non-bank institutions do not yet have optimal protection for mitigating bankruptcy risk caused by the moral hazard of management (members of the board of directors and board of commissioners) and owners (controlling shareholders) of non-bank institutions as issuers of electronic money. So that the urgency of protecting float funds through regulatory reform should be a concern, namely the need for insurance protection for float funds, comprehensive fit and proper tests for prospective managers and controlling shareholders of non-bank institutions that issue electronic money, as well as regulations for the use of investment proceeds of float funds. This research is analytical descriptive research and uses a normative juridical approach by prioritizing secondary data analysis in the form of primary legal materials, namely laws and regulations; secondary legal materials both journals and results of previous research; and tertiary legal materials. Furthermore, the data obtained were analyzed qualitatively and juridically. The conclusions from this study: (i) regulatory protection for float funds managed by non-bank institutions as issuers of electronic money to mitigate bankruptcy risk caused by the moral hazard of management and controlling shareholders has not been carried out optimally; (ii) concrete efforts are needed from the regulator to optimize the protection of float funds to mitigate the risk of default due to bankruptcy caused by the moral hazard of management and/or controlling shareholders, in the form of updating legal instruments in the form of insurance protection, a comprehensive fit and proper test process and regulation on the use of investment proceeds of float funds.*

***Keywords-*** *Electronic Money, Guarantee, Non-Bank Institutions*

## INTRODUCTION

At this time the whole world has experienced very rapid change, which was marked by the birth of the industrial revolution 4.0, including the use of the internet and networks. This event has resulted in enormous changes in the use of technology by society and industry players which has resulted in disruption. Regarding disruption, experts call it a very basic or fundamental change phenomenon and begins with innovation that breaks the chain of old approaches, such as fading company boundaries, reducing burdens or simplifying supply chains, and forcing economic policy makers to rewrite the new laws of economics. In fact, changing the perspective of the bureaucracy and law enforcement [1].

Indonesia is a country with the fourth largest population in the world, which is predicted to reach 271 million people by 2020 based on data from the Central Bureau of Statistics [2]. As a country with the world's fourth largest population, Indonesia needs economic development that is aimed as much as possible for the welfare and prosperity of the people. In this regard, Indonesia has become an inseparable part of the swift currents of globalization and the rapid development of technology

that has driven the digital revolution in the economic sector and financial system. Public demand for the availability of financial services, including payment transaction services that are fast, easy, comfortable, and safe, has driven the financial system and changed the form of conventional services to services based on digital technology. Customer service is also expected to prioritize consumer interests and consumer satisfaction, both in terms of quality, convenience and safety. In the development of the financial digitalization era, the role of the non-bank industry has increased and disrupted the role of banks, which have been gradually replaced by non-bank financial service providers with a level of regulation and supervision that is not yet the same as banking/shadow banking. In this case the role of banks in payment services is one of the roles that has begun to be reduced in line with the development of payment service providers by non-bank institutions. The presence and strengthening role of non-bank institutions in providing digital payment services has begun to change the market structure in terms of market concentration and competition between financial service providers. However, on the other hand it is realized that the innovations that arise from the use of digital technology have opened up wider opportunities for achieving financial inclusion for the whole community. It would not be wrong to say that various developments in the digital economy have had a real impact on the growth of financial technology, especially in Indonesia [3]. It is undeniable that the increasing progress in the field of technology has had a significant positive impact on the economy in meeting people's needs, especially in developing countries like Indonesia. In practice, digital-based economic development in Indonesia varies in its implementation, such as between urban and rural areas, Java Island and outside Java Island, as well as the western and eastern parts of Indonesia. Nonetheless, these developments have created many jobs and new business opportunities for the general public and business actors. Thus, the development of a digital-based economy has the potential to improve people's welfare, including through reducing unemployment, poverty and social inequality.

Advances in information and communication technology that have occurred recently have changed human behavior and civilization globally. In addition, the advancements in information technology have made the world seem as if it has become borderless and have given rise to significant social changes that have taken place so quickly. The phenomenon of the development of information technology needs to be controlled properly through strong regulations, so as not to turn this development into a double-edged sword, that is, apart from contributing to increasing human welfare, progress and civilization, it can also be an effective vehicle for committing acts against the law. [4].

In an increasingly advanced economic activity, the flow of exchange of goods and services has become so fast that it requires the support of the availability of a qualified payment system that allows payments to be carried out quickly, efficiently, safely and reliably. In principle, a payment system is a system that includes arrangements, agreements, contracts/agreement, operational facilities, technical mechanisms, standards and procedures that form a framework that is used in the delivery, validation and receipt of payment instructions, as well as the fulfillment of payment obligations through the exchange of a value. in the form of money between parties (individuals, banks, other institutions) both domestically and across national jurisdiction boundaries through the use of payment instruments. In a general understanding, the payment system is built up of several components, namely policies, payment instruments/means, clearing and settlement/final settlement mechanisms, institutions, supporting infrastructure, and legal instruments [5].

While several payment instruments that have been known by the public so far include cash and non-cash such as: credit cards, checks, Giro and electronic payment instruments including internet banking, RTGS (Real Time Gross Settlement) and money transfers/sending through the system clearing or Fund Transfer Operators by several entities such as post offices and pawnshops. Furthermore, with regard to the role of Bank Indonesia in the field of cash and non-cash payment systems, it is fully realized that the task in the field of cash payment systems, namely issuing and circulating Rupiah throughout the territory of the Unitary State of the Republic of Indonesia, poses enormous challenges. This is considering that Indonesia's population is quite large, namely 270 million people in 2020 (Central Bureau of Statistics data) and geographical conditions that are very

wide (+/- 17,500 islands) to circulate money in the right amount and nominal denominations to the public. In addition, the use of cash as a means of payment in modern society is considered inefficient and creates several problems, including high management costs in cash handling activities, theft/robbery risks, health risks and counterfeit money risks.

However, some people still think that the use of cash is a payment instrument that is free of charge, more practical and efficient. However, when examined from a broader economic perspective, the use of large amounts of cash in the long run will create a burden for a country's economy, mainly related to management/cash handling and low velocity of money. In addition, the widespread use of cash has resulted in time inefficiencies caused by queues at payment centers, and the impracticality of carrying large amounts of cash as well as the security risks.

In the recent developments in the use of non-cash payment instruments that have hit countries in the world, it appears that micro-payment instruments have increased rapidly in line with technological advances and people's need for easy, safe and efficient use of payment instruments. In this case, micro-payment instruments are payment facilities designed to handle the needs of transactions with retail nominal values but have a high volume of usage and faster transaction processing time, even real-time settlement. The need for more advanced micro/retail payment instruments today is more due to the fact that existing instruments such as: cash, credit cards, debit cards/ATMs are somewhat impractical, inefficient, inconvenient and costly to use. In contrast to other means of payment such as credit cards or debit cards which specify a minimum transaction amount, as well as additional fees that are quite expensive, micro-payment instruments must be used to make payments in very small amounts with small transaction fees. In addition, the emergence of opportunities for non-bank institutions to become issuers and organizers of micro-payment instruments will have an impact on opening up wider opportunities for the public to utilize them, even though they are not bank customers. Thus, public access to the use of non-cash micro payment instruments will be wider which will have a direct impact on the financial inclusion of various economic sectors in Indonesia.

Based on the role related to the non-cash payment system, Bank Indonesia as the central bank has an interest in ensuring that the non-cash payment system used by the wider community will operate safely, efficiently and reliably. So that development in the form of policies, regulations and infrastructure related to non-cash payment instruments is one of the focuses that is constantly being developed in order to reduce the burden of managing cash, and at the same time increase economic efficiency for the community. On the other hand, until a few years ago, even though from the aspect of using alternative advancements in technology and communication related to non-cash payment instruments it was very 'proper' as a substitute for using cash, but the psychological aspect and the level of public trust in cash were still an obstacle for regulators. . However, with educational efforts carried out by regulators and industry (banks and non-bank institutions) as well as the increasingly diverse and increasingly complex needs of society, it has increased public understanding to start using non-cash payment instruments as an alternative payment.

In addition, changes in trends and people's lifestyles, accompanied by an increase in the desire for efficient lifestyles, have also contributed to the availability of telecommunication and transportation facilities that are so fast that distance and time barriers can be reduced. The development of telecommunications and transportation also has an impact on financial transactions, especially related to the way parties settle their rights and obligations through payment transactions. Recent developments reflect the existence of high interlinkage between industries in the telecommunications, transportation and financial services sectors, namely the convergence that integrates activities between these industries. For example, a mobile telecommunication service provider company in order to increase the company's added value has offered its customers payment transaction facilities using a mobile phone/internet banking. The same thing also happened in the transportation sector, namely to increase efficiency in the transportation industry various payment instruments have been used, so that the wider community as users of transportation can make payments more quickly, efficiently and safely. Convergence that occurred between various industries, such as in the financial services, telecommunications and transportation sectors, was a

starting point that contributed to the emergence of non-cash payment instruments in society. In the future, more and more industries will converge due to increasingly advanced interlinkage. Various new business models are expected to continue to grow and develop mainly due to the growing development of telecommunications networks, increasing internet access among the public and increasingly inexpensive technology. All of these things certainly have an impact on the cost of non-cash payment transactions to become cheaper due to lower handling fees when compared to transactions using cash.

On the other hand, as a consequence of the development of the use of digital financial innovations such as electronic money, it has experienced very rapid growth, especially during the Covid-19 pandemic which has accelerated the use of digital finance as a form of implementing social distancing. In this regard, the e-commerce sector has experienced an increase in transactions of 400% per month as a result of implementing social distancing to stop the spread of the Covid-19 pandemic. In fact, 97% of banking transactions have been carried out outside the bank office [6].

The rapid development of the use of digital finance can also give rise to potential risks that can be detrimental to the public as service users. The potential risks in general include bankruptcy risk caused by the moral hazard of management (members of the Board of Directors and Board of Commissioners) and owners (controlling shareholders) of non-bank financial institutions. Various disruptive changes in an all-digital world and are a touch of innovation, have driven the creation of new markets and in turn will replace existing technologies. Through digital innovation, it will increase the development of products and services in unusual ways to meet community needs. This also applies to Indonesia which is moving towards the development of digitalization or what is often referred to as digital transformation to support national development for the sake of its economic progress. The issues that will be examined in this article are: (1) how to protect float funds in payment system regulations in Indonesia; (2) how to optimize the protection of float funds managed by non-bank institutions as issuers of electronic money in the context of mitigating bankruptcy risk.

## METHODS

This research is analytical descriptive research. The approach used in this study is a normative juridical approach by prioritizing secondary data analysis in the form of primary legal materials, namely laws and regulations; secondary legal materials both journals and results of previous research; and tertiary legal materials. Furthermore, the data obtained were analyzed qualitatively and juridically.

## RESULTS AND DISCUSSION

### Implementation of Electronic Money and Protection of Float Funds in Payment System Regulations in Indonesia

The implementation of electronic money in Indonesia cannot be separated from the guidelines issued by the Bank for International Settlements (BIS) which provide definitions of electronic money, namely:

“Stored value or prepaid products in which a record of the funds or value available to a customer is stored on an electronic device in the customer’s possession” [7].

Furthermore, electronic money policy in Indonesia is implemented in Bank Indonesia Regulation No.23/6/PBI/2021 concerning Payment Service Providers, as a substitute for Bank Indonesia Regulation No.20/6/PBI/2018 concerning Electronic Money. The considerations for the issuance of new regulations related to the implementation of electronic money in Indonesia are; (1) Payment system regulatory reforms, including the provision of payment services, need to be carried out in line with the fulfillment of the principles of fast, easy, cheap, secure, and reliable payment system implementation, while taking into account stability, expanding access, consumer protection, sound business practices, and implementing best practices; (2) Payment system regulatory reform needs to accommodate the development of business models and innovations in the provision of payment services from providers to payment service users from providers to service users, as well as linkages

with providers or other parties in payment system administration in supporting economic and financial digitalization.

The development of payment system service provision activities requires strengthening the functions of regulating access to industry, operating, terminating activities, supervising, and processing payment system data and/or information.

The implementation of electronic money is one form of development of financial digitalization that has entered Indonesia and will have a stronger role in the future. Various new business models that go beyond the scope of understanding business activities that have been codified by existing regulations have encouraged the relevant regulators to improve themselves. In the world of digital finance, non-bank business actors have not received much regulation and are starting to enter financial services which in the previous decades were dominated by the banking industry. This has implications for the increasing role of the non-bank industry in reading the opportunities that exist in Indonesian society.

Furthermore, basically the implementation of electronic money in Indonesia is fully aimed at fulfilling people's needs in the use of electronic money which has increased significantly, in line with the increase in non-cash transactions through the use of information technology innovations, so that the business model of administering electronic money is also growing. Guided by Bank Indonesia Regulations concerning Payment Service Providers, that what is meant by electronic money is; (a) issued on the basis of a source of funds in the form of rupiah currency which is deposited in advance to a Payment Service Provider who organizes administrative activities for sources of funds; (b) the source of funds in the form of rupiah currency is stored electronically in a media server or chip; (c) electronic money value is money value that is stored electronically in a media server or transferable chip for the purpose of transferring funds; (d) the value of electronic money managed by a Payment Service Provider is not a deposit as referred to in the law on banking.

The operation of electronic money is subject to restrictions on the value stored and transacted, namely: (a) for unregistered electronic money, the maximum stored value is IDR 2,000,000 (two million rupiah); (b) for registered electronic money, the maximum stored value is IDR 10,000,000 (ten million rupiah); (c) the maximum value of electronic money transactions in 1 (one) month is IDR 20,000,000 (twenty million rupiah).

The party that can apply for a license as an electronic money issuer must be in the form of; bank And non-bank institution.

The amount of minimum paid-up capital/initial capital for Payment Service Providers issuing electronic money in the form of non-bank institutions is set at Rp. 15,000,000,000 (fifteen billion rupiahs), while for banks, it takes into account the provisions for fulfilling capital regulated by the competent authority. In addition to the requirements in the form of a minimum paid-up capital, issuers of electronic money in the form of non-bank institutions are required to meet the provision of capital during the implementation of business activities/ongoing capital, the amount of which is adjusted to the activities of the electronic money operations that they carry out. Payment Service Providers that issue electronic money are also required to fulfill risk management aspects, which include legal risk, operational risk and liquidity risk. The application of these risk management aspects is assessed through; (1) Active supervision by: directors and board of commissioners for prospective Payment Service Providers incorporated as limited liability companies, or functions or organs that carry out the functions of management and supervisor for prospective Payment Service Providers with other legal entities. availability of policies and procedures and fulfillment of the adequacy of the organizational structure. risk management processes and risk management functions, as well as human resources, and internal control.

The implementation of risk management implementation mentioned above, must be supported by the fulfillment of documents; (1) Policies and procedures for implementing legal risk management, operational risk, and liquidity risk (2) The plan of cooperation between the Company and other parties in the implementation of payment system activities to be carried out by the Company includes but is not limited to: (1) a summary of all cooperation between prospective Payment Service Providers and other parties related to the implementation of payment system activities to be carried

out, and (2) Cooperation Agreement or Final Concept of Cooperation Agreement with all parties cooperating in the implementation of payment system activities to be carried out; (3) Operational policies and procedures as well as the availability of devices in the context of consumer protection (4) operational procedures for monitoring anti-money laundering and preventing the financing of terrorism; (5) payment system products or activities to be held; (6) Operational readiness includes standard procedures and hardware and software specifications for carrying out payment system products or activities to be held; (7) Operational procedures in order to monitor the Company's liquidity are related to payment system implementation activities.

Meanwhile, regarding the management aspect of Payment Service Providers as electronic money issuers, the regulator can also conduct a fit and proper test assessment, which is carried out on:

Parties who have; shares equal to 25% (twenty-five percent) or more of the number of shares issued by prospective Payment Service Providers and have voting rights, or shares less than 25% (twenty-five percent) of the total shares issued by prospective Payment Service Providers and have voting rights but it can be proven that the person concerned has exercised control over prospective Payment Service Providers, either directly or indirectly. members of the board of directors, and Member of the Board of Commissioners

from the party applying for a license as a Payment Service Provider. Assessment of fit and proper tests can be carried out by regulators in the event of Plan to change the shareholders, directors and/or board of commissioners. Supervisory results that indicate violations, fraud, and/or deterioration in business performance that have a significant impact on the implementation of the payment system carried out by shareholders, directors and/or the board of commissioners.

The fit nd proper test assessment aims to ensure the fulfillment of requirements in the form of: integrity, Financial reputation, financial feasibility, and/or Competence

The fit and proper test as mentioned above can be carried out by the regulator through administrative assessments and/or interviews. However, the fit and proper test conducted on prospective management (directors and commissioners) and prospective controlling shareholders through the administrative assessment mechanism and/or interviews is not sufficient as a risk mitigation in the form of moral hazard from these parties. This is due to the fact that the implementation of the fit and proper test was not carried out in a comprehensive manner, because it was not supported by the availability of a data base on parties who had committed crimes in the financial sector/fraud or other crimes that violated the applicable laws and regulations. The risk mitigation of moral hazard is important to do considering that based on the problems that have occurred in Indonesia in the financial and banking industry in 1998 and insurance, especially life insurance that has occurred in recent years, many of them are caused by moral hazard factors from administrators and owners. . Tracing the names of parties who will become administrators or controlling shareholders of non-bank institutions as electronic money issuers is to ensure that these parties have never been involved in crimes in the financial sector/fraud, as well as other criminal acts regulated in laws and regulations applicable. This is different from prospective bank managers and owners who are under the supervision of the Financial Services Authority (OJK). As is well known, the banking industry is also the issuer of electronic money whose licenses are issued by Bank Indonesia. In carrying out a fit and proper test of prospective management and controlling shareholders of the bank, the OJK conducts it in a comprehensive manner, which is supported by the availability of a data base as one of the bases for its assessment, as stated in OJK regulations, namely OJK Regulation Number 4/PDK.01/ 2020 concerning Requests for Information Related to Actors in Electronic Financial Services Institutions, with the following considerations; (1) In order to carry out the functions, duties, and regulatory and supervisory authorities, the Financial Services Authority has the authority to regulate licensing and reporting activities in the financial services sector which in its implementation requires information support regarding Actors in Financial Service Institutions; (2) To improve the effectiveness of the licensing and reporting implementation, it is necessary to develop a reliable and transparent electronic system to integrate all information about Actors in Financial Services Institutions (FSIs).

Meanwhile, the considerations for conducting a fit and proper test by the OJK are based on OJK Regulation Number 27/POJK.03/2016 concerning Fit and Proper Test for Main Parties of Financial Services Institutions, namely; (a) in order to create healthy Financial Services Institutions, protect stakeholders and improve compliance with laws and regulations, it is necessary to implement governance in Financial Services Institutions. (2) to realize this governance, Financial Services Institutions must be owned and managed by parties who always meet the fit and proper requirements.

The fit and proper test is carried out to assess that the prospective management and owners of Financial Services Institutions, including banks, have met the following requirements; (a) integrity and financial feasibility for prospective PSP or prospective controllers of insurance companies who are shareholders; (b) integrity and financial reputation for prospective controllers of insurance companies who are not shareholders; (c) integrity, financial reputation and competency for other than prospective controlling shareholders or prospective insurance controllers.

The integrity assessment referred to includes; capable of performing legal acts and have good character and morals, at least shown by the attitude of complying with applicable regulations, including never having been convicted for committing a crime within a certain period of time before being nominated. has a commitment to comply with laws and regulations and support OJK policies. have a commitment to the development of healthy FSI; And not included as a party prohibited from being the main party.

Requirements for financial reputation as referred to above, at least evidenced by: do not have bad credit and/or financing, and has never been declared bankrupt and/or has never been a shareholder, Control of an Insurance Company who is not a shareholder, member of the Board of Directors, or member of the Board of Commissioners found guilty of causing a company to be declared bankrupt within the last 5 (five) years before being nominated.

Previously, the fit and proper test carried out by the OJK on banks that were also issuers of electronic money was carried out manually to determine the integrity, financial reputation and competency of actors in financial services institutions. Since the enactment of OJK Regulation Number 4/PDK.01/2020 concerning Requests for Information Related to Actors in Financial Services Institutions Electronically, all requests for information needed by Financial Services Institutions actors are made electronically connected to the data center/data base through the Actors' Information System in Institutions Integrated Financial Services (SIPUTRI). The existence of this data center has become a major support for OJK as the regulator in conducting inspections/tracing of each candidate who applies as a candidate for controlling shareholder, member of the board of directors and member of the board of commissioners in the fit and proper test process in Financial Services Institutions, including banking administering electronic money. This is different from the fit and proper test of non-bank institutions that issue electronic money which is carried out by regulators, where the mechanism for administrative assessments carried out on prospective controlling shareholders, members of the board of directors and members of the board of commissioners is not supported by the availability of integrated information through the existence of a data center. (data base). So that the results of the administrative assessment carried out in the context of a fit and proper test of prospective controlling shareholders, members of the board of directors and members of the board of commissioners from non-bank institutions as issuers of electronic money are not carried out in a comprehensive manner because they have not been able to optimally mitigate the risk of moral hazard that may arise in the future from administrators and owners of the electronic money industry.

Furthermore, the institutional aspects of Payment Service Providers (banks and non-bank institutions) that issue electronic money must be supported by: the legality of a legal entity consisting of: documents showing the aims and objectives of the company, the composition of the management, the articles of association, the latest amount of authorized capital and paid-up capital. documents showing a business permit from the competent authority, and documents showing recommendations for prospective Payment Service Providers who have supervisory authority in accordance with statutory provisions. ownership and control consisting of the latest documents showing the

ownership and control structure of the Payment Service Provider up to the ultimate shareholder. management consisting of documents showing the integrity of the management which includes statements from each member of the board of directors, members of the board of commissioners, and the controlling shareholder.

a statement and guarantee letter from the authorized member of the board of directors that the company is not in: imposition of sanctions, legal proceedings in criminal, civil and/or bankruptcy cases. readiness of human resources and company organization including organizational structure along with job descriptions, authorities and responsibilities, including work units or functions responsible for consumer protection, implementation of anti-money laundering and prevention of terrorism funding, risk management, internal audit and compliance. correctness and completeness of licensing requirements documents related to the legality of legal entities must be accompanied by: result of legal due diligence from an independent legal consultant, and/or statement letter from the authorized member of the board of directors stating that all permit requirements documents submitted are correct and complete in accordance with the conditions of the company.

Meanwhile, the institutional aspect in the form of ownership of prospective Payment Service Providers issuing electronic money includes the composition of share ownership and ownership structure, namely: The composition of share ownership of at least 15% (fifteen percent) of its shares is owned by: Indonesian citizen, and/or Indonesian legal entities. The calculation of the composition of foreign share ownership for prospective Payment Service Providers in the form of non-bank institutions in the form of public companies is only carried out on share ownership with a percentage of share ownership of 5% (five percent) or more. For prospective Payment Service Providers in the form of non-bank institutions in the form of public companies, share ownership with a percentage below 5% (five percent) traded on the stock exchange is considered as domestic shares. For non-bank institutions in the form of public companies, share ownership with a percentage below 5% (five percent) traded on the stock exchange is considered as foreign shares, in the case of: Traded on the Indonesian stock exchange and declared to be owned by a foreign party by a prospective Payment Service Provider, or traded outside the territory of Indonesia. The composition of share ownership is calculated based on valid and current proof of share ownership. The portion of foreign share ownership is calculated according to direct and indirect ownership. Direct ownership is calculated based on one level of share ownership above the prospective Payment Service Provider. indirect ownership is calculated up to the ultimate shareholders, and Payment Service Providers submit self-assessment of ownership structure at least once a year and at any time in the event of changes in ownership composition.

The institutional aspect in the form of control for prospective Payment Service Providers in the form of non-bank institutions is regulated by the following provisions: The composition of shares with voting rights of at least 51% (fifty one percent) must be owned by domestic parties, namely: Indonesian citizen, and/or Indonesian legal entity.

Assessment of the composition of shares with voting rights is carried out collectively at each level of ownership up to the ultimate shareholder with the largest voting rights individually owned by domestic parties.

In the event that there is a special right in the form of a veto over a decision or approval in a general meeting of shareholders that has a significant impact on the company, the right must be owned by a domestic party.

in the event that there is a special right in the form of a veto over a decision or approval at a general meeting of shareholders that has a significant impact on the company, the right must be owned by a domestic party.

Meanwhile, regarding float funds, the following arrangements are made: Float funds are the entire value of electronic money that resides with Payment Service Providers who carry out administrative activities of sources of funds in the form of issuance of electronic money for the proceeds of electronic money issuance and/or top up which is still the issuer's obligation to electronic money users and providers of goods and/or services. Float funds are not assets or assets of Payment Service Providers who organize the issuance of electronic money, but are assets or assets of electronic

money users that are under the control and management of the issuer as a deposit. in the event that the issuer of electronic money is declared bankrupt, then the float funds are not from a liquidation bank or bankrupt bank. Payment Service Providers who carry out activities as issuers of electronic money must guarantee the safety of the float funds invested from liquidity risk, credit risk, legal risk, market risk, and operational risk. Float funds can only be used to fulfill the obligations of electronic money issuers to users and providers of goods and/or services.

To fulfill obligations to electronic money users and providers of goods and/or services, issuers are required to: (1) has a system and mechanism for recording float funds. (2) have a system and mechanism for monitoring the availability of float funds. (3) ensure timely fulfillment of obligations. (4) record float funds separately from recording other obligations owned by the issuer, and (5) placing float funds in an account that is separate from the issuer's operational account.

Based on the arrangements related to safeguarding float funds mentioned above, it is not enough to mitigate the risk of default caused by bankruptcy that occurs in non-bank institutions as issuers of electronic money. This is considering that in the event of bankruptcy risk, the amount of float funds available is not sufficient to fulfill all obligations of electronic money issuers to users and providers of goods and/or services.

As for the development of the number of issuers of electronic money in Indonesia up to the semester 1 2020 period there were 49 entities, consisting of 35 non-banks and 14 were banks, or 71% were dominated by the non-bank industry [8]. The float funds collected by banks and non-bank institutions in the first semester of 2020 are:

Float Fund in 2020
(in millions of Rupiah)

| Month | Bank | Nonbank | % |
|---|---|---|---|
| January | 2,729,387.48 | 4,094,335.68 | 60.00 |
| February | 2,762,430.74 | 4,514,788.09 | 62.04 |
| March | 2,694,991.14 | 4,993,786.17 | 64.95 |
| April | 2,658,110.49 | 5,448,827.93 | 67.21 |
| May | 2,650,891.87 | 6,070,247.03 | 69.60 |
| June | 2,787,227.67 | 6,486,860.81 | 69.95 |

Based on these data, it can be seen that the growth of float funds managed by the nonbank industry as issuers of electronic money has dominated and has a very large role for digital finance, especially electronic money in Indonesia. However, the current problem is that the progress of the growth of float funds managed by the nonbank industry as issuers of electronic money has not been followed by regulations that can provide optimal protection to the public as users from the risk of default caused by bankruptcy that occurs in nonbank institutions as issuers of electronic money.

**Efforts to optimize the protection of float funds managed by nonbank institutions as issuers of electronic money in Indonesia**

Various advances in the use of electronic money in the payment system in Indonesia, as discussed earlier, need to be accompanied by support in the form of strong regulations as a pillar of protection for all stakeholders. The need for the formulation of a new framework in the regulation of the Payment System, which is motivated by changes in the strategic environment, especially in facing the digital era which has various risks in its implementation, is a necessity. In this case, the existing regulatory framework needs to be aligned with developments and needs in society in the form of prudent (trusted) digital financial services. The need for renewal of the payment system regulatory framework must be prioritized on the aspect of protection in the management of float funds carried out by non-bank institutions as Payment Service Providers that issue electronic money in Indonesia. The scope of updates that need to be prioritized are:

***Insurance protection against float funds***.

Although the Bank Indonesia Regulation concerning Payment Service Providers has clearly and unequivocally stated that the existence of float funds managed by Payment Service Providers, which in this case are non-bank institutions, is the obligation of Payment Service Providers to users and providers of goods and/or services, it can only be used for fulfill the obligations of Payment Service

Providers to users and providers of goods and/or services, and are prohibited from using it for other purposes, and Payment Service Providers are required to record float funds in a separate account from other liability accounts they have, or separate from operational accounts. This is not enough to provide optimal protection to users and providers of goods and/or services against potential risks that may arise, especially bankruptcy risks caused by moral hazard factors or other causal factors. Optimal protection for users and providers of goods and/or services as owners of float funds is absolutely necessary to ensure legal certainty and protection for their interests. This can be interpreted that legal protection which aims to obtain legal certainty is all efforts to protect the interests of a party which of course includes mitigating potential risks that can harm a party [9]. Risks that may arise in the management of float funds by electronic money Payment Service Providers include the risk of default, which can be caused by the failure of the Electronic Money Payment Service Provider to fulfill its obligations to users and providers of goods and/or services. The risk of failure in fulfilling obligations by Electronic Money Payment Service Providers to users and providers of goods and/or services can be caused by the insolvency factor of the company issuing the electronic money. Although this can be mitigated by requests from relevant regulators who seek to provide protection, among others, through the provisions of Bank Indonesia Regulations Concerning Payment Service Providers, and proposals for the Bankruptcy and Suspension of Obligations for Payment of Debt Bills (Bankruptcy Bill and PKPU), so that funds float excluded from the debtor's assets (boedel bankrupt) in the case of an institution/company providing electronic money payment services experiencing bankruptcy. However, this is not enough to provide optimal protection to users and providers of goods and/or services as owners of float funds. This is based, among other things, on the potential risk that float funds managed by non-bank institutions as issuers of electronic money are insufficient to fulfill their obligations. So that even though float funds have been proposed in the Bankruptcy Bill and PKPU to be removed from the assets of the debtor (boedel bankrupt), there is still a risk that the amount is insufficient to fulfill the obligations of Electronic Money Payment Service Providers to users and providers of goods and/or services as owners of float funds. . Referring to the matters mentioned above, currently the arrangements for administering electronic money in Indonesia have not been able to optimally provide guarantees, protection and legal certainty to users and providers of goods and/or services as owners of float funds. The comparison of laws in several countries related to the implementation of electronic money, among others:

UK, Authorities and responsibilities among financial sector authorities in the UK have changed a lot in recent years. In 1997, the banking supervision role was transferred from the Bank of England to the Financial Services Authority (FSA). On December 1, 2001, The Financial Services and Markets Act 2000 (FSMA 2000) entered into force, which substantially replaced the previous financial regulatory framework and brought securities, banking and insurance regulation under the auspices of a single regulator, namely the FSA [10]. Under the Bank of England Act 1998, the Bank of England has legal purposes relating to monetary policy. This aims to maintain price stability, and to support the government's economic policies. In addition, the Bank of England is also required to formulate and publish its objectives and strategies. In general, the main objective is to maintain the integrity and value of the currency, maintain the stability of the financial system domestically and internationally, and ensure the effectiveness of UK financial services. Furthermore, the definition of administering electronic money as stated in the provisions of the 2011 Statutory Instrument No. 99 Financial Services and Markets - The Electronic Money Regulations 2011 (The Electronic Money Regulations 2011) and Directive 2009/110/EC of the European Parliament and of the Council of the European Parliament and of the Council of 16th September 2009 On the Taking Up, Pursuit and Prudential Supervision of The Business of The Electronic Money Institutions (Directive 2009/110/EC), are:

"the value of money stored electronically (including magnetically) as stated in the claim from the Electronic Money Issuer, which: (a) issued on proof of receipt of funds for the purpose of payment transactions; (b) has been received by an individual other than the Electronic Money Issuer; And (c) is not excluded by other provisions."

The objectives of implementing electronic money in the UK include contributing to a more integrated and efficient European payment market, equity for payment service providers, promoting the development and use of innovative online and mobile payments, making payments safer and more secure, consumer protection, and encourage lower prices for payments.

Institutionally, electronic money entities that can have the authority to become electronic money issuers in the UK, namely: (a) Official electronic money institutions, namely institutions included by the FSA in the list as electronic money institutions and institutions deemed to have obtained authority from the FSA; (b) Small Electronic Money Institutions, namely individuals included in the list of Electronic Money providers by the FSA.

Based on Part 2 of Regulation 6 – Conditions for Authorization of the 2011 Electronic Money Regulation, institutionally, the party intending to submit an application as an Electronic Money Issuer is: (a) Is a business entity incorporated under the laws of any territory of the United Kingdom that has: (1) head office, and (2) another registered office in the UK territory, or (b) A business entity that has a branch located in the United Kingdom and whose head office is located outside the European Economic Area (EEA).

For reasons of caution, business entities as referred to in Part 2 of Regulation 6 – Conditions for Authorization Electronic Money Regulations and Directive 2009/110/EC, that the issuance of Electronic Money in the UK is carried out by:

a) An official electronic money institution
b) Small electronic money institutions
c) electronic money institutions authorized by the EEA
d) Credit institutions
e) Post office companies
f) The Bank of England (the central bank of the United Kingdom), the European Central Bank and the national central banks of countries in the EEA other than the United Kingdom, when not acting in the capacity of monetary or other public authorities
g) Local government departments and FSA when acting in their capacity as public authorities.
h) Credit partnerships
i) regional banks
j) National savings bank

With regard to the assessment of the prospective Applicant/Management Administrator for the administration of electronic money as stipulated in the Electronic Regulation 2011, Directive 2009/110/EC and the FCA, the Applicant must be able to convince the FSA that:

1. Considering the need to ensure the safe and prudent conduct of the affairs of an Electronic Money institution, any person who is declared a qualified Owner in the institution is an individual who has gone through due diligence and information related to the legal status of the Applicant.
2. Directors and individuals responsible for electronic money management and payment service business have a good reputation and have sufficient knowledge and experience to issue electronic money that provides payment services.
3. Have a business plan (including for the first three years, estimated budget calculations) in which the business plan will be used with a feasible and proportionate system, resources and procedures will be used by the institution to operate safely.
4. Have taken adequate measures to properly safeguard the funds of electronic money holders.

In addition, the Applicant who is responsible for the management or operation of Electronic Money business activities is also required to never experience charges related to [11] :

5. Offences under the Proceeds of the Crime Act of 2002 or under the Money Laundering Regulations 2007.
6. Offences under the Collection, Use and Possession, Money Laundering or Financing of Terrorism regulations under the Terrorism Act 2000.
7. Violations under the Terrorist Assets Freeze Act of 2010, or under the Al Qaeda and Taliban Asset Freeze Act of 2010.

a) Other financial crimes, including any offence involving fraud or dishonesty, i.e. breach of any act or omission that would be an offence if it occurred within the territory of the United Kingdom, include:

1. The applicant has been convicted of criminal offences especially dishonesty, fraud or financial crimes.

2. The applicant is currently being investigated for any criminal offence. This includes where someone has been arrested or has been charged.

3. The applicant has been the subject of any adverse allegations and/or research subjects in any alleged adverse or civil settlement in legal proceedings, particularly in relation to investment or other financial business, misconduct, fraud or formation or management of companies, including any findings by the FSA, by other regulatory authorities (including previous regulators), clearing and exchange houses, professional bodies, or government bodies that have violated or violated financial services laws.

4. The applicant has been denied membership, registration or authorization or professional organization or has had registration, authorization, membership or license revoked, withdrawn or terminated, or has been issued membership by a government regulation or body.

5. The Applicant has been a Director, partner, or interested in the management of a business that has gone bankrupt, liquidating or recording while the Applicant is associated with that organization.

The various obligations that must be fulfilled by the Applicant related to the management of Electronic Money institutions as safely regulated in the Electronic Money Regulations 2011, Directive 2009/110/EC and the Financial Conduct Authority (FCA) show that the management aspect in Electronic Money institutions is important for the prudent implementation of Electronic Money issuance which has accommodated various aspects for smooth healthy operations and protection to users

EEA member countries require that at the time of authorization for the operation of electronic money it is required to provide a minimum initial capital of EUR 350,000 (three hundred and fifty thousand Euros). In this case, an electronic money institution can calculate its own fund requirements based on estimates or assumptions of use in the context of payment services through the issuance of electronic money, provided that the calculation of the estimates is carried out fairly, and meets FSA criteria as the competent authority in supervising the operation of electronic money. Furthermore, in the event that the business activities of an official electronic money institution generate an average circulation/issuance of electronic money of EUR 500,000 (five hundred thousand Euros) or more, then the institution is required to maintain the fulfillment of the capital requirement of at least 2% of the average issuance of money. electronic. Meanwhile, regarding the operation of issuing and redemption of Electronic Money in the United Kingdom as stipulated in Electronic Money Regulation 2011, Directive 2009/110/EC and FCA 2017 requires that EEA member countries must ensure that Electronic Money Issuers issue Electronic Money products with a value of the same nominal amount as when the funds were received by the Issuer. In addition, member countries must ensure that Electronic Money Issuers:

a. Par value, in receiving funds, the Issuer will issue Electronic Money without delay at the Par Value.

b. Redemption, based on User's request, Electronic Money can:

1) redeemed at any time, and

2) redeemed at its original nominal value (Par Value), there is no addition/decrease in value.

Electronic money issuers must redeem the entire monetary value of the electronic money issued at any time. This is a form of legal certainty regarding the rights of electronic money owners regarding the existence of funds stored in electronic money products.

Meanwhile, in carrying out its operational activities, electronic money institutions in Great Britain are prohibited from:

a. Giving interest related to the ownership of Electronic Money, because the existence of Electronic Money managed is not a deposit, and

b. Provision of other benefits related to the length of time for ownership of Electronic Money.

Regarding the safeguarding aspect of funds received by financial institutions for the issuance of their products, it is mandatory for them to be properly guarded by means of, among others:
a.Electronic money institutions must keep funds received from Electronic Money exchanges separate from other funds.
b. Placing these funds in a separate account/account he has.
c. Investing these funds in assets that are safe, easy to liquidate and low in risk.
d. The account where the funds or assets are placed must:
1) Expressly indicate that the account/account kept is for the purpose of maintaining the related funds or assets in accordance with the provisions.
2) Only used to store funds or assets as intended.
3) No party other than an electronic money institution can have an interest in it or be entitled to the funds or assets placed.
4) Electronic money institutions are required to have records regarding:
a) all funds collected in accordance with the provisions.
b) Placement of funds and assets is made in accounts/accounts in accordance with the provisions.
e. Electronic money institutions must also ensure that funds raised from the issuance of electronic money products must be protected by:
1) insurance policy with an official insurance provider.
2) Guarantee from an official guarantor, or
3) Collateral from an official credit institution, namely an Authorized Credit Institution that has been approved by the Terrorism Act 2000 to accept deposits or legalized as an official Credit Institution in the Banking Consolidation Directive.
4) Process related insurance policies, or guarantees that can be paid in the event of bankruptcy on a separate account owned by an electronic money institution. The account referred to must be proven in such a way that the account is only used for purposes and processes related to the funds raised.
In addition, Electronic Money institutions are also obliged to adequately maintain their organizational arrangements, in order to minimize risks, such as risks of loss, counterfeiting, misuse, negligence and weak administration within the internal institutions.
Bankruptcy conditions for Electronic Money institutions in Great Britain include matters relating to:
a. There is a liquidation order from the court, including the dissolution of the company, administration, acceptance and confiscation.
b. Order for voluntary settlement of liquidation in a deed for the benefit of creditors.
c. Bankruptcy order requests by other authorities.
Regarding a bankruptcy condition as referred to above, all claims made by Electronic Money users against Float Funds must be paid from the assets pool originating from insurance guarantees, and taking priority over other creditors. Payment of all obligations related to the Float Fund must first be settled through the assets pool, the acquisition of which includes insurance. Furthermore, the settlement of other obligations, such as costs and other expenses as well as priority expenses based on court orders, including bankruptcy costs will be settled later. In connection with the matters mentioned above, overall the operation of electronic money managed by electronic money institutions in the United Kingdom is based on The Electronic Money Regulation 2011, Directive 2009/110/EC and FCA 2017, which are issued with the same nominal value ( there is no discount rate), can be redeemed/disbursed at any time, there is an insurance guarantee against bankruptcy conditions, and a prohibition on giving interest.
Singapore, as experienced by countries in the world, that technological transformation has changed the payment landscape in Singapore. Technology has reduced barriers to entry in running a payments business in Singapore. This is coupled with the high penetration of smart phones, making payment service products easier for customers to get digitally. Changes in the financial and payment industry sector have changed, among others: new additions to payment services, the boom for online e-commerce including across Singapore borders, convergence across payment activities, proliferation/additional use of mobile phones, and transformation of payment technology. All of

these things have resulted in: more non-bank actors (such as fintech providing financial services), lower costs for customers, better access to customers [12].

In its implementation, policies related to the Payment System in Singapore are carried out by the Monetary Authority of Singapore (MAS) as the central bank. MAS was established as a legal entity under the Monetary Authority of Singapore Act in 1970. Its mission is to promote sustainable non-inflationary economic growth, as well as a healthy and progressive financial services sector. Except for currency issuance, which is entrusted to the Board of Commissioners of Currency of Singapore (BCCS), MAS performs all the functions related to a central bank. In the monetary field, the policy of the Singaporean authorities aims to encourage non-inflationary sustainable growth for the Singapore economy, and is centered on exchange rate stability [13].

As part of its mission to promote a healthy and progressive financial services sector, MAS oversees payment systems to ensure their overall safety, efficiency and development. As such, MAS insulates or facilitates the relevant policies, practices and principles used throughout the payment, clearing and settlement system in Singapore. In addition, MAS also acts as a settlement agent for banking institutions in Singapore, by allowing fund transfers to occur in all settlement bank accounts held by MAS. In addition, MAS is also the operator of the MAS Electronic Payment System (MEPS) which manages the Real Time Gross Settlement (RTGS) system.

In Singapore, the Payment System is defined as a system comprising the cultural, political, legal, economic and business practices and arrangements used in a market economy to determine, store and exchange value or possession of goods and services. In its simplest form, the practice of payment stems from trading between buyers and sellers in a market, or from financial obligations. The modern Payment System in Singapore in a market economy can be modeled in three main segments, namely:

a. the instrument used to make the payment.

b. clearing and settlement of processes involved in payment transactions, and

c. fund transfers between entities/institutions, as stipulated in the Payment Services Act 2019.

The Payment Services Act 2019 regulates seven types of payment services that can be licensed, namely [14] : (a) Payment account issuance services, such as e-wallets; (b) bDomestic money transfer services, which provide local fund transfer services, including payment gateway services and payment kiosk services; (c) Cross-border money transfer service, which provides money transfer services in Singapore. (d) Merchant acquisition services, i.e. providing services where service providers enter into contracts with merchants to receive and process payment transactions that result in money transfers to merchants; (e) Electronic Money issuance service, which issues Electronic Money in Singapore to enable users to make payments or transfers of electronic money; (f) Digital payment token services, including buying and selling virtual currencies or providing a platform that allows people to exchange virtual currencies in Singapore (g) Money exchange services, that is, buying and selling foreign currencies.

To date, the Singapore Payment System has evolved over the years, driven by advances in technology, changing consumer needs and the development of new financial activities. This has changed the practice which was previously based on cash and paper money transactions, into one that currently has a variety of non-cash payment instruments, an efficient and reliable clearing system, and a credible settlement system. In this case the Payment Services Act 2019 can be seen as providing certainty regarding much-needed regulations and consumer protection which in turn will drive growth in the Payment System in Singapore [15].

In Singapore, common retail payment methods made using currency include checks, debit Giro (withdrawal of money) between banks and credit transfers (remittance of money) as well as payment cards, which include stored value, debit and credit cards. Bank customers can also use their debit cards to transfer funds to third-party accounts, and to make bill payments to commercial and government entities through ATMs. Recently, bank customers can make bill payments and transfer third-party funds via cell phones, mobile services and internet banking.

Furthermore, referring to the Payment Services Act 2019, electronic money operations in Singapore are defined as:

"an electronically stored monetary value that:
a. in any currency, or has been pegged by the Issuer to any currency.
b. Prepaid to enable the creation of payment transactions through the use of account payments.
c. Received by someone other than the publisher, and
d. Represent a claim on the Issuer.
but does not include any deposit received in Singapore, from anyone in Singapore."
The Payment Services Act 2019 expands the regulatory powers of MAS, specifically related to Payment System policies, including new types of payment services such as Electronic Money issuance services and digital payment token services. This provision also clarifies risk mitigation activities for payment service operators/Organizers and imposes relevant obligations on licensees [16].
Furthermore, based on the Payment Services Act 2019 (Application for license: 9), that a party wishing to carry out operational activities as an Electronic Money Issuer in Singapore, is required as follows:
a. The applicant applying for the license is a company, or corporation established outside Singapore.
b. The applicant has a permanent place of business, or is registered in Singapore.
c. One of the Executive Directors of the applicant, is:
1) A citizen or permanent resident of Singapore, or
2) If the applicant meets the requirements as the class of person specified.
d. The applicant party meets the financial requirements set by the MAS Authority
e. The applicant party is declared by the MAS Authority:
1) Have fulfilled the Guidelines and Criteria for the Fit and Proper Test.
2) Has fulfilled the financial aspect.
3) Believed to fulfill the public interest.
4) The applicant has met other criteria/operational requirements stipulated by the MAS Authority; And
5) The application is accompanied by the information required by the MAS Authority.
For parties who receive permits and violate the provisions mentioned above, they are declared guilty of committing violations and are responsible for penalties in the form of:
a. In individual cases, a fine not exceeding $125,000, or imprisonment for a term not exceeding 3 years or both, and in the case of continued violations, an additional fine not exceeding $12,500 per day so long as the offense continues.
b. In other cases, the fine does not exceed $250,000, and in the case of continued violation, for a further fine not to exceed $25,000 per day so long as the violation continues.
c. In addition, for standard payment institutions and primary payment institutions that fail to comply:
1) Financial requirements determined by the MAS Authority.
2) Operational requirements and other requirements determined by the MAS Authority.
found guilty of an offense and liable for a fine not exceeding $100,000, and in the case of continuous violations, subject to an additional fine not exceeding $10,000 per day so long as the offense continues.
Meanwhile, in carrying out a fit and proper test, the authorities (MAS) expect people who are competent, honest and have integrity and have good financial capabilities. For the MAS authorities this is a guarantee that the party is a relevant party and is able to fulfill its obligations under the applicable written law. In addition, this will also be a support for the authority's requirement that the party will carry out activities regulated under the law efficiently, honestly, fairly, and act in the best interests of its stakeholders and customers [17].
Meanwhile, regarding operational activities as stipulated in the Payment Services Act 2019 (Restriction on personal payment accounts that contain electronic money), that in carrying out their operational activities, payment service providers must pay attention to:
a. Equality in value, namely must ensure that the value of money issued in Electronic Money is equivalent to the customer's payment account issued by the payment institution, and does not exceed the specified amount, or its equivalent in foreign currency. In addition, Electronic Money Issuers must ensure that the total value of Electronic Money transferred within a period of one year,

from personal payment accounts issued by payment institutions to users of payment services, does not exceed the specified amount, or its equivalent in foreign currency.

A payment institution that violates the foregoing shall be found guilty of an offense and shall be subject to a penalty of a fine not exceeding $250,000, and in the case of continued breach, an additional fine not exceeding $25,000 per day so long as the breach continues after conviction.

b. Payment service providers are also prohibited from:

1) Allow payment service users to use a payment account to withdraw Electronic Money from that payment account and exchange the withdrawn Electronic Money into Singapore currency.

2) Enter into any agreement or arrangement (whether oral or written and whether express or implied) with any entity established, formed or registered in Singapore or conducting business in Singapore, into an agreement or arrangement that allows payment in any form for Service Users to Electronic Money Issuers who have issued payment accounts, to withdraw Electronic Money from said payment account (cash), and/or to exchange Electronic Money or withdraw it in Singapore currency, in Singapore.

To ensure this, the Operator as the holder of a payment service license/Electronic Money Issuer is required to take the following steps:

1) In accordance with the criteria imposed by the Authority, the license holder/Electronic Money Issuer may submit written notification that the User of the payment service is a resident of Singapore.

2)The organizer as the holder of a payment service license who violates the provisions mentioned above shall be punished for the violation, and shall be liable for a fine not exceeding $ 250,000, and in the case of persistent violations a fine not exceeding $ 25,000 per day as long as the offense continues after the sentence.

In addition, Operators as permit holders are also prohibited from doing the following:

Providing credit facilities to individuals in Singapore. The credit facility referred to, is any down payment, loan or other facility provided by the Operator to the User which provides access to funds or financial guarantees provided by the Operator. Organizers who violate this prohibition shall be punished for the violation and subject to a fine not exceeding $100,000, and in the case of persistent violations, an additional fine not exceeding $10,000 per day as long as the violation continues after the penalty.

Using User's money, or interest earned on User's money, to finance all or for any business activity carried out by Electronic Money Issuers. User's money as referred to, is money received in Singapore by the Operator from individuals in Singapore (Float Funds) and instead the Operator issues/issues Electronic Money to customers/Users. The violating organizer will be found guilty of infringement and will be subject to penalty of a fine not exceeding $250,000, and in the case of persistent violations, a further fine not to exceed $25,000 per day so long as the violation continues after the conviction.

Based on the Payment Systems Act 2019 (Sub Division 2: Safeguarding of money received from customers) the MSA Authority can make regulations regarding the security/guarantee of money received from customers by electronic money issuers to guarantee institutions, namely:

a) a bank that has a license under the Banking Act.

b) a bank approved as a financial institution under the Monetary of Singapore Authority (MAS) Act.

c) a financial institution licensed under the Finance Company Act.

Referring to the Safeguarding of Money Received From Customer section in the Payment Systems Act 2019, that payment institutions that carry out the activities mentioned above, must ensure that no later than the following working day after money is received from or on behalf of the customer, all or part of the money , is protected in one of the following ways:

a) guarantee institution, which is fully responsible to the customer for the money.

b) by depositing money in a trust account guaranteed by a guarantee institution.

c) in other ways determined later by the MAS Authority.

Regarding the security/guarantee that must be carried out on the following working day after the money is received from the customer as mentioned above, the payment institution is required to submit a written notification to MSA regarding:

a) a guarantee institution that has been chosen by a payment institution in securing customer's funds.
b) the name of the guarantee institution that will secure the customer's funds.
In the event that a payment institution breaches the terms of the guarantee as referred to above, or fails to comply with any of the conditions imposed regarding the guarantee, it shall be found guilty of a breach and shall be liable for a penalty of a fine not exceeding $250,000, and in the case of continued breach , subject to an additional fine not exceeding $25,000 per day while the violation continues (Safeguarding of money received from customer – 11).
Malaysia, Payment System regulation in Malaysia is subject to the Central Bank of Malaysia Act 2009 with its institution known as Bank Negara Malaysia, which has the primary objective of promoting monetary stability and financial stability conducive to Malaysia's sustainable economic growth. While the main functions of Bank Negara Malaysia as the central bank are:
a. formulate and implement monetary policy in Malaysia,
b. issuing currency in Malaysia,
c. regulate and supervise financial institutions subject to laws imposed by Bank Negara Malaysia,
d. supervise the money and foreign exchange markets,
e. supervise the Payment System,
f. promote a sound, progressive and inclusive Financial System,
g. holding and managing Malaysia's foreign exchange reserves,
h. promote exchange rate regimes consistent with economic fundamentals, as well as act as financial advisors, bankers and financial agents of the Government.
The Bank for International Settlements (BIS) describes the Payment System in Malaysia which consists of instruments, banking procedures and interbank fund transfer systems that ensure and facilitate the circulation of money. In essence, it facilitates companies, businesses and consumers to transfer funds to each other. In Malaysia, the high-value payment system RENTAS is operated by Malaysian Electronic Clearing Corporation Sdn. Bhd. (MyClear) which is a payments subsidiary owned by Bank Negara Malaysia which provides interbank payment transfers and settlements as well as high value securities. Failure to implement it can cause a systemic crisis and cause financial shocks to the Financial System. The efficient RENTAS function allows transactions to be completed safely and on time which contributes to the overall economic performance [18].
A safe and efficient Payment System is essential to promote financial stability, facilitating Bank Negara Malaysia in carrying out its monetary policy by enabling greater use of market-based instruments in order to achieve its goals and increase the efficiency of the Financial System and the economy as a whole. This is based on the understanding that a secure and efficient Payment System is one of the main pillars of Bank Negara Malaysia as the central bank. Bank Negara Malaysia has a supervisory role in ensuring the security, reliability and efficiency of the Payment System infrastructure, as well as to protect the public interest. As supervisor, Bank Negara Malaysia formulates the regulatory framework and exercises oversight on retail and bulk value payment systems. Oversight activities are focused on controlling systemic risk and mitigating overall risk in the Payment System to ensure its reliability. Bank Negara Malaysia also facilitates the improvement of payment services and the development of financial markets through developing payment innovations and ensuring public confidence in retail payment systems and the use of payment instruments. In this case Bank Negara Malaysia conducts consultation and active cooperation with market players and stakeholders. This is considering the importance of digital/electronic payments in increasing domestic economic efficiency. Furthermore, the Payment System in Malaysia is subject to the provisions of the Payment System Act 2003 which is in line with the recommendations in the master plan in the Financial Sector for the implementation of a flexible, proactive and effective regulatory framework in the context of monitoring the Payment System and increasing efficiency in the Payment System. The enactment of this law reflects the importance of the Payment System to the country's economic activities, and recognizes that Bank Negara Malaysia is the sole authority responsible for its oversight. An efficient and well-functioning Payment System will support social and economic efficiency and is essential for the smooth functioning of financial markets and

maintaining Financial Stability. In addition, the implementation of a good Payment System is also considered important for Bank Negara Malaysia in making effective monetary policy formulation [19]. The purpose of the law is to ensure the security and efficiency of payment-related infrastructure, and to safeguard the public interest. The Act provides a legal framework to ensure that the Financial System, and public trust in the Payment System is properly protected. The law provides authorities with more comprehensive and effective supervision of the Payment System. The Payment System Act 2003 was designed to provide a balanced regulatory framework for Payment System supervision to be in line with the objectives of Bank Negara Malaysia, and to promote efficient financial market innovation. In this case, the Payment System Act 2003 outlines two different supervisory regimes for two types of industry players, namely Payment System operators and Issuers of payment instruments appointed by the authorities. The enactment of the Payment System Act 2003 serves to strengthen Bank Negara Malaysia's oversight of the Payment System and related instruments. The Payment System Act 2003 enables Bank Negara Malaysia to identify and monitor Systemically important Payment Systems and payment instruments, which are strictly regulated under the Act, while also providing Payment System operators and Payment instrument Issuers with regulatory flexibility that encourages innovation innovation.

On the other hand, the implementation of Electronic Money which is part of the Payment System in Malaysia is regulated in the Financial Services Act 2013, where Electronic Money is defined as follows: "As a means of payment in any form, whether tangible or intangible, which:

a. store funds electronically in exchange for funds paid to issuers; And

b. can be used as a means of payment to anyone other than the publisher."

According to several legal experts in Malaysia, Bank Negara Malaysia as the central bank generally supports the transformation of cash into electronic payment services. Financial industry players and payment service providers are eyeing the Malaysian market and are considering applying for authorization regarding the provision of electronic payments. However, this should be in line with Malaysia's goal of developing e-financial services. The fact is that Bank Negara Malaysia wants people to switch to digital payments to meet their needs, and Electronic Money is one way to achieve this goal. This has led to an increase in the number of Electronic Money providers in Malaysia [20].

There are 2 (two) types of schemes for administering Electronic Money in Malaysia, namely small schemes and large schemes which are determined by the operational size and obligations originating from the circulation of Electronic Money issued. Institutions that can become Electronic Money Providers must be guided by the Payment Systems Act 2003 which determines financial institutions as operators, among others:

a) banking

b) financial companies; or

c) other institutions determined by law.

In terms of management, issuers of electronic money are required to have adequate governance, as well as effective and transparent arrangements to ensure the integrity of the executors, including among others:

a) The Board of Directors and Senior Management are people with caliber, credibility, integrity, and meet fit and proper criteria, namely:

1) Honesty, diligence and competence as well as good judgement.

2) Reputation, character and integrity.

3) Have a good history of violations and do not commit things, such as: fraud, dishonesty, and violence

4) Do not engage in any business practices or practices that would discredit them.

5) The party who will become the Board of Directors or Senior Management has never violated any provision made by or under a written law which in the view of Bank Negara Malaysia is designed to protect members of the public against financial loss due to dishonesty, incompetence or malpractice.

6) Never been declared bankrupt.

7) Bank Negara Malaysia may determine other criteria deemed necessary.

b) Clearly defined and documented organizational arrangements, such as company ownership and management structure.
c) Separation of division of tasks and internal control arrangements in order to mitigate the risk of mismanagement and the risk of fraud.
Regarding capital, in the provisions of Electronic Money in Malaysia, especially for Issuers with large schemes whose operational activities do not only issue Electronic Money, it is required to have additional funds of 2% (two percent) of the funds collected at any time.
Operational implementation of Electronic Money in Malaysia is issued in several forms, such as card-based (card/chip-based) or network-based which can be accessed via the internet, mobile phones or other devices (server base). While the amount of operationalization is classified into 2 (two) criteria, as follows:
a. The Grand Scheme, namely:
1. Limit above RM200, maximum limit for grand scheme capped at RM1,500 or any amount approved by the Authority; or
2. Total Electronic Money liabilities in 6 (six) consecutive months of RM1 million or more.
b. Small Scheme, namely:
1. Limit not more than RM200; and
2. The amount of Electronic Money liabilities is less than RM1 million.
Electronic Money Issuers must carefully manage the funds collected from Users to ensure timely refund of Electronic Money funds to Users, as well as payment obligations to merchants. In managing Float Funds, Issuers must also ensure that they have sufficient liquidity for their daily operational activities. To avoid mixing of funds, the funds collected from Users (Float Funds) must be stored and managed separately from the Issuer's operational funds. Large Electronic Money Issuers must have risk management in accordance with the implementation of Electronic Money operations. In this case, the Issuer must ensure that the system has adequate security and good internal control to ensure data security and integrity, as well as the recording of the Electronic Money it issues. There are strong and well-tested contingency arrangements in place to address Issuer operational disruptions. This policy is carried out as an effort to mitigate risks, such as the risk of fraud. Meanwhile, for small Electronic Money Issuers, the funds collected from the issuance of Electronic Money must be placed in a deposit account with a licensed institution, separate from other accounts.
Regarding the use of investment returns from funds collected from the issuance of electronic money, refer to the provisions of electronic money in Malaysia as stipulated in the Guideline on Electronic Money (E-Money) – Principle 4 Ensure Prudent Management of Funds, namely 'any revenue earned from the investment of the funds in the trust account may be used only for':
a) refunds to users; and
b) payments to merchants.
Unless the funds are in excess of the total outstanding e-money liabilities.
In the Bank Indonesia Regulation concerning Payment Service Providers which regulates the operation of electronic money, there has not been any regulation related to the use of investment proceeds of float funds made by non-bank institutions as issuers of electronic money.
Comparison of arrangements with several other countries as mentioned above, is to examine a system, style of thinking in various matters relating to law, legal sources of a legal system to be able to understand, appreciate and evaluate the existing legal system in Indonesia, especially regulations electronic money in the payment system to get better, especially in providing guarantees, protection and legal certainty for users and providers of goods and/or services as owners of float funds [21]. This is bearing in mind that the formation of law is not only limited to rules/norms but is also a social phenomenon that cannot be separated from the values that apply in society and is even a reflection of the values that apply in society itself, so that responsibility and legal certainty are values that continue to live in people's lives [22]. This means that legal development reflects the values that live in society (law as a tool of social engineering). Thus, in order for the implementation of laws and regulations aimed at carrying out reforms to run as they should, laws

and regulations should be built in accordance with what is at the heart of the thinking from the sociological aspects that live in the midst of society [23].

Based on the above, it is necessary to strengthen electronic money regulations in order to mitigate the risk of default caused by bankruptcy, through:

**Float fund insurance coverage**

Based on the problems that often occur in the financial and banking and insurance industries (especially life insurance) in Indonesia caused by internal company moral hazard factors, as well as examples of safeguarding against float funds managed by electronic money issuers in several countries, researchers believes that it is necessary to guarantee float funds managed by non-bank institutions by insurance institutions in order to provide optimal protection in order to provide legal certainty for users and providers of goods and/or services as owners of float funds. This is related to the existence of potential risks that can become a reality that allows a party to experience unwanted losses or losses. This means that the potential risk that can become a reality is something that is sought to be avoided, so that the risk of loss or loss does not occur [24].

Based on the provisions related to insurance as stated in Law Number 40 of 2014 concerning Insurance, as follows:

1) insurance is an agreement between two parties, namely the insurance company and the policyholder, which forms the basis for receiving premiums by the insurance company in return for providing reimbursement to the insured or policyholder due to loss, damage, costs incurred, loss of profits, or liability law to third parties that may be suffered by the insured or policyholder due to the occurrence of an uncertain event.

2) General insurance business is a risk coverage service business that provides reimbursement to the insured or policyholder due to loss, damage, costs incurred, loss of profits, or legal responsibility to third parties that may be suffered by the insured or policyholder due to an uncertain event. .

3) The object of insurance is life and body, human health, legal responsibility, goods and services, as well as all other interests which may be lost, damaged, lost and/or reduced in value.

Referring to the insurance provisions in Law Number 40 of 2014 concerning Insurance mentioned above, it is clear that insurance institutions in Indonesia can be an alternative in providing more optimal protection for safeguarding float funds managed by non-bank institutions as issuers of electronic money. In this case the insurance institution can provide protection against the risk of float fund management related to losses and/or legal liability from non-bank institutions as issuers of electronic money in the event of bankruptcy.

The purpose of using insurance protection in managing float funds by non-bank institutions as issuers of electronic money is as an effort to overcome uncertainty regarding losses arising from the occurrence of an event [25]. In this case insurance protection measures have been considered as a risk sharing device, which is used to avoid risks, prevent risks and withstand risks faced in the present or in the future, or as an effort to spread risks and transfer risks owned by a company. parties [26]. In an effort to protect float funds to insurance institutions, the position of a non-bank institution as an electronic money issuer will be the insured party who bears the payment of insurance premiums, regardless of whether the insured event occurs or not. In this case, by paying the insurance premium, the non-bank as the insured will obtain legal certainty that bankruptcy events resulting in losses and/or legal liability to users and providers of goods and/or services as owners of float funds will be borne by the insurance institution without considering whether the number of claims that arise is balanced or not with the premium paid by the issuer as the insured. The benefits obtained by a non-bank institution that obtains float fund insurance protection against a potentially detrimental event such as bankruptcy, include:

a. feeling safe/guaranteed due to protection/guarantee in carrying out its operational activities, due to certainty regarding reimbursement when the potential risk to the Float Fund has been insured.

b. increase efficiency in the company's operations. In this case, non-bank institutions as issuers of electronic money are more flexible in carrying out more profitable business activities, as well as reducing activities that are less profitable or even detrimental.

c. Coverage tends towards a reasonable estimate or calculation of costs. In closing the insurance agreement, LSB as the insured party will calculate the appropriate value related to insurance protection, so that if a claim arises, the insured will receive compensation in accordance with his legal responsibilities. Thus, the risk of loss due to loss of Float Funds experienced by Users and Goods and/or Service Providers as owners of Float Funds due to bankruptcy of non-bank institutions can be avoided.

d. Non-bank institutions as issuers will obtain guarantees and legal certainty in carrying out their responsibilities in the event of bankruptcy and the amount of float funds they manage is less than the amount of circulation of Electronic Money for which they are still responsible.

The benefits obtained by non-bank institutions that obtain float fund insurance protection against potentially detrimental events such as bankruptcy are in line with what was conveyed by Gustav Radbruch in Ahmad Ali, that law must be able to realize justice, certainty and expediency as legal objectives [27]. This is in view of the fact that the principle of justice for society must be realized and should not only be a mosaic of ideas, but the creation of harmonization between law and society based on protection, legal certainty which creates a sense of justice and benefits for all parties.

***Implementation of fit and proper tests comprehensively***.

Referring to the Bank Indonesia Regulation concerning Payment Service Providers related to the fit and proper test assessment mentioned above, as well as the results of research conducted by researchers regarding its implementation, the authors are of the opinion that the efforts made by the regulator have not been sufficient to mitigate the risks arising from moral hazard. from the management (members of the board of directors and members of the board of commissioners) as well as owners (controlling shareholders) of non-bank institutions that operate electronic money. This is related to the assessment mechanism as stated in the regulation that the fit and proper test procedures carried out through administrative assessments and/or interviews have not been carried out comprehensively. Based on research, it is known that administrative assessments and/or interviews conducted by the regulator are not supported by adequate sources of information (data base), namely by tracing the names of parties who will become administrators or owners of non-bank institutions, that these parties have never been involved in crimes in the financial sector, such as cases of fraud (financial crimes) or other crimes that have criminal consequences, such as money laundering, terrorism, etc. This is different from electronic money held by banks, where prospective management and prospective owners of the bank will undergo a comprehensive administrative assessment by the Financial Services Authority (OJK) as the regulator.

Based on information in research related to the implementation of a fit and proper test conducted by the OJK on banks that are also issuers of electronic money, the assessment was previously carried out manually to determine the integrity, financial reputation and competence of actors in Financial Services Institutions (LJK). Since the enactment of OJK Regulation Number 4/PDK.01/2020 concerning Requests for Information Related to Actors in Financial Services Institutions Electronically, all requests for information needed by LJK actors are made electronically connected to the data center (data base) through the Actors' Information System in Service Institutions Integrated Finance (SIPUTRI). The existence of this data center has become the main support for OJK as the regulator in carrying out inspections/tracing of every candidate who applies as a candidate for controlling shareholder, member of the board of directors and member of the board of commissioners in the process of fit and proper test in FSI, including banks that issue electronic money. Given that the fit and proper test assessment of non-bank institutions has not been carried out comprehensively, because it is not supported by the availability of a data base as an information center, this has not been able to mitigate the risk of moral hazard that may arise in the future from the management and owners of non-bank institutions as issuers electronic money.

Along with the increasing needs of the community in the digital financial era, which is marked by the increasing amount of float funds managed by non-bank institutions, a rethink is needed regarding optimal protection of float funds, through regulatory reforms aimed at reducing the risk of default due to bankruptcy caused by by moral hazard can be optimally mitigated, so that potential losses for the community as users can be avoided.

Based on this, basically the aspect of protecting float funds managed by non-bank institutions as issuers of electronic money is a form of responsibility that is identical to obligations based on errors that result in losses to other parties [28]. In this case, the accountability obligation is closely related to the integrity aspect of the management and controlling shareholder of the non-bank institution that is the issuer of electronic money.

With a comprehensive fit and proper test process, the protection of the public as owners and users of float funds will be optimal. In addition, strengthening these regulations will provide legal certainty for all users of electronic money issued by non-bank institutions [29]. This is considering that legal certainty and protection in the administration of electronic money will be keywords for all interested parties that their rights are protected [30]. So that the potential risk of default due to bankruptcy originating from moral hazard along with technological advances in the digital finance era can be mitigated, and the goal of developing an advanced national economic ecosystem can be achieved, among others through a balance between innovation and user protection [31].

***Arrangements for the use of float fund investment results.***

The importance of regulating the use of float fund investment results by non-bank institutions as issuers of electronic money is to avoid arbitrary actions by non-bank institutions on float fund investment results. So that it will provide a basis for legal certainty for non-bank institutions regarding the utilization of float fund investment results, and at the same time provide a limitation that the investment proceeds of float funds that can be used by non-bank institutions are if the amount exceeds all obligations to users and/or providers of goods and/or services.

## CONCLUSION

The conclusions in this study: (1) Concrete efforts are needed from the regulator in the form of strengthening regulations in the form of insurance protection for float funds managed by non-bank institutions as issuers of electronic money, (2) a comprehensive fit and proper test process, (3) and regulation of use return on investment of float funds. This is a form of optimizing the protection of float funds, in the context of mitigating the risk of default due to bankruptcy caused by the moral hazard of management and/or controlling shareholders of non-bank institutions as issuers of electronic money. Regulatory reforms to the management of float funds carried out by non-bank institutions that issue electronic money will contribute to the progress of Indonesia's payment system in the industrial 4.0 era, which in turn will have positive implications for Indonesia's economic progress with legal certainty.

## SUGGESTION

Restorative justice is a necessity in the renewal of the criminal law system, so as to avoid overlapping regulations regarding restorative justice it is deemed necessary to arrange regulations, at the law level in order to renew the substance of the criminal law system in Indonesia.

The Restorative Justice House is a place for prosecutors to explore the values of justice that grow and develop in society which are aligned with positive law in order to resolve a legal issue, so that they can make decisions based on substantive justice so that with law enforcement the community can benefit from the process law enforcement itself, so that it is hoped that the implementation of local customary values can be applied throughout RJ's House as a consideration for decision making to stop prosecution based on restorative justice.

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