

Mekanisme Penyelesaian Pembiayaan Macet Pada Financial Technology Berbasis Peer to Peer Lending Syariah = Bad Financing Settlement Mechanism in Financial Technology Based on Sharia Peer to Peer Lending

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Abstrak

Kemajuan teknologi telah memberikan dampak pada banyak sektor, salah satunya pada industri keuangan, instrumen pendanaan yang berbasis teknologi menjadi alternatif penyaluran dana dan akses kepada pembiayaan selain melalui perbankan. Peer to Peer Lending (P2PL) merupakan salah satu platform industri keuangan berbasis Financial Technology (fintech) yang memberikan kemudahan bagi masyarakat untuk mengakses pendanaan. Dari sudut pandang Syariah, melalui Fatwa DSN-MUI No. 117/DSN-MUI/II/2018 tentang Layanan Pembiayaan Berbasis Teknologi Informasi Berdasarkan Prinsip Syariah menjadi dasar diperbolehkannya secara Syariah praktik P2PL, sehingga industri P2PL yang berlandaskan prinsip Syariah atau P2PL Syariah tumbuh dan berkembang di Indonesia. Kemudahan akses pendanaan di sisi lain berimplikasi pada meningkatnya risiko pembiayaan macet, sehingga diperlukan suatu sistem yang baik dalam menyelesaikan pembiayaan macet apabila terjadi. Fatwa DSN-MUI sejatinya telah menjelaskan bahwa jika diantara para pihak terjadi perselisihan, maka musyawarah mufakat dilaksanakan sebagai upaya penyelesaian perselisihan, jika mufakat tidak dicapai, maka diselesaikan sengketa tersebut melalui jalan lembaga penyelesaian sengketa berdasarkan syariah sesuai dengan peraturan perundang-undangan yang berlaku. Pada tulisan ini akan mengulas lebih lanjut mengenai mekanisme penyelesaian pembiayaan macet khususnya pada PT Alami Sharia, dimana berdasarkan hasil penelitian ditemukan bahwa secara umum terdapat dua jenis metode penyelesaian, yakni litigasi dan non-litigasi. Penggunaan metode non-litigasi diutamakan dan dilakukan sebelum metode litigasi, beberapa metode non-litigasi yang dapat dilakukan antara lain adalah musyawarah berupa mediasi, negosiasi, arbitrase serta melalui Lembaga Perlindungan Konsumen, apabila metode non-litigasi sudah ditempuh dan tidak berhasil, maka metode litigasi melalui pengadilan dapat dilakukan. Pada kasus Alami, mekanisme yang dapat ditempuh diatur dalam perjanjian pemberian kuasa antara Alami sebagai penyelenggara P2PL Syariah dengan pemberi pembiayaan sebagai pengguna adalah sejalan dengan ketentuan Fatwa DSN-MUI No. 117/DSN-MUI/II/2018 yakni melalui musyawarah dan apabila tidak berhasil maka diselesaikan melalui pengadilan agama. Namun karena Tingkat Keberhasilan pembiayaan Alami masih 100% maka belum pernah ada kasus penyelesaian perselisihan atau sengketa di Alami.

.....Technological advances have had an impact on many sectors, one of which is the financial industry, technology-based funding instruments have become an alternative for channeling funds and access to financing other than through banking. Peer to Peer Lending (P2PL) is a Financial Technology (fintech) based financial industry platform that makes it easy for the public to access funding. From a Sharia point of view, through the DSN-MUI Fatwa No. 117/DSN-MUI/II/2018 concerning Information Technology-Based Financing Services Based on Sharia Principles is the basis for the regulation of P2PL practices in Sharia, so that the P2PL industry based on Sharia principles or Sharia P2PL grows and develops in Indonesia. Ease of access to funding, on the other hand, has implications for increasing the risk of bad financing, so that a good

system is needed to resolve bad financing when it occurs. The DSN-MUI fatwa has actually explained that if there is a dispute between the parties, consensus deliberation (*musyawarah mufakat*) is carried out as an effort to resolve the dispute, if consensus is not reached, then the dispute is resolved through a sharia-based dispute resolution institution in accordance with applicable laws and regulations. This paper will further review the mechanism of settlement of bad financing, especially at PT Alami Sharia, based on the results of the research it was found that in general there are two types of settlement methods, namely litigation and non-litigation. The use of non-litigation methods is prioritized and carried out before litigation methods, several non-litigation methods that can be carried out include deliberations in the form of mediation, negotiation, arbitration and through consumer protection agencies, if non-litigation methods have been tried and are not successful, then the litigation method through the courts can be done. In the Alami case, the mechanism that can be followed is regulated in the power of attorney agreement between Alami as the organizer of the Sharia P2PL and the financier as the user is in line with the provisions of the DSN-MUI Fatwa No. 117/DSN-MUI/II/2018 namely through deliberation and if it is not successful then it is resolved through a religious court. However, because the Success Rate of Alami's financing is still 100%, there has never been a case of dispute resolution or dispute at Alami.