

# Perlindungan Nasabah dan Bank dalam Transaksi Derivatif: Studi Kasus PT. Toba Surimi Industries vs Bank HSBC = Customer and Bank Protection in Derivative Transactions: Case Study of PT. Toba Surimi Industries vs HSBC Bank

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Abstrak

**ABSTRAK**

Transaksi derivatif di Indonesia cukup berkembang sejalan dengan peningkatan kegiatan usaha yang mengandung risiko nilai tukar mata uang asing, risiko suku bunga, risiko fluktuasi harga saham atau risiko fluktuasi harga komoditas. Transaksi derivatif memiliki sisi positif yaitu berpihak pada. Namun di sisi lain, ada risiko kerugian juga cukup tinggi. Oleh karena itu, skripsi ini mengkaji perlindungan bagi nasabah dan bank dalam transaksi derivatif, dalam bentuk penelitian yuridis normatif, dengan metode penelitian kepustakaan dengan menggunakan data sekunder. Transaksi derivatif diatur dalam Peraturan Bank Indonesia Nomor: 31/7 / PBI / 2005 tentang Transaksi Derivatif jo. Peraturan Bank Indonesia Nomor: 10/38 / PBI / 2008 tentang Perubahan Atas Peraturan Bank Indonesia Nomor 7/31 / PBI / 2005 tentang Transaksi Derivatif. Pada tahun 2008, ketika terjadi krisis ekonomi, Ada banyak masalah yang muncul terkait dengan transaksi derivatif. Menjadi sebuah pertanyaannya adalah bagaimana melindungi nasabah dan bank sebagai pelaku transaksi derivatif. Salah satu pihak yang bersengketa adalah PT. Industri Toba Surimi melawan HSBC. Sengketa ini menekankan pentingnya transaksi derivatif sebagai kontrak. Kontrak merupakan salah satu pengaman bagi pelaku transaksi derivatif. Prinsip kontrak penting dalam perjanjian derivatif. Beberapa regulasi yang mewadahi perlindungan bagi nasabah dan bank dalam bertransaksi derivatif, termasuk Ketentuan Bank Indonesia tentang Perubahan Ketentuan. Bank Indonesia Nomor 7/31 / PBI / 2005 tentang Transaksi Derivatif. Jumlah: 10/38 / PBI / 2008, POJK tentang Penerapan Manajemen Risiko Bagi Bank Umum Nomor, POJK No.18 /POJK.03/2016, dan Peraturan Otoritas Jasa Keuangan No.7 /POJK.03/2016 tentang Prinsip Kehati-hatian dalam Melaksanakan Kegiatan Produk Terstruktur untuk Bank Umum. Menurut pembahasan penulis, pertimbangan hakim terhadap putusan sengketa PT. Coba dengan HSBC harus tetap berpegang pada persetujuan. Sehingga meski regulasi sudah berubah, itu karena prinsip kontrak, kemudian menjadi aturan yang mengikat bagi para pihak dan harus tetap dilakukan selama tidak melanggar hukum.

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**ABSTRACT**

Derivative transactions in Indonesia have developed sufficiently in line with the increase in business activities that carry foreign exchange rate risk, interest rate risk, and risk stock price fluctuation or the risk of commodity price fluctuation. Derivative transactions have a positive side, namely in favor of. But on the other hand, there is also a high risk of loss. Therefore, this thesis examines the protection for customers and banks in derivative transactions, in the form of normative juridical research, with the library research method using secondary data. Derivative transactions are

regulated in Bank Indonesia Regulation Number: 31/7 / PBI / 2005 concerning Derivative Transactions jo. Bank Indonesia Regulation Number 10/38 / PBI / 2008 concerning Amendments to Bank Indonesia Regulation Number 7/31 / PBI / 2005 concerning Derivative Transactions. In 2008, when there was an economic crisis, there were many problems related to derivative transactions. The question is how to protect customers and banks as actors derivative transactions. One of the disputing parties is PT. The Toba Surimi Industry against HSBC. This dispute emphasizes the importance of derivative transactions as contracts. Contracts are one of the safeguards for derivative transaction actors. Important contract principles in derivative agreements. Several regulations provide protection for customers and banks in derivative transactions, including Bank Indonesia Regulations concerning Amendments to Terms. Bank Indonesia Number 7/31 / PBI / 2005 concerning Derivative Transactions. Total: 10/38 / PBI / 2008, POJK concerning Implementation of Risk Management for Commercial Banks Number, POJK No.18 /POJK.03/2016, and Financial Services Authority Regulation No.7 /POJK.03/2016 concerning Prudential Principles in Implementing Structured Product Activities for Commercial Banks. According to the author's discussion, the judge's consideration of the PT. Try with HSBC must stick to the approval. So even though the regulations have changed, it is because of the principle of the contract, then it becomes a binding rule for the parties and must be carried out as long as it does not violate the law.